



WV PIVIT Toolkit

West Virginia Prevention and Interpersonal Violence Intervention Training (PIVIT) Toolkit

Student Conduct and Judicial Edition

West Virginia Intercollegiate Council Against Sexual Violence

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Forward

INTRODUCTION

This document is one of the three editions of the *West Virginia Prevention and Interpersonal Violence Intervention Training (PIVIT) Toolkit* created by the West Virginia Intercollegiate Council Against Sexual Violence, a collaborative of colleges and universities, rape crisis centers, and allied professionals in West Virginia.

The target groups for the three editions are:

- ✓ Campus law enforcement and security officers;
- ✓ Campus personnel involved in interpersonal violence prevention efforts; and
- ✓ Campus personnel involved in student conduct and judicial procedures.

It is the hope of those who worked on this project that the users of this toolkit will review and utilize all toolkit sections in order to provide a more effective and efficient response to student victims of sexual violence, dating violence, domestic violence and/or stalking (collectively referred to in this document as “interpersonal violence”).

Project Partners

The Office on Violence Against Women (Grants to Reduce Sexual Assault, Domestic Violence, Dating Violence, and Stalking on Campus Program) provided financial support for the development of this toolkit. Project partners included Fairmont State University (grant administrator), Concord University, Davis & Elkins College, Glenville State College, Marshall University, Shepherd University, West Virginia State University, the West Virginia School of Osteopathic Medicine, West Virginia Wesleyan College, CONTACT Huntington, The Counseling Connection/REACH Program, Family Refuge Center, HOPE, Inc., Shenandoah Women’s Center, Women’s Aid in Crisis, Women’s Resource Center, the West Virginia Higher Education Policy Commission, and the West Virginia Foundation for Rape Information and Services (grant coordinator).

Project Coordination

Nikki Godfrey of the West Virginia Foundation for Rape Information and Services served as Project Coordinator. Kristin Littel served as Project Consultant.



User's Guide

OVERVIEW

The *West Virginia Prevention and Interpersonal Violence Intervention Training (PIVIT) Toolkit: Student Conduct and Judicial Edition* was developed to standardize the knowledge that those college personnel involved in student conduct processes have regarding interpersonal violence and their roles in their colleges' response to it. It also offers tools to facilitate training programs on this topic. (Note that in this toolkit, colleges and universities are referred to as colleges.)

Reviewing the toolkit and utilizing the training materials can assist you in:

- ✓ Understanding the nature and dynamics of interpersonal violence, victimization, trauma and victim behavior, as well as perpetration;
- ✓ Being familiar with laws related to interpersonal violence and relevant to college policies;
- ✓ Building competency in training student conduct administrators and judicial board members on interpersonal violence; and
- ✓ Improving conduct and judicial procedures to provide just treatment to victims of interpersonal violence.

The toolkit can be a reference source for student conduct administrators in the course of addressing interpersonal violence on their campuses.

Note that this toolkit focuses primarily on student-on-student interpersonal violence occurring on campus. However, regardless of whether this behavior was exhibited by a student, employee or visitor to the campus, colleges are obligated under Title IX to protect affected students' access to an education (adapted from Bennett, Gregory and Loschiavo, 2014). Complaints against college employees may be handled by human resources offices that govern employee behaviors. Sokolow and Swinton (2013) also noted that colleges should be prepared to respond to non-students who disclose campus sexual misconduct by students. Such complaints may be handled through student conduct resolution processes and/or as a Title IX violation.



Acquiring new knowledge and putting it into practice is a process. You are not expected to "know" the information in the toolkit all at once. Instead, you can work through toolkit sections at your own pace, building your knowledge base as you go and considering how new information fits into your work. This note is repeated at the beginning of most toolkit sections to help you not to get overwhelmed by the extensive amount of information presented.

ORGANIZATION

The toolkit is organized into several sections as summarized below. See the toolkit's *Table of Contents* for specific topics covered in each section.

A. *Are You Ready?* This section offers a self-assessment tool to help student conduct administrators and the staff who train them (1) assess their readiness for effectively responding to complaints of interpersonal violence on their campus, (2) identify their strengths and areas for improvement, and (3) identify training needs and sections of the toolkit to help build upon identified strengths and address informational needs. This survey takes just a few minutes to complete.

B. *What You Need to Know.* This section includes general and college-specific information on different types of interpersonal violence as well as provides a brief overview of gender bias, victim blaming and perpetrators.

C. *Federal Legislation.* This section provides information on federal laws that impact the colleges' response to interpersonal violence on campuses.

D. *Getting Started.* This section offers basic information on the issues specific to training student conduct administrators and the process of responding to complaints of student misconduct involving interpersonal violence on campus. Note that much of the available literature focused on sexual misconduct.

E. *Training and Education Resources.* This section offers interpersonal violence training materials (PowerPoints, suggested agendas, facilitator's guides). In addition, it includes a compilation of resources which were reviewed and selected to assist in training those involved in student conduct processes related to interpersonal violence occurring on campus.

F. *Sample Policies and Procedures.* This section offers sample policies and procedures on issues that can impact student conduct processes related to campus-based interpersonal violence. You are encouraged to review these carefully and make adaptations as appropriate to your department's mission and services as well as the needs on your campus.

Be sure to periodically check www.fris.org for toolkit updates.



Explanations of terms can be found throughout the toolkit. Two initial explanations:

(1) Although both males and females are victims of interpersonal violence, most reported and unreported cases involve female victims (Rennison, 2002; Tjaden & Thoennes, November & April 1998, 2000; Catalano, 2007) and male offenders (Greenfeld, 1997; Catalano, 2007). Thus, victims may be referred to in this toolkit as females and offenders as males. This use of terms is not intended to minimize the fact that male victimization and same gender violence do occur.

(2) In this toolkit, “interpersonal violence” generally refers to sexual violence, domestic violence, dating violence and stalking. “Sexual violence” and “sexual assault” are generally used to encompass sexual assault, sexual abuse and other forms of sexual violence, unless otherwise specified. On college campuses, “sexual misconduct” is often used to describe various forms of sexual violence as violations of campus conduct codes and Title IX.

College personnel involved in student conduct processes involving interpersonal violence are encouraged to partner with their local rape crisis centers and domestic violence programs. These centers offer a range of direct services for victims. They also have staff who can assist with training efforts. In addition, these centers have access to most of the resources identified in the toolkit.

REPRODUCTION OF MATERIALS

The non-commercial use and adaptation of this toolkit to increase knowledge about interpersonal violence and/or to use as a supplement or guide to training or professional development is permitted.

Please **credit any material used from this toolkit** to the **West Virginia Intercollegiate Council Against Sexual Violence**. Visit www.fris.org for additional information about this collaboration.

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A. Are You Ready?

INTRODUCTION

This toolkit provides essential information for training student conduct administrators on responding to complaints of sexual violence, domestic and dating violence and stalking (hereafter collectively referred to as interpersonal violence). In order to properly train these individuals on campus, you will need to have multiple layers of knowledge about interpersonal violence, in general and as it specifically relates to college students.

Review the toolkit in its entirety to build your knowledge base. Consider how to best utilize this toolkit to enhance your training for campus hearing boards/officers, staff and administrators.

As a trainer/presenter, your knowledge and experience may be challenged during discussions of the issues of victimization and perpetration. This self-assessment tool is designed to help you identify your strengths as well as the areas in which you need to build your knowledge base.

This self-assessment tool can be used with student conduct administrators and for your individual use. It is meant to help:

- ✓ Assess a conduct administrator's readiness to handle interpersonal violence complaints on campus;
- ✓ Assess your readiness to provide interpersonal violence training;
- ✓ Identify any related gaps in knowledge; and
- ✓ Find the sections of the toolkit that provide information to fill those gaps.

If the assessment tool helps you identify specific areas where you require additional knowledge, you can focus on the sections of the toolkit that address those areas.

You are encouraged to seek guidance and information as needed from others doing this and similar work on your campus and in the local community. Local rape crisis centers and domestic violence shelters can provide a wealth of expertise and resources for intervention, prevention and training. The West Virginia Foundation for Rape Information and Services (www.fris.org) can also be a source of guidance and information.



It is likely that even those of you who are experienced in this work will identify areas in which you could expand your knowledge. The toolkit's purpose is to provide a reference tool for you to learn what you need to know to conduct effective training and prevention education on these issues. Acquiring new knowledge and putting it into practice is a process—you are not expected to “know” the information all at once. Instead, work through the toolkit sections at your own pace, building your knowledge base and considering how new information fits into your work on campus.

SELF-ASSESSMENT TOOL: READINESS TO TRAIN STUDENT CONDUCT ADMINISTRATORS AND RESPOND TO CONDUCT COMPLAINTS

This self-assessment tool is designed to help you evaluate the depth of your knowledge and your comfort level with different issues as you prepare to respond to interpersonal violence and conduct training programs. It is important that you answer each item honestly. Additional instructions on how to use this tool are provided at the end.

Consider your current level of knowledge, skill and readiness for each item, and then rate each statement according to the following scale. (Circle one for each.)

1-----2-----3-----4-----5
 This statement is not true. This statement is true.
 I have very little knowledge on this topic. I have a great deal of knowledge on this topic.

Interpersonal Violence and Federal Legislation Knowledge	
1. I can describe different forms of interpersonal violence (sexual assault, dating violence, domestic violence and stalking). (See B1. Types of Interpersonal Violence)	1 2 3 4 5
2. I can provide current information on the prevalence of interpersonal violence of college students. (See B1. Types of Interpersonal Violence)	1 2 3 4 5
3. I can identify behaviors that could be considered stalking. (See B1. Types of Interpersonal Violence)	1 2 3 4 5
4. I can provide information on the risk factors for perpetration of sexual and domestic violence in the general population. (See B5. Perpetrators of Interpersonal Violence)	1 2 3 4 5
5. I can identify ways that trauma (including rape trauma syndrome) can impact a victim's response. (See B6. Victims' Needs, Issues and Concerns)	1 2 3 4 5
6. I can describe reporting options available to victims and why they might delay reporting. (See B7. When Victims Disclose)	1 2 3 4 5
7. I can identify common risk factors for sexual victimization for persons with a disability. (See B8. Working with Specific Populations)	1 2 3 4 5
8. I can provide information on protections available to international students. (See B8. Working with Specific Populations)	1 2 3 4 5
9. I can identify community resources that can support victims in the judicial and healing process. (See B9. Community Resources)	1 2 3 4 5
10. I can cite the rights of victims of interpersonal violence outlined in the Clery Act (See C1. Federal Legislation)	1 2 3 4 5
11. I can provide information on the college's obligations under Title IX. (See C1. Federal Legislation)	1 2 3 4 5
12. I can explain how FERPA impacts the Clery Act and Title IX Guidelines. (See C1. Federal Legislation)	1 2 3 4 5

1-----2-----3-----4-----5
 This statement is not true. This statement is true.
 I have very little knowledge on this topic. I have a lot of knowledge on this topic.

Interpersonal Violence Training and Judicial Procedures	
13. I can identify key topics for training student conduct administrators on interpersonal violence. (See D1. Training Overview)	1 2 3 4 5
14. I can provide detailed information on student conduct/judicial affairs policies and procedures regarding interpersonal violence on my campus. (Consult the student conduct/judicial affairs policies for your campus) (See F. Sample Policies and Procedures for additional information)	1 2 3 4 5
15. I can clearly convey the role of a student conduct panel/board. (See D3. Methods to Resolve Conduct Complaints)	1 2 3 4 5
16. I can explain the importance of maintaining confidentiality, when possible, for victims of sexual assault on campus. (See D4. Confidentiality)	1 2 3 4 5
17. I can cite interim remedial measures that can be offered to victims prior to a hearing. (See D4. Interim Remedial Measures)	1 2 3 4 5
18. I can identify the rights of complainants and respondents. (See D4. Sample Complainant Rights Statement & Rights of the Respondent/Accused)	1 2 3 4 5
19. I can explain the key differences between a Title IX investigation into allegations of sexual violence and a criminal investigation. (See D4. How does Criminal Reporting and Investigation Impact College Grievance Procedures?)	1 2 3 4 5
20. I can explain the role of alcohol in incidents of sexual assault on campus. (See D4. Basic Investigation)	1 2 3 4 5
21. I am knowledgeable about interviewing techniques of both complainant and respondent. (See D4. Formal Investigation)	1 2 3 4 5
22. I can identify 5 promising practices for college campus adjudication procedures. (See D4. Adjudication)	1 2 3 4 5
23. I can identify recommendations for the complainant and broader campus population to remedy a hostile environment. (See D4. Remedies for Complainants and Broader Student Population)	1 2 3 4 5
24. I can identify resources that can assist in training and increasing knowledge about interpersonal violence perpetration and victimization. (See E. Training and Education Resources)	1 2 3 4 5

If you answered 1, 2 or 3 for any of the above statements, you are encouraged to review the documents or specific sections of the toolkit indicated in parenthesis at the end of each item.

Contact the West Virginia Foundation for Rape Information and Services (www.fris.org) or your local rape crisis/domestic violence center if you would like additional assistance with general issues related to presenting interpersonal violence training.



B. What You Need to Know About Interpersonal Violence

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INTRODUCTION

Interpersonal violence is defined as "the intentional use of physical force or power, threatened or actual, against another person or against a group or community that results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation" (Dahlberg & Krug, 2002). Generally, it involves violence used against a person using power, control and/or intimidation. **The main acts of interpersonal violence explored in this toolkit are sexual violence, domestic violence, dating violence and stalking.**

Anyone can be a victim or a perpetrator of sexual violence, domestic violence, dating violence and stalking. However, research indicates that, in general, males are more likely to be perpetrators than females. Research also indicates that specific populations are more likely to be victimized at higher rates. Females in general experience significantly higher rates of victimization than men. Females in specific situations and from specific backgrounds experience even higher rates than the general female population in the U.S. (teenagers and young women, American Indians/Native Alaskans, etc.). People with disabilities experience significantly higher rates of victimization than those who do not have disabilities. Emerging research is pointing to significant rates of victimization among those in the lesbian, gay, bisexual, transgender, questioning, and intersex (LGTQI) communities.

Interpersonal violence is a serious problem on college campuses. As noted in *Beyond Title IX: Guidelines for Preventing and Responding to Gender-based Violence in Higher Education* (Fleck-Henderson, 2012), women of traditional college age continue to be at particular risk for interpersonal violence:

- ✓ Approximately 80% of female rape victims experienced their first rape before the age of 25 (Black et al., 2011). About 1 in 5 women experience sexual assault during their college years (Krebs et al., 2007).
- ✓ Women ages 20 to 24 are at highest risk for violence by an intimate partner (Rennison & Welchans, 2000).
- ✓ Women ages 18 to 24 are at highest risk of stalking (Baum et al., 2009).



Acquiring new knowledge and putting it into practice is a process. You are not expected to “know” the information in the toolkit all at once. Instead, you can work through toolkit sections at your own pace, building your knowledge base as you go.

EXPLANATION OF KEY TERMS

It is helpful to be familiar with terms that explain the nature and scope of interpersonal violence.

Consensual Sex: The voluntary agreement, by words or conduct, to engage in sexual activity. Lack of consent is critical in determining whether a sexual assault has occurred. People have the right to change their minds at any point in a sexual encounter and to withdraw consent by words or conduct. Consent cannot be provided under the following conditions: when the victim was incapable of consenting due to age, mental or physical incapacity; when the victim used

words or conduct to indicate ‘no;’ or when the victim changed his/her mind. In West Virginia, a person cannot legally consent to sexual activity if she/he is under the age of 16. (See *WVC §61-8B-2*.)

Coercion: The use of manipulation, threat or force to have sexual contact with someone without her/his consent. Many behaviors that are deemed socially acceptable actually promote and lead to sexual coercion (e.g., initiating any sexual contact without explicit permission and/or without explicit awareness of what the other person wants, acting despite mixed signals from the other person, sexual contact with someone who is drunk or on drugs or otherwise unable to give consent, and impulsive sexual action or acting on a dare) (University of Chicago).

Electronic Aggression: Any kind of aggression perpetrated through technology or the Internet and cell phone harassment or bullying (Hertz & David-Ferdon, 2008). Electronic aggression may be used interchangeably in this toolkit with the term cyberstalking.

Dating Violence: Dating violence is controlling, abusive and aggressive behavior against a person on a date or a dating partner. It can include any combination of physical, emotional or sexual abuse. Dating violence should not be viewed simply as a form of domestic violence—the fact that individuals are on a date or dating doesn’t necessarily mean they are in an intimate relationship. Even if they have been intimate, it does not mean they consider what they have as a relationship. In many instances on college campuses, violence while on a date may have more to do with sexual than domestic violence.

Domestic Violence: Abusive behavior perpetrated by an intimate partner against another is domestic violence. Under West Virginia law, the definition extends to include a victim who is related to the abuser’s family or who is another household member.

Drug-Facilitated Sexual Assault: This type of sexual victimization occurs when drugs or alcohol are used to compromise an individual’s ability to consent to sexual activity. Drugs and alcohol are also used to minimize the victim’s resistance to sexual assault as well as her/his memory of the assault. Drugs commonly used to incapacitate a victim include Ecstasy, Ketamine, Benzodiazepines, GHB and GBL (Rape, Abuse & Incest National Network—RAINN, 2009).

Non-Stranger Sexual Assault and Abuse (generally referred to as non-stranger sexual assault): Involves coercive sexual activities that are imposed upon a person by someone she/he knows, including a friend, date or acquaintance (adapted from RAINN, 2009). In the vast majority of sexual assaults, the victim knows the offender.

Sexual Abuse (according to West Virginia law): Occurs when a person subjects another to sexual contact without her/his consent, and that lack of consent is due to physical force, threat or intimidation.

Sexual Assault (according to West Virginia law): Sexual intercourse or sexual intrusion without consent. Some sexual acts which fall under the category of sexual assault include forced sexual intercourse, sodomy (oral or anal sexual acts), incest and attempted rape.

Sexual Exploitation: Occurs when a student takes nonconsensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage than the one being exploited, and that behavior does not otherwise constitute one of other sexual offenses. Examples include invasion of sexual privacy; prostituting another person; nonconsensual video or audio-taping of sexual activity; going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex; engaging in voyeurism; knowingly transmitting an STI or HIV to another; exposing one's genitals in nonconsensual circumstances; inducing another to expose their genitals. Sexually-based stalking and/or bullying may also be forms of sexual exploitation. (Paragraph adapted, Sokolow & Swinton, 2013.)

Sexual Violence: Conduct of a sexual nature which is non-consensual and is accomplished through threat, coercion, exploitation, deceit, force, physical or mental incapacitation and/or power of authority (Virginia Sexual and Domestic Violence Action Alliance).

Stalking: A course of conduct directed at a specific person that would cause a reasonable person fear. West Virginia's stalking statute includes stalking (repeated following) and harassment. Under West Virginia law, stalking includes one behavior - repeated (more than one time) following. Harassment can include many types of unwanted behaviors, including telephone harassment; sending/giving unwanted gifts, letters or e-mails to the victim; monitoring of telephone calls or computer use; spreading rumors or otherwise defaming the victim's character; vandalism or other destruction of property; and threats to the victim and her family, friends and pets.

These terms are related to response to student disclosures:

Anonymous Reporting: When a victim or friend of a victim reports a crime to law enforcement without revealing the victim's identification (National Organization for Women, 2008). Anonymous reporting may also be referred to as blind or third party reporting. It allows victims and/or third party reporters to share critical information about an incident with authorities without compromising confidentiality and filing a formal complaint. It also provides law enforcement with information about crimes that might otherwise go unreported (Office on Violence Against Women, 2004).

Confidentiality: Maintaining confidentiality in the case of a disclosure of interpersonal violence by a college student means not sharing student identifying or personal information or any information that the student has communicated to you/your campus (outside of entities identified in your campus protocol), unless there is a court mandate or the student has given informed consent to release the information.

First or Initial Responder: A professional or paraprofessional who initially responds to a disclosure of interpersonal violence. Those who traditionally have been responsible for a community's immediate response include victim advocates, 911 dispatchers, law enforcement officers and health care providers. Others also may be involved, such as emergency medical technicians, public safety officials, protective service workers, mental health providers, social service workers, school personnel, employers, corrections staff, religious/spiritual counselors,

etc. (Office on Violence Against Women, 2004). On college campuses, first responders can vary but likely include those who coordinate immediate services, provide emotional support and health care, offer protection, take reports and collect evidence, conduct preliminary investigations, and provide information and referrals.

Forensic Medical Examination: Following an assault and particularly a sexual assault, a victim may require medical attention for injuries and related health concerns. There may be bodily evidence to collect and information to be gathered about the assault, if the victim is considering or undecided about reporting to law enforcement. The purpose of a forensic medical exam is to assess a victim's health care needs and collect evidence when appropriate for potential use during case investigation and prosecution (Office on Violence Against Women, 2013).

Mandatory Reporting Laws: West Virginia law identifies (1) individuals who must report to legal authorities suspected abuse or neglect of *adults* who are incapacitated or emergency situations where adults who are incapacitated are at imminent risk of serious harm; and (2) individuals who must report suspected or observed mistreatment of *minors*. Requirements vary slightly for children and adults, but both can initially be verbally reported to the local Department of Health and Human Resources *or* the 24-hour hotline (800-352-6513). If a crime is suspected, a report should be made to law enforcement.

Protective Order: A court order issued in a jurisdiction to protect a victim of domestic or dating violence, sexual violence or stalking that restricts the conduct of an individual toward the victim.

Safety Plan: An individualized plan of actions, strategies, and resources to address the safety of a person who fears having violence committed against her/him.

Sexual Assault Nurse Examiner (SANE): A registered nurse who completes specialized education to perform a forensic medical examination with sexual assault victims. Common duties of a SANE: providing comprehensive victim care, identifying physical trauma, documenting injuries, collecting evidence and maintaining the chain of custody, offering referrals for medical/psychological care and support, and being an expert witness during court proceedings (West Virginia Foundation for Rape Information Services—WV FRIS, 2008).

Sexual Assault Response Team (SART): A group of professionals who work jointly to minimize the trauma that sexual assault victims may experience when they seek initial support, medical care and legal assistance. Through coordinated responses, a SART seeks to facilitate victim healing, provide appropriate and compassionate medical care, reduce repeated questioning of victims, and increase effective collection and preservation of evidence. SART members typically include emergency medical personnel, prosecution, law enforcement and a sexual assault victim advocate (WV FRIS, 2008). Colleges may have their own SARTs and/or participate on a community SART.

The terms listed above may be defined differently, depending on the source. See www.notalone.gov for definitions specific to colleges and Title IX.

B1. TYPES OF INTERPERSONAL VIOLENCE

Sexual violence, dating violence, domestic violence and stalking are serious crimes affecting millions of individuals across the nation, including many who are attending college. This section offers general information on these types of violence and applicable criminal offenses. Note that colleges typically consider these forms of interpersonal violence as violations of their campus conduct policies. Also, under Title IX of the Education Amendments of 1972, they may be viewed as forms of sex discrimination that limit a person's right to pursue educational activities. (See C. *Federal Legislation and Institutional Policies.*)

Sexual Violence

Sexual violence is broadly defined by the World Health Organization (Krug et al., 2002) as **any sexual act or attempt to obtain a sexual act** (as well as unwanted sexual comments or advances or acts to traffic) **directed against a person's sexuality using coercion**. For the toolkit's purpose, this **overview of sexual violence is focused on those acts which are considered crimes in West Virginia**. Examples of crimes of sexual violence include:

- ✓ Rape—sexual intercourse against a person's will;
- ✓ Forcible sodomy—anal or oral sex against a person's will;
- ✓ Forcible object penetration—penetrating someone's vagina or anus, or causing that person to penetrate her/himself, against that person's will;
- ✓ Unwanted sexual touching;
- ✓ Sexual contact with a person who lacks the capacity to give consent;
- ✓ Incest (sexual contact between family members); and
- ✓ Any other nonconsensual sexual contact (see shaded chart below).



When discussing criminal offenses, specific terms are used to describe specific criminal acts (see below). In addition, federal legislation and colleges use certain terms to describe student conduct related to sexual violence and Title IX violations that may have meaning different from general sexual violence terms or those defined by the state. For example, Title IX defines sexual harassment as a form of sex discrimination that includes sexual violence. Colleges often refer to "sexual misconduct" to refer to sexual violence that occurs in violation of their campus conduct policies. Unless otherwise specified, the terms sexual violence and sexual assault are used in this toolkit section to encompass the wide spectrum of sexual violence.

STATE LAWS



Sexual assault and sexual abuse are the two major classifications of sex offenses in West Virginia (WVC§61-8B).

Sexual abuse occurs when a person subjects another to sexual contact without her/his consent, and that **lack of consent is due to physical force, threat or intimidation**. There are **three levels** of sexual abuse in West Virginia:

- ✓ **1st Degree:** Sexual contact without the victim's consent due to forcible compulsion, the victim is physically helpless, or the victim is younger than age 12 and the perpetrator is age 14 or older. *Penalty:* An indeterminate term of not less than 1 nor more than 5 years in a state correctional facility; and/or a fine of not more than \$10,000. However, if the defendant is 18 or older and the victim is younger than 12, the penalty is not less than 5 nor more than 25 years in a state correctional facility; and/or a fine of not less than \$1,000, nor more than \$5,000.
- ✓ **2nd Degree:** Sexual contact with someone who is mentally defective or mentally incapacitated. *Penalty:* Confinement in a regional jail for not more than 12 months; and/or a fine of not more than \$500.
- ✓ **3rd Degree:** Sexual contact with a victim under age 16 without her/his consent. *Penalty:* Confinement in a regional jail for not more than 90 days; and/or a fine of not more than \$500.

Sexual assault is sexual intercourse or sexual intrusion without consent. There are **three levels** of sexual assault in West Virginia:

- ✓ **1st Degree:** The perpetrator inflicts serious bodily injury, uses a deadly weapon, or the perpetrator is over age 14 and the victim is younger than 12 years old and is not married to that person. *Penalty:* An indeterminate term of not less than 15 nor more than 35 years in a state correctional facility; and/or a fine of not less than \$1,000 nor more than \$10,000. However, if the defendant is 18 or older and victim is younger than 12, the penalty is not less than 25 nor more than 100 years in a state correctional facility, and or a fine of not less than \$5,000 nor more than \$25,000.
- ✓ **2nd Degree:** Sexual intercourse or intrusion without consent and lack of consent is due to forcible compulsion or physical helplessness. *Penalty:* An indeterminate term of not less than 10 nor more than 25 years in a state correctional facility; and/or a fine of not less than \$1,000 nor more than \$10,000.
- ✓ **3rd Degree:** Sexual intercourse or intrusion with someone who is mentally defective or mentally incapacitated, or when someone age 16 or older assaults someone less than 16 who is at least 4 years younger than the perpetrator and not married to him/her. *Penalty:* An indeterminate term of not less than 1 nor more than 5 years in a state correctional facility; and/or a fine of not more than \$10,000.

There is **no statute of limitations for felony sex offenses (all degrees of sexual assault and 1st degree sexual abuse); 2nd and 3rd degree sexual abuse must be charged within 1 year** after the offense was committed (*WVC§61-11-9*).

Explanation of Terms: WV Sexual Abuse and Sexual Assault Laws

Forcible compulsion: (a) physical force that overcomes such earnest resistance as might reasonably be expected, under the circumstances; (b) threat or intimidation, expressed or implied, placing a person in fear of immediate death or bodily injury to him/herself or another person or in fear that he/she or another person will be kidnapped; or (c) fear by a person under 16 years of age caused by intimidation, expressed or implied, by another person who is at least 4 years older than the victim. For the purpose of this definition, "**resistance**" includes physical resistance or any clear communication of the victim's lack of consent.

Married: for the purpose of this article, in addition to its legal meaning, includes persons living together as

husband and wife regardless of the legal status of their relationship.

Mentally defective: a person suffers from a mental disease or defect which renders that person incapable of appraising the nature of his/her conduct.

Mentally incapacitated: a person is rendered temporarily incapable of appraising or controlling his/her conduct, as a result of the influence of a controlled or intoxicating substance administered to that person without his/her consent or a result of any other act committed upon that person without his/her consent.

Physically helpless: a person is unconscious or for any reason is physically unable to communicate unwillingness to an act.

Sexual contact: intentional touching, either directly or through clothing, of the anus/any part of the sex organs of another person, or the breast of a female or intentional touching of any part of another person's body by the actor's sex organs, where the victim is not married to the actor and the touching is done to gratify the sexual desire of either party.

Sexual intercourse: any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person.

Sexual intrusion: any act between persons involving penetration, however slight, of the female sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party.

Bodily injury: substantial physical pain, illness or any impairment of physical condition.

Serious bodily injury: bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

Deadly weapon: any instrument, device or thing capable of inflicting death or serious bodily injury and designed or adapted for use as a weapon or possessed, carried or used as a weapon.

While some terms are not the most sensitive choice of language, they currently define the law. Avoid use of legal terms such as "mentally defective" when talking with victims as this could increase their reluctance to seek assistance.

ALCOHOL AND DRUG FACILITATED SEXUAL ASSAULT

In West Virginia, someone who is drunk or drugged cannot legally give consent to sex.

Perpetrators may intentionally drug their victims or prey on persons who have been voluntarily drinking or using drugs in order to have sexual intercourse with them. If a person has sex or sexual contact with someone who is in such an incapacitated condition, it is sexual violence.

A blogger, known as [Rockstar Dinosaur Pirate Princess](#) discussed consent in a March 2015 blog post titled, *Consent: Not actually that complicated.*

"Whoever you are initiating sexytimes with just make sure they are actually genuinely up for it. That's it. It's not hard. Really.

If you're still struggling, just imagine instead of initiating sex, you're making them a cup of tea.

You say "hey, would you like a cup of tea?" and they go "omg [hell] yes, I would [definitely] LOVE a cup of tea! Thank you!" Then you know they want a cup of tea.

If you say “hey, would you like a cup of tea?” and they um and ahh and say, “I’m not really sure...” then you can make them a cup of tea or not, but be aware that they might not drink it, and if they don’t drink it then – this is the important bit – don’t make them drink it. You can’t blame them for you going to the effort of making the tea on the off-chance they wanted it; you just have to deal with them not drinking it. Just because you made it doesn’t mean you are entitled to watch them drink it.

If they say “No thank you” then don’t make them tea. At all. Don’t make them tea, don’t make them drink tea, don’t get annoyed at them for not wanting tea. They just don’t want tea, ok?

They might say “Yes please, that’s kind of you” and then when the tea arrives they actually don’t want the tea at all. Sure, that’s kind of annoying as you’ve gone to the effort of making the tea, but they remain under no obligation to drink the tea. They did want tea, now they don’t. Sometimes people change their mind in the time it takes to boil that kettle, brew the tea and add the milk. And it’s ok for people to change their mind, and you are still not entitled to watch them drink it even though you went to the trouble of making it.

If they are unconscious, don’t make them tea. Unconscious people don’t want tea and can’t answer the question “do you want tea” because they are unconscious.

Ok, maybe they were conscious when you asked them if they wanted tea, and they said yes, but in the time it took you to boil that kettle, brew the tea and add the milk they are now unconscious. You should just put the tea down, make sure the unconscious person is safe, and – this is the important bit – don’t make them drink the tea. They said yes then, sure, but unconscious people don’t want tea.

If someone said yes to tea, started drinking it, and then passed out before they’d finished it, don’t keep on pouring it down their throat. Take the tea away and make sure they are safe. Because unconscious people don’t want tea. Trust me on this.

If someone said “yes” to tea around your house last Saturday, that doesn’t mean that they want you to make them tea all the time. They don’t want you to come around unexpectedly to their place and make them tea and force them to drink it going “BUT YOU WANTED TEA LAST WEEK”, or to wake up to find you pouring tea down their throat going “BUT YOU WANTED TEA LAST NIGHT”.

Do you think this is a stupid analogy? Yes, you all know this already – of course you wouldn’t force feed someone tea because they said yes to a cup last week. Of COURSE you wouldn’t pour tea down the throat of an

unconscious person because they said yes to tea 5 minutes ago when they were conscious. But if you can understand how completely ludicrous it is to force people to have tea when they don't want tea, and you are able to understand when people don't want tea, then how hard is it to understand when it comes to sex?

Whether it's tea or sex, Consent Is Everything.

And on that note, I am going to make myself a cup of tea.”

Sexual violence is often linked to the abuse of drugs, primarily alcohol, that decrease inhibitions and make the user incapacitated. In addition to alcohol, the drugs most often used to facilitate sexual violence are GHB, Ecstasy, Rohypnol (a benzodiazepine), Ketamine and Soma, although other benzodiazepines and sedative hypnotics are used as well. (RAINN, Rape, Abuse and Incest National Network, offers a brief [explanation of each of these drug's street names, what they are and their effects.](#)) These drugs cause unconsciousness—an effect that is accelerated and intensified when the drugs are taken with alcohol. They can also cause intense sleepiness, memory loss, nausea, lack of coordination, slurred speech, loss of inhibition, confusion, seizures and even death. **Victims may be unconscious during all or parts of the sexual assault and, upon regaining consciousness, may experience anterograde amnesia**—the inability to recall events that occurred while under the influence of the drug.

Victims often are reluctant to report alcohol or drug facilitated sexual violence because of a sense of guilt, embarrassment or perceived responsibility due to their lack of specific recall of the assault. Many of the drugs used in these cases are rapidly absorbed and metabolized by the body, making them undetectable in routine urine and blood drug screenings.

Potential signs a person may have been drugged:



- ✓ Feeling more intoxicated than usual for the amount of alcohol that was consumed;
 - ✓ Waking up feeling hung over or still feeling intoxicated/drugged;
 - ✓ Experiencing memory lapse and not being able to account for periods of time;
 - ✓ Remembering taking a drink but not being able to recall what happened for a period of time after consuming the drink; and/or
 - ✓ Thinking sex occurred, but not being able to remember the actual incident.
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SEXUAL VIOLENCE AGAINST COLLEGE STUDENTS

What number of college students experience sexual assault?

In the U.S., it is estimated that 1 in 6 women and 1 in 33 men will become a victim of attempted or completed rape in their lifetimes (Tjaden & Thoennes, 1998, 2006). In West Virginia, 1 in 6 women and 1 in 21 men will experience an attempted or completed forcible sexual assault during their lifetimes (West Virginia Behavior Risk Factor Surveillance System Survey, 2008).

College women have even higher rates of sexual victimization than the general and state

populations. The *National College Women Sexual Victimization Study* (Fisher, Cullen & Turner, 2000) found 35 incidents of rape per nine-month academic year for every 1,000 female students at a college. When projected to a full calendar year, nearly 5% of college women are victims of rape annually (Pennsylvania Coalition Against Rape, 2004). This projection coincides with the findings of several other national studies (Kilpatrick, Edmunds & Seymour, 2007; Mohler-Kuo et al., 2004). Based on these figures, **1 in 5 women (20%) experience rape during a now-typical five-year college career** (Pennsylvania Coalition Against Rape, 2004). Similarly, the more recent *Campus Sexual Assault Study* (Krebs et al., 2007) found **19% undergraduate women had been victims of an attempted or completed sexual assault since entering college.**

Who sexually assaults college students?

According to the West Virginia State Police 2013 Incident-Based Reporting System, **83% of sexual assault victims knew their offenders: 49% of sexual assaults were committed by an acquaintance (non-intimate partner)**, 7% by an intimate partner, 27% by other family members, 6% by a stranger and in 11% of these cases, the relationship between victim and offender was unknown. Similarly, Fisher, Cullen and Turner (2000) found 9 out of 10 of the female rape victims knew their offenders. Most often they were boyfriends, ex-boyfriends, classmates, friends, acquaintances or co-workers. Another survey indicated that 3 out of 4 victims knew their offenders (Hart, 2003). Clearly, **the vast majority of sexual assaults are perpetrated by persons known to victims rather than by strangers.**

In what contexts does sexual assault occur in the college environment?

Non-stranger sexual assault in college settings occurs in a variety of contexts, including:

- ✓ **At a party:** For example, at an off-campus residence, involving a perpetrator plying the targeted victim with alcohol or targeting someone who is intoxicated.
- ✓ **On a date:** For example, after going out to the movies together and then kissing back at the victim's house, the perpetrator forces sex on the victim.
- ✓ **Non-party, non-date situation:** For example, where two students who are just becoming acquainted and the perpetrator sexually assaults the victim in a car or residence.
- ✓ **Sexual assault by a current or former intimate partner:** For example, one current partner overpowers the other and forces sex on them.



The majority of sexual assaults of college students are not perpetrated by dating partners or during a date, but occur when the victim and perpetrator are otherwise in the same place, such as at a party together (Pennsylvania Coalition Against Rape, 2004).

Unfortunately, the term “date rape” so commonly used on college campuses has led many to believe that rapes are committed by “basically good guys” who, when faced with the combination of too much alcohol and “miscommunication,” accidentally commit a sexual assault. However, research on sexual perpetrators over the last two decades has clearly shown that **many campus rapes are not “accidents” due to miscommunication and, in fact, are committed by a small number of students who are, in essence, serial rapists** (West

Virginia Foundation for Rape Information and Services, 2012). Lisak and Miller (2002) found that perpetrators of sexual assaults on college campuses were often premeditating, repeat offenders, who targeted females who were most vulnerable and would lack credibility.

Where and when do sexual assaults of college students occur?

Fisher, Cullen and Turner (2000) found that sexual assaults of college women took place both on- and off-campus, in the victims' residences and other living quarters, and at fraternities, bars, nightclubs and work settings. They also found that the vast majority of sexual victimizations occurred in the evening after 6 p.m.

Do victims experience physical injuries in the course of a sexual assault?

Fisher, Cullen and Turner (2000) found that in about 1 in 5 rape and attempted rape incidents of college women, victims reported being injured, most often citing the response "bruises, black-eye, cuts, scratches, swelling or chipped teeth." **As perpetrators are often successful in using coercion, intimidation and the threat of force to facilitate sexual assault, excessive force is generally not a factor. As a consequence, most victims of sexual assault have few visible physical injuries.** Note, however, that the absence of physical evidence in no way correlates with the level of fear and terror that victims may have experienced during an assault.

Emotional trauma as result of a sexual assault is more likely than physical injuries. Victims also may be at risk for getting a sexually transmitted infection, including HIV/AIDS, from their perpetrators, becoming pregnant if they are females, or having short- and long-term physical ailments associated with emotional trauma caused by sexual victimization (see *B6. Emotional Trauma*).

What factors may raise college women's risk for sexual victimization?

Numerous risk factors as cited below are associated with sexual victimization for college students. Note that most studies cited focus on women rather than men due to the high rates of sexual assault of college women. Just being a female is a risk factor for victimization.

Alcohol and drug use: Most college sexual assaults involve alcohol consumption, by either or both the victims and perpetrators (Abbey, 2002; Abbey et al., 1996; Koss et al., 1987; Presley et al., 1997; Mohler-Kuo et al., 2004; Tjaden & Thoennes, 2006). Attending a college where heavy drinking is the norm (where more than 50% of students "binge drink") has been connected with increased risk of alcohol-involved sexual assault (Mohler-Kuo et al., 2004; Norris, 2008). In addition, heavy drinking puts women at risk for more severe assaults (Abbey et al., 2003). Drug use has also been linked with increased risk of sexual assault (Mohler-Kuo et al., 2004). There is a connection between alcohol consumption and drug-facilitated rape—Lawyer et al. (2010) found that 84% of drug-facilitated sexual assaults were preceded by the victim's voluntary alcohol consumption. See Norris (2008) and Abbey (2008) for more discussion of the ways that alcohol can contribute to sexual assault perpetration and victimization. Important distinctions: Alcohol can render potential victims more vulnerable and accessible to perpetrators; however, their alcohol consumption is not the cause of their victimization.

Perpetrators are responsible for the violence, regardless of their own alcohol consumption. (Also see earlier discussion on Alcohol and Drug Facilitated Sexual Assault).

Class rank and age: The first weeks of the fall semester, referred to as “the red zone” by some researchers, often are the most risky for sexual victimization for new students.

There is also a **greater risk of sexual victimization for freshmen and sophomores than for juniors and seniors.** Gross et al. (2006) found that during their first four semesters, 84% of college women had sexually coercive experiences. Mohler-Kuo et al. (2004) found that underage women are more likely to experience sexual assault than those 21 and over.

Greek affiliation: Research suggests that **students who live in sorority houses or belong to sororities have an increased risk for sexual victimization** (Copenhaver & Grauerholz, 1991; Franklin, 2010; Kalof, 1993; Mohler-Kuo et al., 2004; Tyler, Holt & Whitbeck, 1998). **Fraternity members and student athletes are more likely than any other men on campus to commit a sexual assault** (Murnen & Kohlman, 2007). Fisher, Cullen and Turner (2000) found that of the rapes reported by students surveyed in their study, 10.3% occurred in a fraternity house.

Prior victimization: Women who experience a sexual assault while attending college or prior to college are at risk for further victimization while in college (Fisher, Cullen & Turner, 2000, Krebs et al., 2007). Similarly, women who have experienced intimate partner violence are more at risk for sexual violence while in college (American College Health Association, 2004).

Race/ethnicity: White women and Native Americans may be most at-risk for rape on college campuses, while Asian-Americans appear to have the lowest risk (Tjaden & Theonnes, 2006). However, white women are less likely to experience physically forced or threatened forcible rapes than women of other ethnicities or races (Mohler-Kuo et al., 2004).

Consensual sexual experiences: There is a **connection between the number of sex partners a college woman has had and an increased risk for being sexually assaulted, especially when intoxicated** (Tyler, Hoyt & Whitbeck, 1998; Parks et al., 2008). One study (Parks et al., 2008) indicates that “women who have more consensual sexual partners are more likely to encounter a sexually aggressive individual and are more likely to experience sexual victimization.” At the same time, women who increased their drinking are more likely to be behaviorally and cognitively impaired and less likely to recognize, avoid or defend themselves against sexual aggression (Science Daily, 2008).



Regardless of the circumstances, sexual assault is never the victim’s fault. The presence of one or more risk factors does not cause or justify sexual assault. Even if, for example, a woman had too much to drink, the consequence for naive or regrettable decisions should never be rape. Perpetrators must be held accountable for their actions.

How often is sexual assault of college students reported?

National studies indicate that only 14% to 39% of all sexual assaults or rapes are reported to law enforcement (Kilpatrick, 2000). Some of the most common reasons victims are reluctant to report are self-blame, fear of retaliation, fear of rejection and the negativity they perceive might accompany criminal justice system involvement (Office on Violence Against Women, 2004).

College students appear to report sexual assault even less frequently than the general population. Fisher, Cullen and Turner (2000) found that of students who indicated they experienced completed or attempted rape, only 5% said reported it to law enforcement.

College students may want help following a rape, but most are aware of the tendency of others to blame victims rather than hold offenders accountable (see *B4. Victim Blaming*). To a degree, they may even experience self-blaming (“if I haven’t been drinking,” “if I had only stayed with my friends,” etc.) and be silenced by their shame. Victim-blaming can be particularly harsh when victims know their offenders. Not surprisingly, **victims of non-stranger sexual assault indicate reasons such as the following for not reporting:**

<ul style="list-style-type: none"> ✓ Self-blame ✓ Not seeing the assault as serious enough to report ✓ Not sure if a crime had been committed ✓ Lacking proof of the assault ✓ Not knowing how or to whom to report ✓ Desire to protect the offender 	<ul style="list-style-type: none"> ✓ Lack of anonymity ✓ Fear of publicity ✓ Fear of reprisal ✓ Fear of isolation ✓ Fear of not being believed ✓ Fear of being treated with hostility or indifference (e.g., by law enforcement or college administrators) ✓ Community backlash 	<ul style="list-style-type: none"> ✓ Participation in illegal activity during assault (e.g., underage drinking) ✓ Outstanding warrants ✓ Possible immigration concerns
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What reactions are common for sexual assault victims?

(Section adapted from the PA Coalition Against Rape, 2000. Also see *B6. Victim’s Needs, Issues and Concerns*)

Some **common victim reactions to sexual assault** include:

<ul style="list-style-type: none"> ✓ Humiliation ✓ Shame and self-blame ✓ Feeling a loss of control over life 	<ul style="list-style-type: none"> ✓ Guilt ✓ Grief ✓ Depression ✓ Denial 	<ul style="list-style-type: none"> ✓ Fear of people ✓ Concern for the rapist ✓ Anger and irritability ✓ Memory loss
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Each person reacts to trauma differently. As described above, some reactions are fairly common, but emotional trauma triggered by a sexual assault can surface in many forms. Some victims may react by being hysterical and crying, while others might giggle, be devoid of emotion, or move from one emotion to the next. It is more realistic to expect that victims will react differently following an assault or a disclosure of one—in the timing of their reactions, their concerns, their facial and body language, their coping strategies and their feelings and understanding about their experience. Thus, **avoid making assumptions about the situation based solely on the victim’s reactions** (e.g., if she was raped she won’t be laughing now).

CHILD SEXUAL ABUSE

On college campuses, it is more likely that sexual assault and sexual abuse as defined by the West Virginia Code will occur than child sexual abuse. However, child sexual abuse is not out of the realm of possibility, as minors can come/be brought to campus for any number of reasons (e.g., summer programs, athletic programs/events, etc.).



In addition to sexual assault and sexual abuse, West Virginia law describes other **sex offenses involving children**. Sexual abuse of children includes, but is not limited to, sexual intercourse, sexual intrusion and sexual contact (West Virginia Department of Health and Human Resources, Child Protective Services, 2008).

Additional laws include:

- ✓ **Use of minors in filming sexually explicit conduct** (*WVC§61-8C-2*);
- ✓ **Distribution and exhibiting of material depicting minors engaging in sexually explicit conduct** (*WVC§61-8C-3*);
- ✓ **Sexual abuse** by a parent, guardian, custodian or person in a position of trust to a child; a parent, guardian, custodian or person in a position of trust to a child allowing sexual abuse to be inflicted on that child; and displaying of a child’s sex organs by a parent, guardian or custodian (*WVC§61-8D-5*);
- ✓ **Sending, distributing, exhibiting, possessing, displaying or transporting of material** by a parent, guardian or custodian **depicting a child engaged in sexually explicit conduct** (*WVC§61-8D-6*); and
- ✓ **Incest**—engaging in sexual intercourse or sexual intrusion with one’s father, mother, brother, sister, daughter, son, grandfather, grandmother, grandson, granddaughter, nephew, niece, uncle or aunt (*WVC§61-8-12*).
- ✓ Generally speaking in West Virginia, child abuse involves **a parent, guardian or custodian of a child who knowingly or intentionally inflicts an injury upon that child**. However, teenagers, for example, can experience sexual assault perpetrated by their peers.

Examples of Child Sexual Abuse

- ✓ Sexual touching and fondling of a child’s sexual body parts
- ✓ Attempted or actual oral, anal or vaginal penetration
- ✓ Forcing a child to touch another person’s sexual body parts or engage in sexual activity with animals
- ✓ Exposing a child to adult sexual activity or pornography or taking pornographic pictures of a child
- ✓ Having a child undress, pose or perform in a sexual manner
- ✓ Voyeurism, exposing oneself to a child or masturbating in front of a child
- ✓ Sexualized talk with a child or making fun of a child’s sexual development, preferences or organs
- ✓ Forcing overly rigid rules on dress or forcing a child to wear revealing clothes
- ✓ Stripping a child to hit or spank, or getting sexual excitement out of hitting

Symptoms a Child Who is Being Sexually Abused May Display

(Note the presence of such symptoms is not necessarily indicative of abuse)

- ✓ Sleep disturbances or nightmares and bedwetting
- ✓ Change in eating habits
- ✓ Excessive clinging or crying
- ✓ Depression and/or anxiety
- ✓ School problems
- ✓ Running away
- ✓ Hostility or aggression
- ✓ Sexually transmitted diseases
- ✓ Fear/dislike of particular adults/places
- ✓ Drug/alcohol problems
- ✓ Withdrawal from family, friends or usual activities
- ✓ Frequent touching of private parts or sexual behavior inappropriate to the age of the child
- ✓ Physical symptoms involving the genital, anal or mouth area
- ✓ Any dramatic change in behavior or development of new behavior

Common Emotional Responses of Children to Sexual Abuse

- ✓ **Fear** of the abuser, of getting into trouble/getting a loved one into trouble, and/or of not being believed
- ✓ **Guilt** for not stopping the abuse, believing they consented to it, telling/keeping the secret, etc.
- ✓ **Shame** about the abuse and/or their body's reactions
- ✓ **Confusion** due to their emotions (e.g., because they love the abuser)
- ✓ **Anger** at themselves and/or the abuser and others who failed to protect them
- ✓ **Sadness** at being betrayed by someone they trusted
- ✓ **Isolation** because they feel alone and have trouble talking about the abuse

Sexual Harassment

The U.S. Department of Education (DOE), Office for Civil Rights (OCR) defines sexual harassment as **conduct that is sexual in nature, is unwelcome and denies or limits a student's ability to participate in or benefit from a school's education program.** The U.S. Equal Employment Opportunity Commission (EEOC) expands this definition to include work settings. According to the EEOC, sexual harassment is a continuum of acts, including unwelcome sexual advances, conduct of a sexual nature and requests for sexual favors, that explicitly or implicitly affects a person's employment, unreasonably interferes with work or school performance or creates an intimidating, hostile or offensive work or school environment. The chart provides examples of acts that might be considered sexual harassment.

Category	Examples
Verbal or Written (via in-person comments, mail, phone calls, texting, e-mails, other social media, etc.)	<ul style="list-style-type: none"> ✓ Requesting sexual favors/repeatedly asking a person out ✓ Offering academic benefits/employment advancement in exchange for sexual favors ✓ Making sexual innuendoes/comments with sexual overtones ✓ Describing attributes of a person's body, clothing or behavior in a sexual manner ✓ Telling sexual or sex-based jokes ✓ Asking a person about her/his sexual experiences, fantasies or preferences ✓ Spreading rumors about a person's personal or sexual life ✓ Making statements that threaten a person or involve sexual bribery ✓ Making threats after a negative response to sexual advances ✓ Calling a person sexually oriented names such as hunk, doll, babe or honey ✓ Calling a person a sexually derogatory name such as bitch, whore or slut
Non-verbal/visual	<ul style="list-style-type: none"> ✓ Looking/staring up and down a person's body ✓ Making facial expressions of a sexual nature such as leering, winking, throwing kisses or licking lips ✓ Making sexually suggestive or derogatory gestures ✓ Sending/distributing sexually explicit or derogatory posters, drawings, pictures, cartoons, cards, publications, screensavers, novelties, etc. ✓ Creating public graffiti about a person's sexuality ✓ Touching or rubbing oneself sexually in view of another person ✓ Exposing oneself to another person ✓ Following a person
Physical	<ul style="list-style-type: none"> ✓ Impeding or blocking a person's movement/path ✓ Inappropriately touching a person or a person's clothing ✓ Standing closer than appropriate or necessary to a person ✓ Assaulting a person ✓ Having unwanted sexual contact with a person ✓ Patting, hugging, kissing or stroking

As Phillips & Falto (2014) note, sexual harassment in college settings can take different forms depending on the harasser and the nature of the harassment. For example, college employees, other students and non-employee third parties, such as visitors to the college, can engage in this conduct. Both male and female students can be victims of sexual harassment, and the victim may be of the opposite or same sex as the harasser. Sexual harassment can occur at any school activity and in institutional facilities or at off-campus locations, such as a school-sponsored retreat or training program at another location.

What are forms of sexual harassment?

Quid pro quo (“this for that” behavior): In this form of sexual harassment, educational or employment decisions are made on the condition that a person accepts unwelcome sexual behavior. This behavior only needs to happen one time to be considered sexual harassment. An example would be a professor making a passing grade contingent upon whether a student has sex with him.

Hostile environment: This form of sexual harassment is characterized by pervasive (persistent or all encompassing), sex-related verbal or physical conduct that is unwelcome or offensive, and can unreasonably interfere with school or work performance. For the conduct to be considered sexual harassment, the hostile environment must be extreme or sustained and non-trivial. An example would be a male student continuously texting degrading jokes about women to the only female student in his engineering classes even after she tells him to stop.

How many college students experience sexual harassment?

The American Association of University Women Education Foundation estimates that **2/3 of students have experienced sexual harassment while in college** (Hill & Silva, 2005).

What sexual harassment laws apply to college students?

Sexual harassment is a civil rights violation of federal and state discrimination laws in qualifying settings. The law applicable in educational settings is Title IX of the Education Amendment of 1972. The amendment includes a prohibition of sexual harassment in schools that receive federal funding. Sexual harassment, along with other forms of sexual violence, is typically also a violation of a campus’s student code of conduct. (See *C. Federal Legislation* as well as *D. Getting Started: Student Conduct Complaints*.)

Keep in mind that students may be employed, on or off campus. If sexual harassment occurs at their workplaces, there may be laws that protect them from sexual harassment as employees. Federal discrimination laws apply to certain work sites (Title VII of the Civil Rights Act of 1964). West Virginia law (*WVC§5-11, Legislative Rule Title 77*) addresses certain work settings.

How do victims react to sexual harassment?

(Drawn from West Virginia Foundation for Rape Information and Services, 2012)

Sexual harassment can cause victims to feel:	At school, sexual harassment can lead to:	In the workplace, sexual harassment can lead to:
<ul style="list-style-type: none">✓ Powerlessness, anger and anxiety✓ Self-blame, depression and lowered self-esteem✓ Denial that the harassment is occurring✓ Isolation—family, friends and co-workers may minimize the victimization, and peers may blame and reject them✓ Decreased mental/physical well-being	<ul style="list-style-type: none">✓ Inability to concentrate✓ Lower grades✓ Withdrawal from courses✓ Changing majors✓ Absenteeism✓ Dropping out of school	<ul style="list-style-type: none">✓ Decreased productivity✓ Denial of advancement and/or benefits✓ Loss of income or job

Sexual harassment is not necessarily confined to the person targeted for sexual harassment; anyone can be negatively affected by this offensive conduct.

Domestic Violence

(Section adapted in part from [National Coalition Against Domestic Violence](#), 2007)

Domestic violence is **abusive behavior**—e.g., willful intimidation, physical assault, battery and sexual assault as well as emotionally abusive and controlling tactics— **perpetrated by an intimate partner against another**. This **definition sometimes extends, as it does in West Virginia law, to include victims who are related to the abuser or are other household members**. Domestic violence affects individuals in every community, regardless of age, economic status, race, religion, nationality, education, gender identity or sexual orientation. In addition to emotional trauma caused by domestic violence, physical harm can vary from simple assault to homicide (Sampson, 2006).

STATE LAWS



WVC §48-27-202 defines **domestic violence or abuse** as the occurrence of one or more of the following acts **between family or household members**:

- ✓ Attempting to cause or intentionally, knowingly or recklessly **causing physical harm** to another person with or without dangerous or deadly weapons
- ✓ Placing another person in **reasonable apprehension of physical harm**
- ✓ **Creating fear of physical harm** by harassment, stalking, psychological abuse or threatening acts
- ✓ **Committing either sexual assault or sexual abuse**
- ✓ **Holding, confining, detaining, or abducting another person** against that person's will

A **family or household member**: current or former spouses, persons living as spouses or who have formerly resided as spouses, current or former intimate partners, persons who are dating/have dated, persons who are presently or in the past have resided together in the same

household, persons who have a child in common, parents and in-laws, siblings, children and stepchildren, grandparents, aunts and uncles, and nieces, nephews, first and second cousins.

Domestic violence offenses and penalties (WV §61-2-28) in West Virginia:

Domestic Assault: The unlawful attempt to commit a violent injury of another family or household member or unlawfully committing an act which places another family or household member in reasonable apprehension of immediately receiving a violent injury.

Domestic assault is a **misdemeanor charge**, with penalty of confinement in a county or regional jail for not more than 6 months, or fined not more than \$100, or both. For the **2nd violation**, the penalty is confinement in a county or regional jail for not less than 30 days nor more than 6 months, or fined not more than \$500, or both.

Domestic Battery: The unlawful and intentional physical contact of an insulting or provoking nature with another family or household member or unlawfully and intentionally causing physical harm to another family or household member.

Domestic battery is a **misdemeanor charge**, with penalty of confinement in a county or regional jail for not more than 12 months, or fined not more than \$500, or both. For the **2nd violation**, the penalty is confinement in a county or regional jail for not less than 60 days nor more than 1 year, or fined not more than \$1,000, or both.

A 3rd violation for domestic assault or battery is a felony charge if the offense occurs within 10 years of a prior conviction of these offenses. The penalty is confinement in a state correctional facility not less than 1 nor more than 5 years and/or fined not more than \$2,500.



Domestic violence victims often seek **civil protective orders** against their abusers. In West Virginia, they can petition their **county magistrate** for an emergency order—if the magistrate finds that domestic violence or an imminent threat of domestic violence exists, an emergency order may be issued. The order will require the abuser to stop abusing, harassing, stalking, threatening or otherwise intimidating the victim. The emergency order is good until the family court hearing is held and a decision is made whether to issue a final protective order. If the abuser violates the conditions of an emergency or permanent protective order, it may result in a contempt of court charge or a criminal charge.

(See the West Virginia Supreme Court of Appeal’s brochure, [Domestic Violence Protective Orders](#), for more information.)

BASIC DATA ON DOMESTIC VIOLENCE

As for **domestic violence in West Virginia in general** ([West Virginia Coalition Against Domestic Violence](#), 2012): 14,880 domestic violence cases were filed in West Virginia Family Court in 2010 (West Virginia Supreme Court of Appeals) and 12,661 domestic violence offenses were reported to law enforcement in 2010 (West Virginia State Police, 2010).

The incidence of domestic violence in the state is likely much higher than the above statistics reflect as many victims do not report this crime. In fact, domestic violence is chronically underreported: nationally, women report only 1/4 to 1/2 of their assaults to police and male victims report perhaps even less (Tjaden & Thoennes, 2000; Rennison & Welchans, 2000; Klein, 2009). However, domestic violence related law enforcement calls have been found to constitute the single largest category of calls received by law enforcement, accounting for 15% to more than 50% of all calls (Friday, 2006; Hendricks, 1991; Klein, 2009.)

Approximately **1/3 of homicides in the state were related to domestic violence** (West Virginia State Police, 2010). **Over 2/3 of women murdered were killed by a family or household member** (West Virginia Bureau of Public Health, 2010).

In general, what is the nature of the physical violence?

When physical assault does occur in domestic violence situations, it often involves pushing, slapping and hitting (Tjaden & Thoennes, 2000; Rennison & Welchans, 2000; Sampson, 2007). The 2010 [*National Intimate Partner and Sexual Violence Survey*](#) found that 1 in 4 women and 1 in 7 men have been the victim of severe physical violence by an intimate partner. It also indicated that many female victims experienced multiple forms of violence (physical and sexual violence and stalking) while male victims most often experienced physical violence. Another study found that sexual assault occurs in approximately 40 to 45% of abusive intimate relationships (Campbell et al., 2003).

How many college students experience domestic violence?

Rennison and Welchans (2000) found that women within the typical age bracket of high school and college students, ages 16 to 24, experience the largest per capita rate of intimate partner violence (defined as violent crimes committed against persons by their current or former spouses, boyfriends or girlfriends). Catalano (2007) found that women ages 20 to 24 are at the greatest risk of nonfatal intimate partner violence.

What is the general context in which domestic violence occurs?

(Adapted from the University of Michigan's Sexual Assault Prevention and Awareness Center)

Unfortunately, **violence in an intimate relationship typically reoccurs**. It seldom is a one-time occurrence. It **usually begins with verbal and emotional abuse to establish control**. It can be so subtle that the other person doesn't even recognize it. **Physical violence may not even begin until the abused partner decides to leave or becomes committed to the relationship** (e.g., becoming monogamous, moving in together, gets engaged or married or have a child together).

Most abused women try to escape the relationship at some point, but face many barriers in doing so. For example, they may still have hope in the relationship and love the abuser. Emotionally abusive tactics used by the abuser may have led them to lack faith in themselves. They may fear increased violence, death, or violence against their loved ones or pets if they try to leave. They may be isolated from their support system. They may fear losing custody of their children. They may feel they lack the resources needed to stay safe and support themselves once they leave.

Abusers tend to escalate their violence when the abused person tries to leave, wants more independence, or has already left.



Educate students about warning signs of an abusive intimate or dating partner. For example, a boyfriend might frequently check his girlfriend’s phone, computer or e-mail without permission, constantly tell her what to do and put her down, be possessive and jealous, be moody, have an explosive temper, be financially controlling, and try to isolate her.

What factors may raise the risk of experiencing domestic violence?

(Also see *Factors Linked with Perpetration of Sexual and Domestic Violence*.)

Numerous risk factors as cited below (Sampson, 2007) are associated with domestic violence victimization for women. The presence of any of these factors does not mean that a person will become a victim.

Age: As cited earlier, women ages 16 to 24 are at highest risk for intimate partner victimization.
Socioeconomic Status: Victimization surveys indicate that lower-income women are more frequently victims of domestic violence than wealthier women (Rennison & Welchans, 2000).
Race: Black females experience intimate partner violence at a rate 35% higher than that of white females. Black males experience intimate partner violence at a rate about 62% higher than that of white males and about 2 ½ times the rate of men of other races (Rennison & Welchans, 2000). Another study that was more inclusive of additional racial groups found that American Indian/Alaskan Native women experience significantly higher rates of physical abuse than the general population (Tjaden & Thoennes, 2000).
Being young, black, low-income, divorced or separated, a resident of rental housing, and a resident of an urban area have all been associated with higher rates of domestic violence victimization among women and men (Rennison & Welchans, 2000).
Women whose partners are verbally abusive are at increased risk for physical intimate partner violence (Tjaden & Thoennes, 2000).
Women whose partners are jealous or very controlling are at increased risk of intimate partner violence and stalking (Tjaden & Thoennes, 2000).
Although alcohol and drug use do not cause intimate partner violence, the risk of victim injury increases if the abuser is using alcohol or drugs (Tjaden & Thoennes, 2000).

What are common victim reactions to domestic violence?

(Adapted from the University of Michigan’s Sexual Assault Prevention and Awareness Center)

Like sexual assault victims, individuals react differently to domestic violence. However, it is common for a person who has just experienced the first incident of violence by her/his intimate partner to **respond with disbelief or denial and feel responsibility, shame and/or embarrassment. As violence increases in severity and frequency, victims may become more afraid, but also may internalize the problem and feel guilt and failure.** Other **common victim responses** include:

<ul style="list-style-type: none"> ✓ Feeling hopeless or worthless ✓ Becoming depressed ✓ Having nightmares ✓ Hypervigilance ✓ Lacking emotion 	<ul style="list-style-type: none"> ✓ Becoming isolated ✓ Becoming suicidal ✓ Using alcohol or other drugs as a means to numb emotions ✓ Developing post-traumatic stress disorder 	<ul style="list-style-type: none"> ✓ Developing physical health problems—e.g., headaches or migraines, fatigue, insomnia, musculoskeletal issues, anxiety, eating disorders, gastrointestinal disorders, and chronic pain
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Dating Violence

(Drawn in part from Dating Violence Resource Center, [Campus Dating Violence Factsheet](#))

Dating violence is controlling, abusive and aggressive behavior against a person on a date or a dating partner. Like sexual and domestic violence, it can occur regardless of the sexual orientation of the victim and perpetrator. It can include:

- ✓ **Physical abuse**—intentional use of physical force with the intent to cause fear or injury, such as hitting, shoving, biting, strangling, kicking or using a weapon
- ✓ **Emotional abuse**—non-physical behaviors such as threats, insults, constant monitoring, humiliation, intimidation, isolation or harassment
- ✓ **Sexual abuse**—when a person subjects another to sexual contact without her/his consent, and that lack of consent is due to physical force, threat or intimidation.

Is dating violence the same as domestic violence?

In some situations, dating violence is the same as domestic violence. For example, college students may experience physical, sexual and emotional violence (including stalking) by a current or former boyfriend or girlfriend (dating partner). In other situations, dating violence may have different dynamics than domestic violence. For example, students may be abused by someone with whom they are casually dating or had a few dates. Abusive tactics in these situations may be more subtle than in established intimate relationships, but this is not always true. Dating violence may be a more comfortable term for teens and college students to use to explain their circumstances than domestic violence, especially if they associate domestic violence with couples who are older or in more serious or long-term relationships.

How many college students experience dating violence?

In a study by Sellers and Bromley (1996), 32% of college students reported dating violence by a previous partner and 21% reported violence by a current partner. Fisher, Cullen and Turner (2000) found that 12% of completed rapes, 35% of attempted rapes and 22% of threatened rapes on college campuses occurred on a date, and that of the college women who had been stalked, 42% indicated the stalker was a boyfriend or ex-boyfriend. A survey of college students by Straus (2004) asked about perpetration of dating violence; nearly 1/3 of students reported physically assaulting a dating partner in the previous year.



Research on dating violence sometimes combines intimate partner violence together with violence that occurs on a date but not necessarily between individuals who have an intimate relationship. Such a view can be misleading.

- ✓ While a date could involve persons who are already in an intimate relationship, a **date could also be a casual encounter of persons who have not yet been intimate** or may have been intimate but **do not consider themselves in a relationship** (e.g., if they had a one-night fling only after drinking at a party they both attended but otherwise do not interact). Note that many sexual assaults in college environments occur when the victim and offender are at the same location/function (a party, a bar, a dance, etc.) but not dating or on a date.

- ✓ **Violence committed on a date is often mainly sexual in nature**, making it more sexual rather than domestic violence.
- ✓ **Individual acts of violence committed by a date which are criminal offenses should be investigated as such** and not minimized because they occurred in a dating relationship. Violence is violence regardless of the victim's relationship to the offender.

For these reasons, when possible **avoid using the term dating violence and instead use terms that more powerfully describe the individual behaviors**—sexual assault, physical assault, intimidation, battery, stalking, etc.

Stalking and Harassment

The [Stalking Resource Center](#) defines **stalking as a course of conduct directed at a specific person that would cause a reasonable person fear**. Under this definition, stalking can include a variety of behaviors, including harassment.

STATE LAW



West Virginia law (WVC §61-2-9a) differentiates stalking from harassment. To be charged with stalking in West Virginia, someone must repeatedly (two or more times) follow another person, knowing or having reason to know that the conduct causes the person followed to reasonably fear for his or her safety or suffer significant emotional distress. **To be charged with harassment**, someone must repeatedly (two or more times) harass or make credible threats of bodily injury against another person.

Both stalking and harassment are misdemeanor charges in West Virginia, with penalties upon conviction of confinement in the county or regional jail for not more than 6 months and/or fined not more than \$1,000. If a person stalks or harasses another in violation of an order by the circuit court, magistrate court or family court judge, they are also guilty of a misdemeanor, and upon conviction, can be incarcerated in the county/regional jail for not less than 90 days nor more than 1 year and/or fined not less than \$2,000 nor more than \$5,000.

Note that the term stalking is used to refer to both stalking and harassment in this toolkit.

The federal stalking statute adds protection. It specifically addresses and makes it a crime to travel across state lines or tribal jurisdiction with the intent to kill, injure, harass or place under surveillance with similar intent. The stalker must have the intent to harass, or intimidate the victim, or to place the victim, a family member, or a partner of the victim, in fear of death or serious bodily injury. [Details on the federal laws and penalties](#) for related federal violations can be found at the national Stalking Resource Center or by accessing the [stalking section \(18 U.S.C. 2261A Interstate Stalking\) of the federal code](#).

BASIC DATA ON STALKING AND HARASSMENT

What tactics do stalkers use?

Under West Virginia's definition of stalking/harassment, there are **many behaviors that could potentially be considered stalking or harassment** (Stalking Resource Center; West Virginia Foundation for Rape Information and Services, 2014):

- Surveillance or watching the victim;
- Pursuing/following the victim;
- Unexpected appearances where the victim works, lives, goes to school or visits;
- Approaching or confronting the victim;
- Telephone harassment;
- Sending/giving unwanted gifts, letters or e-mails to the victim;
- Monitoring of telephone calls or computer use;
- Use or misuse of technology to stalk and harass;
- Spreading rumors or otherwise defaming the victim's character;
- Vandalism or other destruction of property;
- Threats to the victim and/or her/his family, friends and pets; and
- Physical attacks, including sexual assault.

These behaviors may not seem anything more than simply coincidental or annoying. Initially victims, their friends and families, law enforcement and the courts may not fully recognize that these offenders can be dangerous. However, **it is the cumulative pattern of behaviors that forms the "course of conduct" that can cause the targeted individual to be afraid and distressed** (and thus may be considered criminal). For example, a single e-mail or bouquet of flowers may not be frightening, but 150 e-mails, bouquets of dead flowers and late night threatening calls become actions that cannot and should not be ignored.



Most stalkers use multiple tactics. Common tactics reported by female college victims in the Fisher, Cullen and Turner 2000 study included being telephoned (78%), having a stalker waiting outside or inside places (48%), being watched from a distance (44%), being followed (42%), being sent letters (31%) and being e-mailed (25%).

How many people are stalked?

According to the *National Crime Victim Survey* (2012), **6.6 million people in the U.S. were stalked in one year**. Stalking does not just happen to celebrities and well-known people. Although high profile cases make the news, **stalking can happen to anyone. One in 6 women and 1 in 19 men have experienced stalking victimization at some point during their lifetime** (Black et al., 2011), during which they were very fearful or believed that they or someone close to them would be harmed or killed.

Persons ages 18 to 24 experience the highest rate of stalking (Baum et al., 2009).

According to [*The National Intimate Partner and Sexual Violence Survey: 2010 Summary Report*](#) (Black et al., 2011), more than 1/2 of female stalking victims and more than 1/3 of male stalking victims indicated that they were stalked before the age of 25. Fisher, Cullen and Turner (2000) found that **more than 13% of college women had experienced stalking** (defined as experiencing repeated, obsessive and frightening behavior that made the victim afraid or concerned for her safety). College campuses have ideal environments for stalking as they are

closed communities to a degree, where class schedules and other campus activities can be easily monitored (Fisher, Cullen & Turner, 2000). As students are making friends, learning about campus activities and registering for classes, they are likely to give their names and share cell phone numbers or dorm locations with virtual strangers.

What is the relationship between victims and their stalkers?

The Bureau of Justice Statistics' 2006 *Supplemental Victimization Survey* found that **nearly 3 in 4 stalking victims knew their offenders** (Baum et al., 2009). Fisher, Cullen and Turner (2000) found that **4 out of 5 of college women who experienced stalking knew their stalkers**: In this study, the stalkers were victims' boyfriends or ex-boyfriends 43% of the time, classmates 25% of the time, acquaintances 10% of the time, friends 6% of the time and coworkers 6% of the time. Another national study of female college students found that about 5% reported being stalked by a partner or ex-partner over a 7-month period (Fritsch et al., 2005; Logan, 2010). A smaller study found that almost 7% of college women were stalked by a current or former partner (Buhi, Clayton & Surrency, 2009; Logan, 2010).

Current or former partners know about the likes, dislikes, habits, interests and other details of their victims' lives that can assist them in stalking. Partner stalkers also may have or could easily gain access to passwords, account numbers and other sensitive information that could be used against victims.

Where are college students stalked?

Fisher, Cullen and Turner (2000) found that of the female students who were stalked, about 30% were stalked only off campus and about 70% were stalked either only on campus or both on and off campus.

What is the typical length of time stalking lasts?

Fisher, Cullen and Turner (2000) found that almost **2/3 of the college women who were stalked indicated that they were stalked at least 2 to 6 times a week**. Stalking incidents lasted an average of 60 days. Tjaden and Thoennes (1998b) found that, for the general population, the **average case lasts 1.8 years**. Logan (2010) found that for partner stalking, the average duration was just over 2 years.

Do stalkers engage in other violence?

As noted earlier, **stalking often occurs in the context of sexual assault, domestic violence and dating violence**. Jordan, Wilcox and Pritchard (2007) found that **3/4 of college women who experienced stalking-related behaviors also experienced other forms of violence**. Approximately 26% of stalking victims experienced stalking and sexual assault, while 11% experienced stalking and physical and sexual assault. Fisher, Cullen and Turner (2000) similarly found that in over 10% of campus stalking incidents, the victim reported that the stalker forced or attempted sexual contact and in over 15% of incidents, victims reported that the stalker either threatened or attempted to harm them.



Research on sexual assault at colleges found that **perpetrators of sexual assaults were often premeditating, repeat offenders who use classic stalking strategies to select and ensure the vulnerability of their victims** (Lisak & Miller, 2002).

How dangerous are stalkers?

Stalking behaviors should always be taken seriously. While stalking victims may not always be in imminent danger, the potential always exists. Stalkers can be violent and can escalate their stalking over time (Stalking Resource Center). They most likely will not stop if their behavior is ignored. In fact, ignoring the behavior sometimes seems to cause the behaviors to increase in frequency and/or become more disturbing or bizarre. Stalkers have physically assaulted, sexually assaulted and/or murdered their victims. It can be useful for victims to develop a safety plan.

Who is at risk for escalations in stalking violence?

Being stalked by an intimate partner presents an increased risk of danger for victims. Partner stalkers are more likely to physically approach their victims, be more insulting, interfering and threatening, and use weapons. Their behavior is more likely to escalate quickly. They are more likely to re-offend even after criminal justice intervention. Stalking can be extremely dangerous for female victims if it involves a recently ended intimate relationship.

The risk of violence is also heightened when the stalker makes direct threats of violence, is jealous of the victim's relationships with others, and uses illegal drugs.

There is a **higher risk for lethality when stalking accompanies physical or sexual violence** than for either physical or sexual violence alone.

How often is stalking reported to law enforcement?

Fisher, Cullen and Turner (2000) found that **only 17% of stalking incidents were reported to law enforcement.** However, the vast majority (93%) of victims confided in someone, most often a friend, that they were being stalked.

As mentioned earlier, victims may not initially be aware that they are being stalked and thus not report. When they do become concerned, they may look back on the pattern of behaviors and realize that they were being stalked. If stalking is reported, the college should be prepared to educate students as to how stalking typically presents and take all stalking behaviors seriously.

What reactions are common for stalking victims?

(Also see C3. *Responding to Disclosures: Understanding Victims' Needs*)

Fisher, Cullen and Turner (2000) found that 3 in 10 college women who reported they were stalked indicated being injured emotionally or psychologically. Findings from the *2006 Supplemental Victimization Survey* offers a snapshot of victim reactions (Baum et al., 2009):

- ✓ When stalking victims were asked about their worst fears related to stalking, 46% indicated they feared not knowing what would happen next, 30% were afraid of bodily harm, 29% feared the behavior would never stop, and 9% feared death at the hands of their stalker.
- ✓ As the stalking progressed, 74% of victims reported being angry/annoyed, 36% were anxious or concerned, 26% were frightened, 16% felt helpless, 10% felt depressed, and 10% felt sick.
- ✓ About 1 in 8 of employed victims lost time from work due to the stalking.
- ✓ About 3 in 10 victims accrued out-of-pocket costs associated with the stalking.

In addition, stalking victims may experience sleep and eating disturbances, nightmares, hyper-vigilance, shock and disbelief, and a feeling of loss of personal safety (National Center for Victims of Crime, 2010; West Virginia Foundation for Rape Information and Services). If victims are in school, their academic performance could be affected. Some victims feel that they have to move to end the stalking.

Cybercrimes

Cybercrimes are criminal activities facilitated through the use of technology. Technology used is not limited to computers and the Internet, but can extend to a broad range of electronic devices and media (e.g., telephones, fax machines, TTY/TTD equipment, cameras, webcams and spycams, computer software and hardware such as global positioning systems, caller ID systems, computer monitoring software, and keystroke logging systems and software).

Stalking, sexual violence and domestic and dating violence may involve cybercrimes.

Electronic aggression is a term used to describe any kind of aggression perpetrated through technology (Hertz and David-Ferdon, 2008). The Internet creates opportunities for electronic aggression to occur through e-mail, instant messaging, chat room exchanges, website posts, creating web pages, videos or profiles on social networking sites, taking pictures and distributing them, and uploading videos and posting them on-line for the world to see. The cell phone—via phone calling, texting, taking/distributing photos/videos, and connecting to the Internet— is another popular tool for electronic aggression.

Below are some examples of how electronic aggression is used in interpersonal violence cases (both alone and in combination with other controlling, abusive and/or violent tactics):

- ✓ **Sexual predators can victimize individuals online.** For example, they may (Wolak, Mitchell & Finkelhor, 2006): request victims to engage in sexual activities or provide personal sexual information, attempt offline contact with victims, expose victims to unwanted sexual material, and/or harass victims.
- ✓ **Prior to or following a sexual assault, a sex offender may also use electronic aggression to threaten or retaliate against the victim.**
- ✓ **For abusers in dating or domestic violence situations,** technology offers a host of readily available tools to **repeatedly control, pressure or threaten someone** they are in an intimate relationship with or dating.
- ✓ **Stalkers can use any form of electronic or technological media and/or devices to threaten, harass or intimidate their victims (sometimes referred to as cyberstalking).** With their technology arsenals, stalkers can easily gather information and spy on victims,

impersonate them, intercept and monitor their communications with others, and embarrass, insult, harass and exploit them.



See Campus Safety Magazine's [Your Ultimate Guide to Student and School Internet Safety](#) (Swanson, 2011) to explore how to protect students from cyberstalking and Internet predators.

B3. GENDER BIAS AND VIOLENCE

[Gender bias](#) is prejudice in treatment or action towards other persons on the basis of their sex. **Gender bias greatly influences social norms that tolerate interpersonal violence.** It is useful to examine gender stereotypes you may have to be able to dispel myths related to interpersonal violence and avoid gender bias in your own interactions.



Individuals' beliefs and behaviors are shaped by the environment in which they are socialized and its norms. Norms are habits, beliefs and standards that are grounded in a particular culture. **Norms provide society with patterns and signals to model "proper" behaviors.**

When interpersonal violence is typical, expected and reinforced by media, family, peers, schools or the community, it will occur more often. If norms reinforced healthy, safe relationships, there would be a change in the level of violence in our society.

(Drawn from International Association for Chiefs of Police's *National Campus Law Enforcement Institute on Violence Against Women*, 2010.)

We are socialized from an early age—through the media, family, community, peers, schools, religious institutions, etc.—to accept stereotypes of females and males that reflect and reinforce gender bias. **Due to gender bias, girls and women are more at risk for violence throughout their lives.** The following are a few examples of societal beliefs about gender roles, relationships and sexuality that support gender-based violence:

- ✓ It's acceptable to tell jokes and show visual images that degrade women.
- ✓ If a man takes a woman out on an expensive date, it is OK for him to expect sex in return.
- ✓ It's OK for males to be sexually aggressive, while females are expected to set and enforce limits on male sexual behavior.
- ✓ In an intimate relationship between males and females, women traditionally were expected to listen and be supportive to their male partners, fulfill their sexual needs, care for their children, and cook and clean their home. An abusive husband may rationalize the use of violence if his wife fails to live up to such expectations. (For more on domestic violence and adherence to gender roles, see [University of Michigan, Sexual Assault Prevention and Awareness Center](#).)

While many men and women do not buy into beliefs rooted in gender bias, the overall message of male power and female submissiveness is inescapable in our culture. **Note the following**

overlapping social norms that contribute to gender-based violence (The Prevention Institute, 2007; Cohen, Davis & Graffunder, 2006):

- ✓ **Traditional male roles** promote domination, exploitation, objectification, oppression, risk-taking behaviors in men and boys, often glorifying victimizing women and girls.
- ✓ **Limited female roles that sexualize women** from a very young age blur the morality of age and ability to give consent, sending the message that women are objects for the pleasure of men and allowing men/boys to see themselves as the takers and users of the “commodity” of women.
- ✓ **Images of power support violent norms** that allow men to exert control over women.
- ✓ **Violence as an acceptable option** and tolerated as normal behavior that can be used as a way to solve problems (and where blame for using aggression is attributed to the victim).
- ✓ **The norm of privacy and shame encourages secrecy and silence around violence and fosters stigmatization and lack of intervention.** This norm promotes a shame-based culture that perpetuates abuse by immobilizing victims and their supporters with public shame and stigma. Privacy effects victim reporting rates, as victims say that they are reluctant to come forward because of the victim blaming from media, friends, family, etc.

Community factors can reinforce societal norms, such as weak sanctions against perpetrators and lack of support for victims from institutions that are supposed to help them seek justice. For example, college students who had been sexually victimized give a number of reasons for not reporting their victimizations to law enforcement officials. Fear of being treated with hostility by law enforcement and anticipation that law enforcement would not believe the incident was serious enough and/or would not want to be bothered with the incident were listed as barriers to reporting (Fisher, Cullen & Turner, 2000).



Gender bias is exacerbated by discrimination based on race, ethnicity, sexual orientation, perceived gender identity, socio-economic status, class, disability and/or age. These forms of discrimination can further increase a person’s vulnerability to violence and make safety, healing and justice less feasible (Amnesty International).

Gender bias affects all victims of interpersonal violence. When men are victims of sexual or domestic violence, they may be even less likely than female victims to seek help because these crimes are seen as ones that “happen to” females, who are perceived as the “weaker” sex. Despite the public’s growing awareness about male victimization, there is still a sense of disbelief that boys and men could be violated sexually or by a female intimate partner. Heterosexual male victims may fear being perceived as homosexual, feminine or weak if they were assaulted by a male. If they were sexually assaulted by a female, many believe that they should just “enjoy the sex” instead of “complaining” about it. When girls and women experience sexual or domestic violence by a female perpetrator, gender bias that sanctions violence against women can still be a factor.

B4. VICTIM BLAMING

It’s important for you to recognize that a key reason for a victim’s reluctance to report or seek help following an act of interpersonal violence is society’s tendency to blame the victim. **Victim**

blaming in essence removes the responsibility for the violence from the offender and places it upon the victim. We can address these myths during education and prevention programs by focusing on the offenders' behaviors and the realities of interpersonal violence.

Some **examples of myths that support victim blaming in interpersonal violence cases** include:

- ✓ If a woman wears revealing clothing, flirts with or walks home with the perpetrator, she is enticing him, so it can't be sexual assault.
- ✓ If a woman is out alone at night, she deserves what she gets.
- ✓ If a woman did not physically resist the perpetrator's advances or there was no "real" threat of physical harm, then it cannot be sexual assault.
- ✓ If an individual had sex previously with the perpetrator, it can't now be sexual assault.
- ✓ A woman might fabricate interpersonal violence to seek attention or revenge.

When women remain in abusive relationships, people may question why they stay and blame them for "letting" the abuse happen. Some may justify the violence if they feel the woman provoked it. Some may excuse violence as a result of the abuser's use of alcohol or drugs.

The blame that victims receive from others often erodes their confidence and develops into self-blame, which can manifest into feelings of guilt, shame, anxiety, depression, lack of trust and isolation. It makes it harder for victims to come forward and report the violence. **Just as damaging, victim blaming can lead to backlash and retaliation against victims**—for example, a victim might be labeled promiscuous by peers after being sexual assaulted by a classmate or sexually harassed by a professor. If the incident is reported, a victim may be subjected to retaliation (e.g., her stalker may increase the level of attacks or others may harass her if her abusive partner or rapist is a popular campus figure such as an athlete). In addition, institutions and the media can add to the damage by portraying victims negatively.

Why do people blame victims of interpersonal violence? Some thoughts and theories:

- ✓ **Men and women are socialized to believe stereotypes that support gender discrimination, including gender-based violence.**
- ✓ **People want to believe that as long as they behave "appropriately," nothing bad will happen to them.** This belief leads to the view that victims must have done something to encourage or deserve the violence and thus are to blame. Those who blame victims may feel a sense of security because they view themselves as acting appropriately and therefore are not vulnerable to violence. (Bullet adapted from Rape Crisis Information Pathfinder.)
- ✓ **People may believe that sexual violence is caused by uncontrollable sexual desire,** which leads them to conclude that the way a person looks or behaves can elicit irrepressible sexual arousal in others.
- ✓ **People may find it difficult to comprehend that a person they know is capable of interpersonal violence.** This is especially true when the alleged perpetrator is someone they like and/or respect.
- ✓ **People may not be educated about the nature of interpersonal violence.** Some people maintain victim blaming attitudes simply because they have not been taught about the realities of interpersonal violence and have not had the opportunity to counter their assumptions and biases with facts.



Some tips ([Center for Relationship Abuse Awareness](#)): Challenge victim-blaming statements. Don't agree with perpetrators' excuses for violence (they will try to rationalize their actions). Let victims know that it is not their fault. Hold perpetrators accountable for their actions. Provide victims with resources and support. Avoid victim blaming.

B5. PERPETRATORS OF INTERPERSONAL VIOLENCE

This section is intended to provide you with a very brief overview of perpetrators of different types of interpersonal violence. Note there is some overlap of this section with *B2*.

Sex Offenders

(Partly drawn from the Center for Sex Offender Management's ([CSOM](#)) publications)

The primary motivation for sex offenders to commit sexual violence is generally not sexual gratification, although that may be part of it. More commonly, **offenders use sexual violence as a tactic to overpower, control and/or humiliate another person**. They often have a need to compensate for their own feelings of inadequacy, anger and/or powerlessness. By humiliating victims, their anger is discharged and their feelings of strength and capability are validated. Offenders' dehumanizing acts of sexual coercion may help them gain a temporary sense of control, while leaving their victims feeling devastated, traumatized and powerless.

There is no profile of a typical sex offender (Becker & Murphy, 1998; Hunter, 2006; Marshall, 1996; Talbot et al., 2002). Instead (paragraph and bullets drawn from CSOM, 2010; Gilligan, 2008):

- ✓ Sex offenders vary from one another in terms of demographics, range of offending behaviors, motivations, intervention needs and levels of risk they pose (Carter, 2008).
- ✓ Sex offenders can be adults or juveniles. Sex offenders may offend against adults and/or children, males and/or females.
- ✓ The vast majority of sex offenses are committed by males, but females do commit these crimes (FBI, 2005; Schwartz & Cellini, 1995).
- ✓ Sex offenders vary in marital status, socio-economic level, education and family ties.
- ✓ Some have been victims of sexual abuse, but many have not. Being sexually abused does not cause people to become sex offenders.
- ✓ Offenders' sex crimes can range from non-contact offenses such as flashing or voyeurism to contact offenses such as fondling or rape.
- ✓ Most sex offenders commit multiple sex crimes against multiple types of victims with whom they have varying types of relationships (Denver Police Department, 2011).
- ✓ Sex offenders may have a long criminal history or none at all.

Key points about sex offenders (drawn in part from [Lisak & Miller](#), 2002):

- ✓ When discussing sexual assault that occurs on college campuses, people may have an image of a male student “who, under the influence of alcohol, mistakenly crosses the line between sexual pressure and rape.” However, the **majority of rapists plan their assaults as well as how to get away with them** (e.g., by identifying potential victims who are

vulnerable, accessible and easily manipulated/isolated, and whose credibility will be called into question if they report due to factors such as they were drinking or doing drugs, involved in illegal activities, have a cognitive disability, had sex with the rapist previously, etc.).

- ✓ **Offenders use violence as needed.** They may not need to use physical force if they can incapacitate, intimidate or wear down resistance of victims. It is easier to avoid prosecution if force is not used. Bachman (1998) found that the only factors associated with rape that increased the likelihood of victim reporting were physical injuries and the use of a weapon.

Between 12 and 24% of convicted sex offenders are known to have repeated sex crimes, as indicated by a new charge or conviction for a sex offense (Hanson & Harris, 2004; Hanson & Morton-Bourgon, 2005). However, **these rates likely are underestimated since most sex crimes are not reported.** There is usually no single factor that makes someone more likely to reoffend, but rather a combination of factors that might include problems in relationships, difficulty in dealing with emotions such as anger, having antisocial values, hostile attitudes toward women, or being sexually attracted to children. Treatment may help sex offenders develop skills to manage their behavior, which can reduce their chances of reoffending. But whether they will be successful depends on whether they are motivated to change their behaviors (Aos, Miller & Drake, 2006). (Paragraph drawn from CSOM, 2010.)



It is likely that **sex offenders committed far greater number of sex crimes than they are or will be convicted of (most will likely not be convicted at all).** Lisak and Miller (2002) found that of 1,882 men they assessed for acts of interpersonal violence, 120 reported acts that met legal definitions of rape or attempted rape, but were never prosecuted by criminal justice authorities. The majority (76) were repeat rapists. The 76 repeat “undetected” rapists together committed: 439 rapes and attempted rapes, 49 sexual assaults, 277 acts of child sexual abuse, 66 acts of child physical abuse, and 214 acts of battery. Lisak and Miller also found common characteristics between incarcerated and undetected rapists: Anger directed at women, need to dominate women, belief in rape myths, hyper-masculine attitudes, view of violence as normal, view of women as objects to be conquered, and deficits in empathy.

Lisak and Miller noted that with both incarcerated and undetected rapists, there is **a pattern that a small number of men committed the majority of sex crimes** (rather than many men committing single acts of sexual violence).

As mentioned earlier, **the courts can impose a variety of sentences for sex offending, depending upon the offender, the facts of the case and state laws.** While some offenders are sentenced to prison or jail, others are sentenced to community supervision (e.g., probation). Depending on their age and conviction, some are on the sex offender registry for their lifetimes, others for 10 years, and some not at all. For those sentenced to prison or jail, some are released with parole or probation supervision, while others are released with no supervision. When they are under community supervision, sex offenders are required to abide by certain restrictions and rules, such as the following (Paragraph and bullets drawn from CSOM, 2010):

- ✓ No contact with their victims;
- ✓ No or limited contact with minors;
- ✓ Participation in sex offender-specific treatment;
- ✓ Limited or no Internet access;

- ✓ No use of alcohol or drugs;
- ✓ Restrictions on where they can live and work;
- ✓ Restricted movement within the community and within and across state line; and
- ✓ Reporting to a probation/parole officer as required.



In every state, law enforcement agencies must maintain registries of certain convicted sex offenders (e.g., including data such as offenders' names, addresses, photographs and crime or conviction). The State Police administers the [West Virginia sex offender registry](#), as per the stipulations of the *Sex Offender Registration Act (WVC§15-12)*. In addition to updating the registry on a daily basis, the State Police distributes registrant data to the FBI and local entities in the county that the registrant resides, owns or leases property that he/she regularly visits, is employed or attends a school/training facility.

Abusive Partners

Like sex offenders, there is **no one profile for abusive intimate partners**. They come from all socioeconomic backgrounds, races, religions and walks of life. However, what they have in common is the **use of power and control as the main tactic in their abusive behavior**. **Abusive partners often** (from [Maricopa Association of Governments Domestic Violence Council](#); Wilson, 1997):

- ✓ **Equate jealousy with love**—continually question their partners about people spoken to or associating with, become jealous of time their partners spend with others, including family;
- ✓ **Use controlling behavior** to inhibit almost every aspect of their partners' lives;
- ✓ **Lie**, alter or withhold the truth;
- ✓ **Pressure their partners** to become committed to their relationship quickly;
- ✓ **Hold unrealistic expectations**—they may expect their partners to meet all of their needs;
- ✓ **Isolate** their partners by severing outside ties, support and resources, accuse others of being "troublemakers," block partners' access to use of vehicles, work or telephone service;
- ✓ **Blame others for their feelings** and may use their feelings to manipulate their partners—e.g., "You are hurting me by not doing what I want;"
- ✓ **Hold children to high expectations** and then punish them for not performing up to their harsh standards;
- ✓ Exhibit **cruelty to animals**;
- ✓ **Use force in sex**—may restrain their partners against their will during sexual activity, act out fantasies in which their partners are helpless, force sex when their partners are asleep, ill or tired; show little concern for their partners' desire to be touched, and use sulking or anger to manipulate sexual compliance;
- ✓ **Verbally abuse their partners**; and
- ✓ **Hold rigid gender roles**.

Although both men and women are abusers, the vast majority are men. Like sex offenders, they may refuse to accept responsibility for their behavior and believe that it is justified. Often they will try to excuse the violence or blame the victim for causing it. The tendency to use abuse as a control tactic can be aggravated by the use of drugs and alcohol, but overcoming a

substance abuse problem does not usually end the abusive behavior. There is treatment available to help abusive partners address abusive behavior. (Paragraph from Maricopa Association of Governments Domestic Violence Council.)

Stalkers

Most stalkers are men; however, females can also be stalkers. Like sex offenders and abusive intimate partners, stalkers are a heterogeneous group. One broad way they can be categorized is by their relationship with their victims: current or former intimate partner, acquaintance or stranger (Mohandie, Meloy, Green-McGowan & Williams, 2006; Logan, 2010).

Many stalkers know their victims, particularly those who stalk women. For 66% of female stalking victims and 41% of male victims identified in *The National Intimate Partner and Sexual Violence Survey: 2010 Summary Report*, a current or former intimate partner was their stalker (Black et al., 2011). About 10% of stalkers are strangers to their victims (Baum et al., 2009).

Partner stalkers are more likely to be threatening and violent towards their victims than stalkers who are acquaintances or strangers. For example, 71% of the partner stalking victims who were threatened were actually assaulted compared to 33% of non-partner stalking victims who were threatened (Thomas et al., 2008; Logan, 2010). Similarly, Tjaden and Thoennes (1998) found that 81% of women who were stalked by current or former intimate partners were also physically assaulted by them; 31% were also sexually assaulted.

Compared to stalkers who were acquaintances or strangers, **partner stalkers were also more likely to be violent towards third parties and damage property, and reoffend after court interventions** (Logan, 2010). **They also appeared to engage in stalking more frequently and intensely than non-partner stalkers.**

Factors Linked with Perpetration of Sexual and Domestic Violence

Research suggests that most college men who commit non-stranger sexual assaults perceive their behavior as normative and reasonable (PCAR, 2004). Their peer groups often also consider their behavior as normal (Sampson, 2002). Their likelihood of committing sexual assault is associated with factors such as negative attitudes toward women and a belief that men are entitled to sex under certain conditions (PCAR, 2004). Based on Krug et al. (2002), the CDC (2004, 2009) identified a combination of individual, relational, community and societal factors that may contribute to the risk of becoming a perpetrator of sexual violence in the general population (see below, *Factors Associated with Perpetration of Sexual Violence*). The CDC (2010) also identified a list of risk factors that may contribute to a greater likelihood of domestic violence perpetration in the general population (see below, *Factors Associated with Domestic Violence Perpetration*). Note that the CDC indicated that some risk factors for perpetration of domestic violence are the same for victimization.

Factors Associated with Perpetration of Sexual Violence	Factors Associated with Perpetration of Domestic Violence
Individual risk factors ✓ Alcohol and drug use	Individual risk factors ✓ Low self-esteem

<ul style="list-style-type: none"> ✓ Coercive sexual fantasies ✓ Impulsive and antisocial tendencies ✓ Preference for impersonal sex ✓ Hostility towards women ✓ Hyper-masculinity ✓ Childhood sexual/physical abuse ✓ Witnessed family violence as a child <p>Relationship factors</p> <ul style="list-style-type: none"> ✓ Association with sexually aggressive and delinquent peers ✓ Family environment characterized by physical violence and few resources ✓ Raised in homes with strong patriarchal structures rather than egalitarian structures ✓ Emotionally unsupportive familial environment <p>Community factors</p> <ul style="list-style-type: none"> ✓ Lack of employment opportunities ✓ Lack of institutional support from police and judicial system ✓ General tolerance of sexual violence within the community ✓ Weak community sanctions against sexual violence perpetrators <p>Societal factors</p> <ul style="list-style-type: none"> ✓ Poverty ✓ Societal norms that support sexual violence ✓ Societal norms that support male superiority and sexual entitlement ✓ Societal norms that maintain women's inferiority and sexual submissiveness ✓ Weak laws and policies related to gender equity ✓ High tolerance levels of crime and other forms of violence 	<ul style="list-style-type: none"> ✓ Low income ✓ Low academic achievement ✓ Aggressive or delinquent behavior as a youth ✓ Heavy alcohol and drug use ✓ Depression ✓ Anger and hostility ✓ Antisocial personality traits ✓ Borderline personality traits ✓ Prior history of being physically abusive ✓ Having few friends/being isolated from others ✓ Unemployment ✓ Emotional dependence and insecurity ✓ Belief in strict gender roles ✓ Desire for power/control in relationships ✓ Perpetrating psychological aggression ✓ Being a victim of physical/psychological abuse ✓ History of poor parenting as child ✓ History of physical discipline as child <p>Relationship Factors</p> <ul style="list-style-type: none"> ✓ Marital conflict-fights, tension, other struggles ✓ Marital instability-divorces or separations ✓ Dominance/control of relationship by one partner over the other ✓ Economic stress ✓ Unhealthy family relationships and interactions <p>Community Factors</p> <ul style="list-style-type: none"> ✓ Poverty and associated factors (e.g., overcrowding) ✓ Low social capital- lack of institutions, relationships, and norms that shape a community's social interactions ✓ Weak community sanctions against intimate partner violence <p>Societal Factors</p> <ul style="list-style-type: none"> ✓ Traditional gender norms
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Note that there is considerable overlap between the risk factors for perpetration of sexual and domestic violence. To that end, a 2011 WHO report identified **risk factors associated with perpetrators of both intimate partner violence and sexual violence**: lower levels of education, exposure to child maltreatment, witnessing parental violence, harmful use of alcohol, attitudes accepting of violence and violence against females in particular, antisocial personality disorder, males with multiple partners or who are suspected of infidelity, beliefs in family honor and sexual purity, ideologies of male sexual entitlement.



Inaccurate information and beliefs can create attitudes on campus that support interpersonal violence and gender discrimination.

Myth: Rape is an impulsive, uncontrollable act of sexual gratification.

Fact: Most rapes are planned and motivated by aggression and a desire for dominance.

Myth: Women in college do not have to worry about becoming victims of domestic violence.

Fact: For traditionally-aged college students, dating violence is a problem and often an indication of abuse in subsequent relationships. Also, colleges today have significant populations of nontraditional-aged students who are at risk for dating and domestic violence.

Myth: If a person is stalked and she/he just ignores the unwanted behavior, it will go away.

Fact: Stalking behavior rarely just goes away on its own without appropriate interventions.

Myth: Rapists are strangers who hide in dark alleys waiting to attack women late at night.

Fact: Most rapists are someone the victim knows. Rape can occur at any hour of the day.

Myth: Battered women can always leave their abusers.

Fact: It may be difficult to leave a partner. Individuals stay in violent relationships for both emotional and practical reasons, including love, economic dependence, fear of reprisals, social isolation and shame.

Myth: People are to blame for putting themselves into situations that lead to sexual assault, such as staying out late, drinking, using drugs, going out alone and/or talking to strangers.

Fact: Most victims of sexual assault are assaulted in places they thought were safe, by someone they thought they could trust. Perpetrators are solely responsible for their assaults.

Myth: Sexual harassment is usually just harmless flirtation or a way to compliment someone.

Fact: Sexual harassment is unwelcome sexual advances, conduct of a sexual nature and requests for sexual favors that make the individuals targeted feel uncomfortable, humiliated, distressed and/or fearful for their safety. It can adversely affect a person's work or school experience. It is unacceptable on college campuses and can be illegal.

(Adapted from the California Coalition Against Sexual Assault and based on information from the web sites of the Santa Barbara Rape Crisis Center, Los Angeles Unified School District, the Minnesota Coalition Against Sexual Assault, and the National Resource Center on Domestic Violence's *Organizing College Campuses Against Dating Abuse* (1999).)

B6. VICTIMS' NEEDS, ISSUES AND CONCERNS

Student conduct administrators are legally required to offer both interim and longer-term remedial measures as warranted. Therefore, it is important to understand some of the needs that victims of interpersonal violence may experience.

Circumstances and priorities of victims can vary considerably. Their **experiences of and reactions to interpersonal violence, and their related needs, may be affected by multiple factors**, such as (adapted from Office on Violence Against Women, 2013):

- ✓ When the violence occurred (hours, days, weeks, months, years ago)
- ✓ Whether physical injuries were sustained, the severity of the injuries, and whether they were treated
- ✓ Level of emotional trauma experienced, capacity to cope with it, and support received
- ✓ Whether the victim fears continued threats and violence
- ✓ History of prior victimization
- ✓ Age and developmental level
- ✓ Gender and/or gender identity
- ✓ Sexual orientation
- ✓ Existence of a disability
- ✓ Language and communication needs
- ✓ Ethnic and cultural beliefs and practices
- ✓ Economic status
- ✓ Immigration and refugee status
- ✓ Past experiences with responding systems (medical, criminal justice, victim advocacy, etc.)
- ✓ Whether the victim was involved in activities prior to the violence that generate victim blaming
- ✓ Whether the violence involved alcohol and/or drugs
- ✓ Whether the victim engaged in illegal activities at the time of the violence or has outstanding criminal charges
- ✓ Prior relationship with the offender, if any



Because there are so many variables that can affect a victim's experience of and reaction to interpersonal violence, as well as related needs and concerns, it is critical to **ask each victim: "Is there anything I should know that will enable me to better assist/support you?"** Let the person guide you in how to support her.

College students who are victims of interpersonal violence often face challenges associated with a "closed" campus environment. For example, a victim may continue to live in danger after an abusive incident, particularly if the perpetrator resides in the same dormitory or knows where the victim lives and how to enter that residence, attends the same classes, or has meals in the same location. The perpetrator may be able to easily stalk the victim if he/she knows the victim's class and extracurricular schedule. The victim may be harassed by the perpetrator's friends who claim the victim "asked for it" or "provoked" the crime. On smaller campuses, the victim may wish to remain anonymous but may find it almost impossible in such an insular setting. (Paragraph adapted from Alternatives to Domestic Violence.)

Due to emotional trauma from interpersonal violence—past, present and/or threat of future violence—**victims may experience academic difficulties as well as problems with extracurricular activities**, to the point that they drop out of classes and activities, lose a sports or academic scholarship, feel that they can no longer live in the same residence, isolate themselves from their former social groups, etc. If they are employed, they may not be able to perform adequately, may lose work time and/or may be in financial jeopardy.

It is essential that colleges provide students who experience interpersonal violence with access to accommodations to help them stay in school in a healthy and safe environment

as they recover from trauma associated with the violence and deal with any ongoing threats. Key federal legislation discussed earlier includes requirements for accommodations. For example, the Campus SaVE Act requires that colleges notify victims about their options for changing academic, living, transportation and working situations, if requested by the victim and such accommodations are reasonably available, regardless of whether the victim chooses to report the crime. Similarly, the Campus Sexual Assault Victims' Bill of Rights of the Clery Act requires notifying victims of counseling services and their option to change classes or dormitory assignments to avoid contact with perpetrators. Title IX mandates colleges protect victims as necessary, even prior to the outcome of an investigation.

Key Victim Issues

(Note that WV FRIS offers online training courses on most of the topics addressed in this section. See the [Sexual Assault Services Training Academy at www.fris.org](http://www.fris.org).)

EMOTIONAL TRAUMA

A student may never have experienced interpersonal violence, and therefore not realize that repercussions from the incident(s) may not appear for weeks or months. A well-trained conduct administration needs to have insight into the potential impact interpersonal violence may have on a victim so that remedial measures are offered and possibly encouraged. Utilizing community experts (e.g., rape crisis center advocates) to present this component of the training will provide additional insight.

Understandably, experiencing interpersonal violence causes emotional trauma for many victims. **Examples of factors that may influence whether a person's emotional reactions to the violence are traumatic** include: severity and frequency of the event; personal history (e.g., if there was a prior victimization); individual coping skills, values and beliefs; and the level of support from family, friends and/or professionals (Santa Barbara Graduate Institute et al.). Examples of traumatic reactions include (Santa Barbara Graduate Institute et al.):

- ✓ **Physical:** changes in eating patterns, sleep disturbances, sexual dysfunction, low energy and chronic, unexplained pain.
- ✓ **Emotional:** depression; spontaneous crying; feelings of despair and hopelessness; anxiety and panic attacks; fearfulness; compulsive and obsessive behaviors; feelings of being out of control, irritable, angry and resentful; emotional numbness; and withdrawal from normal routines and relationships.
- ✓ **Cognitive:** memory lapses (especially about the violence), difficulty in making decisions, decreased ability to concentrate, hyperactivity and impulsivity.

Additional symptoms—e.g., intrusive re-experiencing of the trauma, emotional numbing and avoidance, and hyper-vigilance and overreactions—are **key indicators of post-traumatic stress disorder (PTSD)**.

Nearly **1/3 of rape victims develop PTSD** during their lifetimes (Kilpatrick, Edmunds, & Seymour, 1992). **PTSD symptoms specific to survivors of sexual violence are also known as rape trauma syndrome (RTS)**. **Phases of RTS** include (Burgess & Holmstrom, 1974):

- ✓ **Acute:** Occurs immediately after the assault and usually lasts a few days to several weeks. Common reactions include being openly emotional, being controlled/without emotion and experiencing shock, disbelief and/or disorientation.
- ✓ **Outward adjustment:** Individual resumes what appears to be her "normal" life, but inside is suffering from considerable turmoil. Primary coping techniques include: minimization (pretends that "everything is fine" or that "it could have been worse"); dramatization (cannot stop talking about the assault); suppression (refuses to discuss or acts as if it did not happen); explanation (analyzes what happened); and flight (tries to escape the pain by moving or changing jobs, appearance or relationships, etc.).
- ✓ **Resolution:** The assault is no longer the central focus of the individual's life. She may recognize that while she will never forget the assault, the pain and negative impact usually lessen over time.

Unfortunately, **this stress response is often not a one-time experience but can be reactivated** when a victim has intrusive symptoms related to the violence (a nightmare or flashback of the actual incident) or other traumatic events.

A substantial portion of women who experience domestic violence exhibit PTSD symptoms—31 to 84% according to a review of research. Multiple victimization experiences also increase the likelihood of PTSD. (Paragraph from Jones, Hughes & Unterstaller, 2001.)

If not addressed, emotional trauma can result in lasting negative effects for victims, such as substance abuse, eating disorders and other compulsive behavioral patterns, self-destructive and impulsive behaviors, inability to make healthy professional or lifestyle choices, dissociative symptoms, feeling permanently damaged, a loss of previously sustained beliefs, and feelings of ineffectiveness, shame, despair and hopelessness. It can also contribute to sexual problems, the inability to maintain close relationships or choose appropriate friends and partners, social withdrawal, and feelings of being constantly threatened and hostile towards others (Paragraph adapted from Santa Barbara Graduate Institute et al.).



B. Sokolow (2001) notes that student conduct officers need to bear in mind that Rape Trauma Syndrome (RTS) is experienced to a different extent by each survivor.

Symptoms can include loss of appetite, sleep disturbance, nightmares, extreme phobias, preoccupation with the rape or assault, inability to concentrate on studies or work, anxiety about leaving the dorm or socializing with others, and sexual dysfunction. More importantly, many victims enter a phase of denial or shock that is common to RTS. The effect is that the victim may be able to supply many more facts, and recall much more detail about the incident at the time of the hearing than he or she was able to when the allegation was made. To a hearing officer these "new" facts may appear to be dubious and suspicious. *This is a very common occurrence at rape trials and hearings.* Don't automatically jump to the conclusion that the victim is trying to "improve" his or her story. Student conduct administrators need to be aware that the victim is likely to be telling them things of which he or she *was not* aware at the

time the affidavit was taken. These seeming inconsistencies alone should not be held to weaken the victim's credibility, but should be subject to more questioning and consideration.

While it is acceptable to train student conduct officers on information about rape trauma syndrome, if it is to be used as evidence in a hearing, care must be taken. If an alleged victim is experiencing symptoms of RTS, and wants to use that as evidence that she was sexually assaulted, that information can be introduced. The fairest way to do so is to give the respondent advance notice that this will come up in the hearing, to introduce information on RTS from an expert or authoritative text, to allow the respondent to introduce evidence refuting the expert or text, and to allow full cross-examination of the expert and the complainant. The expert or text should be a witness of or introduced by the institution, not by either side. The expert or text should not speak to the alleged victim's symptoms and their correlation, but only to the common characteristics of RTS generally.

PHYSICAL HEALTH CONCERNS

Interpersonal violence has many potential short- and long-term health consequences for victims. Some victims sustain **physical injuries** during the violence. As discussed above, **emotional trauma from interpersonal violence victimization can lead to a wide range of physical, emotional and cognitive repercussions**. Victims of sexual assault may also fear their victimization will lead to **pregnancy and sexually transmitted infections, including HIV**. Some may **develop gynecological problems and stress-related illnesses** as a result of their victimization. The health consequences of interpersonal violence victimization can **profoundly impact many individuals' capacity to lead productive and healthy lives**.

SAFETY

(Section adapted in part from Victim Rights Law Center, 2009)

Interpersonal violence can shatter many victims' feelings of safety. They may not feel safe for months or years after an incident(s), and have a variety of safety concerns. For example:

- ✓ Victims may fear continued and escalating **physical harm, intimidation and retaliation by their perpetrator(s)** against themselves and their family, friends, pets and service animals. If they have or worry about ongoing contact with their perpetrators, their fears and hyper-vigilance may be especially acute.
- ✓ Victims may be concerned their **perpetrators will target other individuals**.
- ✓ Victims may develop **elevated fears of persons, places and things they associate with the violence** (e.g., fear of men, being out at night, etc.). Their existing fears may also be exacerbated by the violence (e.g., of being alone or in crowds).
- ✓ Victims may face or fear **threats to their health**, such as contracting a sexually transmitted infection (STI), including HIV.
- ✓ The emotional distress that victims experience can increase their **risk of self-inflicted harm and other self-destructive behaviors**.

Unfortunately, **some victims may not seek help to enhance their safety because they are too afraid of further harm or humiliation or immobilized by their reaction to the violence**.

Some victims with disabilities may have trouble accessing help due to challenges presented by their individual circumstances (e.g., a victim may be physically dependent on an abusive caregiver and unable to seek help because the caregiver isolates her from others and she lacks the social support, financial means or transportation needed to escape).

FINANCIAL CONCERNS

Interpersonal violence can result in out-of-pocket expenses (e.g., for medical treatment, counseling, legal fees, change of residence, etc.) **and loss of income for victims.** For some victims, **worry about money causes considerable stress and may even prevent them from reaching out for assistance.** College students who are financially dependent on parents may worry about their parents finding out about the violence if they are charged for services. Students with disabilities may be concerned that their independence could be restricted if their parents found out about the violence and became concerned about their ability to take care of themselves.

As mentioned earlier, college students who are victims may **face the potential of losing financial aid and scholarships** if they are not performing adequately as per scholarship/aid requirements. **Loss of income from jobs may also jeopardize their ability to pay their college tuition and other fees.**



Some general **remedies you can use to mitigate victims' emotional trauma:**

- ✓ **Allow advocates to be present during interviews/hearings;**
- ✓ **Consider making accommodations so that the two parties physically see each other as little as possible;**
- ✓ **Implement remedial measures based on needs/requests;**
- ✓ **Dispel untruths and misconceptions;**
- ✓ **Be aware of non-verbal cues;**
- ✓ **Do not paraphrase in a way that seems victim-blaming; and**
- ✓ **Maintain confidentiality to the extent possible.**

B7. WHEN STUDENTS DISCLOSE

How to Help

Student conduct administrators should be aware of what activities and information might be most useful to a student who discloses interpersonal violence. While most of their student conduct/judicial process interactions with victims will come after such disclosures, there may be times that they might be on the receiving end of a disclosure. The following list was adapted from NotAlone.gov, "What do I do if I have been sexually assaulted?"

Immediately after the violence

Ask for help, make a call:

- ✓ 911/local law enforcement
- ✓ Campus law enforcement or security
- ✓ Friends or family
- ✓ Crisis hotline 800-656-HOPE (4673) or your local rape crisis center/domestic violence program for emotional support, crisis interventions, information and referrals
- ✓ Seek urgent care (e.g., a hospital): receive help for physical injuries. Screen for STDs/pregnancy. Take measures to preserve evidence prior to going to the hospital (see below). Hospital staff can collect evidence using a sexual assault forensic evidence collection kit. If you want to file a law enforcement report, you can call your local law enforcement agency from the emergency room.

Days following the violence

- ✓ Take care of your physical and emotional well-being. Try to eat well, get enough sleep and exercise. Remember that it was not your fault and you are not alone.
- ✓ If the violence is ongoing or the perpetrator is someone the victim will continue to see around campus, reach out to campus law enforcement/security and local law enforcement for assistance in addressing safety concerns. Protective orders may be useful. Local rape crisis centers and domestic violence program can also help the victim with safety planning.
- ✓ Learn about common reactions to trauma. Everyone is different, but it is good to understand what you might expect and know that others have experienced similar reactions.
- ✓ Let others help. Friends and family can offer support by listening to you, keeping you company, walking to class with you, or going with you to appointments. Campus health centers can provide health services and help you find additional health resources including counseling. If you are concerned about confidentiality, ask the person you want to talk to first about his/her obligation to disclose information you share (e.g., filing a report). Local rape crisis centers are experienced with how to help you. Center advocates can help you make choices about reporting an assault, joining a support group or finding a counselor.
- ✓ [Know Your Rights: Title IX Requires Your School to Address Sexual Violence](#) offers information about what accommodations should be offered to you by your college.

Months after the violence

- ✓ Recovery is an **ongoing gradual process**. Understand **common reactions after trauma**. Some symptoms may appear months after the violence.
- ✓ **Reach out** to your personal support network of friends and family. Find a support group.
- ✓ **Talk to a counselor or psychologist** (either through your school mental health services or in the community). They are experienced in helping individuals who have been sexually assaulted. They are familiar with the physiological and psychological effects that traumatic events cause. They can help you work through your emotions and teach you coping skills. Learn more [**here**](#).

Critical Components of an Initial Response

When victims of interpersonal violence initially report an incident, it is critical for first responders to be prepared, respectful and listen. The first time a victim of interpersonal violence discloses can have a major impact on the course of action(s) she/he chooses and their healing process. A negative or insensitive reaction from first responders can lead to additional trauma and affect a

victim's ability to move forward with judicial and criminal proceedings. The following list provides important elements for responding to disclosures and decreasing additional harm to victims.

- ✓ **Coordinate interventions** among those involved in the immediate response to disclosures of interpersonal violence to help victims and facilitate timely criminal and school investigations. In addition to campus officials/officers which victims can be referred and directly linked for help, core community responders include (depending upon the circumstances): Victim advocates from the local rape crisis center or domestic violence program; hospital emergency department medical staff (in sexual assault cases, often sexual assault nurse examiners); local law enforcement (including campus law enforcement); and prosecutors (may/may not be involved in an advisory capacity in immediate response). A sexual assault response team (SART) may exist in your community to promote a coordinated response in sexual assault cases. See [WV FRIS](#) for more information on local rape crisis centers and SARTs.
- ✓ **Give victim access to an advocate:** Having the support of a victim advocate as soon as possible after a disclosure of victimization can not only help victims with their healing, but also may allow them to tap into a wider range of useful services and increase their willingness to participate in justice processes. Some colleges may have campus-based victim advocates—they are an excellent resource for victims. However, do not forget that students who are victimized should be aware of the availability of victim advocates from the local rape crisis center or domestic violence program. Not only can they offer victims their expertise and advocacy, they also are typically able to offer confidential communications with no requirements around reporting to the campus or local law enforcement (except as per state mandatory reporting mandates). In addition to providing 24-hour support and information, rape crisis center/community-based advocates are typically available to accompany and advocate for victims during the forensic medical examination, investigative interviews, court processes and school hearings. Domestic violence victim advocates offer similar services to domestic violence victims.
- ✓ **Know what to do in a crisis:** If a person in crisis discloses interpersonal violence to you, immediately enlist the assistance from someone trained in crisis intervention (e.g., a victim advocate from a rape crisis center/domestic violence program, a counselor or other person designated by the college). However, until that trained person arrives, response to a victim in crisis might encompass: Helping to calm the victim to facilitate rational, informed decisions; Helping the victim planning for short-term safety; Addressing medical concerns and encouraging the victim to seek needed care; Discussing reporting options and encouraging evidence collection, if appropriate; Addressing additional specific concerns and helping to prioritize urgency; providing contact information for the local rape crisis center or domestic violence program, explaining services and connecting the victim, with her permission, with an advocate; and providing additional information and referrals as needed.
- ✓ **Encourage medical care.** It is important to encourage victims to seek medical care as soon as possible after physical or sexual violence. They can be examined for acute and non-acute injuries and discuss any related medical concerns. Victims of sexual assault may also need antibiotics to prevent STIs; female victims can receive medication to protect against pregnancy. Sexual assault forensic medical examinations encompass both non-acute medical care related to the assault and forensic evidence collection.
- ✓ **Provide information to address victims' issues and concerns**, e.g., common reactions

they may experience and symptoms of trauma, reporting options (see below), mental health counseling options and resources for victims and their family and friends, medical care and sexual assault forensic evidence collection, the West Virginia Crime Victims' Compensation Fund, the criminal justice process, school investigations of code of conduct and Title IX violations, their right to file a complaint with OCR and/or DOJ, civil remedies and victim rights, and potential school accommodations for victims.

- ✓ **Explain reporting options** (see below).
- ✓ **Encourage evidence preservation** if the victims are considering reporting the crime to law enforcement or considering having a forensic medical exam. Once victims of sexual assault are safe and have their acute medical and emotional needs addressed, it is important to preserve potential evidence that may help in the investigation and prosecution. To preserve potential forensic evidence, victims are generally advised: Prior to arrival at the hospital, do not shower, bathe or clean any body parts. Do not douche, brush teeth or comb/brush hair. Do not go to the bathroom. Do not eat or drink anything. Do not change clothes. If clothing must be changed, remove carefully, place each item in a separate paper bag and take to the hospital. Bring extra clothing to the hospital to replace any items that law enforcement may take to test for evidence. Do not touch, straighten or clean anything at the crime scene area. Let victims know that a victim advocate from the local rape crisis center can accompany them through the forensic medical examination. Note that a victim of sexual assault is NOT required to participate in the criminal justice system or cooperate with law enforcement in order to have a forensic medical exam.
- ✓ **If safety concerns exist, give victims the opportunity to create a plan to enhance their safety.** Short-term safety planning may be a component of responding to a victim in crisis; longer-term planning is usually done when a victim has more time and is not in crisis. Victims' feelings of security and control in their lives can be enhanced when they identify their safety concerns and concretely plan how to reduce their risk of further harm. An increased sense of safety can contribute to healing from the effects of sexual violence. Recognizing that victims' situations and safety concerns may change over time, planning for safety often needs to be an ongoing process rather than a one-time event.
- ✓ **Document ongoing interpersonal violence:** It can be helpful for victims of ongoing interpersonal violence to document their offender's harassing and abusive behaviors. Below is an example of how to document incidents (from the Stalking Resource Center's [stalking incident/behavior log](#)). Such a log encourages victims to be specific and thorough in their documentation. In addition, they can note the negative consequences resulting from the incident on themselves and their family and friends. This information can be kept in a notebook or binder created specifically for this purpose. It may be helpful when seeking a protective order or reporting the violence to law enforcement.
- ✓ **Speak to financial concerns:** West Virginia has a Crime Victims Compensation Fund to reimburse eligible victims for eligible expenses related to crime victimization if the crime is reported to law enforcement within 72 hours. Advocates at local rape crisis centers and domestic violence programs are trained to assist victims in accessing this fund. Advocates can also help victims consider other financial resources and options. Colleges should review their policies to ensure that they are supporting student victims of interpersonal violence in their recovery and return to full school activities (e.g., by temporarily waiving requirements to maintain a certain grade-point average for a scholarship or allowing them to change residences with no financial repercussions).



A victim of sexual assault, dating violence, domestic violence and stalking in West Virginia can request a protective order through their [county magistrate court](#)—a [Personal Safety Order](#) (PSO) for victims in non-domestic relationships or a [Domestic Violence Protective Order](#) (DVPO).

- ✓ Filing fees may be waived.
 - ✓ These are civil remedies; there is no obligation to file a criminal report.
 - ✓ The petition may be filed by any person for themselves, or by a parent, guardian or custodian on behalf of a minor child or incapacitated adult. In the petition, it will need to explain exactly what the perpetrator has done to make the victim afraid.
 - ✓ Upon filing the petition, if a magistrate finds reasonable cause to believe the offender committed the offense in question, then a temporary order can be issued.
 - ✓ Under a PSO, the magistrate can order the offender to “stay away” from the victim’s home, work and school; refrain from contact; not interfere with the victim and, if the victim is a minor, any siblings or minors in the home. Under a DVPO, additional remedies can include temporary custody, possession of the residence and/or financial support.
-

Reporting Options

Reporting interpersonal violence is a very personal and often difficult decision for victims. If a victim chooses to report to law enforcement and/or college administration, having a victim advocate or friend with them can help make the process easier and provide support after the adjudication process.

College students generally have two options for reporting interpersonal violence—

(1) Victims can report interpersonal violence to law enforcement. Reporting provides the criminal justice system with the opportunity to begin an investigation into the matter. Whether a college has a law enforcement or security department can impact student procedures for making a criminal report—

- ✓ If victims disclose to a campus law enforcement department, the department can take a report and initiate a criminal investigation, if appropriate.
- ✓ If victims disclose to a campus security department, the department would typically need to refer the student making a report to a local law enforcement agency if they are requesting a criminal investigation. The school might advise the student to contact local law enforcement her/himself or could automatically pass on the report to local law enforcement, with the student’s permission and based on campus policy.



If a student discloses interpersonal violence to campus personnel, **students have the choice of whether or not to report to law enforcement.** The only time that campus personnel must report such an incident to law enforcement is if it meets state mandatory reporting requirements and they are mandatory reporters (See [WV FRIS Laws, Related](#); scroll down to Mandatory Reporting). The campus law enforcement or security department is still obligated to include the incident in its crime log.

Prior to making decisions about reporting to law enforcement, students should be informed of the potential benefits and consequences, and their right to decline reporting. For example, not reporting interpersonal violence, or delaying a report, can lead to loss of evidence and be detrimental to criminal investigation and prosecution. Also, students should be instructed to preserve evidence if the case is or may be reported and related procedures they should follow. In addition to crime scene and other evidence, preserving forensic evidence is particularly critical in sexual assault cases. If victims choose to have a forensic medical examination, the state pays the forensic evidence collection costs. The victim is responsible for medical costs beyond preventive prophylactic treatment related to the assault. If the violence was reported, that may be eligible for compensation of their related out-of-pocket expense through the West Virginia Crime Victims Compensation Fund. Students should also understand that when making a criminal complaint, that report along with other case information becomes public record.

(2) Victims can also report interpersonal violence as a violation of campus conduct policies and/or Title IX. (See *C. Federal Legislation* and *D. Getting Started* of this toolkit.). A school's response to disclosures of interpersonal violence should be in accordance not only with its stated policies, but also applicable federal laws (see *C. Federal Legislation*). Any time limitations for reporting a violation should be explained.



Title IX and Clery Act obligations and college policies require many college personnel to inform school officials when they receive student disclosures of interpersonal violence. The college should make clear who students can turn to on campus to talk confidentially about interpersonal violence – such as professional or pastoral counselors, or maybe a women's center or health center. It should also make clear who **cannot** maintain confidentiality if students talk about interpersonal violence. If students are not sure if someone can maintain confidentiality, encourage them to ask before they talk to them. (See *C. Federal Legislation*) Refer to *D4. Confidentiality* for additional information and guidance for when a victim wishes to remain anonymous or is reluctant to participate in the judicial process.

B8. WORKING WITH SPECIFIC POPULATIONS

Victims with Disabilities

Given that almost 20% of West Virginia's population has a disability (U.S. Census, American Community Survey, 2010), **it is likely that students with disabilities will experience interpersonal violence.** Victims may have a cognitive, sensory or mobility disability or mental illness, or any combination of disabilities. Like other victims of interpersonal violence, victims with disabilities may feel powerless, vulnerable and afraid. However, many factors can complicate their ability to disclose the violence to others, reach out for help and/or access services.

Commonly cited risk factors for sexual victimization for persons with a disability are listed below—most also apply to other types of interpersonal violence (Ticoll, 1994; Day One et al., 2004):

- ✓ Negative attitudes towards persons with disabilities may lead offenders to view them as easy targets
- ✓ Gender—females with disabilities have a higher risk of victimization
- ✓ Type of disability—risk may be higher for persons with certain physical and cognitive disabilities, developmental disabilities and severe mental illnesses

<ul style="list-style-type: none"> ✓ Reliance on others for care, assistance and management of personal affairs ✓ Communication barriers ✓ Social isolation ✓ Lack of resources/knowledge of resources ✓ Lack of accessible transportation ✓ Poverty ✓ Lack of knowledge about sexuality and healthy intimate relationships
<p>Potential barriers for persons with disabilities to seeking help include:</p> <ul style="list-style-type: none"> ✓ Lack of accessibility to services (e.g., due to reliance on an caregiver to access resources) ✓ Situational factors (e.g., lack of a needed service in the community) ✓ Fear of perceived consequences (e.g., retaliation or loss of independence) ✓ Socialization and education (e.g., they may have been taught to be compliant) ✓ Physical/programmatic inaccessibility of services themselves

When interacting with a person with a disability (Adaptive Environments Center, Inc., 1992; Ward, 1994):

- ✓ Keep in mind that **a disability may influence the person’s ability to communicate**
- ✓ Remember that **a person with a disability is entitled to the dignity, consideration, respect and rights** you expect for yourself
- ✓ Use **terminology that places the person before the disability** (e.g., “a person with epilepsy” rather than “an epileptic”)
- ✓ Take the time **to listen and understand the situation**
- ✓ **Be honest** if you do not understand the message a person is trying to communicate and **ask for suggestions** to improve the interaction
- ✓ If someone with a disability is accompanied by another individual, address the person with the disability directly—**don’t speak through the other person**
- ✓ When interacting with a person who uses a wheelchair, **sit at her/his level and do not touch the wheelchair** (if you inadvertently bump into the wheelchair, excuse yourself)
- ✓ If you offer assistance and the person declines, **do not insist**
- ✓ Help the person to **make her/his own choices**, to the extent possible

 If a victim discloses having a disability, **it is helpful to identify concerns related to if and how the disability may affect the person’s safety options, ability to access services, needed accommodations, and reactions to the assault/abusive incident.** An accommodation for a disability is a modification to goods, services and structures that allows for inclusion and participation by a person with a disability.

Campus disability services programs might be helpful in assisting students in identifying useful accommodations for disabilities in these situations.

International Students

Addressing interpersonal violence on college campuses merits additional considerations when it involves students from other countries and cultures. When working with these students, it is important to provide information in a way that is culturally sensitive. For example,

in some cultures, sexual assault may be seen as a consequence of being female. Cultural perspectives should be taken into account when responding to international student victims, while also explaining what the laws are in the U.S. and the jurisdiction in which they reside.



Some cultural practices reinforce sex discrimination against females. For example, if a daughter in some traditional Latin-American families is raped, family members may regard the assault as bringing great shame to the family. The victim's trauma may be overlooked in an effort to maintain family honor.

Note that international students who have been victimized may be reluctant to seek services because they are not aware of resources available to them. Those who are recent immigrants may fear that interaction with the criminal justice system or other government agencies could lead to deportation (Battered Women's Justice Project). Below are a few questions that these students may ask (Leppington, Orloff, Kuguyutan & Olavarria, 2002):

CAN INTERNATIONAL STUDENTS WHO HOLD A J VISA (STUDENT VISA) TRANSFER TO A DIFFERENT COLLEGE WITHIN THE UNITED STATES?

Students who have been victimized may wish to transfer to another college. Once admitted to the new school, the J visa can be transferred once the student provides the proper paperwork.

PROTECTIONS AVAILABLE TO DOCUMENTED AND UNDOCUMENTED IMMIGRANTS

Protective orders: Victims of sexual or domestic abuse are eligible for protective orders. There is no citizenship or permanent resident status requirement.
Shelter: Non-citizens in domestic violence situations have the same legal right as U.S. citizens to access domestic violence shelters.
Law enforcement assistance and criminal justice system intervention: Anyone can report a crime to law enforcement, regardless of immigration status. It is important, however, to know what the practices are in your community regarding non-citizen victims, including those who are not legally present in the United States. With few exceptions, federal law does not require law enforcement officers to ask crime victims about their immigrant status. But this does not mean that law enforcement <i>won't</i> ask victims about their status (or that defense counsel won't try to make it an issue in a case). In some states, local law enforcement agencies have entered into what are referred to as a "287(g) agreements" with the federal government. Through these agreements, local law enforcement officers are trained by the Immigration and Customs Enforcement program and agree to implement federal immigration enforcement procedures at the local level. Victims and witnesses as well as defendants may be turned in to the federal authorities under these agreements. However, no West Virginia law enforcement agency had a 287(g) agreement in effect as of 2013. (Drawn from Mindlin, 2011; Battered Women's Justice Project; Southern Poverty Law Center, 2010).
U visa: The U visa is a protection available for noncitizen victims through the Violence Against Women Act of 2000 (VAWA). Obtaining a U visa allows victims of certain crimes to gain legal status and work eligibility for up to four years (U.S. Immigration Support, 2010). Crimes covered by the U visa include: rape, torture, abusive sexual contact, hostage situations, peonage, false imprisonment, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, blackmail, extortion, manslaughter, murder, witness tampering, obstruction of justice, perjury or attempt, conspiracy, sexual assault, trafficking, domestic violence, prostitution, sexual exploitation, felonious assault, female genital

mutilation, incest or solicitation to commit any of the above mentioned crimes (Leppington, Orloff, Kuguyutan & Olavarria, 2002). No relationship to the perpetrator is needed to obtain a U visa. Additionally, the perpetrator does not have to be a U.S. citizen or lawful permanent resident. Visa requirements include: the victim has suffered substantial physical or mental abuse as a result of the crime, the victim has information about the crime, and law enforcement certifies that the victim has been helpful (Leppington, Orloff, Kuguyutan & Olavarria, 2002).

T visa (WomensLaw.org, 2008): A T visa gives temporary non-immigrant status to victims of severe forms of human trafficking, on the condition that they assist law enforcement in investigating and prosecuting related crimes. Victims under 18 years of age are not required to cooperate with law enforcement to obtain a T visa. T visas allow victims to stay in the United States for four years from the date the T visa application is approved, although longer than four years may be permitted if a law enforcement authority certifies that a victim is necessary for investigating or prosecuting the crime.

Petitioning for resident status under VAWA: A protection that may be helpful to married victims of domestic violence derives from VAWA 1994. It allows spouses or children of U.S. citizens or lawful permanent residents to file for resident status if they have been battered or subjected to extreme cruelty (Leppington, Orloff, Kuguyutan & Olavarria, 2002). This protection allows for immigrant victims of domestic violence to obtain a lawful immigration status independent of the abuser.



See www.womenslaw.org or [U Visa for Immigrants who are Victims of Crimes](#) for more information about the above protections.

This information may seem beyond the scope of student conduct administrators. However, knowing that additional remedies may be available and referring a student to a local rape crisis center advocate would be important to enable that student to continue her/his education.

LIMITED-ENGLISH SPEAKING STUDENTS

Note that language skills may deteriorate if a person is upset or in a crisis.

Some students may prefer to communicate in a language other than English. **Accommodate their language needs to the extent possible.** Make every attempt to help students obtain language assistance as needed (e.g., interpretation services and translated materials). An international student office on campus may be able to help identify the range of languages used by students on your campus. Interpreters used should be educated on interpersonal violence issues, confidentiality and cultural concerns. Take students' country of origin, acculturation level and dialect into account when proceeding with conduct complaints. (Paragraph primarily from Office on Violence Against Women, 2004.)

LGBTQ Students

Sexual assault, domestic violence, dating violence and stalking are often viewed as heterosexual crimes with a female victim and a male perpetrator. In reality, **any of these forms of interpersonal violence can also happen to students within the LGBTQ—lesbian, gay, bisexual, transgender, and/or queer or questioning—community.**

Little research has been conducted exploring the prevalence of interpersonal violence within the LGBTQ community, especially research with a focus on LGBTQ victims who are college

students. However, recent findings from the *Sexual Violence Survey: 2010 Findings on Victimization by Sexual Orientation* (CDC, 2011) provide some insight regarding gay, lesbian and bisexual victims:

<p>Sexual Violence:</p> <ul style="list-style-type: none">✓ Approximately 1 in 8 lesbians (13%), nearly 1 in 2 bisexual women (46%), and 1 in 6 heterosexual women (17%) have been raped in their lifetime.✓ Almost half of bisexual women (48%) and more than a quarter of heterosexual women (28%) were first raped between the ages of 11 and 17.✓ Nearly 1 in 2 bisexual men (47%), 4 in 10 gay men (40%), and 1 in 5 heterosexual men (21%) have experienced sexual violence other than rape in their lifetime.
<p>Domestic Violence</p> <ul style="list-style-type: none">✓ Among women who experienced rape, physical violence, and/or stalking in the context of an intimate relationship, the majority of bisexual and heterosexual women (90% and 99%, respectively) reported only male perpetrators while self-identified lesbians (67%) reported having only female perpetrators.✓ Among men who experienced rape, physical violence and/or stalking by an intimate partner in the context of an intimate relationship, most bisexual and heterosexual men (79% and 100%, respectively) reported having only female perpetrators, while the majority of self-reported gay men (91%) reported having only male perpetrators.✓ More than 1/3 of lesbians (36%), over 1/2 of bisexual women (55%), and more than 1/4 of heterosexual women (30%) have been slapped, pushed, or shoved by an intimate partner at some point in their lifetime. Approximately 1/4 of all men, regardless of sexual orientation, reported being slapped, pushed, or shoved by an intimate partner at some point during their lifetime (24% gay men, 27% bisexual men, and 26% heterosexual men).✓ Nearly 1 in 3 lesbians (29%), 1 in 2 bisexual women (49%), and 1 in 4 heterosexual women (24%) experienced at least one form of severe physical violence by an intimate partner in her lifetime. Severe physical violence by an intimate partner in their lifetime was reported by 16% of gay men and 13% of heterosexual men.
<p>Stalking:</p> <ul style="list-style-type: none">✓ Approximately 1 in 3 bisexual women (37%) and 1 in 6 heterosexual women (16%) have been stalked at some point during their lifetime.

Another study found that: 13.2% of bisexual men and 11.6% of gay men were raped in adulthood, compared to 1.6% of heterosexual men (Balsam, Beauchaine & Rothblum, 2005). Research by Tjaden and Thoennes (2000) suggests that 11% of women cohabiting with a female partner have experienced violence from their partner in the form of rape, physical assault and/ or stalking. A study by Greenwood et al. (2002) found that 39% of gay men were battered at least once in the last 5 years by a partner. It has also been suggested that the transgender population faces relatively high rates of intimate partner violence (Stotzer, 2009). Another study found that more than 25% of transgender individuals had been sexually assaulted after the age of 13 (Testa et al., 2012)

In addition to the typical barriers faced by any victim of interpersonal violence, **students who identify as LGBTQ may be reluctant to report because of discrimination within the criminal justice system, lack of specialized services to meet their needs, the potential that no one will believe them** (e.g., because they have a hard time envisioning how a man could sexually assault another man or a woman could sexually assault another woman) **and feelings of guilt for “betraying” the LGBTQ community if they are reporting “one of their**

own” (California Coalition Against Sexual Assault—CALCASA, 2010). Also, victims may not want to disclose their sexual orientation or gender identity if they report violence by an intimate or dating partner as they may risk losing friends, family and employment, experiencing further isolation (CALCASA, 2010).

LGBTQ victims may also experience violence or harassment that is motivated by hate and homophobia. For example, a lesbian might be targeted because of a masculine appearance and be sexually victimized by heterosexual men who seek to “feminize” her (CALCASA, 2010). Not only are lesbian women at risk for men’s generalized sexist violence, but also men’s homophobic violence, which may increase the intensity of the violence (Funk, 2006).

Along with the trauma that victims face after interpersonal violence occurs, **LGBTQ victims may find that the violence complicates the challenges they face due to their sexual orientation or gender identity** (CALCASA, 2010). Transgender victims face additional issues, as they may be dealing with discrimination based on their anatomy. They may decline a physical or forensic medical exam for this reason. To help make LGBTQ victims feel more comfortable, mimic the language they use to describe themselves and their partners.



As a student conduct administrator **you need to be aware of your views about sexual orientation and gender identity to be able to effectively respond to LGBTQ victims** (CALCASA, 2010).

B9. RESOURCES FOR VICTIMS ON COLLEGE CAMPUSES

Campus Resources

Resources available to students who experience interpersonal violence differ among colleges across the state. **Finding the answers to the following questions posed in the chart below can assist you in identifying first responders’ roles on your campus.** It is important to understand your college’s holistic approach to ensure a fair and equitable judicial process.

Does the college identify the campus office(s), staff person(s) and/or paraprofessional(s) responsible for the immediate response to victims of sexual assault, domestic and dating violence, and stalking?

- ✓ What assistance does each office/person provide (coordination of services, protection, taking reports, evidence collection, investigation, emotional support, health care, information and referral, etc.)?
- ✓ What hours is each office/person available? What is the contact information? If hours for a particular responder are limited, what happens when students seek assistance outside of available hours?
- ✓ What training does each involved person/office receive to allow them to be effective responders to disclosures of sexual assault, domestic and dating violence, and stalking?

What specific assistance can victims expect from campus law enforcement or security department if they seek help after a sexual assault, domestic or dating violence, or stalking?

- ✓ What are the specific roles of the campus law enforcement or security department related response

to and prevention of each type of violence? Are there checklists that summarize their roles and related procedures for response and prevention? Responding law enforcement AND security officers should be able to assist victims with safety to some degree; explain their options for reporting; help them report an incident to the school and the local criminal justice system; explain the importance of getting medical care, emotional support and preserving evidence; help arrange safe transportation to a nearby hospital for medical care and forensic evidence collection (if applicable); and help them access support of victim advocates.

- ✓ In the likelihood of ongoing interpersonal violence, do campus law enforcement and security officers notify victims of protective measures available through the college and the local justice system, how to access immediate assistance, and how to document further violence?
- ✓ If your college has a campus law enforcement department, it likely has sworn officers who can take a criminal report and conduct the criminal investigation. Is that the case? Do officers receive training on investigating different types of interpersonal violence?
- ✓ If your college has a campus security department, are students referred to the local law enforcement agency to make a criminal report? Does the security department assist the victim in this regard?
- ✓ If and how is the campus law enforcement or security department involved in investigations of student code of conduct violations?

Is there an entity on your campus that provides support and information to victims of sexual assault, domestic and dating violence, and stalking?

- ✓ If so, what is the extent of services they provide to each type of victim?
- ✓ Can they provide confidential support to victims?
- ✓ Does it have a permanent physical space to ensure that students know where to find such support?
- ✓ What hours is assistance available? What happens if assistance is sought outside of these hours? What level of coordination does this entity engage in with the local rape crisis center and domestic violence program?
- ✓ Is the support offered the center widely publicized on campus?
- ✓ Are campus faculty, staff and paraprofessionals aware of support available and how to access it?

Is there a campus student health/counseling center? What specific assistance is offered to victims of sexual assault, domestic and dating violence, and stalking?

- ✓ Are counseling staff trained to provide crisis intervention and counseling to these victims?
- ✓ What hours is assistance available? What happens if assistance is sought outside of these hours?
- ✓ Is emergency medical care available on campus? What is the scope of care provided (e.g., treatment for acute versus non-acute injuries)? What hours is emergency care available? If emergency care on campus is not available or if presenting injuries are beyond the scope of care of the campus health facility, what is the procedure for ensuring that victims have immediate access to appropriate care?
- ✓ Are there medical personnel on campus trained to conduct a sexual assault forensic medical exam? What is the procedure for notifying those personnel of the need for their services? If forensic medical exams are not done on campus, what is the procedure for ensuring that victims have immediate access to these exams? A forensic medical exam optimally should be done within 96 hours after the assault. In the absence of these services on campus, students should be advised to go to the local hospital emergency department for medical care.

How will a report of sexual assault, domestic or dating violence, or stalking on campus be dealt with by school administration, regardless of whether there is a criminal investigation?

- ✓ What specific incidents violate the school's student code of conduct? What specific incidents violate personnel policies?
- ✓ How is a misconduct report made? Is the grievance procedure for Title IX violations different?
- ✓ Are there student conduct administrators who investigate complaints, decide whether the student code of conduct has been violated, and make recommendations as to possible sanctions for violators and remedies for victims?
- ✓ What measures of protection is the school able to offer students experiencing different types of

interpersonal violence (recognizing that each circumstance is unique)? Is there any difference in measures available if the perpetrator was another student versus a school employee versus someone who is not student or employee of the college?

- ✓ Are victims kept apprised of the outcomes of their cases? How?
- ✓ How are related violations of personnel policies dealt with by the college?

Is there a designated Title IX Coordinator on campus?

- ✓ Is this person easily identified by campus faculty and staff in order to direct individuals or issues to this office?
- ✓ Is the coordinator's name and contact information made widely available to students?
- ✓ Is the coordinator aware of Title IX provisions regarding interpersonal violence on campus?

Does the college participate on the local sexual assault response team (SART), if one exists?

At a minimum, a SART is typically comprised of emergency department medical personnel, prosecution, law enforcement and a sexual assault victim advocate. The SART helps these practitioners work in a coordinated manner to provide victims with immediate emotional support, forensic medical care and legal assistance and to address issues that may arise in specific cases.

- ✓ Who participates from the college and what is their role?
- ✓ Does the college participate in any collaboration to respond to domestic and dating violence or stalking? If yes, explain.

Community Resources

An array of community resources is typically available to students who experience interpersonal violence. A student may benefit with a referral for additional information and support.

- ✓ In West Virginia, there are **9 rape crisis centers** which can be utilized by victims of sexual violence, including college students (see below). These centers can also assist if the sexual violence includes domestic or dating violence or stalking. Rape crisis centers typically provide a range of services for victims and their family and friends, such as crisis intervention, emotional support, information and referral, advocacy, medical and legal accompaniment, safety planning, and counseling/support groups. All centers have 24-hour hotlines which can be used by victims who are seeking assistance. Information about the specific services offered at the rape crisis centers and their service areas can be found through the [West Virginia Foundation for Rape Information Services](#) (WV FRIS). These centers provide free and confidential services. In addition to calling a center directly, support can also be accessed by calling 800-656-HOPE.
- ✓ In West Virginia, there are **14 domestic violence programs, 6 of which are also rape crisis centers** (see below). Most programs offer core services such as individual safety planning, shelter, a 24-hour emergency hotline, legal advocacy, peer support counseling, support groups, and services for children. Information about the service area for each program can be found at through the [West Virginia Coalition Against Domestic Violence](#) (WVCADV - go to member programs).
- ✓ Victims without health insurance or access to a school with student health services should be informed that medical and counseling bills as a result of interpersonal violence may be reimbursed through the **West Virginia Crime Victims Compensation Fund**. In West Virginia, victims of interpersonal violence who are residents or students who were victimized in the state are eligible to file a claim with the fund (the claim must be filed within two years

of the assault). The crime must be reported to law enforcement within 72 hours (with possible exceptions). [WV FRIS](#) offers information about how to apply.

- ✓ The [WV Coalition Against Domestic Violence](#) offers state-specific information on domestic violence. The national domestic violence hotline is 800-799-SAFE.
- ✓ The [WV Foundation for Rape Information and Services](#) provides general and state-specific information and resources on sexual assault and stalking. The national sexual assault hotline is 800-656-HOPE.

West Virginia's Regional Rape Crisis Centers (* Indicates center is also a domestic violence program)	
CONTACT Huntington P.O. Box 2963 Huntington, WV 25729 304-399-1111 www.contacthuntington.com	RDVIC- Rape and Domestic Violence Information Center* P.O. Box 4228 Morgantown, WV 26505 304-292-5100 www.rdvic.org
Family Refuge Center* P.O. Box 249 Lewisburg, WV 24901 304-645-6334 www.familyrefugecenter.org	SAHC-Upper Ohio Valley Sexual Assault Help Center, Inc. P.O. Box 6764 Wheeling, WV 26003 304-234-8519
HOPE, Inc. Task Force on Domestic Violence* P.O. Box 626 Fairmont, WV 26555 304-367-1100	Shenandoah Women's Center* 236 West Martin St. Martinsburg, WV 25401 304-263-8292 www.swcinc.org
REACH/The Counseling Connection 1021 Quarrier St., Suite 414 Charleston, WV 25301 304-340-3676 www.tccwv.org	Women's Aid in Crisis* P.O. Box 2062 Elkins, WV 26241 304-636-8433 www.waicwv.com
	Women's Resource Center* P.O. Box 1476 Beckley, WV 25802-1476 304-255-2559 1-888-825-7835 (TTY) www.wrcwv.org

In addition to the 6 “dual” rape crisis and domestic violence agencies listed above (*), West Virginia has an additional 8 stand-alone regional domestic violence programs—

Branches, Inc.
P.O. Box 403
Huntington, WV 25708
(304) 529-2382
1-888-538-9838

Lighthouse Domestic Violence Awareness Center
PO Box 275
Weirton, WV 26062
(304) 797-7233

YWCA Family Violence Prevention Program
1100 Chapline Street
Wheeling, WV 26003
(304) 232-2748

Family Crisis Center
PO Box 207
Keyser, WV 26726
(304) 788-6061
1-800-698-1240

[Stop Abusive Family Environments](#)
P.O. Box 669
Welch, WV 24801
(304) 436-8117

[YWCA Resolve](#)
1114 Quarrier Street
Charleston, WV 25301
(304) 340-3573
1-800-681-8663

[Family Crisis Intervention Center](#)
P.O. Box 695
Parkersburg, WV 26102
(304) 428-2333
1-800-794-2335

Tug Valley Recovery Shelter
PO Box 677
Williamson, WV 25661
(304) 235-6121

National and Other Resources

Sexual Assault

- ✓ For victims seeking information or someone to talk to outside of their campus, [Rape, Abuse and Incest National Network](#) (RAINN) offers the 24-hour **National Sexual Assault Hotline** at **800-656-HOPE**. Callers will be connected to the nearest available rape crisis center based on the caller's area code. The hotline is confidential and anonymous (no personal information including phone number will be recorded).
- ✓ [National Sexual Violence Resource Center](#) is an excellent source for additional information.

Stalking

- ✓ [Stalking Resource Center](#) (202-467-8700 or src@ncvc.org) is a clearinghouse for stalking information, including help for victims.
- ✓ [Privacy Rights Clearinghouse](#) provides practical information on privacy protection, as well as specific fact sheets related to stalking.

Domestic and Dating Violence

- ✓ A 24-hour [National Domestic Violence Hotline](#) is available at 800-799-SAFE (7233) or 800-787-3224 TTY.
- ✓ A 24-hour [National Teen Dating Abuse Helpline](#) is available at 866-331-9474 or 866-331-8453 TTY.
- ✓ A few additional resources are the [National Coalition Against Domestic Violence](#) and the [Workplaces Respond to Domestic Violence – A National Resource Center](#).

Related (This list was adapted from NotAlone.gov.)

- ✓ **American Association of University Women:** Advocacy and empowerment organization for women and girls.
- ✓ **Arte Sana:** A national Latina-led nonprofit committed to ending sexual violence and other forms of gender-based aggressions and engage marginalized communities as agents of change.
- ✓ **Black Women’s Blueprint Project:** Civil and human rights organization aimed to secure social, political and economic equality in American society; The Black Women’s Truth and Reconciliation Commission (BWTRC) on sexual violence.
- ✓ **The Clery Center for Security on Campus:** A nonprofit organization dedicated to preventing violence, substance abuse, and other crimes on college and university campuses, and to assist the victims of these crimes.
- ✓ **Futures Without Violence: Preventing Violence Against Women on College Campuses**
- ✓ Resources for campuses to promote healthy relationships and to better help those affected by violence.
- ✓ **Institute on Domestic Violence in the African American Community:** Organization focused on African Americans as they face issues related to domestic violence and intimate partner violence including dating violence, child abuse, elder maltreatment, and community violence.
- ✓ **Joyful Heart Foundation:** National organization dedicated to healing, educating and empowering survivors of sexual assault, domestic violence and child abuse.
- ✓ **Men Can Stop Rape:** Organization aimed at mobilizing men to create cultures free from violence.
- ✓ **National Alliance to End Sexual Violence (NAESV):** National advocacy organization representing state coalitions and local programs organizing against sexual violence and for survivors.
- ✓ **National Center on Domestic and Sexual Violence (NRC DV):** Designs, provides, and customizes training and consultation, influences policy, promotes collaboration and enhances diversity with the goal of ending domestic and sexual violence.
- ✓ **National Center for Victims of Crime:** A nonprofit organization that advocates for victims’ rights, trains professionals who work with victims, and serves as a source of information on victims’ issues
- ✓ **National Organization of Asians and Pacific Islanders Ending Sexual Violence (NAPIESV):** National advocacy organization which provides technical assistance to culturally and linguistically specific organizations that are currently serving or attempting to serve victims of sexual assault in Asian and Pacific Islander communities.
- ✓ **National Organization of Sisters of Color Ending Sexual Assault (SCESA):** National advocacy organization supporting and advocating for women of color and organizations by and for communities of color.
- ✓ **National Network to End Domestic Violence (NNEDV):** A national social change organization dedicated to creating a social, political and economic environment in which violence against women no longer exists.
- ✓ **No Means No:** A nonprofit organization strengthening sexual assault prevention efforts on college campuses.
- ✓ **OK2TALK:** Encourages teens and young adults struggling with mental health problems to talk about what they’re experiencing by sharing their personal stories of recovery, tragedy, struggle or hope.
- ✓ **Safer Society Foundation:** Organization dedicated to ending sexual abuse by promoting

effective prevention and best-practice treatment for sexual abusers and their victims.

- ✓ **Tribal Court Clearinghouse:** Materials available through the website, which serves as a resource for American Indian and Alaska Native Nations, include laws and publications on sexual assault, stalking, domestic violence, and more.
- ✓ **SurvJustice** decreases the prevalence of sexual violence by assisting survivors, empowering activists, and supporting institutions.
- ✓ **Ultra Violet:** Advocacy organization mobilizing against sexism to expand women's rights, through grassroots, people-powered campaigns.
- ✓ **Victim Rights Law Center:** Provides national training for attorneys and advocates on issues of sexual assault.

Student Groups

- ✓ **Know Your IX:** A campaign that aims to educate all college students in the U.S. about their rights under Title IX.
- ✓ **Students Active for Ending Rape (SAFER):** Organization dedicated to empowering students to hold their universities accountable for having strong campus sexual assault policies and programming.

LGBTQ Resources

- ✓ **The Trevor Project Helpline:** LIVE CHAT, 866-488-7386: Provides crisis intervention and suicide prevention services to lesbian, gay, bisexual, transgender and questioning (LGBTQ) young people ages 13-24. Help and support are available via phone, chat, text, and online social networking.
- ✓ **Forge:** A national organization whose mission is to support, educate and advocate for the rights and lives of transgender individuals and SOFFAs (Significant Others, Friends, Family, and Allies). FORGE is dedicated to helping move fragmented communities beyond identity politics and forge a movement that embraces and empowers our diverse complexities.
- ✓ **Northwest Network:** This network of Bisexual, Trans, Lesbian and Gay Survivors of Abuse works to end violence and abuse by building loving and equitable relationships in our community and across the country.
- ✓ **National Coalition of Anti-Violence Programs:** This organization works to prevent, respond to, and end all forms of violence against and within LGBTQH communities. NCAVP is a national coalition of local member programs, affiliate organizations and individual affiliates who create systemic and social change. We strive to increase power, safety and resources through data analysis, policy advocacy, education and technical assistance.
- ✓ **LGBTQ Health:** Information and resources tailored to perspectives and needs of the LGBTQ population who are at increased risk for a number of health threats when compared to their heterosexual peers. Differences in sexual behavior account for some of these disparities, but others are associated with social and structural inequities, such as the stigma and discrimination. This resource is produced by the Centers for Disease Control and Prevention (CDC).
- ✓ **Health Resources and Services Administration:** Information from the Health Resources and Services Administration on the National LGBT Health Education Center health disparities, and links to additional resources.
- ✓ **Top Health Issues for LGBT Populations Information and Resource Kit:** Information from the Health Resources and Services Administration on the National LGBT Health Education Center health disparities, and links to additional resources.
- ✓ **Native Youth Sexual Health Network:** The Native Youth Sexual Health Network provides culturally relevant resources and has developed a comprehensive online directory of Two Spirit organizations and social media tools for the LGBTQ community.

- ✓ **CenterLink:** The community of LGBT (Lesbian, Gay, Bisexual and Transgender) Centers exist to support the development of strong, sustainable LGBT community centers and to build a unified center movement. CenterLink works with other national organizations to advance the rights of LGBT individuals and to provide LGBT community centers with information and analysis of key issues.

Disability Resources

- ✓ **Disability.gov:** Connects people with disabilities, their families and caregivers to helpful resources on topics such as how to apply for disability benefits, find a job, get health care or pay for accessible housing.
- ✓ **Screening and Counseling on Violence for Women with Disabilities**

Immigrant and International Resources

- ✓ **Community Health Centers**
- ✓ **Casa de Esperanza:** A national resource center on domestic violence in the Latin community, with a mission to mobilize Latinas and Latino communities to end domestic violence. Their work includes community building, as well as direct advocacy and resources for victims of domestic violence in Latin@ communities.
- ✓ **Asian Pacific Islander Institute on Domestic Violence:** This is a national resource center on domestic violence, sexual violence, trafficking, and other forms of gender-based violence in Asian and Pacific Islander communities.

Health Resources

- ✓ **<http://locator.aids.gov>:** Find publicly supported health services including health centers, mental health providers, family planning centers and substance abuse treatment providers.
- ✓ **Community health centers**
- ✓ **Family planning providers**
- ✓ **Mental health providers**
- ✓ **The Office on Women's Health:** information on what rape and sexual assault are; health effects; how to get help; how to stay safe; and where to find more information.
- ✓ **Health Cares About IPV** is a federally funded program that provides training and technical assistance to over 22,000 health care professionals working to implement best practices for treating intimate partner violence (IPV) and dating violence survivors, including new guidelines to screen for abuse and refer patients to services.

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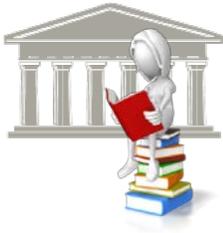
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*Note: As a convenience, hyperlinks to sources are often provided. If a listed hyperlink cannot be accessed, it is suggested you search online for the resource by title and author.



C. Federal Legislation

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INTRODUCTION

The roles and responsibilities of campus student conduct and judicial boards are dictated by federal legislation and campus policies. It is critical for both those serving in an adjudicating capacity and their trainers have a basic understanding of those policies. This section outlines key federal mandates that guide the student misconduct judicial process. Each campus must insert its own policies into the training process to ensure that all decisions made are congruent with established and approved practices.

Sokolow (2001), in [Comprehensive Sexual Misconduct Judicial Procedures](#), stresses that a cohesive sexual assault risk management strategy is essential for colleges. That statement logically extends to other types of interpersonal violence discussed in this toolkit. Sokolow defines risk management for colleges as a body of knowledge that identifies high-risk issues and enables them to develop cohesive approaches to avoiding negative incidents and their negative consequences. He identifies five very important “pillars” that together support sexual assault risk management:

1. A proactive campus policy addressing sexual misconduct;
2. Comprehensive student conduct and judicial procedures addressing sexual misconduct and related training for student conduct administrators and officers;
3. Creation of a trained, campus-wide sexual assault response protocol/network;
4. Risk reduction through education, safety and awareness; and
5. Compliance with federal and state tort and sexual assault-related laws.

Pillars 1 and 5 are discussed briefly in this toolkit section. *D1. Getting Started* speaks to pillar 2.



A **resource for college staff and students** is NotAlone.gov, the website of the White House Task Force to Protect Students from Sexual Assault. See the following sections:

<u>Students</u>	<u>Schools</u>	<u>Resources</u>	<u>Data</u>
✓ Know Your Rights	✓ Legal Guidance	✓ Find a Service	✓ School Enforcement Map
✓ How to File a Complaint	✓ Developing Policies	✓ Organizations	✓ Data.gov
✓ Confidentiality	✓ Maintaining Confidentiality		
✓ Key Terms	✓ Prevention Resources		

C1. FEDERAL LEGISLATION

Several key pieces of legislation direct the response by colleges to interpersonal violence. Below is a brief overview of the federal legislation that detail the roles and responsibilities of campus student conduct and judicial boards.

The Clery Act

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (known as the Clery Act) is named after Jeanne Clery. Jeanne was a 19-year-old college student who was raped and murdered in 1986 in her Lehigh University dormitory. The Clery Act was passed in 1990, requiring higher education institutions whose students receive federal financial aid to collect and report campus crime data annually to the U.S. Department of Education. It has been amended multiple times to expand the parameters of the legislation, including through the 2013 Campus Sexual Violence Elimination Act or Campus SaVE Act. (Paragraph partly drawn from [The Clery Center for Security on Campus](#).)

Basic components of the Clery Act include (Center for Public Integrity, 2010):

- ✓ Campuses must publish and distribute an annual security report that includes crime statistics for the past three years as well as campus security policies. (The 2013 Campus SaVE Act requires that sexual assault, domestic and dating violence, and stalking in the crimes to be included in this report.)
- ✓ If there is a campus law enforcement/security department, a public daily crime log must be kept.
- ✓ Crimes that pose a serious or continuing threat to the campus community must be reported to the community in a timely manner.

The federal Campus Sexual Assault Victims' Bill of Rights was enacted as a component of the 1992 amendments to the Higher Education Act of 1965 (*Public Law: 102-325, section 486(c)*). It includes:

- ✓ Giving the alleged victim and alleged perpetrator equal opportunity to have others present in

- ✓ disciplinary proceedings and equal notification of the outcome of such proceedings;
- ✓ Notifying alleged victims of counseling services and their right to pursue legal options through local law enforcement; and
- ✓ Notifying alleged victims of their option to change classes or dormitory assignments to avoid contact with alleged assailants.

The 2013 [Campus Sexual Violence Elimination Act](#) (Campus SaVE Act) amended the Clery Act and added the following:

- ✓ Expands rights to campus victims of other interpersonal crimes in addition to sexual violence: dating violence, domestic violence and stalking;
- ✓ Requires every college participating in Title IV financial aid programs to compile statistics of incidents of these crimes that occur within its Clery geography;
- ✓ Outlines reporting procedures for victims of interpersonal violence and additional rights and responsibilities and their rights if they report;
- ✓ Requires written notification to students about services available for victims on campus and in the community;
- ✓ Requires written notification for victims about options for, and available assistance in, changing academic, living, transportation and working situations, if requested by the victim and such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus or local law enforcement; and
- ✓ Requires the provision of information about how the institution will protect the confidentiality of victims (and limitations).

Components of the Clery Act Impacting Student Conduct and Judicial Boards

Under the Clery Act and its subsequent amendments, campuses are required to address incidents of alleged interpersonal violence by processes that incorporate the following components:

- ✓ Procedures when an incident has been reported, including a statement of the standard of evidence that will be used during institutional conduct proceeding arising from the report.
- ✓ Procedures for institutional disciplinary action in cases of alleged domestic violence, dating violence, sexual assault and stalking, which shall include:
 - Statements that proceedings shall provide a prompt, fair and impartial investigation and resolution;
 - Be conducted by officials who receive annual training on issues related to domestic violence, dating violence, sexual assault and stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
 - Providing the accuser and the accused the same opportunity to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice; and
 - Simultaneously informing, in writing, both the accuser and the accused of:
 - The outcome of the institutional disciplinary proceeding;

- The institution's procedures for the accused and the victim to appeal the results;
 - Any change in the results that occurs prior to the time the results become final; and
 - When the results become final.
- ✓ Possible sanctions on protective measures the institution may impose following a final determination of an institutional disciplinary procedure regarding sexual assault, domestic violence, dating violence or stalking.



The [Clery Center for Security on Campus](#) provides a clearinghouse of information and resources regarding Clery Act compliance and changes as per the Campus SaVE Act. It also allows you to [search for a specific campus' security data](#). [The Handbook for Campus Safety and Security](#) (2011) presents procedures, examples and references for college administrators to follow in meeting the campus public safety requirements of the Higher Education Act of 1965 (specifically the Clery Act).

Title IX

Victims of sexual violence are afforded additional rights and protections under Title IX. Title IX of the Education Amendments Act of 1972 (*20 U.S.C. Sec. 1681, et seq.*) **prohibits sex-based discrimination in any educational institution receiving federal funds** (virtually all public and private colleges). Under this law, sexual harassment of students is viewed as interfering with their right to an education free from discrimination (Office of Postsecondary Education, 2011). Title IX requires colleges to take reasonable steps to protect students and provide an environment free of sex discrimination.

Although Title IX was enacted in 1972, it was a letter written in 2011 – the *Dear Colleague* letter from the U.S. Department of Education - that clarified the definition of sexual harassment and subsequently expanded the scope of responsibilities for campuses under this legislation. Sexual harassment under Title IX is conduct that is sexual in nature, is unwelcome and denies or limits a student's ability to participate in or benefit from the college's education program. **All acts of sexual violence are considered forms of sexual harassment under Title IX.** (Note that Title IX frames sexual violence as a form of sexual harassment, which is different from general or WV legal definitions, as explained in *B. What You Need to Know.*)

Phillip and Falto (2014) chronicled recent federal guidance issued related to Title IX and sexual violence:

- ✓ 2011: The U.S. Department of Education's (DOE) Office for Civil Rights (OCR) issued a [Dear Colleague Letter](#) (DCL) to clarify that fact that sexual harassment is a form of sex discrimination under Title IX and remind colleges of their responsibility to take immediate and effective steps to respond to sexual violence in accordance with Title IX.
- ✓ 2014: The OCR released [Questions and Answers on Title IX and Sexual Violence](#) to provide more in-depth information on this aspect of Title IX.

- ✓ 2014: Materials from the White House Task Force to Protect Students from Sexual Assault and its website, NotAlone.gov, confirmed the need for stronger policies and procedures to address and prevent campus sexual violence.



Much of the national attention and literature developed related to Title IX and colleges in recent years has focused on sexual violence. As Falto (2014) notes, the 2011 [Dear Colleague Letter](#) stresses the importance of Title IX regulations: “The statistics on sexual violence are both deeply troubling and a call to action for the nation. A report prepared for the National Institute of Justice found that about 1 in 5 women are victims of completed or attempted sexual assault while in college. The report also found that approximately 6.1 percent of males were victims of completed or attempted sexual assault during college... The department [of education] is deeply concerned about this problem and is committed to ensuring that all students feel safe in their school, so that they have the opportunity to benefit fully from the school’s programs and activities.”

However, Title IX also more broadly prohibits gender-based harassment, including acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex or sex-stereotyping, even if these acts don’t involve conduct of a sexual nature (Phillips & Falto, 2014). Gender-based harassment is inclusive of the fuller spectrum of interpersonal violence discussed in this toolkit, if and when the violence is based on sex discrimination.

Note that the information in this section was drawn from [Know Your Rights: Title IX Prohibits Sexual Harassment and Sexual Violence Where You Go to School](#) and the [Sexual Violence Dear Colleague Letter](#) (2011), both by the U.S. Department of Education (DOE), Office for Civil Rights (OCR); and [Title IX and Sexual Assault: Know Your Rights and Your College’s Responsibilities](#) by the American Civil Liberties Union. Material was also included from Phillips and Falto’s *Title IX and Sexual Violence: Programs, Practical Materials and Training* (2014) and Falto’s *Conducting Title IX Investigations* (2014).

Components of Title IX Impacting Student Conduct and Judicial Boards

(Section drawn from Falto (2014) except where noted. Sources: OCR’s 2014 *Questions and Answers on Title IX and Sexual Violence* and the 2011 *Dear Colleague Letter*.)

Title IX requires all educational facilities (K-college) fulfill 4 key duties: a Title IX Coordinator, a publicized non-discrimination policy, training for staff on handling disclosures; and a **prompt and equitable grievance procedures for responding to reports of sexual harassment**.

The college has a responsibility under Title IX to respond promptly and effectively to reports of sexual violence. If the college knows (or reasonably should know) about possible sexual violence, it must quickly investigate to determine what occurred and then take appropriate steps to resolve the situation. A criminal investigation into allegations of sexual violence does not relieve the college of its duty under Title IX to resolve reports promptly and effectively. The college must ensure that the person who experienced the sexual violence is safe, even while an investigation is ongoing. (Source: NotAlone.gov.)

The *Dear College Letter* says a college must:

- ✓ Provide a grievance procedure to file complaints of sexual violence. A complaint can be filed by the person experiencing the discrimination (called the complainant), a witness, a parent, an employee or an anonymous source.
- ✓ Act once it has knowledge of the report. Investigations should occur within a reasonable time frame (in most cases, 60 days from start to finish).
- ✓ Have procedures must include an equal opportunity for both parties to present witnesses and other evidence and the same appeal rights.
- ✓ Use the preponderance of the evidence standard to resolve complaints of sexual violence.
- ✓ Notify both parties of the outcome of the complaint. This procedure may be the same as the college's procedures for filing complaints of violations of campus conduct policies or a different process altogether.

Students Protected Under Title IX

While sexual harassment, including sexual violence, is disproportionately experienced by female students and perpetrated by males, Title IX recognizes that it can occur between members of the opposite sex as well as those of the same sex. Students, staff, faculty, and other employees; women, girls, men, and boys; straight, LGBT, and gender-nonconforming persons; persons with and without disabilities; and international and undocumented persons all have the right to pursue education, including athletic programs, scholarships, and other activities, free from sex discrimination (NotAlone.gov).

- ✓ **The college's obligation to respond appropriately to sexual violence complaints is the same irrespective of the sex or sexes of the parties involved.** Note that Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity. The college should investigate and resolve allegations of sexual violence regarding LGBT students using the same procedures and standards that it uses in all complaints involving sexual violence.
- ✓ **When students with disabilities experience sexual violence**, federal civil rights laws other than Title IX may also be relevant to the college's responsibility to investigate and address such incidents. Some students with disabilities may require additional assistance and support. Reporting forms, information or training about sexual violence should be provided in a manner that is accessible to students and employees with disabilities.
- ✓ **All students, regardless of their immigration status, should be aware of their rights under Title IX.** Reporting forms, information or training about sexual violence should also be provided in a manner accessible to students who are English language learners. OCR recommends that the college coordinate with its international student office, if applicable, to help communicate information about Title IX in languages that are accessible to these groups of students. OCR also encourages colleges to provide foreign national complainants with information about the U nonimmigrant status and the T nonimmigrant status (see *B. What You Need to Know*).
- ✓ **In situations where the alleged perpetrator is not affiliated with the college**, the response will depend on the level of control the college has over him/her. The college's ability to take direct action against a particular perpetrator may be limited, but it can still take

steps to provide appropriate remedies for the complainant and, where appropriate, the broader school population.



OCR (2014) notes **colleges should be mindful of issues that may arise when a foreign student on a student visa experiences sexual violence**. For example, certain student visas require the student to maintain a full-time course load, but a student may need to reduce their course load while recovering from sexual violence. OCR recommends that the college take steps to ensure that individuals on student visas understand that they must typically seek prior approval of the designated college official for student visas to fall below a full-time course load. The college can also encourage its employees involved in handling sexual violence complaints and counseling students to approach this official on the student's behalf if the student wishes to drop below a full-time course load. In addition, the college can take steps to ensure that its employees who work with international students are trained on the college's sexual violence policies and that employees involved in handling complaints and counseling students who have experienced sexual violence are aware of the special issues that international students may encounter.

FERPA

The 1974 Family Educational Rights and Privacy Act (FERPA) was enacted to protect students' education records. The DOE's [FERPA website](#) indicates its provisions are applicable to parents until the student turns 18; then these rights pertain directly to the student. FERPA generally addresses the parent or eligible student's right to review the student's education record at any time by request, correct errors in the student's record and be asked for permission before the institution releases information from a student's record. (Paragraph from Falto,2014).

Components of FERPA Impacting Student Conduct and Judicial Boards

FERPA and Clery

Every complainant has the right to be notified in writing of the outcome of the complaint, even though federal privacy laws limit disclosure of certain information in disciplinary proceedings. Under FERPA, colleges are permitted to disclose to the complainant information about the sanction(s) imposed on the respondent, when the sanction directly relates to the complainant. When conduct involves a crime of violence (including sexual assault) or a non-forcible sex offense, FERPA permits institutions to disclose to the complainant the final results of a disciplinary proceeding against the alleged perpetrator, regardless of whether the college found that a violation was committed. The college may also disclose to anyone the final results of a disciplinary proceeding if it determines that a student is a perpetrator of a crime of violence (including sexual assault) or a non-forcible sex offense, according to FERPA. Additionally, the Clery Act requires that both parties are informed of the outcome of any institutional proceeding alleging a sex offense. This type of compliance doesn't violate FERPA. Therefore, the colleges may not require a complainant to abide by a non-disclosure agreement. (Paragraph from Phillips & Falto, 2014.)

FERPA and Title IX

The 2011 *Dear Colleague Letter* notes: “FERPA continues to apply in the context of Title IX enforcement, but if there is a direct conflict between the requirements of FERPA and the requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in colleges, the requirements of Title IX override any conflicting FERPA provisions.”



A [chart](#) is available through NotAlone.gov to help colleges understand the requirements of Title IX and Clery, clarify how they intersect with students’ rights under FERPA, and resolve any concerns about apparent conflicts.

First Amendment Rights

According to OCR’s guidance (2001, confirmed by OCR, 2014), “Title IX is intended to protect students from sex discrimination, not to regulate the content of speech. OCR recognizes that the offensiveness of a particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a sexually hostile environment under Title IX.” OCR (2001) says that for a violation of Title IX, the sex discrimination must be “sufficiently serious to deny or limit a student’s ability to participate in or benefit from the education program.” OCR also states that the student’s age is a factor in determining whether a violation has occurred (e.g., what is appropriate for an adult may not for a middle school student), as is the location; a legitimate classroom discussion about sensitive material is very different from lewd catcalls on campus grounds. (Paragraph from Phillips & Falto, 2014.)

C2. COLLEGE CONDUCT POLICIES

Many colleges have conduct policies which define how specific groups are expected to behave as members of that college community. There may be student codes of conduct, employee policies, student organization codes of conduct, department specific policies and other nondiscrimination policies affecting students and employees. Violations of these policies are typically regarded as cause for disciplinary action by the college. Colleges normally have procedures in place for students to report violations of conduct policies and campus conduct/judicial systems to investigate and resolve such violations, as is discussed in *D. Getting Started Student Conduct Complaints*. For additional information on policies, see *F. Sample Policies and Procedures*.



Bennett, Gregory and Loschiavo, 2014, note that **policies must be written in a way that students can understand them and they must be communicated to the campus in an effective manner**. They stress that students should understand what will happen if they report, if they are accused, if the case proceeds to a hearing etc. Policies and procedures should not be buried in websites, catalogs or in annual security reports.

C3. ROLE OF LEGAL COUNSEL

Campuses can utilize their legal counsel to help craft policies that include considerations that student conduct and judicial boards will likely have to address. For example, having a policy with sanctions for underage drinking and a policy to investigate sexual assaults will undoubtedly result at some point where the board will be faced with imposing sanctions on a victim of a rape who had been drinking. An amnesty clause in the policy would encourage more victims in those situations to report.

Phillips and Falto (2014) offer some examples of questions to ask the college's legal counsel related to federal legislation and the college conduct policies, to ensure that the college is in compliance with federal legislation and to clarify concerns:

- ✓ Must the college always conduct an investigation when sexual violence occurs, even if it's off-campus and being investigated by local law enforcement?
- ✓ Are there certain proactive efforts the college should be making to prevent sexual harassment and sexual violence among our students?
- ✓ In instances of sexual harassment and sexual violence, would another student's parent be considered a "third party" who could inflict this violation on a student?
- ✓ Under the college's current structure, would it be advisable to have separate Title IX deputy coordinators to handle complaints by students, faculty and other employees?
- ✓ If an instance of sexual harassment occurs at an off-campus location, would any parts of the college's process be different than if it occurred on campus?
- ✓ Where does cyber bullying fall in the continuum of sexual conduct? Should the college include it in Title IX-related procedures? Why or why not?
- ✓ Do we have an amnesty policy on alcohol?
- ✓ Is there ever an instance where the college can promise a Title IX complainant confidentiality? If so, what is it?
- ✓ When is it okay to put the safety of others in the community ahead of an individual student's confidentiality request? Is there any entity that should be consulted with regarding evaluating safety risks? What, if any, perpetrator rights are protected by FERPA? What can the college say while still working within the confines of FERPA?

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D. Getting Started: Student Conduct Complaints

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INTRODUCTION

The 2011 *Dear Colleague Letter* and subsequent federal legislation surrounding cases of interpersonal violence created expectations – and questions – regarding the ability of colleges to adequately address sexual violence and related crimes that may occur on campus. This concern is fueled in part by the sentiment that colleges should leave behaviors that constitute crimes to law enforcement and the courts. Campus conduct administrators would argue that their colleges are obligated to respond to any form of violence that affects their students. Bennett, Gregory and Loschiavo pose the following for consideration:

“Recently, it has been asked why, when campuses do not respond to murder, they should respond to rape? The answer is that we *would* respond to murder. We would provide support and assistance to those affected by the behavior and we would most likely take action against the student who committed the act. We certainly would not wait for the legal system to act before we would act to protect the campus community. We would not call the act “murder;” the act would fall under a policy prohibiting physical abuse or physical harm. Our response to sexual assault is similar. We acknowledge that we are a microcosm of larger society and that no one can “guarantee” the safety of others, but we also recognize the significance of our influence on student behavior. We not only have an obligation to protect the members of our campus community; federal legislation requires us to do so—and it is the right thing to do...”

The misperception exists that the campus conduct process is designed to replicate court proceedings. Bennett, Gregory and Loschiavo note that it is critical for colleges to educate their constituents that campus conduct processes are not criminal or legal in nature, but focused on students’ relationships to the educational institution and on upholding its behavioral standards. In general, colleges must have processes to determine whether student behaviors have violated institutional policies and impose consequences where appropriate (that fit the violation, including suspension or expulsion). They also need similar processes to address behavior of their employees and any nonstudents on their campuses. Beyond sanctioning violators and offering remedies for victims, colleges should consider broad actions to improve comprehensive campus response. At the same time, colleges should provide victims information about options available to them beyond what their institutions can offer or impose, including criminal justice, civil legal and other non-legal options to address interpersonal violence.



Terms used in student conduct processes are different from those used in the legal system. Sokolow notes: “Very few colleges refer to their campus judicial processes as ‘trials.’ They are called ‘hearings.’ ‘Charges’ are not filed against students. ‘Complaints’ are made. Alleged perpetrators are called ‘respondents,’ and alleged victims are ‘complainants.’ Complaints against respondents do not allege ‘offenses’ or ‘breaking the law,’ but rather allege ‘violations’ or ‘infractions.’ ‘Findings’ are preferred to ‘verdicts.’ ‘Punishments’ are not meted out to violators; they receive ‘sanctions.’ Those who receive sanctions are not ‘guilty,’ but found ‘responsible’...”

Clarity about the specific role of the campus conduct process in the college’s response to interpersonal violence is important. Bennett, Gregory and Loschiavo (2014) offer **overarching recommendations for colleges related to their campus conduct process for sexual misconduct** (which applies to other forms of interpersonal violence). Key points include:

- Communicate campus conduct policies widely to students, and then follow them.
- Ensure that institutional behavioral standards comply with Title IX. If resolution processes differ if the accused is an employee, a student or a nonstudent, clearly explain the differences to students.
- Train college employees on related policies, resolution processes and information to provide students about campus and off-campus options for reporting and support.

- Carefully consider mandated reporting or sanctions, as they may discourage reporting.
- Honor victims' requests for confidentiality whenever possible, but also weigh requests against the institution's obligations to all students.
- Recognize that there is no one-size-fits-all campus model to resolve conduct complaints. Rather than mirror the criminal proceedings, the method selected should fit the campus culture and promote reporting and the best resolution process for students.
- Interim actions should be offered to increase the safety and well-being of the complainant and the campus community while formal complaints are being resolved and when no formal complaint is made.
- Use the preponderance of evidence standard to resolve allegations.
- Facilitate equitable and sensitive proceedings. For example, avoid direct questioning of respondents and complainants by each other. The parties need not be in the same room. Both may consult with an advisor of choice, but institutions should impose guidelines limiting advisors' participation in conduct proceedings.
- Dedicate sufficient staff and resources to manage cases in a prompt and thorough manner.
- Consider developing a team to review and revise policy, assess campus climate, lead prevention efforts and assist the Title IX Coordinator.
- Provide training specific to campus conduct procedures to investigators, adjudicators, appeals board members, and other campus conduct personnel.

This section of the toolkit focuses on the student conduct officers' and judicial board members' roles in responding to complaints of interpersonal violence against a student. Review *B. What You Need to Know* so you have sufficient knowledge base on sexual violence, dating violence, domestic violence and stalking, critical victim issues, and resources to assist student victims. Section *C. Federal Legislation* of this toolkit provided you with an overview of federal legislation affecting campus response and a brief discussion of the importance of campus policies that speak to interpersonal violence.

D1. TRAINING OVERVIEW

Training for student conduct administrators and boards on the topic of hearing interpersonal violence cases will increase proper decision making and reduce liability. Not only should they be trained on campus policies and determining if those policies have been violated, but it is imperative that decision makers understand their role and the information being presented before them. Sexual assault victims often experience trauma, which affects nearly every aspect of their lives, including their ability to recall the assault. Bennett, Gregory and Loschiavo (2014), OCR and the Office on Violence Against Women identified the following topics that training should address in order to increase competency to hear sexual misconduct cases (and can extend to other forms of interpersonal violence):

<ul style="list-style-type: none"> • Students' rights and procedural protections; 	<ul style="list-style-type: none"> • Handling sexual violence complaints; • Campus grievance procedures;
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<ul style="list-style-type: none"> • Terminology used in student conduct; • College's conduct policies (as well as any policies on sexual misconduct if they are separate) and their role on campus; • Overview of the campus conduct process, including appeals; • How campus conduct processes differ from criminal or civil court; • Goals of the adjudication process; • Responsibilities and expectations of the hearing body; • Roles of the participants (complainant, respondent, witnesses, board, advisors, etc.); • How to facilitate a hearing; • How to ask questions effectively and appropriately; • How to evaluate various types of evidence; • How to evaluate credibility; • How to analyze policy; • How to deliberate toward resolution; • Standard of proof (preponderance of evidence); • Sanctions and how to determine appropriate ones; • FERPA and privacy of information; • Cultural competencies, including understanding of differences that may be exhibited during a hearing or investigation; and • Common problems that may arise and how to address them. 	<ul style="list-style-type: none"> • Interviewing persons subjected to sexual violence; • Types of conduct that would constitute sexual violence, including same-sex sexual violence; • Consent and how drugs or alcohol may impact the ability to consent; • Accountability for persons found to have committed sexual violence; • Remedial actions for the perpetrator, complainant, and school community; • Effects of trauma, including neurobiological changes; • Cultural differences and the impact on reporting; • How both trauma and defense mechanisms can impact testimony in a hearing; and • Dispelling common misperceptions about sexual assault in society (e.g., "rape myths"). <p>* This column was drawn from the April 2014 OCR Q & A Guidance and recommendations from the Office of Violence Against Women.</p>
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In *Minimum Standards of Training for Campus Security Personnel and Campus Disciplinary and Judicial Boards* (2007), the federal Office on Violence Against Women (OVW), in conjunction with the California Coalition Against Sexual Assault recommended that prior to conducting training for campus student conduct boards, a campus should review the current code of student conduct and ensure that the code: is victim-centered over offender-focused; considers offender accountability; defines a clear and concise disciplinary process; defines uniform and consistent penalties; identifies and clearly defines domestic violence, dating violence, sexual assault and stalking; and addresses confidentiality issues. Additional training topics can be found in *B. What you Need to Know*, and training content is in *D. Training Resources*.

Training should be continuous so that new student conduct personnel and board members receive information, especially if the board is appointed on a rotation. Consider developing a training schedule and offering the material in various ways. For example, the college can work with the local rape crisis center and domestic violence shelter to provide training on the dynamics of interpersonal violence and the impact of trauma. Other topics could be covered through an online program. WV FRIS has an online training course, SASTA (Sexual Assault Services Training Academy), which offers over 20 modules and is available on their website at www.fris.org. The [Clery Center](#) and [NCHERM Group](#) offer webinars and online resources for group members, or non-members for a fee. Additional training programs can be found at [End Violence Against Women International](#) (EVAWI) and the [Office for Victims of Crime Training and Technical Assistance Center](#) (OVCTTAC). Colleges also may consider independent learning utilizing nationally recognized resources (e.g., PaperClip Communications has four binders of information related to Title IX and sexual violence on campus).



Sokolow (2001) notes that “Some colleges say they won’t train their hearing boards on sexual misconduct issues because it will bias them in favor of the victim. This is like saying that in criminal cases, the judge should not know the rules of evidence, there should be no expert witness testimony to educate the jury, and the judge should not charge the jury with instructions on the law, because it will bias the outcome. Not training your board will get you sued because your board will not know what it needs to know to make the proper decision, and from that liability is but a misstep away.”

D2. ELEMENTS OF GRIEVANCE PROCEDURES

Conduct policies should include an explanation of what will happen when a report is made to the college regarding a violation, reflective of its procedures for how a report will be investigated and adjudicated, potential results of the resolution process, if and how hearing decisions can be appealed, steps in place to protect complainants, etc. The college must then consistently implement the procedures laid out in its policies.

As was mentioned in *C. Federal Legislation*, college procedures to resolve student complaints of sexual misconduct or other interpersonal violence may also be used for Title IX reports; alternatively, your college can develop separate grievance procedures for Title IX complaints. The key for Title IX compliance—and a good idea in general—is to make sure procedures afford the complainant a prompt and equitable resolution (OCR, 2014; Falto, 2014). Grievance procedures should be widely publicized across the campus community. Critical elements include, as per Title IX (OCR, 2014):

- ✓ Notice to college students and employees of the grievance procedures, including where complaints may be filed;
- ✓ Application of the grievance procedures to complaints filed by students or on their behalf alleging sexual violence carried out by employees, other students or third parties;
- ✓ Provisions for adequate, reliable and impartial investigation of complaints, including the opportunity for both the complainant and respondent to present witnesses and evidence;

- ✓ Designated and reasonably prompt time frames for the major stages of the complaint process (OCR indicates that in most cases, the process is about 60 days from start to finish);
- ✓ Written notice to the complainant and respondent of the outcome of the complaint; and
- ✓ Assurance that the school will take steps to prevent recurrence of any sexual violence and remedy discriminatory effects on the complainant and others, if appropriate.

D3. METHODS TO RESOLVE CONDUCT COMPLAINTS

It was mentioned earlier that some colleges use their student conduct process for Title IX investigations, while others have separate Title IX grievance processes. On campuses combining the two processes, the Title IX Coordinator should review the policies and procedures to ensure they comply with Title IX. The student conduct policies and procedures should also comply with other applicable state and federal laws.

Bennett, Gregory and Loschiavo (2014) stress that colleges have the flexibility to resolve student conduct complaints through whatever means they determine are most effective, efficient and equitable, given the resources and support available. They note that no single model fits all institutional types; important considerations exist for all options, including the single-investigator and adjudicator model, the administrative or panel hearing board model, or a hybrid model:

- ✓ In a **hearing model**, the hearing is often an in-person event and varies in length depending on the complexity of the case. Some hearing bodies have the authority to issue sanctions, while others may give sanction recommendations to student conduct staff who have the authority to impose sanctions appropriate for the violation. *Administrative hearings* most often involve one adjudicator who is trained in student conduct. Large and residential campuses may have student conduct offices with multiple administrative hearing officers, while small or commuter campuses may only have one officer or may train employees from outside of student conduct or student affairs to serve as officers. *Panel hearings* range in size, with at least three members. More than five members can be very intimidating and possibly deter victims from reporting. Composition varies and can include a combination of faculty, staff, and students. Both composition and size are often dependent on campus culture: A commuter college with a transient student population may have fewer students than employees on the panel. (See below for Sokolow's argument against students on boards.) In the hearing model, an investigation typically occurs prior to the hearing to (a) ensure that there is enough information to substantiate a complaint going forward for consideration, (b) provide separation between investigation and adjudication of the case, and/or (c) promote an efficient hearing by having a trained professional conduct much of the fact-finding work for the hearing body. (See *additional information below on selecting hearing members*.)
- ✓ An **investigation model** removes the need for an in-person hearing, while still providing procedural protections to both complainant and respondent.
- ✓ A **hybrid model** combines aspects of the hearing model and investigation model. For example, one student conduct staff member might conduct the investigation; a different staff member would review the information and offer an administrative resolution for the case. If

either the complainant or respondent does not wish to accept the resolution, the case goes to a hearing body to analyze the information and determine outcomes and any sanctions. Another model might include a Title IX investigation completed by an equity office, with the case being referred to the campus conduct process to determine appropriate sanctions for policy violations.

In addition to formal traditional resolution methods, other options may be appropriate in certain cases (e.g., informal resolution or restorative justice) if they are equitable to all parties involved. In most instances, mediation is **not** an appropriate model for resolving complaints involving interpersonal violence, as the power dynamics between parties are not equal and the potential for re-victimization as well as unintended effects are significant. The United States Department of Education's (DOE) *Dear Colleague Letter* (2011) affirms that mediation should **not** be used to resolve complaints of sexual assault.

Selecting individuals to serve on hearing panels (also commonly referred to as judicial boards), and how long members will serve, should be outlined in the college's policy and procedures. Questions to consider when creating a policy might include:

- Will members be appointed or volunteer?
- What is the screening process? (It is highly recommended that each potential member be screened to determine their comfort level and personal biases for hearing sexual assault complaints.)
- Who will make the final approval for allowing members to be on the board?
- How long will members serve (e.g., one academic year, five years, etc.)?
- How will conflicts of interest be addressed and selection of alternates?
- Is there a large enough pool to create a separate panel for sexual misconduct hearings?
- Will the board recommend or implement sanctions? What's the process?
- What is the appeals process? What are grounds for an appeal?
- What are the training requirements? (*See xxx for further discussion on this topic.*)

What is the board's responsibility and role in student conduct administration?

Student conduct hearing boards have an important role in addressing sexual misconduct: behaviors that can have an adverse impact on the safety of individuals in the campus community. Their role includes facilitating a resolution process for complaints and implementing accountability measures (sanctions), when necessary. Part of the resolution process, as mentioned throughout this toolkit, requires a fair and equitable process, taking into consideration related laws, rules of evidence and the college's policies. Therefore, it is imperative to provide adequate training for student conduct staff and hearing boards, not only on due process and campus policies, but the dynamics of and trauma associated with interpersonal violence. Understanding both components will reduce the risk of liability to the college and improve the process for all parties involved, because, ultimately there is a responsibility to the college **and** students.

For a comparison of resolution models, see p. 18 of Bennett, Gregory and Loschiavo's [Student Conduct Administration & Title IX: Gold Standard Practices for Resolution of Allegations of Sexual Misconduct on College Campuses](#).



An argument against students on hearing panels and hearing panels in general to resolve interpersonal violence cases on campus has been made by Brett Sokolow, president and CEO of the National Center for Higher Education Risk Management (NCHERM). Sokolow is a vocal proponent of removing students from hearing panels. His objections are not due to their student status per se, but because: **“Any untrained panel is a potential liability and that panels with students generally are less trained than other panels; and the chilling effect of having students on these panels on student victims’ willingness to report.”** (Sokolow, 2015)

Sokolow also argues that use of the **hearing panel model for resolving instances of interpersonal violence is probably part of the reason why there is such systematic underreporting on college campuses**. He notes that colleges “have adversarialized resolutions as the only option for victims who have already experienced the receiving end of an adversarial attack in the first place. They don’t want to go through that again...” He believes an investigation interview is a hearing and that an investigation is all that is needed.

D4. JUDICIAL PROCEDURE COMPONENTS

CONFIDENTIALITY

It is critical that colleges honor student requests for confidentiality to the extent possible, as disregarding such requests can discourage reporting (OCR, 2014). It could also inadvertently lead to re-traumatization and physical harm to victims. The OCR’s [Questions and Answers on Title IX and Sexual Violence](#) (2014) discussed several questions related to complainant confidentiality during Title IX investigations. Below is a summary of the guidance provided. (See page 18-24 for more details and examples.)

- ✓ **How should a school respond to a student’s request (or parents of minor students) that her/his name not be disclosed to the alleged perpetrator or that no investigation or disciplinary action be pursued to address the alleged sexual violence?** There are limited situations in which the college needs to override such a request in order to meet its Title IX obligations. In those cases, information should only be shared with individuals who are responsible for handling the college’s response to incidents of sexual violence. State mandatory reporting laws may also require disclosure in cases of minors to child protective services or law enforcement. The college should notify students of what specific information will be shared, to whom it will be shared and why. A student complainant should be informed that honoring such a request may limit the college’s ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator. Regardless of whether the student requests confidentiality, the college must

take steps to protect her/him as necessary (see interim measures below). The college, via the Title IX Coordinator or other designated employee or a dean, will need to determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, including the student who reported the sexual violence. If the college determines that it can respect the student's request not to disclose his or her identity to the alleged perpetrator, it should take all reasonable steps to respond to the complaint consistent with the request. There are steps the college can take to limit the impact of the reported sexual violence and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Examples include providing increased monitoring, supervision or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; changing and publicizing the school's policies on sexual violence; and conducting climate surveys regarding sexual violence. In cases involving multiple students, an alleged perpetrator can be put on notice of allegations of harassing behavior and be counseled appropriately without revealing, even indirectly, the identity of the student complainant. The college should also take immediate action as necessary to protect the student while keeping her/his identity confidential (again, see below on interim measures).

- ✓ **What factors should the college consider in weighing a student's request for confidentiality?** There are a range of factors to consider. Is there an increased risk that the alleged perpetrator will commit additional acts of sexual violence or other violence? Is there an increased risk of sexual violence under similar circumstances (e.g., if the complainant's report reveals a pattern of perpetration, such as via illicit use of drugs or alcohol, at a given location or by a particular group)? Was the sexual violence perpetrated with a weapon? What is the age of the complainant? Does the college have other means to obtain relevant evidence (e.g., security cameras)? The college should take requests for confidentiality seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including the student who reported the sexual violence.
- ✓ **What are the reporting responsibilities of school employees who provide or support the provision of counseling, advocacy, health, mental health, or sexual assault-related services to students who have experienced sexual violence?** Campus mental-health counselors, pastoral counselors, social workers, psychologists, health center employees or any other person with a professional license requiring confidentiality, or who is supervised by such a person, are not required to report sexual violence to the college without the student's consent (although counseling offices may provide data with no personal identifiers to the college on crimes disclosed by students). OCR notes that some people who provide assistance to students who experience sexual violence are not professional or pastoral counselors, including individuals who work or volunteer at on-campus sexual assault centers, victim advocacy offices, women's centers or health centers, including front desk staff and students. OCR says that colleges have the latitude under Title IX not to require these individuals to report incidents of sexual violence in a way that identifies the student without the student's consent. Pastoral and professional counselors and non-professional counselors or advocates should be instructed to inform students of their right to file a Title IX complaint with the college and a separate complaint with law enforcement. In addition to informing students about campus resources for counseling, medical and academic support, these persons can also assist students in filing complaints.

- ✓ **Is a school required to investigate information regarding sexual violence incidents shared by survivors during public awareness events, such as “Take Back the Night”?**

No. Such public awareness forums at which students disclose experiences with sexual violence are not considered notice to the school for the purpose of triggering an individual investigation unless the survivor initiates a complaint.



Take victims’ concerns related to their safety and wellbeing seriously. Do not discount them. The backlash against victims of interpersonal violence when others in their community learn about their reports can be deeply humiliating as well as traumatizing. It has short- and long-term health implications, including contributing in some instances to increased risk for suicide. The backlash can also include retaliation by the perpetrator and his/her allies. Given the possible consequences, colleges need to be careful when making a decision to disregard the complainant’s request for confidentiality in favor of a focus on a safe and nondiscriminatory campus environment. It is imperative that campus personnel making such decisions are able to accurately evaluate safety risks to individual victims and the campus community, while considering victim concerns. For these purposes, it might be useful to consult with experts in your community to address health risks posed to victims and assess any risk of danger posed by perpetrators. The stark reality is that a disclosure by the college of a victim’s identity to a perpetrator could inadvertently lead to great harm to the victim. In some situations, no interim protective measures the college could take will deter a perpetrator who is determined at any cost to seek revenge against his/her victim.

INTERIM REMEDIAL MEASURES

In [Questions and Answers on Title IX and Sexual Violence](#) (2014), OCR says that Title IX requires a college “to take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. The school should take these steps promptly once it has notice of a sexual violence allegation and should provide the complainant with periodic updates on the status of the investigation. The school should notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow the complainant to change academic and extracurricular activities or his or her living, transportation, dining, and working situation as appropriate. The school should also ensure that the complainant is aware of his or her Title IX rights and any available resources (such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance), and the right to report a crime to campus or local law enforcement. If a school does not offer these services on campus, it should enter into an MOU with a local victim services provider if possible.

Even when the college determines that it can respect a complainant’s request for confidentiality, and therefore may not be able to respond fully to an allegation of sexual violence and initiate formal action against an alleged perpetrator, it must take immediate action to protect the complainant while keeping the identity of the complainant confidential” The college “should consider a number of factors in determining what interim measures to take, including, for example, the specific need expressed by the complainant; the age of the students involved; the

severity or pervasiveness of the allegations; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the same residence hall, dining hall, class, transportation, or job location; and whether other judicial measures have been taken to protect the complainant (e.g., civil protection orders).”

“In general, when taking interim measures, schools should minimize the burden on the complainant. For example, if the complainant and alleged perpetrator share the same class or residence hall, the school should not, as a matter of course, remove the complainant from the class or housing while allowing the alleged perpetrator to remain without carefully considering the facts of the case.”

SAMPLE COMPLAINANT RIGHTS STATEMENT

Phillips and Falto (2014) offer this sample statement outlining complainant’s rights and protections. It is based on the DOE’s [Dear Colleague Letter](#) (2011) and [Know Your Rights: Title IX Prohibits Sexual Harassment and Sexual Violence Where You Go to School](#); and [the University of Oklahoma, Remedial Measures](#).

In order to eliminate a hostile environment, prevent the recurrence of a sexual harassment/violence incident and address its effects, you as a complainant are entitled to remedies that include, but are not limited to, the following:

- ✓ Having an escort provided by the school to ensure that you can move safely between classes and activities;
- ✓ The assurance that you and the alleged perpetrator will not attend the same classes;
- ✓ Alternate housing arrangements in a different residence hall, house or apartment;
- ✓ The availability of counseling services;
- ✓ Access to sexual assault response team advocates;
- ✓ The availability of medical services;
- ✓ Academic support services, such as tutoring;
- ✓ Arrangements to re-take a course or withdraw from a class without penalty, including ensuring that any changes won’t adversely affect your academic record;
- ✓ The review of any disciplinary action taken against you (e.g., missing a class because the alleged perpetrator was enrolled and you wanted to avoid contact) to see if there is a connection between the harassment and the misconduct that may have resulted in disciplinary action; and
- ✓ The knowledge that you can file a complaint with local law enforcement at any time and that you have the option to be assisted by campus personnel in notifying such authorities.

You also have the right to:

- ✓ Present your case, which includes for both parties the right to adequate, reliable and impartial investigation of the complaint, the right to have an equal opportunity to present witnesses and other evidence, and the right to the same appeal process;

- ✓ Be notified of the time frame within which your school will conduct a full investigation of the complaint, the parties will be notified of the outcome of the complaint and the parties may file an appeal, if applicable;
- ✓ Interim steps to protect you, the complainant, *before* the final outcome of the investigation is reached;
- ✓ Have your complaint decided using a preponderance of the evidence standard (e.g., it's more likely than not that sexual violence occurred);
- ✓ Be notified in writing of the outcome of the complaint. You're entitled to information about the sanction imposed on the perpetrator when the sanction directly relates to you;
- ✓ Not be required to abide by a non-disclosure agreement, in writing or otherwise, because the Clery Act requires that both parties be informed of the outcome, including sanction information, of any institutional proceeding alleging a sex offense; and
- ✓ Know that you can end the informal process at any time and begin the formal stage of the complaint process.

You have the option to avoid contact with the alleged perpetrator. If you want to learn more about your rights or if you believe your institution is violating federal law, you can contact the U.S. Department of Education, Office for Civil Rights, at ocr@ed.gov or (800) 421-3481. You can also [fill out a complaint form online](#) or through the [website of the White House Task Force to Protect Students from Sexual Assault](#).

RIGHTS OF THE RESPONDENT/ACCUSED

Phillips and Falto (2014) also stress that colleges must interact effectively with students accused of Title IX violations or violations of campus conduct policies related to sexual and interpersonal violence, while respecting and upholding their rights. They emphasize that colleges should:

- ✓ Not assume their guilt or judge them;
- ✓ Let them know what their rights are;
- ✓ Provide them with information about the process;
- ✓ Answer their questions;
- ✓ Provide online and other resources;
- ✓ Listen to their requests to change academic and/or living situations;
- ✓ Conduct a timely and thorough investigation;
- ✓ Make reasonable efforts to protect their confidentiality, within FERPA parameters;
- ✓ Make referrals for counseling and other services;
- ✓ Treat them with dignity and respect; and
- ✓ Keep them updated during an investigation.

HOW DOES CRIMINAL REPORTING AND INVESTIGATION IMPACT COLLEGE GRIEVANCE PROCEDURES?

In some cases, students who disclose interpersonal violence to the college will also choose to report interpersonal violence to law enforcement, which may trigger a criminal investigation.

Student conduct administrators understand that, as noted in DOE's [Dear Colleague Letter](#) (2011), a criminal investigation does not relieve a college of its obligation under Title IX to investigate and resolve a complaint of sexual misconduct. Nor does an investigation by the college relieve law enforcement agencies (whether on campus or local) of their duty to investigate crimes reported in their jurisdictions.

In [Questions and Answers on Title IX and Sexual Violence](#) (2014), the DOE's Office on Civil Rights noted that **colleges should notify complainants of their right to file a criminal complaint and should not dissuade them from doing so**, either during or after a Title IX investigation. Title IX does not require the college to report sexual violence to law enforcement, but a school may have reporting obligations under state, local or other federal laws. It makes sense that any student conduct grievance procedures related to interpersonal violence should follow this guidance.

For clarity, the DOE also addresses the following question: **"What are the key differences between a school's Title IX investigation into allegations of sexual violence and a criminal investigation?"**

- ✓ A criminal investigation is intended to determine whether an accused individual violated criminal law. If the individual is tried and found guilty, he/she may be imprisoned or subject to criminal penalties. Criminal defendants who face the risk of incarceration are afforded numerous protections, including but not limited to the right to counsel, the right to a speedy trial, the right to a jury trial, the right against self-incrimination, and the right to confrontation. Law enforcement authorities normally have discretion as to which complaints from the public they will investigate. By contrast, a Title IX investigation [and any student conduct investigation] will never result in incarceration of an individual; thus procedural protections and legal standards used in criminal cases are not required. A Title IX investigation is not discretionary; a school has a duty under Title IX to resolve complaints promptly and equitably and to provide a safe and nondiscriminatory environment for its students. The termination of a criminal investigation without an arrest or conviction does not affect the college's Title IX obligations.
- ✓ Information gathered during a criminal investigation may be useful to the college if that investigation occurs within the recommended timeframe for Title IX investigations. However, if a criminal investigation is ongoing and related information cannot yet be shared, the college must still conduct its own Title IX investigation. If there is a temporary delay in the fact-finding portion of a Title IX investigation while the law enforcement officers are gathering evidence, the college must take interim measures to protect the complainant. The college should also continue to update the parties on the status of the investigation and when it resumes its Title IX investigation. The college must promptly resume and complete its fact-finding for the Title IX investigation once it learns that law enforcement has completed its evidence gathering stage of the criminal investigation.
- ✓ The college should seek to communicate with its campus law enforcement, local law enforcement, and local prosecutor's office to learn when the evidence gathering stage of the criminal investigation is complete. It may be useful to enter into a memorandum of understanding (MOU) with these agencies regarding the protocols and procedures for sharing information and conducting concurrent investigations. Such an agreement must

allow the school to meet its Title IX obligations as well as comply with applicable privacy laws.



Parallel On-Campus Investigations

A Title IX investigation could occur concurrently with other investigations of the same case on your campus. For instance, sexual misconduct may have been alleged as part of hazing. As a result, in addition to the sexual misconduct investigation under Title IX, there may be a separate institutional process for addressing the hazing component. Whatever processes are involved in each single case require coordination between departments and officials. Title IX Coordinators can help manage this communication to ensure no part of a student's complaint slips through the cracks and that there is no confusion as to *who* is doing *what* along the way. (Paragraph from Falto, 2014.)

Investigation

The Association for Student Conduct Administrators defines a student conduct investigation as “the process of collecting information pertaining to a complaint or incident, interviewing relevant parties, and synthesizing the material so it can be used to determine whether or not a policy violation occurred” (Bennett, Gregory & Loschiavo, 2014). In [Questions and Answers on Title IX and Sexual Violence](#) (2014), the DOE's Office on Civil Rights defines the Title IX investigation as “the process the school uses to resolve sexual violence complaints. This process includes:

- ✓ Conducting the fact-finding investigation;
- ✓ Holding a hearing or engaging in another decision-making process to determine whether the alleged sexual violence occurred and created a hostile environment; and
- ✓ Determining what actions the college will take to eliminate the hostile environment and prevent its recurrence, including imposing sanctions against the perpetrator and providing remedies for the complainant and school community, as appropriate.

While these definitions are slightly different, a student conduct investigation can be used to fulfill the Title IX investigation requirement as long as it is compliant with Title IX.



Specific steps in the college's Title IX investigation will vary depending on the nature of the allegation, the age of the student(s) involved, the college's size and administrative structure, legal requirements (including mandatory reporting requirements for schools working with minors), and what the college has learned from past experiences (OCR, 2014).

TIMEFRAME

In [Questions and Answers on Title IX and Sexual Violence](#) (2014), the OCR explains that the 60-calendar day timeframe for college-based investigations cited in the DOE *Dear Colleague Letter* refers to the entire investigation process for Title IX complaints (as described above). This timeframe does not include appeals—the college should be aware that an unduly long appeals process may impact whether its response was prompt and equitable. Whether OCR considers an individual investigation to be prompt as required by Title IX will vary depending on the

complexity of the investigation and the severity and extent of the alleged misconduct. OCR recognizes that the investigation process may take longer if there is a parallel criminal investigation or if it occurs partially during school breaks.

GROUND RULES FOR INVESTIGATIONS

Bennett, Gregory and Loschiavo (2014) offer the following promising practices for college investigations:

- ✓ Ensure that students know what to expect during an investigation of a complaint, including what will happen with information that they share.
- ✓ When possible, obtain consent from the complainant prior to beginning an investigation.
- ✓ Be prompt and appropriate, and keep the complainant and respondent informed as to the progress when possible, including simultaneous written notice of outcomes.
- ✓ Reveal only as much as necessary to get the necessary information about the case. Take time to be appropriately thorough but do not cause unnecessary delay.
- ✓ Be clear that the college may have an interest in conducting an investigation even if a student does not wish to file a formal complaint or have his/her identity disclosed.
- ✓ Conduct a broad sweep to learn what you can; there may be critical witnesses not identified by the complainant or respondent. Examine social media, text messages, and emails for additional information.
- ✓ Whether investigations are done through the college human resources office, a single investigator, an outside company, the student conduct office, or the student affairs division, have an adequate number of well-trained people to do this work, especially during high incident times. (See *D1. Training*.)



Falto (2014) urges colleges to avoid these pitfalls when handling a Title IX case, which could also apply to handling complaints of violations of campus conduct policies: Taking too long to start the investigation; disclosing private information inappropriately; failing to keep both parties properly updated throughout the investigation process; and conducting an investigation that is not sufficiently thorough or complete (originally drawn from National Association of College and University Attorneys, 2006).

BASIC INVESTIGATION

Falto (2014) offers the following overview:

- ✓ **Start with fact-finding:** Once you have an understanding of the violation that the complainant is alleging and have documented his or her report, the college needs to do some digging. Begin by reviewing your institution's policies to see if there was in fact a violation: Also check the judicial history of the individual being accused of the discrimination: Has he/she been reported before for similar violations? What about the complainant: Do they have a history that is relevant to the case in any way? Also consider if others are being adversely affected by the behavior in question: Is this a single instance of violence or is it

indicative of a larger problem? Either situation needs addressed, but this evaluation will help you determine the extent of the possible violation and how best to respond.

- ✓ **Determine if there a violation:** After the necessary fact finding, you should have a good idea of what happened and whether or not it is in fact a violation warranting a thorough, official investigation. If warranted, confer with the Title IX Coordinator(s) (if sex discrimination) to develop the charge that will be made against the respondent if the report does involve a policy violation. If no violation was found, document the reason for this outcome and conclude the matter without any charge or hearing.
- ✓ **Notify respondent of the charge:** Assuming a violation has been found and a charge determined, the respondent should be notified both verbally and via written documentation. The notification should include the specific policy or policies that have allegedly been violated. The complainant also needs to be informed as well. Many colleges also place a hold on the respondent's transcript to ensure his cooperation with the process. This ensures that if a respondent decides to drop out of college to avoid dealing with the charge, he would still have to go through the process should he want to re-enroll or apply elsewhere.



Since alcohol is a factor in many campus sexual assault incidents, it is important to understand its potential role in these incidents. Consider these factors (in part from Phillip & Falto, 2014):

- ✓ Perpetrators may use the heavy drinking cultures found on many college campus as an opportunity to identify potential victims who are more vulnerable, accessible and easily manipulated due to alcohol consumption, and whose credibility will be questioned if they report due to the fact that they were drinking (see [Lisak & Miller, 2002](#));
- ✓ Perpetrators may use alcohol and drugs as tools to render their victims helpless (e.g., by putting a drug into their drink or just pushing alcohol on them);
- ✓ Alcohol can impair a victim's judgment so she's more likely to ignore risk cues;
- ✓ Victims who drink and are then assaulted may be blamed for "letting" the assault occur and/or sending mixed messages (hence the credibility problem);
- ✓ Perpetrators may use their own alcohol consumption as an excuse for their actions (e.g., claiming their judgment was impaired by alcohol so they disregarded indications that women didn't want to engage in sexual activity).

It is important to distinguish the following: Alcohol can render potential victims more vulnerable and accessible to perpetrators; however, alcohol consumption is not the cause of their victimization. Perpetrators are responsible for the violence they commit, regardless of their own alcohol consumption. Recognize that involvement of alcohol and drugs in a sexual assault incident does not diminish institution's role in addressing and resolving a complaint (Falto, 2014). Excessive alcohol consumption is not a defense for any criminal behavior (murder, robbery, etc.) and should not be an excuse for misconduct on a college campus.,

FORMAL INVESTIGATION

A formal investigation into a Title IX violation or a violation of campus conduct policies related to interpersonal violence may include, but is not limited to (if it has not be done already in the initial

investigative steps): conducting interviews of the complainant, the alleged perpetrator and any witnesses; reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; and gathering and examining other relevant documents or evidence (OCR, 2014). OCR notes that, for Title IX purposes, the college must give the complainant any rights that it gives to the alleged perpetrator. For example, if it permits one party to have lawyers or other advisors at any stage of the proceedings, it must do so equally for both parties. The college must use a preponderance of evidence standard, including in any fact-finding and hearings. Any school-imposed restrictions on the ability of lawyers or other advisors to speak or otherwise participate in the proceedings must also apply equally. If the college permits one party to submit third-party expert testimony, it must do so equally for both parties. If the school provides for an appeal, it must do so equally for both parties. Both parties must be notified, in writing, of the outcome of the complaint and any appeal.



Preponderance of Evidence Standard

In order for your grievance procedures to be consistent with Title IX standards, colleges must use a preponderance of the evidence standard (e.g., it's more likely than not that sexual harassment or violence occurred). While a "clear and convincing" standard (e.g., it's highly probable or reasonably certain that sexual harassment or violence occurred) currently used by some colleges is a higher standard of proof, using this higher standard is not equitable under Title IX. (Drawn from Falto, 2014; Phillips & Falto, 2014)

Plan an Investigative Strategy

It is important for the college to first plan how it will conduct the formal investigation (Falto, 2014). Falto encourages colleges to consider in advance: Who may have witnessed the reported violation that you could interview? Do the complainant and respondent have any witnesses to whom you should speak? Where might you look for evidence? Who should the investigators/hearing officers be? What are the specific timelines for each stage of this particular process? The guidance of the institution's Title IX Coordinator(s) is important at this stage, if a Title IX violation is being investigated. Once the strategy has been decided, the college is ready to start the comprehensive investigation.

Interview the Complainant

Falto (2014) offers the following **tips when interviewing the complainant** in Title IX investigations, much of which applies to interpersonal violence complaints addressed via the student conduct process.

- ✓ **Choose an appropriate location for an initial interview with the complainant:** The physical space should be private, comfortable and unthreatening. Phones should be turned off and interruptions should be avoided.
- ✓ **Build rapport:** After receiving the initial report alleging sexual violence, obtain the complainant's account of what happened. Let the student speak freely and uninterrupted; you can ask follow-up questions later. Also review with the student the college's anti-discrimination and anti-retaliation policies to help them feel more comfortable filing a report.

- ✓ **Document the complainant’s statement.** Some colleges have complainants provide a written statement via a complaint form, and then ask follow up questions. Others simply ask relevant questions and do the documentation themselves. Note that if the interview is to be recorded, request permission of the student to record and, if she/he declines, take handwritten notes instead (National Association of College and University Attorneys, 2006). Don’t make promises that can’t be kept, such as a certain statement being “off the record.”
- ✓ **Use open- versus closed- ended questions:** After the student shares the basic facts about what happened, ask *open-ended* questions to elicit details, as opposed to closed inquiries that can be answered with a “yes” or “no” response (e.g., Ask “Where did the assault take place?”). rather than “Did the assault occur in your residence hall room?”). This approach may prompt an answer such as: “In my room, after I invited him in to look at my new computer” versus a simple “yes.” Closed inquiries are helpful when you wish to clarify something in the student’s account (e.g., “You were both in your room at that point?”).
- ✓ **Phrase your questions so they are unbiased.** By asking “Why would you invite him to your room alone?” you may be simply trying to gauge the complainant’s thought process when inviting the student to her room. But the wording of the question sounds as if you are blaming the victim. Instead you could ask, “What led you to invite him to your room?” Your tone of voice and facial expression can also imply judgment and impact the response.
- ✓ **Avoid asking two or more questions at a time.** For instance: “Was Mike at the party already when you arrived and was he intoxicated?” Separate the questions to avoid confusion.
- ✓ **Let student know you are listening closely:** Use techniques such as maintaining eye contact (unless this is counter to the student’s culture) and nodding often to indicate that you are paying close attention and have heard what was said. Be aware of your body language (e.g., avoid sitting with your arms and legs crossed as it can make you appear distant or disbelieving).
- ✓ **Avoid repetitive questioning to the extent possible:** Coordinate school-based investigative interviewing of the complainant so as to reduce re-traumatization.
- ✓ **Ask complainants what type of outcome they are seeking from reporting** (e.g., informal or a formal resolution). Be clear with them about resources available to them (see above on interim remedial measures as well as *B9. Resources for Victims on College Campuses*).



It is critical as you talk with the victim about what happened during the reported incident to be aware of the affect of trauma on memory and a person’s behavior.

Research on the neurobiology of trauma and specifically how it relates to sexual assault victims, indicates that trauma can lead to changes such as a flat affect and unexpected emotional responses or emotional swings. It can cause memory consolidation and recall to be difficult for victims. The victim’s story may come out in fragments and may be misinterpreted by investigators as the victim being evasive or lying. In most cases, the content of memory is accurate, it just takes time and patience for it to consolidate in the victim’s mind. However, if alcohol or drugs were a factor during an assault, it is possible that the victim may not have full or any memory recall. (Paragraph drawn from Campbell, 2014.)

So how much time—and sleep—is needed for memory consolidation? Law enforcement literature finds that “critical incident amnesia” from work-related trauma (such as a shooting) can temporarily affect their memory and ability to write an incident report due to the loss of cognitive

and motor skills, such as decreased ability to concentrate and irrational decision-making. Before the first sleep period, an officer experiencing critical incident amnesia will likely only be able to recall general characteristics of the incident. After the first sleep period, the officer's ability to remember will likely increase by 50 to 90 percent. The officer's ability to completely remember may not occur until after the second sleep period. (Drawn from Archambault & Canaff, 2008; PPCT Management Systems, Inc. (1989), *Use of Force Human Factors*.)

Question the Respondent

During the respondent interview, Falto (2014) suggests:

- ✓ Begin the interview with a review of the college's anti-discrimination and anti-retaliation policies and explain the resources available to him/her, the same way the complainant was advised (counseling, academic support, etc.).
- ✓ Acknowledge the respondent's difficult situation and thank him for speaking with you. For the most part, the tips for interviewing the complainant apply to interviewing the respondent. The respondent is often upset during this interview, either appearing hurt and shocked at being accused, defensive in trying to clear his/her name and/or evasive to obscure wrongdoing.
- ✓ Question the respondent. For example, what happened on the day/night in question? When did the incident occur? Where did the incident happen? Can you tell me about how you know the complainant? Why do you think the complainant has filed this report? Was anyone else present for all or part of this alleged incident? Is there anyone else you would like us to speak to about this report? Ask additional questions to elicit more details and clarification.
- ✓ Be mindful of the respondent's body language and look for inconsistencies within his own story or with that of the complainant.

Interview Witnesses

Seek out and speak with witnesses that the complainant and respondent suggest and/or who have been determined to be relevant to the case. Falto (2014) suggests:

- ✓ Again, for the most part, the general tips for interviewing the complainant apply to witnesses. Interview witnesses separately. Keep them separated before the interview and after; so that their accounts cannot be, or *appear* to be, compromised by one another.
- ✓ Keep detailed notes about each witness and the statement he/she provides.
- ✓ Explain to them the behavior that is being investigated. For example, "This investigation involves a report that Kevin has been sending graphic text messages to Lily. Can you tell me what you know about this?" However, only share details relevant to the discriminatory behavior in questions—do not reveal details of a personal nature to either party or that aren't directly applicable to the case.
- ✓ Question witnesses about facts of a particular case. For example, "Can you tell me how you know ___ (complainant's name)? How do you know ___ (respondent's name)? What did you see during the incident in question? What are your thoughts on why the (complainant) and/or (respondent) may have said/done that? What has the (complainant) and/or (respondent) told you about what happened?"

- ✓ Observe non-verbal cues. Is the witness hesitating often, even if you take into account the fact that he/she is likely nervous? Is the witness avoiding eye contact? Do his or her responses seem too perfect, almost as if they've been scripted and rehearsed? Do details change significantly as the interview progresses?

Never question the complainant and respondent together or allow either one to cross-examine the other. Don't question witnesses in the presence of either the complainant or respondent.

Look for Evidence

What evidence should you be looking for? Essentially, anything that can document any party's statement might be helpful. That can vary widely case-by-case.

Social media is a potentially rich source of evidence. Evidence of a violation might be found in writing, videos, photos, texts, tweets, posts, call histories mobile phones, blogs, e-mails, etc. For example, a perpetrator may have taken photos after the sexual assault with his cell phone, which he then might send out to his network of friends. People at a party that the victim and perpetrator attended prior to a sexual assault might text about what happened in the days following the incident. A perpetrator or others might electronically harass the victim or her friends following the assault. (See [Social Media and the Changing Role of Investigators](#), *Forensic Magazine*, 12/2012.)

Falto (2014) notes that other sources of evidence can be security camera footage, eyewitness accounts, receipts, phone call logs, voice messages, written notes, etc. Each party can be questioned about any evidence found, not just to give them an opportunity to respond to it but also to clarify any new questions you may have.

If there is a concurrent criminal investigation, it is useful to the college's fact finding process to access information gathered by law enforcement.

Adjudication

Bennett, Gregory and Loschiavo (2014) offer the following promising practices for college adjudication:

- ✓ **Ensure that resolution method(s) promote a culture of reporting.** Provide choices to students when possible, including the option for a complainant to be in a different room than the respondent during adjudication. If one student has the choice, both should have the choice.
- ✓ **Do not attempt to be a mini-courtroom.** There is no need to "prove beyond a reasonable doubt" that someone violated a college policy in order to find that person responsible. There should never be direct questioning between respondent and complainant when resolving allegations. While students may have an advisor present, the campus should set and uphold clear parameters for that person's involvement in the proceeding: to support and advise the student, not to represent or advocate on his/her behalf. Hearings and meetings should

always be closed. Do not succumb to attempts to delay the process; offer prompt resolution (generally 60 days). Hearings should be structured so that they encourage the parties to tell their stories without personal attacks or reference to prior sexual histories, unless they have direct bearing on the question of responsibility in the current case.

- ✓ **Ensure that both students have the opportunity to be heard.** Both complainant and respondent should have the chance to present information, review information ahead of time, vocalize their experience, and present witnesses to the incident. Ensure that the resolution body and investigator have adequate training regarding how to engage students in the process. Offer a pool of trained advisors who can support students as they participate in the campus conduct process (depending on the campus, this can be students, staff, and/or faculty). Facilitate a process that is socially just and equitable; do not permit attorneys, parents, or anyone to create power differentials that adversely affect the process, or re-victimize the victim.
- ✓ **Use preponderance of evidence as the standard of proof.** If the goal is to provide an equitable process, the complainant and respondent must be allowed to participate in the process equally. These cases sometimes come down to believing one party as more credible than the other.
- ✓ **Decision makers must be well trained.** Given the complexity and sensitive nature of these cases, all adjudicators must be well trained. (See *D1. Training.*)



In [Questions and Answers on Title IX and Sexual Violence](#) (2014), the OCR explains that if the college uses a hearing process to determine responsibility for acts of sexual violence, **the college is not required to allow a complainant to be present for the entire hearing; it is up to each school to make this determination.** But if the college allows one party to be present for the entirety of a hearing, it must do so equally for both parties. At the same time, when requested, the college should make arrangements so that the complainant and the alleged perpetrator do not have to be present in the same room at the same time. If a hearing is part of the school's Title IX investigation process, the school must not require a complainant to be present at the hearing as a prerequisite to proceed with the hearing.

The OCR also addressed **whether witnesses, including the parties, could be cross-examined if they testify at a hearing.** In Title IX investigations, OCR does not require schools to allow cross-examination; however, if one party is permitted to cross-examine witnesses, a college must do so equally for both parties. OCR discourages the college from allowing the parties to personally question or cross-examine each other during a hearing on alleged sexual violence. Allowing an alleged perpetrator to question a complainant directly may be traumatic or intimidating, and may perpetuate a hostile environment. A school may choose, instead, to allow the parties to submit questions to a trained third party (e.g., the hearing panel) to ask the questions on their behalf. OCR recommends that the third party screen the questions submitted by the parties and only ask those it deems appropriate and relevant to the case.

As to **whether the complainant's sexual history may be introduced at hearings**, the OCR indicated that this should not be permitted. It notes that colleges should recognize that the mere fact of a current or previous consensual dating or sexual relationship between the two parties does not itself imply consent or preclude a finding of sexual violence. The school should also

ensure that hearings are conducted in a manner that does not inflict additional trauma on the complainant.

Institutional Response

If investigative/adjudication processes find that the respondent is responsible for committing the policy violation with which he/she has been charged, the college must determine sanctions and remedies. In [Questions and Answers on Title IX and Sexual Violence](#) (2014), the OCR notes that remedial action in a case of student-on-student sexual violence may include disciplinary action against the perpetrator, providing counseling for the perpetrator, remedies for the complainant and others, as well as changes to the school's overall services or policies. How the college goes about deciding institutional response varies with the resolution method used by each college. In Title IX cases, the Title IX Coordinator should be involved and notify each party regarding the outcomes. (Falto, 2014)

Bennett, Gregory and Loschiavo (2014) offer the following promising practices related to institutional response (recommendations related to appeals are discussed later):

- ✓ **Be intentional and appropriate in sanction selection.** As sexual misconduct ranges from repeated unwanted comments to single acts of sexual violence, there must be a wide range of sanctions available and an understanding of factors relevant to sanction selection. If you have minimum sanctions for certain violations, ensure that there are no unintended consequences, such as hindrance to reporting or a hearing board wanting to adjust a finding of responsibility in order to issue or avoid a specific sanction. Include the rationale for sanctions so that all parties understand the decisions.
- ✓ **Monitor future behavior.** Implement adequate measures to uphold sanctions. For example, if a student is suspended or expelled, include notations on transcripts that reflect his/her new relationship to the institution. Think beyond sanctions (if someone is not a student), reach out to other colleges, talk to local law enforcement, etc.. Work with your campus to ensure that climate check follow-up occurs. Ensure that the Title IX Coordinator is informed of sanctions so he/she can assess trends. Keep in mind that sanctions are one component of an institution's response and that additional remedies may be warranted.
- ✓ **Understand the difference between “processing” and retaliation.** Complainants and respondents may need to discuss what is happening to them as they engage in conduct proceedings. They may seek support from formal sources (e.g., counselors, clergy, victim advocates and attorneys) as well as informal sources (e.g., parents, friends, advisors and coaches). The college should take immediate action if this processing leads to potential retaliatory activity (e.g., if the respondent discusses the case with his/her friends in such a way that continues to promulgate a hostile environment for the complainant).

NOTE ON SANCTIONS

It is critical that the sanction the college decides upon is suitable for the violation that occurred. As the OCR (2014) notes, the sanctions depend on the specific nature of the misconduct. In some cases where the respondent is found responsible for the violation,

expelling or suspending him/her may be the most appropriate sanction. Other cases may only result in limitations as to which campus buildings a respondent can enter. Also, the college must not simply impose sanctions on the respondent while overlooking ways to remedy the effects of the violence on the complainant and the campus. (Falto, 2014; OCR, 2014.)



Sokolow (2001) notes that suspension and expulsion need to be the default sanctions for severe violations of a college's sexual misconduct policy, or they are courting a risk management nightmare. Serious sanctions are also necessary if the policy is to have any deterrent effect. Otherwise, students who are aware that you fail to deal meaningfully with sexual violence will feel as if they have an unrestricted ability to commit conduct violations.

REMEDIES FOR COMPLAINANTS AND BROADER STUDENT POPULATION

In [*Questions and Answers on Title IX and Sexual Violence*](#) (2014), the OCR explains that services to remedy the hostile environment should be offered to the complainant. These remedies are separate from, and in addition to, interim measure that may have been offered prior to the conclusion of the school's investigation. Depending on the case, the OCR says remedies for the complainant may include but are not limited to:

- ✓ Providing an escort to ensure that she/he can move safely between classes and activities;
- ✓ Moving the perpetrator or complainant (if the complainant requests to be moved) living on campus to a different residence hall;
- ✓ Providing victim services, including medical, counseling and academic support services;
- ✓ Arranging for the complainant to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty; and
- ✓ Reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the sexual violence and the misconduct that may have resulted in the complainant being disciplined.

The OCR also gives examples of remedies for the broader student population:

- ✓ Designating a school counselor who is specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist students;
- ✓ Training or retraining school employees on the school's responsibilities to address allegations of sexual violence;
- ✓ Developing materials on sexual violence, which should be distributed to all students;
- ✓ Conducting bystander intervention and sexual violence prevention programs with students;
- ✓ Taking steps that clearly communicate that the college does not tolerate sexual violence and will respond to any incidents and any student who reports such incidents;
- ✓ Conducting, in conjunction with student leaders, a campus climate check to assess the effectiveness of efforts to ensure that the school is free from sexual violence, and using that information to inform future proactive steps that the school will take;
- ✓ Targeted training for a group of students if, for example, the sexual violence created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team; and

- ✓ The ORC notes that when the college is unable to conduct a full investigation into a particular incident (e.g., because the report had no personal identifying information), it should consider remedies for the broader student population in response.

NOTIFICATION OF OUTCOMES

Title IX requires written notification to both parties regarding the outcome of the complaint and any appeal. OCR (2014) recommends that the college provide this notice concurrently to the parties. For Title IX purposes, the college should inform the complainant: if it found that the alleged conduct occurred, individual remedies offered or provided to the complainant or sanctions imposed on the perpetrator that directly relate to the complainant, and other steps the college has taken to eliminate the hostile environment, if it is found to exist, and prevent recurrence. The perpetrator should not be notified of the individual remedies offered or provided to the complainant. Note that the Clery Act requires and FERPA permits the college to inform the complainant of its final determination and disciplinary sanctions imposed on the perpetrator in sexual violence cases, not just those sanctions that directly relate to the complainant.

Appeals Process

Bennett, Gregory and Loschiavo (2014) note it is essential to provide both parties the opportunity to appeal, based on specific criteria. Rather than simply rehearing the case or providing an opportunity for the appellate body to substitute its judgment for that of the original hearing body, they suggest that typical criteria for an appeal include the following:

- ✓ An error of due process that adversely influenced the outcome;
- ✓ Newly discovered material information that was not available at the time of the hearing and would have a significant impact on the outcome;
- ✓ Demonstrable bias by a hearing official; or
- ✓ Sanction(s) that are inappropriate for the violation(s).

They recommend adequate training for appeals personnel; only one level of appeal; timely resolution relative to the case; and enactment of sanctions while the appeal is considered.

Who handles the appeal can vary from college to college. Whether your institution has appointed a specific staff member to hear appeals or has created a committee, the arrangement should be mentioned in your policies (Falto, 2014).



A **resource for college staff and students** is NotAlone.gov, the website of the White House Task Force to Protect Students from Sexual Assault. See the following sections:

<u>Students</u>	<u>Schools</u>	<u>Resources</u>	<u>Data</u>
✓ Know Your Rights	✓ Legal Guidance	✓ Find a Service	✓ School Enforcement Map
✓ How to File a Complaint	✓ Developing Policies	✓ Organizations	✓ Data.gov
✓ Confidentiality	✓ Maintaining Confidentiality		

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E. Training Resources

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INTRODUCTION

Sections A-D of this toolkit were created to assist you in preparing to present trainings to student conduct administrators on campus regarding interpersonal violence. Section A is designed to help you assess any additional information you may need. Sections B and C provide supplemental information regarding interpersonal violence and related laws, while Section D includes information specific to college campus judicial procedures.

This section (E) of the toolkit is designed to help you identify the training content you want to include and plan a training agenda. Several resources have been created specifically for those purposes and are included in separate electronic files in the toolkit folder. These resources are:

- Dating Violence ppt. training presentation with detailed notes pages
- Dating Violence ppt. training presentation Facilitator’s Guide (also below)
- Domestic Violence ppt. training presentation with detailed notes pages
- Domestic Violence ppt. training presentation Facilitator’s Guide (also below)
- Sexual Violence ppt. training presentation with detailed notes pages
- Sexual Violence ppt. training presentation Facilitator’s Guide (also below)
- Sexual Violence Investigation ppt. training presentation with detailed notes pages
- Sexual Violence Investigation ppt. training presentation Facilitator’s Guide (also below)
- Stalking ppt. training presentation with detailed notes pages
- Stalking ppt. training presentation Facilitator’s Guide (also below)

Each powerpoint presentation provides an overview of the issue, details the related laws, incorporates training activities and identifies additional resources that can be incorporated into

the training. The corresponding Facilitator’s Guide for each powerpoint presentation (which can also be found below in this section) includes a suggested training outline with topics/estimated time needed; training objectives; a list of audio visuals included in the suggested training presentation and the length of each video/clip; a list of handouts/resources included in the suggested training outline and where those items can be accessed; and identifies additional resources that could supplement a training on that topic.

In addition to those resources cited above that can be found in the accompanying electronic files, this section (E) includes Resource Charts. These charts are a compilation of materials reviewed by a toolkit workgroup committee and selected as promising practices for prevention and training programs (or as supplemental materials to such programs) for college campuses. The resources, their costs and acquisition information are listed as of their availability in April 2015. This is not an exhaustive listing of resources. Not all resources reviewed were selected for inclusion. Resources were selected based on the following criteria:

- ✓ Meets components of the nine core principles of effective prevention programming (as identified in effective interpersonal violence prevention programming research by Nation et al. 2003);
- ✓ Adaptability;
- ✓ Relevancy; and
- ✓ Mostly low/no cost.

Following the Facilitator’s Guides, a sample participant evaluation form is included to assist you in collecting feedback on your training/presentation.

Users of this toolkit are encouraged to review other toolkit sections. The most updated version of this toolkit can be accessed at www.fris.org.

Anyone considering conducting interpersonal violence training or prevention programming on college campuses is encouraged to contact the rape crisis/domestic violence program in their community. West Virginia's rape crisis centers have most of the resources listed in this toolkit and have trained staff and prevention education specialists available to assist in presenting programs on campuses. Contact information for West Virginia's rape crisis centers can be found at www.fris.org as well as in *C. Getting Started*.



Acquiring new knowledge and putting it into practice is a process. You are not expected to “know” the information in the toolkit all at once. Instead, you can work through toolkit sections at your own pace, building your knowledge base as you go.

Websites are often updated or changed, which may result in a new web address for a referenced resource or its online availability. If you experience difficulty accessing a resource via the link provided in the following charts, conduct a web search using titles or contacting the publishing organization directly to access the material.

E1. DATING VIOLENCE TRAINING PRESENTATION

FACILITATOR'S GUIDE

The following information is provided to assist individuals training on campuses using the Dating Violence Training Presentation powerpoint, part of the West Virginia Prevention and Interpersonal Violence Intervention Training (PIVIT) Toolkit: Student Conduct and Judicial Edition for college campuses. In working to keep the audience engaged, consider supplementing the powerpoint with additional materials, listed in this Facilitator's Guide and the Resource Chart (also part of this section E). Each of the handouts, activities and videos suggested in this training powerpoint can be found electronically at www.fris.org as part of the PIVIT Toolkit.

Local rape crisis and domestic violence programs have additional resource materials, including DVDs listed below and can co-present on this topic (visit www.fris.org to find the nearest center). Please review videos, suggested handouts and supplemental materials thoroughly prior to including them in a training presentation. Remember to cite sources, even if the only available information is a web address. For additional information or technical assistance, contact the WV Foundation for Rape Information and Services.

Suggested Presentation Outline

A. Introduction and Welcome	10 min.
B. Dynamics of Dating Relationships	20 min.
C. Defining Dating Violence and Prevalence	40 min.
D. Impact, Risk Factors & Safety Planning	50 min.
E. Impact on Victims	15 min.
F. Safety Planning	15 min.

Total Estimated Time (with breaks): 3 hours

Objectives:

1. Recognize the prevalence of dating violence and understand the dynamics of relationships among youth
2. Understand the impact dating violence has on victims
3. Identify risk factors and warning signs of dating violence
4. Gain knowledge of protective capacities available to victims

Audio/Visual Aids:

- Chart Paper (optional for discussions)

Supplies Needed:

- Dating Violence Continuum Activity (See the Sexual Violence Continuum Activity Instructions to adapt this activity, which can be found in the detailed notes within the powerpoint presentation.)
- Speakers/Audio
- Laptop/Projector

Handouts:

- A College Student's Guide to Safety Planning by Break the Cycle
- Brochures (services on and off-campus)
- Campus Dating Violence – Fact Sheet by Office on Victims of Crime and Dating Violence Resource Center

Supplemental Resources:

- Campus and Dating Violence Information Packet by CALCASA
- Dating and Domestic Abuse on Campus by Break the Cycle
- Teen Dating Abuse and Harassment in the Digital World: Implications for Prevention and Intervention
- The Right to Safe Housing on College Campuses by ACLU and SAFER

Training Information Adapted From:

- Liz Claiborne, Inc./Teen Research Unlimited, 2007 Tween and Teen Dating Violence and Abuse Study, www.loveisrespect.org

*Note: The supplemental resources for dating violence and domestic violence overlap. You may choose to combine these two topics into one training.

E2. DOMESTIC VIOLENCE TRAINING PRESENTATION

FACILITATOR'S GUIDE

The following information is provided to assist individuals training on campuses using the Domestic Violence Training Presentation powerpoint, part of the West Virginia Prevention and Interpersonal Violence Intervention Training (PIVIT) Toolkit: Student Conduct and Judicial Edition for college campuses. In working to keep the audience engaged, consider supplementing the powerpoint with additional materials, listed in this Facilitator's Guide and the Resource Chart (also part of this section E). Each of the handouts, activities and videos suggested in this training powerpoint can be found electronically at www.fris.org as part of the PIVIT Toolkit.

Local rape crisis and domestic violence programs have additional resource materials, including DVDs listed below and can co-present on this topic (visit www.fris.org to find the nearest center). Please review videos, suggested handouts and supplemental materials thoroughly prior to including them in a training presentation. Remember to cite sources, even if the only available information is a web address. For additional information or technical assistance, contact the WV Foundation for Rape Information and Services.

Suggested Presentation Outline

A. Introduction and Welcome	10 min.
B. WV Laws	15 min.
C. Prevalence of Domestic Violence	10 min.
D. Impact on Victims	20 min.
E. Safety Planning	10 min.
F. Law Enforcement Response	40 min.
G. Resources	5 min.

Total Estimated Time (with breaks): 2 hours

Objectives:

1. Define terms and understand WV laws
2. Recognize the prevalence of domestic violence in the U.S. and WV
3. Understand abusive behavior dynamics and the impact these relationships have on victims
4. Gain knowledge to explore options available to victims, including protective factors
5. Identify investigative techniques for responding to incidents of domestic violence

Audio/Visual Aids:

- Chart Paper (optional for discussions)

Supplies Needed:

- Speakers/Audio
- Laptop/Projector

Handouts:

- A College Student's Guide to Safety Planning by Break the Cycle
- Brochures (services on and off-campus)
- Campus Dating Violence – Fact Sheet by Office on Victims of Crime and Dating Violence Resource Center

Supplemental Resources:

- Campus and Dating Violence Information Packet by CALCASA
- Dating and Domestic Abuse on Campus by Break the Cycle
- Teen Dating Abuse and Harassment in the Digital World: Implications for Prevention and Intervention
- The Right to Safe Housing on College Campuses by ACLU and SAFER

Training Information Adapted From:

- WV Domestic Violence Response Guide for Law Enforcement Officers, 2011

*Note: The supplemental resources for dating violence and domestic violence overlap. You may choose to combine these two topics into one training.

E3. SEXUAL VIOLENCE TRAINING PRESENTATION

FACILITATOR'S GUIDE

The following information is provided to assist individuals training on campuses using the Sexual Violence Training Presentation powerpoint, part of the West Virginia Prevention and Interpersonal Violence Intervention Training (PIVIT) Toolkit: Student Conduct and Judicial Edition for college campuses. In working to keep the audience engaged, consider supplementing the powerpoint with additional materials, listed in this Facilitator's Guide and the Resource Chart (also part of this section D). Each of the handouts, activities and videos suggested in this training powerpoint can be found electronically at www.fris.org as part of the PIVIT Toolkit, with the exception of DVDs.

Local rape crisis and domestic violence programs have additional resource materials, including DVDs listed below and can co-present on this topic (visit www.fris.org to find the nearest center). Please review videos, suggested handouts and supplemental materials thoroughly prior to including them in a training presentation. Remember to cite sources, even if the only available information is a web address. For additional information or technical assistance, contact the WV Foundation for Rape Information and Services.

Suggested Presentation Outline

A. Introduction and Welcome	10 min.
B. WV Laws	30 min.
C. Prevalence	20 min.
D. Gendered Violence	20 min.
E. Risk Factors	10 min.
F. Sex Offenders	35 min.
G. Impact on Victims	30 min.
H. Welcome to the Party (DVD)	34 min.
I. Conclusion/Wrap-Up	20 min.

Total Estimated Time (with breaks): 4 hours

Objectives:

1. Understand WV law related to sexual abuse and sexual assault
2. Recognize the prevalence of sexual violence in the U.S., WV and on college campuses
3. Understand the impact society has on perpetuating gender violence
4. Identify risk factors associated with sexual victimization
5. Understand the predatory nature of sex offenders
6. Identify concerns of victims and the impact sexual assault has on their lives

Audio/Visual Aids:

- Gendered Violence Art Ad with Music Lyrics 2:00 min.
- 911 Call (“It’s my fault.”) 5:19 min.
- Gender Violence Ad Art 0:31 min.
- The Undetected Rapist (DVD) 23:00 min.
- Karen Clip 5:52 min.
- Welcome to the Party (DVD) 30:00 min.

Supplies Needed:

- Myth, Fact, Not Sure Cards (optional 3x5 cards you can pass out to participants and use to do the myth/fact section)
- Sexual Violence Continuum Activity (11x17 cards; see the Sexual Violence Continuum Activity Instructions below)
- Speakers/Audio
- Laptop/Projector

Handouts:

- Brochures (services on and off-campus)
- Sexual Violence on College Campuses brochure (www.fris.org or local rape crisis center)
- WV Protocol for Responding to Victims of Sexual Assault (WV FRIS @ www.fris.org)

Supplemental Resources:

- Drug-facilitated sexual assault PowerPoint presentation (WV FRIS), available at www.fris.org.
- Reconstructing Norms: A Curriculum to Educate College Campuses about Sexual Assault Prevention (WV FRIS, 2012 available at www.fris.org)
- Lisak, David and Miller, Paul (2002) Repeat Rape and Multiple Offending Among Undetected Rapist, *Violence and Victims* 17(1), 73-84.
- Undetected Rapist DVD Discussion Guide (PDF)

Training Information Adapted From:

- Oregon Sexual Assault Task Force, LETCBP (Law Enforcement Training Capacity Building Project) Curriculum, 2012
- Reconstructing Norms: A Curriculum to Educate College Campuses about Sexual Assault Prevention (WV FRIS, 2012)
- WV Sexual Violence Training and Prevention Resource Toolkit for College Campuses (WV FRIS, 2012)

E4. SEXUAL VIOLENCE CONTINUUM ACTIVITY INSTRUCTIONS

Supplies: Sexual Violence Continuum Activity

- Ten 11x17 numbered cards with types of sexual violence
 1. Anal Sodomy
 2. Molestation
 3. Genital touching of unconscious person
 4. Voyeurism
 5. Incest
 6. Posting nude pictures of minors
 7. Oral Sodomy
 8. Sexual Harassment
 9. Vaginal Rape
 10. Fondling
- Three 11x17 card with categories
 1. Sexual assault
 2. Sexual abuse
 3. Other crimes

Directions:

- 1) Post the three categories in different areas of the room (i.e., sexual assault, sexual abuse and other crimes).
- 2) Ask for ten volunteers. Give one 11x17 card to each volunteer and ask them to stand in a row in the front of the room.
- 3) Then ask participants to rank the forms of sexual violence in order from most offensive to least offensive. One being “most offensive” and ten being “least offensive.” (They can do this on a sheet of paper (see below), or you can have them ‘shout-out’ their order as a group.)
 - a. Ask for a volunteer to share their ranking. Once the volunteers holding the cards have been placed in order, ask if anyone disagrees with the current order. What would they change? Does someone else have a different ranking they would like to share?
- 4) Generate conversation by using the discussion questions and talking points below.
- 5) Next, ask participants to decide which types of sexual violence fit under the three categories. Trainers may place the category cards on the wall in different areas of the room and ask volunteers holding the numbered cards to go stand under the category card with which the participants have chosen. (See below for answers.)
- 6) Generate additional discussion by using the talking points below.

**You may choose to do the activity without the three category cards if you are not training on WV laws.*

Discussion Questions and Talking Points:

- 1) How easy or difficult was it to put the different types of sexual violence “in order?”
 - It is difficult, if not impossible, to “rank” forms of sexual violence. No type of sexual violence is “worse” or “better” than another.

- Ultimately, only victims can decide for themselves the degree of offense and severity they have experienced.
 - No victim should ever be made to feel “less” or “more” of a victim than another.
- 2) Were you surprised by any of the “situations”? Did some types of sexual violence seem out of place?
- Often, when people think of “sexual violence,” they think of rape – a physically violent assault by a stranger. Nine out of 10 times, the victim knows her perpetrator (Fisher, Cullen & Turner, 2000).

Talking Points (See *WV Sex Offenses and Related Laws* at www.fris.org):

- 1) Sexual assault may include: anal sodomy, oral sodomy, incest, molestation, vaginal rape and genital touching of an unconscious person, if there is penetration.
 - Sexual assault in West Virginia requires sexual intercourse or sexual intrusion, involving penetration, however slight. (Depending on the nature and particular circumstances of an act, additional and/or sexual abuse charges may apply. See *WV Sex Offenses*, as indicated above for further clarification.)
- 2) Sexual abuse may include: fondling.
 - Sexual abuse in West Virginia occurs when a person subjects another person to sexual contact without their consent, and that lack of consent is due to physical force, threat or intimidation.
- 3) Other crimes can include: voyeurism, posting nude pictures of minors and sexual harassment.

Note: If you have a small group, another way to do this activity would be to provide the participants with a copy of the list (1-10) and have them rank order from “least offensive” to “most offensive” on a sheet of paper. Have a volunteer read theirs out loud and ask if anyone else has the same order.

E5. SEXUAL VIOLENCE INVESTIGATION TRAINING PRESENTATION

FACILITATOR'S GUIDE

The following information is provided to assist individuals training on campuses using the Sexual Violence Investigation Training Presentation powerpoint, part of the West Virginia Prevention and Interpersonal Violence Intervention Training (PIVIT) Toolkit: Student Conduct and Judicial Edition for college campuses. In working to keep the audience engaged, consider supplementing the powerpoint with additional materials, listed in this Facilitator's Guide and the Resource Chart (also part of this section D). Each of the handouts, activities and videos suggested in this training powerpoint can be found electronically at www.fris.org as part of the PIVIT Toolkit, with the exception of DVDs.

Local rape crisis and domestic violence programs have additional resource materials, including DVDs listed below and can co-present on this topic (visit www.fris.org to find the nearest center). Please review videos, suggested handouts and supplemental materials thoroughly prior to including them in a training presentation. Remember to cite sources, even if the only available information is a web address. For additional information or technical assistance, contact the WV Foundation for Rape Information and Services.

Suggested Presentation Outline

A. Introduction and Welcome	10 min.
B. Preliminary Response/Interview	25 min.
C. Victim Interview	60 min.
D. Unfounded Case Closures	30 min.
E. Overcoming Challenges	45 min.
F. Evidence Collection/Preservation	30 min.
G. Coordinated Response	20 min.

Total Estimated Time (with breaks): 4 hours

Objectives:

1. Improve interviewing skills by recognizing the impact trauma has on victims
2. Identify and utilize proper case closure classifications
3. Identify strategies for overcoming challenges and strengthening investigations through collaboration and evidence collection
4. Understand the benefits of a coordinated response to sexual assault

Audio/Visual Aids:

- DNA: Critical Issues for Those Who Work with Victims (DVD) 24 min. (Can be ordered for free, plus s/h at www.ovc.gov.)

- Sexual Assault Response Teams: Partnering for Success (DVD) 7:32 min
(Can be ordered for free, plus s/h at www.ovc.gov.)

Supplies Needed:

- Speakers/Audio
- Laptop/Projector

Handouts:

- Amanda Brown Complaint and Activities (6 pages with 4 activities)
- End Violence Against Women International (2013), *Start by Believing* Bulletin, "You were raped? How could you be so stupid?"
- First Response to Sexual Assault brochure (www.fris.org or local rape crisis center)
- Lonsway, Kimberly and Archambault, Joanne (2011), *Advocates and Law Enforcement: Oil and Water?*
- WV Protocol for Responding to Victims of Sexual Assault (WV FRIS, www.fris.org)

Supplemental Resources:

- Bringing Sexual Assault Offenders to Justice (DVD) approximately 30 minutes long. Order for free at www.theiacp.org.
- The following can be downloaded or requested for free from www.theiacp.org:
 - o Investigative Guidelines
 - o Supplemental Report Form
 - Model Policy on Investigating Sexual Assaults (2005) and accompanying concepts and issues paper (IACP Policy and Concepts and Issues Paper).
 - o Training Key #571 Investigating Sexual Assault Part I: Elements of Sexual Assault & Initial Response
 - o Training Key #572 Investigating Sexual Assault Part II: Investigative Procedures
 - o Training Key #573 Investigating Sexual Assault Part III: Investigative Strategy & Prosecution
 - o Training Key #574 Pretext Phone Calls in Sexual Assault Investigations

Training Information Adapted From:

- Archambault, Joanne and Lonsway, Kimberly (2008), *Incomplete, Inconsistent, and Untrue Statements Made by Victims: Understanding the causes and overcoming the challenges.*
- Oregon Sexual Assault Task Force, LETCBP (Law Enforcement Training Capacity Building Project) Curriculum, 2012

E6. STALKING TRAINING PRESENTATION

FACILITATOR'S GUIDE

The following information is provided to assist individuals training on campuses using the Stalking Training Presentation powerpoint, part of the West Virginia Prevention and Interpersonal Violence Intervention Training (PIVIT) Toolkit: Student Conduct and Judicial Edition for college campuses. In working to keep the audience engaged, consider supplementing the powerpoint with additional materials, listed in this Facilitator's Guide and the Resource Chart (also part of this section D). Each of the handouts, activities and videos suggested in this training powerpoint can be found electronically at www.fris.org as part of the PIVIT Toolkit, with the exception of DVDs.

Local rape crisis and domestic violence programs have additional resource materials, including DVDs listed below and can co-present on this topic (visit www.fris.org to find the nearest center). Please review videos, suggested handouts and supplemental materials thoroughly prior to including them in a training presentation. Remember to cite sources, even if the only available information is a web address. For additional information or technical assistance, contact the WV Foundation for Rape Information and Services.

Suggested Presentation Outline

A. Introduction and Welcome	10 min.
B. Overview/Impact on Victims	30 min
C. WV and Federal Laws	35 min.
D. Stalking Behaviors/Offender Typologies	40 min.
E. Overlap with other Crimes	50 min.
F. Investigation and Safety Planning	60 min.

Total Estimated Time (with breaks): 4 hours

Objectives:

1. Understand WV and Federal laws related to stalking to increase the likelihood of an arrest
2. Recognize the prevalence of stalking in the U.S. and WV
3. Identify stalking behaviors and offender typologies to better understand the dynamics of stalking and the impact on victims
4. Explain the overlap of stalking and sexual and domestic violence
5. Gain knowledge and skills to conduct effective interviews and collect potential evidence

Audio/Visual Aids:

- Peggy Klinke/Stalking: Real Fear, Real Crime (video clip/DVD) 17:21 min.
- The Use of Technology to Stalk (DVD) 15:00 min.
- The Undetected Rapist (DVD) 23:00 min.
- WV Stalking Kit

Supplies Needed:

- Chart Paper/Markers
- Speakers/Audio
- Laptop/Projector

Handouts/Supplemental Resources:

- Stalking Fact Sheet (Stalking Resource Center)
- Stalking Module Post-test (WV FRIS)
- Stalking Response Tips for Law Enforcement (Stalking Resource Center)
- Stalking Scenarios – “Is it Stalking?” (WV FRIS)
- Stalking Scenarios – “Working with Victims” (WV FRIS)

Information Adapted From:

- WV Foundation for Rape Information and Services, Stalking Training-of-Trainers Module (WVFRIS, 2009)
- WV Sexual Violence Training and Prevention Resource Toolkit for College Campuses (WV FRIS, 2012)

E7. SAMPLE PARTICIPANT TRAINING EVALUATION FORM

[Insert Title of Training]

Your feedback is important and necessary to improve future presentations.

1. What title/discipline best represents you?

- | | | |
|---|--|---|
| <input type="checkbox"/> Title IX Coordinator | <input type="checkbox"/> Hearing Officer | <input type="checkbox"/> Mental Health/Counseling |
| <input type="checkbox"/> Public Safety | <input type="checkbox"/> Advocate | <input type="checkbox"/> Judicial Board Member |
| <input type="checkbox"/> Student Health | <input type="checkbox"/> Student Affairs | |
| <input type="checkbox"/> Other _____ | | |

2. Please answer the following:

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
The session and content increased my knowledge.					
The facilitators were well prepared.					
I will be able to apply what I learned in my work.					
I liked the format/style of the training (e.g., length, discussions, activities).					
I would recommend this training to others.					
I was provided with helpful resources.					
Overall, I enjoyed this workshop.					

3. What did you gain today that will impact your future work, and how so?

4. Comments/Recommendations (If you marked “disagree” to any of the above, please explain below.):

E8. RESOURCE CHARTS

Booklets

Resource	Author(s)/ Pub., Date	Audience	Description	Cost/How to Purchase or Access
<i>Bystander Intervention Playbook</i>	Virginia Polytechnic Institute and State University (Virginia Tech), adapted with permission from the College of William and Mary, updated 2009, not copyrighted	College students	Provides an easy-to-follow resource for understanding and educating about bystander intervention. Can serve as a primary prevention tool for a variety of campus populations.	No cost through http://www.stopabuse.vt.edu/Get_Involved/bystander_intervention_playbook.pdf
<i>Stalking: A Handbook for Victims</i>	Emily Spence-Diehl, University of Virginia, updated 1999, copyrighted	Stalking victims	Provides 80 pages of information about the elements of stalking, taking legal and protective action against stalking, as well as safety and planning procedures. Gives an overview of stalking on college campuses and offers safety precautions for the student population.	No cost through the Stalking Resource Center, part of The National Center for Victim of Crimes at www.victimsofcrime.org .
<i>Stalking Brochure</i> English, Spanish	Idaho Coalition Against Sexual and Domestic Violence, 2008, copyrighted	Variety	Provides information about several aspects of stalking including: what stalking is, statistics, myths and facts, profile of stalkers, what to do if you are a victim, cyberstalking, what to do if you are a friend of a victim, and resources. Gives a simplified overview of stalking; comes in booklet form that could be used as an example for campuses creating their own stalking resource handbook. Available in English and Spanish.	No cost through idvsa.org/ , go to resource/publication link Fees may apply if shipping is over \$50.

Books

Resource	Author(s)/ Pub., Date	Audience	Description	Cost/How to Purchase or Access
<i>May I Kiss You?</i>	Mike Domitrz, Awareness Publications, 2003, copyrighted	Teens, college students, parents, educators	Heightens sexual assault awareness while providing exercises for building healthy relationships in today's culture. Can be used as a primary prevention tool for male and female college students.	\$19.97 Softcover and \$9.97 PDF through http://www.datesafeproject.org/educational-tools-resources
<i>Reaching Men: Strategies for Preventing Sexist Attitudes, Behaviors, and Violence</i>	Russ Funk, JIST Life, 2003, copyrighted	Men	Reference book that educates men about sexual violence and sexism and how they can prevent the problem. Focuses on changing social attitudes of men that promote violence against women.	\$39.95 Softcover through http://www.rusfunk.com/Reaching Men link

Brochures/Fact Sheets

Resource	Author(s)/ Pub., Date	Audience	Description	Cost/How to Purchase or Access
<i>Sexual Violence and Alcohol and Other Drug Use on Campus</i>	Higher Education Center for Alcohol and Other Drug Abuse Violence Prevention, 2008	College administrators and faculty General campus population	This fact sheet summarizes contributing factors related to sexual violence, the extent of the problem, and the strategies of several higher learning institutions.	No cost through http://www.victory.edu/wp-content/uploads/2012/05/Sexual-Violence-and-Alcohol-and-Other-Drug-Use-on-Campus.pdf or www.edc.org
<i>When Drugs Are Used for Rape</i>	West Virginia Foundation for Rape Information and Services (FRIS)	Variety	This brochure summarizes the different drugs that are used in drug facilitated assault, the laws pertaining to drugs and sexual violence, how a drug facilitated assault occurs, and what to do if you are a victim. Can be used as a general information resource for college campuses.	No cost through www.fris.org , resources link

Curricula/Manuals/Toolkits

Resource	Audience	Time/ Sessions	Description	Cost/How to Purchase or Access
<i>A Call to Men: Toolkit</i> By A Call To Men: Committing to Ending Violence Against Women	College men	35-minute DVD and curriculum manual with discussions Can be adapted for different time allotments	Through seminars, workshops and other educational vehicles, A Call To Men: Committing to Ending Violence Against Women challenges men to reconsider their long held beliefs about women in an effort to create a more just society. The program achieves this goal by encouraging change in the behaviors of men through a re-education and training process that challenges sexism. "Breaking Out of the Man Box" DVD is one resource offered by the group and is the basis for the group's resource toolkit. <i>(Note from the toolkit work group: We suggest using this resource in conjunction with other resources for a more comprehensive discussion on the causes of sexual violence.)</i>	DVD is available for \$29.99, a workbook for \$12, and complete toolkit available for \$45 through http://www.acalltomen.org
<i>Bystander Intervention Programs White Paper</i> By Paper-Clip Communications	Prevention educators	60+pages plus a CD	The <i>Bystander Intervention Programs</i> White Paper & CD addresses all of the issues outlined in federal guidelines and more, as you work to develop or strengthen your campus efforts.	\$276 through www.paper-clip.com
<i>Consensual Sex or Rape? Mock Rape Trial Guide and Video</i> By Pennsylvania Coalition Against Rape (PCAR), copyrighted	College students	10-minute DVD and curriculum manual with discussions	Offers a tool for presenting drug facilitated sexual assault information to college students. Includes a mock trial video along with a guide for discussion after the viewing.	\$35 through www.pcar.org
<i>Engaging Bystanders in Sexual Violence Prevention</i> By National Sexual Violence Resource Center, copyrighted (2008)	Variety of audiences Can be adapted to diverse audiences and persons with disabilities	Three, 20 minute small group activities and four role playing scenarios lasting 45 minutes Can be adapted for different time allotments	Can be used for educating audiences about bystander prevention. Should be used as a primary prevention resource that can target a variety of populations. Contains role playing scenarios and small group activities along with reading materials.	No cost through www.nsvrc.org

Curricula/Manuals/Toolkits Continued

Resource	Audience	Time/ Sessions	Description	Cost/How to Purchase or Access
<i>Love is Not Abuse</i> By Liz Claiborne, Inc., 2011	College students	72-page curriculum	Aims to increase college students' understanding of dating violence (which includes sexual violence) and challenges their misconceptions and beliefs that 'support' dating violence.	No cost through www.breakthecycle.org
<i>The Men's and Women's Programs: Ending Rape Through Peer Education</i> By John Foubert, updated 2010, copyrighted	College staff setting up sexual assault prevention programs using peer educators Peer educators Can be adapted to diverse target student populations	1-hour workshops for both male and female peer educators Over 20 hours of basic and advanced training exercises	Easy-to-use manual for people who work with college students and seek a step-by-step guide for building a sexual assault peer education program from start to finish. Stand-alone topics can include alcohol and sexual assault, bystander intervention, and consent. The included exercises can also double as adapted stand-alone programs for peer educators to use when presenting to students. Peer education can be used as a primary prevention tool for campuses.	\$39.95 Paperback, access through www.taylorandfrancis.com/books/
<i>The Men's Program: Peer Educator's Manual</i> By John Foubert, updated 2010, copyrighted	College staff setting up sexual assault prevention program targeted at men using peer educators	102-page paperback guide	Geared to facilitate a men's program through the use of peer educators. The guide is a self-contained manual that includes program scripts and handouts, along with advice for running the program. After watching video clips about rape, participants are asked to participate in a discussion that puts them in the shoes of the victim and perpetrator. Prevention techniques are covered including bystander intervention.	Can be purchased in quantities of 10 for \$100 through www.taylorandfrancis.com/books/
<i>Reconstructing Norms: Preventing Alcohol Related Sexual Assault on College Campuses</i> By Pennsylvania Coalition Against Rape (PCAR), adapted by West Virginia Foundation for Rape Information and Services (FRIS) in 2012, not copyrighted	West Virginia college students and staff Materials can be used with diverse audiences and contains suggestions for adapting to the Greek population and athletes	334-page curriculum/manual 2-hour session for males, 2-hour session for female students, 1-hour sessions for select campus staff	Gives facilitators a tool for educating the campus community about sexual assault. Includes general education about the connection between alcohol and sexual assault along with lesson plans for several campus groups, including male and female students, campus police, administrators and judicial officers, and healthcare staff. The male program focuses on primary prevention and includes several role-playing scenarios and seven activities for the male group to work through together. The women's program is more focused on secondary and tertiary prevention, since the activities include information about risk reduction and what to do after a sexual assault has occurred. There are also general education sessions and activities that are centered around campus police, judicial officers and healthcare staff.	FRIS' West Virginia specific version can be accessed at no cost through www.fris.org/resources/campus sexual violence prevention link PCAR's version can be accessed at no cost through www.pcar.org
<i>PACT Program: Promoting Awareness of the College Transition</i> By Pennsylvania Coalition Against Rape (PCAR), adapted by West Virginia Foundation for Rape Information and Services (FRIS) in 2011	High school seniors in West Virginia Freshman college students in West Virginia	20-page curriculum	Provides an introduction to sexual violence. Covers topics such as consent, drugs and alcohol, risk reduction, healthy relationships, and stalking.	FRIS' West Virginia specific version can be accessed at no cost through www.fris.org/resources/campus sexual violence prevention link PCAR's version can be accessed at no cost through www.pcar.org

Curricula/Manuals/Toolkits Continued

Resource	Audience	Time/Sessions	Description	Cost/How to Purchase or Access
<p><i>Shifting the Paradigm: Primary Prevention of Sexual Violence Toolkit</i></p> <p>By American College Health Association, updated 2008</p>	Anyone on campus concerned with sexual violence prevention	24-page document	Provides facts, ideas, strategies, conversation starters and resources on the prevention of sexual violence on college campuses.	No cost through www.acha.org/sexualviolence/
<p><i>Toolkit Training Curriculum: A Toolkit Curriculum to Promote Male Involvement in Ending Sexual Violence</i></p> <p>By Men Against Sexual Violence (MASV), a program of the Pennsylvania Coalition Against Rape (PCAR), 2001, not copyrighted</p>	Male college students	123-page curriculum	Designed to provide a starting point for agencies who wish to reach out to men in the community and get them involved in preventing sexual violence. Includes a basic framework for education and involvement, as well as a few of the strategies that have proven successful for MASV participants in Pennsylvania.	No cost through www.menagainstsexualviolence.org
<p><i>Thirty Days of Strength Toolkit</i></p> <p>By Men Can Stop Rape, not copyrighted</p>	Male college students Females can also benefit	30-page toolkit	Provides guidance for those interested in facilitating a 30 Days of Strength campaign to prevent sexual violence. Offers ideas, posters, handouts and informational sessions. Adaptations could include components for persons with disabilities and other diverse audiences.	No cost, available on Draft Campus Toolkit CD
<p><i>Programming Module—Men and Boys</i></p> <p>By Virtual Knowledge Centre to End Violence Against Women and Girls, updated 2011</p>	Anyone wishing to engage men and boys in efforts to end violence against women and girls	170-page online module	Working with boys and men is essential for ending violence against women and girls, so this module provides guidance on how to engage this target audience. The module draws on knowledge from experts and existing programs that have been proven effective. By completing the entire module, you will learn about the entire process of creating a program for this population.	No cost through www.endvawnow.org/?men-boys
<p><i>Resident Assistant/Advisor Training Module</i></p> <p>By West Virginia Foundation for Rape Information and Services (FRIS)</p>	Resident assistants/advisors on college campuses	Approximately one hour to complete	This online module is designed to provide information and resources on the issues of stalking and sexual misconduct for resident assistants/resident advisors on college campuses.	No cost through www.fris.org/resources/RA training module link
<p><i>Title IX Binder Package</i></p> <p>-Conducting Title IX Investigations -Title IX Programming and Awareness -Title IX & Sexual Violence -Title IX Student, Staff and Employee Training</p> <p>By Paper-Clip Communications</p>	Student conduct administrators and trainers	Each binder includes a CD of the material and is 100+ pages	Complying with Title IX involves many components: educating faculty and staff to understand these complex new requirements; training the Title IX coordinators and their deputies to conduct investigations; training student employees to identify and report Title IX discrimination cases; and providing prevention and awareness programming to campus community members. The Title IX Binder Package will help your institution ensure compliance with all of the requirements of the 2011 "Dear Colleague Letter" and new clarifications of the White House Task Force to Protect Students From Sexual Assault.	\$949+ S/H through www.paper-clip.com

Other Resources

Resource	Author(s)/ Pub., Date	Audience/Time/ Sessions	Description	Cost/How to Purchase or Access
<i>Alcohol and Sexual Violence Perpetration</i>	Antonia Abbey, VAWnet, National Online Resource Center on Violence Against Women, 2008	16-page applied research paper for a variety of audiences	Summarizes the research literature that examines alcohol's role in sexual violence perpetration. Rich in statistics about alcohol use prior to sexual violence and statistics about perpetrators and their alcohol use.	No cost through www.vawnet.org , search VAWnet This Applied Research Paper and In Brief may be reprinted in its entirety or excerpted with proper acknowledgement to the author and VAWnet, but may not be altered or sold for profit.
<i>Culturally Competent Service Provision to Lesbian, Gay, Bisexual, and Transgender Survivors of Sexual Violence</i>	Sabrina Gentle-warrior with Kim Fountain, VAWnet, National Online Resource Center on Violence Against Women, 2009, not copyrighted	19-page applied research paper for individuals who work with LBGTQ communities	Provides a review of the research focusing on LGBTQ survivors of sexual trauma and offers recommendations on how to be culturally sensitive when addressing sexual violence issues with LBGTQ communities. There are several good studies included in the survey that examine the effects of victimization of the LBGTQ community on college campuses.	No cost through www.vawnet.org , search VAWnet This Applied Research paper and In Brief may be reprinted in its entirety or excerpted with proper acknowledgement to the author and VAWnet, but may not be altered or sold for profit.
<i>Drug-facilitated Sexual Assault PowerPoint Presentation</i>	West Virginia Foundation for Rape Information and Services (FRIS), 2012	Varies depending on audience and amount of material and supplemental resources/videos used	This powerpoint is intended to assist in providing training and/or awareness programs on the issue of drug-facilitated sexual assault. Initially developed to train first responders, particularly law enforcement on college campuses, it can be adapted for other audiences.	No cost through www.fris.org .
<i>The Relationship Between Alcohol Consumption and Sexual Victimization</i>	Jeanette Norris, VAWnet, National Online Resource Center on Violence Against Women, 2008	14-page educational article targeting anyone interested in learning about alcohol and its influence on sexual victimization	Reviews and critiques research examining the relationship between alcohol consumption and sexual victimization. This resource can serve as a good tool for campus prevention and intervention staff.	No cost through www.vawnet.org This Applied Research paper and In Brief may be reprinted in its entirety or excerpted with proper acknowledgment to the author and VAWnet, but may not be altered or sold for profit.
<i>Substance Use and Sexual Violence: Building Prevention and Intervention Responses</i>	Sarah Dawgert, Pennsylvania Coalition Against Rape, 2009, copyrighted	110-page guide for counselors and advocates	Source for information on drug and alcohol related sexual assault. Discusses addiction and how it relates to sexual violence, particularly with young women. Resource can be used as secondary prevention to reduce the risk of sexual assault among populations that are at higher risk due to alcohol or drug use/abuse.	No cost through www.pcar.org
<i>Understanding the Transgendered Community: A Technical Assistance Bulletin for Sexual Assault Counselors and Advocates</i>	Pennsylvania Coalition Against Rape, 2007	3-page document	Provides information on violence in the lives of the transgender community and guidelines for outreach.	No cost through www.nsvrc.org/publications/understanding-transgendered-community-technical-assistance-bulletin-sexual-assault-coun

Other Resources *Continued*

Resource	Author(s)/ Pub., Date	Audience/Time/ Sessions	Description	Cost/How to Purchase or Access
<i>Making a Difference: Your Role in Preventing Sexual Violence on Campus</i>	National Sexual Violence Resource Center, 2010, not copyrighted	1-hour slide presentation for college students and a guide for facilitators with talking points for the presentation	Introduces the bystander intervention theory to college students. Can also be easily adapted to various college populations. Aimed at taking audiences through definitions of sexual violence, how bystanders can be engaged in sexual violence prevention, and one sexual assault scenario for discussion and response practice.	No cost through www.nsvrc.org
<i>The Red Flag Campaign</i>	Virginia Sexual and Domestic Violence Action Alliance	Planning guide, red flags and posters targeting college students	A public awareness campaign that addresses dating violence on college campuses. The campaign is based on the bystander intervention strategy, which encourages the action of friends and campus employees after seeing warning signs of an unhealthy relationship. The red flag is a bold symbol used to draw students' attention and entice them to learn more. Diverse population including ethnic minorities and same-sex partners is depicted on the campaign's posters.	\$850 through www.theredflagcampaign.org/index.php/ The purchase comes with 160 posters, The Red Flag Campaign Campus Planning Guide (CD), and 200 red flags with the campaign's website.
<i>Take Back the Night Campaign</i>	Take Back the Night Foundation	60-page guidebook, updated 2009, copyrighted	Sexual violence is sometimes referred to as the silent crime because it often goes unmentioned. This campaign promotes awareness through events in the community which will let survivors know that they are not alone and draw attention to the issue for others. The title of the campaign was chosen because women are often afraid to walk alone at night and the campaign is aimed at empowering survivors and women in general. The campaign offers a free online guidebook for campuses to use when planning an awareness event on campus.	Guidebook at no cost through www.takebackthenight.org/

Posters

Note: Consider using focus groups of students to determine which posters would best suit your campus.

Resource	Author(s)	Audience	Description	Cost/How to Purchase or Access
Date Safe Project Posters	Date Safe Project	Young adults	Offers 17 posters that address dating violence, healthy relationships, consent, respecting boundaries, and safer dating for young adults.	\$7.50 each (1-19 posters), \$5.25 (20-49 posters) and \$4.12 (50 or more posters) through www.datesafeproject.org/ , educational resources and products link
<i>Love is Poster</i>	West Virginia Foundation for Rape Information and Services (FRIS)	Variety	Shows a compelling image of a heart that is split in half, with one side describing signs of a healthy relationship and the other half describing an unhealthy relationship. Can be used as a media source of primary prevention on a campus.	PDF can be accessed at no cost through www.fris.org , resources link
Idaho Coalition Against Sexual and Domestic Violence Posters English, Spanish	Idaho Coalition Against Sexual and Domestic Violence	Variety	Can be used as primary prevention materials on a campus to highlight the importance of consent. There are several posters that emphasize the point that consent must be shown in forms other than by silence or intoxication, a poster that addresses the myth that most rapes are committed by strangers, and a poster on intimate partner violence using rainbow colors for the LGBTQ community.	No cost through idvsa.org/ , go to resource/publication link. Fees may apply if shipping is over \$50.
<i>This is Not an Invitation to Rape Me Poster Series</i>	Guerrilla Girls	Variety	Six posters depicting varying circumstances that sexual assault might occur with text across each saying "This is not an invitation to rape me." Some of these posters may be more relevant to a campus population than others.	Access poster PDFs at no cost through http://www.thisisnotaninvitationtorapeme.co.uk/release/downloads/Rape-Crisis-Posters.pdf

Videos

Resource	Audience	Time/Sessions	Description	Cost/How to Purchase or Access
<i>Culture of Silence: Stalking Education and Awareness</i> By Security on Campus and Rowan University film students, 2009	College students	20 minutes	Can be used as a primary prevention resource on college campuses. Explores stalking on campuses, uncovering common misconceptions and ways to respond to the crime.	\$55 DVD through www.clerycenter.org
<i>DNA Initiative: Critical Issues for Those Who Work with Victims</i> By Office for Victims of Crime (2007)	First responders	24 minutes	This DVD (NCJ 211970) raises awareness for victim advocates, criminal justice practitioners, and others who work with crime victims about the issues involved for those whose cases involve DNA evidence. The video highlights issues such as collection and preservation of evidence, the crime's impact on the victim, victim notification at points along the process, and victim involvement and participation in the process.	No cost through www.victimsofcrime.org
<i>No Zebras: No Excuses</i> <i>New Student Orientation Program</i> By Sexual Aggression Peer Advocates, Central Michigan University	New college students	7 sections, vary from 3 to 10 minutes each	First program to focus on bystander mentality, addressing the impact of intervention on situations of sexual aggression. Stresses that sexual aggression can no longer be ignored and empowers students to speak up, take a stand and help keep others safe.	\$199.99 Program materials and DVD through www.nozebrasandmore.com

Videos Continued

Resource	Audience	Time/ Sessions	Description	Cost/How to Purchase or Access
<i>Speak Out and Stand Up: Raising Awareness About Sexual Assault</i> By Security on Campus, 2009	College students	25 minutes	Actress Kristen Stewart narrates this docudrama, which can be used as a primary prevention tool to raise awareness about sexual assault. Included is a scene involving sexual assault on a college campus and testimonies from survivors and experts in the field.	\$65 DVD through www.clerycenter.org
<i>Spin the Bottle: Sex, Lies, and Alcohol</i> By Ronit Ridberg, 2004 Subtitles in English, Spanish	College students High school seniors	45 minutes	Featuring Jackson Katz and Jean Kilbourne to address issues of sexual violence and alcohol use. Emphasizes the power that the media has to distort the popular culture to glamorize heavy drinking and high-risk behaviors. College personnel could use the tool as a primary prevention technique to challenge students to make conscious and informed decisions about the college party scene.	\$275 DVD through www.mediaed.org/
<i>Stalking: Real Fear, Real Crime</i>	First Responders	17 minutes	Produced by the Stalking Resource Center and Lifetime Television, this training video for law enforcement was created in response the murder of stalking victim Peggy Klinke by a former partner.	Order at no cost through http://www.victimsofcrime.org/our-programs/stalking-resource-center
<i>The Undetected Rapist*</i> By David Lisak, National Judicial Education Program, 2000	Variety	6 minutes	Reenacts part of an interview conducted by Dr. David Lisak, Director of Men's Sexual Trauma Research Center, UMass at Boston, with fraternity members during one of his studies of sexually predatory male behavior. Features a college male explaining how unsuspecting women are targeted for rape, using terms such as "target" and "prey" to refer to the women. Closes with an analysis of the interview. Includes classroom discussion. *	\$15 DVD/VHS through www.legalmomentum.org/our-work/vaw/njep-resources-sexual-assault-the-undetected-rapist.html
<i>The Use of Technology to Stalk</i>	First Responders	15 minutes	This video is designed to enhance awareness among professionals working with stalking victims of how stalkers use a vast array of technologies available today.*	Order at no cost through http://www.victimsofcrime.org/our-programs/stalking-resource-center
<i>Welcome to the Party</i> By Tom Nicholson, Deb Beazley and Jerry McGonigle, Reel Insight LLC, 2008 Film made at West Virginia University	College Students High school seniors	30-minute film, with an accompanying 30-page teaching curriculum built around the film. Includes 8 classroom activities, lecture materials, supplemental student handouts, background information, and resources and reference guides	A powerful tool for rape and sexual assault prevention education for college students and high-school seniors. It was created by college students and realistically depicts a connection between alcohol and sexual assault. This resource was developed with input from West Virginia's sexual assault coalition, rape crisis centers, and other state campuses. * Includes multi-format viewing designed to provide the instructor with options in presenting the film and structuring discussions and lectures	\$200 for curriculum and film www.reelinsight.org
Public Service Announcements (PSAs) By Idaho Department of Health and Welfare	College students. One targets the African American community.	Public service announcements approximately 1-minute each	Five PSAs on rape prevention as excellent primary prevention tools on campuses. Introduce bystander intervention and show how men can be involved in prevention efforts. The five PSAs are entitled <i>Last Night</i> , <i>Game Show</i> , <i>King of Idiots</i> , <i>The Bystander</i> , and <i>Somebody's Sister</i> .	View at no cost through www.healthandwelfare.idaho.gov/Health/SexualViolencePrevention/tabid/200/Default.aspx

Websites/Online Programs

Resource	Audience	Description	Cost/How to Purchase or Access
Consent Campaign:	College students	Columbia University has a consent campaign	Campaign poster and brochures are

Columbia University		coordinated by students that reaches their student population through the use of brochures and posters (available in English and Spanish). The primary prevention campaign focuses on changing the way students think and communicate about intimacy. Provocative posters and creative promotional materials enforce what students learn about communication through various workshops on campus. The campaign strives to make consent a healthier and safer way to communicate about intimacy. More information about using the campaign is available by joining the campaign's mailing list.	available free of charge through http://health.columbia.edu/services/svprp/advocacy-outreach#Consent_Campaign
Haven	Variety	Outside the Classroom's online sexual assault training modules can be purchased through this website. Modules can be customized by adding campus specific sexual assault information and services.	Price and the length of the modules can be obtained through www.everfi.com/haven
STEP UP! Be a Leader, Make a Difference; University of Arizona	Students athletes College students	The University of Arizona C.A.T.S. Life Skills Program, along with the National Collegiate Athletic Association (NCAA) and national leading experts, developed this online program. STEP UP! is a pro-social behavior and bystander intervention program that encourages students, especially college athletes, to be proactive in helping others. Teaching people about the determinants of pro-social behavior makes them more aware of why they sometimes don't help and increases the likelihood they will help in the future. Facilitator and student guides are available at no cost along with an hour-long Power Point presentation. These materials were published in 2008.	All materials can be accessed free of charge through www.stepupprogram.org
Student Success-Sexual Assault Online Program	Variety	This online program is designed to help reduce sexual assault on college campuses by raising student awareness of the issue and by verifying student learning and participation. The company can be contacted for program pricing.	Cost is based on the number of students utilizing the service and can be obtained through www.studentsuccess.org
Bringing in the Bystander/ Know Your Power Campaign; University of New Hampshire	College students	This prevention program emphasizes a bystander intervention approach and assumes that everyone has a role to play in ending violence against women. In addition to the prevention goal, the program has a research component which seeks to measure the effectiveness of the prevention program with different constituencies. Curriculum and other campaign items are available for a fee upon contacting the campaign. For more information about purchasing the curriculum or materials, see the UNH website. There is also a series of posters that can be purchased about bystander intervention entitled <i>Know Your Power</i> .	Information about purchasing the curriculum or materials (including campaign posters) can be purchased through www.unh.edu/preventioninnovations/index.cfm?ID=BCCEA40C-A3AC-0FFD-47D118DA9EFDF176

**Indicates resources were purchased for OVW Campus Grant partners of the WV Intercollegiate Council Against Sexual Assault in 2015.*



F. Sample Policies and Procedures

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INTRODUCTION

In order for your college campus to have a comprehensive interpersonal violence intervention and prevention program, it is critical to have policies and procedures in place that support both the intended training and conduct outcomes and prevention goals and activities. For example, if a college says it has zero tolerance for sexual violence, it must back up such a claim with policies and procedures that makes zero tolerance a standard (screening questions for potential employees, new staff orientation information on what is expected, information for students explaining what they can expect and what is expected of them, etc.) and consistent and fair response to noncompliance to the policies and procedures. This section offers sample policies and procedures related to issues that can impact interpersonal violence prevention:

- ✓ Alcohol and drugs;
- ✓ Hazing;
- ✓ Judicial affairs;
- ✓ Sexual misconduct policy introduction for college campuses;
- ✓ Reporting;
- ✓ Rights of victims and offenders;
- ✓ Safety;
- ✓ Sexual harassment, sexual exploitation, nonconsensual intercourse/contact, and consensual relationships;
- ✓ Sex offender registration;
- ✓ Stalking and harassment; and
- ✓ Student education/prevention.

Schools vary on how they title their campus documents that pertain to student behavior (e.g., policies, protocols, codes of conduct). Regardless of the title, schools will need to integrate these codes into existing frameworks and policies as they adopt and adapt the suggestions from this toolkit to fit their specific needs. The main purpose of the “Sample Policies and Procedures”

section is to provide policy templates that outline the seriousness of sexual violence and an appropriate campus response to it.

Review these sample policies and procedures carefully and make adaptations as appropriate to your program’s mission or services and your target audience. Check with the entity from which a sample policy or procedure originated regarding their permission to use its material. Explore if the material is copyrighted, if permission is needed to use and/or adapt, and if so, what is entailed in this process. Some entities are more than happy to share their materials, with certain restrictions, while others may have concerns about liability or adaptability and may decline to share or require you to sign a waiver of release before you can use the policy or procedure. In many cases, you will only need to check an entity’s website to see what its policy is on the use of its material. If that information is not on its website or does not answer your questions, or there is no agency website, you may need to follow up with a call to the agency. Permission was received to include the policies in this toolkit. All adaptations made to the sample policies and procedures were primarily for the purposes of adhering to West Virginia’s laws and maintaining consistency in format and language with the rest of this toolkit.



As a component of each policy, the issue of jurisdiction should be addressed as appropriate so that the users know who is covered under that policy. One method would be to include the following: This protocol applies equally to all [select all that apply: students, faculty, and/or staff] at [insert name of your institution].

F1. ALCOHOL/DRUGS

The following samples are included in this section:

- ✓ Sample Policy on Alcoholic Beverages; and
- ✓ Sample Policy on Illegal Drugs.

Alcohol and drug use are major problems on most college campuses and are known cofactors in sexual violence on campus. Campuses must address these issues in a complex and multifaceted way. This not only includes the adoption of policies to specify acceptable and unacceptable behavior but should also include prevention education, adequate enforcement of laws and policies, and ensuring access to counseling and mental health services.

Sample Policy on Alcoholic Beverages

(Adapted from the U.S. Department of Education, *The Handbook for Campus Crime Reporting*)

The possession, sale or the furnishing of alcohol on the [insert name of college] campus is governed by [insert name of college] Alcohol Policy and West Virginia state law. Laws regarding the possession, sale, consumption or furnishing of alcohol is controlled by the West Virginia Department of Alcohol and Beverage Control (ABC). However, the enforcement of alcohol laws on campus is the primary responsibility of the [insert name of campus]

security/police department]. The *[insert name of college]* campus has been designated “drug free” and only under certain circumstances is the consumption of alcohol permitted. The possession, sale, manufacture or distribution of any controlled substance is illegal under both state and federal laws. Such laws are strictly enforced by the *[insert name of campus security/police department]*. It is unlawful to sell, furnish or provide alcohol to a person under the age of 21. The possession of alcohol by anyone under 21 years of age in a public place or a place open to the public is illegal. It is also a violation of the *[insert name of college]* Alcohol Policy for anyone to consume or possess alcohol in any unauthorized public or private area on campus without prior *[insert name of college]* approval. Organizations or groups violating alcohol/substance policies or laws may be subject to sanctions by *[insert name of college]*. Violators are subject to campus disciplinary action, criminal prosecution, fine and/or imprisonment.

Sample Policy on Illegal Drugs

(U.S. Department of Education, *The Handbook for Campus Crime Reporting*)

The *[insert name of college]* campus has been designated “drug free” and only under certain circumstances is the consumption of alcohol permitted. The possession, sale, manufacture or distribution of any controlled substance is illegal under both state and federal laws. Such laws are strictly enforced by the *[insert name of campus security/police department]*. Violators are subject to campus disciplinary action, criminal prosecution, fine and imprisonment.

F2. HAZING

The following sample is included in this section:

- ✓ Sample Policy Regarding Hazing.

Hazing is a dangerous practice on college campuses. The adoption of policies that outline what is considered hazing and what will be done when unacceptable behavior occurs is one component of a comprehensive effort to end hazing. In addition to adopting effective policies, schools should make a multiple efforts to educate students about acceptable behavior and ensure that there are designated members of the campus faculty/staff trained to field complaints about hazing. Students should know who to contact to report hazing and that the confidentiality of these complaints will be maintained in accordance with standard reporting procedures. As with all campus policies, the scope and jurisdiction of anti-hazing policies is not determined by the location of the crime (e.g. on campus vs. an off-campus function of a college recognized student organization or program) but rather by the relationship of those committing the offense to the college. In other words, a campus policy, such as an anti-hazing policy, would apply to all members of a college recognized student organization, regardless of where the hazing takes place. Finally, these policies apply to any campus-affiliated individual or group, no matter how informal the recognition of that group is. This would include, but is not limited to, athletic programs, bands, Greek organizations, clubs, or informal student groups. It is important to communicate this to all members of the student body in order to provide clear standards of acceptable behavior.

Sample Policy Regarding Hazing

(Adapted from Trinity University, www.nchem.org)

[*Insert name of college*] is concerned about the emotional, psychological and physical health and well-being of its students. Any form of hazing is unacceptable and is in direct conflict with institutional values related to the rights and dignity of students, all of whom have the right to belong to groups without risk of danger or humiliation. Consent to hazing is never a defense to a violation of this policy.

[*Insert name of college*] prohibits hazing by individuals or groups and defines it as follows: Hazing is any reckless or intentional act, occurring on or off campus, that produces physical, mental or emotional pain, discomfort, humiliation, embarrassment or ridicule directed toward other students or groups (regardless of their willingness to participate), that is required or expected of new members and which is not related to the mission of the team, group or organization. Hazing includes any activity, whether it is presented as optional or required, that places a new member in a position of servitude as a condition of membership. Prohibited acts of hazing include those covered under West Virginia State law.

Though it would be impossible to list all behaviors that could be deemed to be hazing, the following are some typical examples of hazing and are prohibited:

- ✓ Any physical act of violence expected of, or inflicted upon another;
- ✓ Any physical activity expected of, or inflicted upon another, including calisthenics;
- ✓ Pressure or coercion of another to consume any legal or illegal substance;
- ✓ Making available unlawful substances;
- ✓ Excessive fatigue or sleep deprivation as a result of any activities;
- ✓ Forced exposure to the weather;
- ✓ Kidnapping, forced road trips and abandonment;
- ✓ Required carrying of or possessing of a specific item or items;
- ✓ Servitude (expecting a new member to do the tasks of an experienced member);
- ✓ Costuming and alteration of appearance;
- ✓ Line-ups and berating;
- ✓ Coerced lewd conduct;
- ✓ Degrading games, activities or public stunts;
- ✓ Interference with academic pursuits;
- ✓ Violation of [*insert name of college*] policies; and
- ✓ Assignment of illegal and unlawful activities.

Reported violations of this policy will result in campus judicial action and may be subject to criminal prosecution. Any retaliation against any person who reports, is a witness to, or is involved with or cooperates with the adjudication of hazing is strictly prohibited.

There are two primary conditions that create a hazing dynamic.

1. New members often wish to be accepted, either formally or informally, into any group, and will submit to hazing in order to be included. Because of this, consent to be hazed does not excuse hazing. Students have died or been seriously injured as a result of participating in activities to which they have “consented.” The psychological pull to be accepted is so strong that hazing victims cannot be expected to resist hazing, even if the hazing is presented as optional. That this pull can be so coercive should make the need to prohibit hazing conduct, to any degree, undeniably clear.
2. Any activity that places new members in a subservient position to experienced members creates an unhealthy and unsafe power dynamic in which control has been yielded to the experienced member. New members in any organization may expect to be trained, oriented or indoctrinated, but membership in any group that puts a new member in a lesser role, unrelated to the original conditions for membership or mission of the group, is inappropriate and unfair to the new members. Any activities of membership should be equally shared among experienced and new members.

New members of groups and teams can expect to participate in educational and fun activities that build teamwork and camaraderie among all members of the group. Such activities are intended to create a sense of identity and commitment within a group and are generally acceptable and encouraged. Students should check with appropriate staff, advisors, sponsors and coaches if there is any question about whether an activity constitutes hazing.

F3. JUDICIAL AFFAIRS

The following sample is included in this section:

- ✓ Sample Disciplinary Process.

Each campus should have a clear and well publicized procedure for addressing complaints of sexual misconduct. The Clery Act and Title IX dictate specific requirements for campuses to investigate and respond to allegations of sexual misconduct. **The sample procedures that follow are not meant to replace those procedures.** Rather, these sample policies address student misconduct through campus judicial boards which enforce campus codes of conduct and are an additional route of remediation for such allegations. Given the differences in resources from campus to campus, the composition and procedures of campus judicial boards will vary. However, there are several topics that are necessary to address in order to ensure that campus judicial boards function effectively.

- ✓ A school should have a clear policy establishing the composition of the campus judicial board (e.g., How many faculty/staff/students? How will these board positions be filled? Will the filling of these positions have representation of the faculty or student communities?).
- ✓ These procedures should be well publicized and easily accessible to those on campus.
- ✓ Schools should also establish a consistent system for convening a campus judicial board. Will these boards meet monthly to hear all pending cases or review them as they arise? Will all members of the board hear every case or will a few members be appointed from

the larger pool? How will this be done? Again, these procedures should be widely available to all on campus.

- ✓ Finally, those who serve on campus judicial boards should be specifically trained on issues pertaining to sexual misconduct on campus and should not be allowed to hear such cases without completing training. **These trainings must be conducted regularly and attendance should be mandated.** This is essential as the dynamics of sexual violence are often unique and misunderstood. Those serving more than one school year should be retrained annually to maintain awareness.

The U.S. Department of Justice, Office on Violence Against Women, recommends that when designing and implementing training programs, campuses should consider (but not be limited to addressing) the following issues:

- ✓ The differences between the processes of the criminal justice system and the academic judicial/disciplinary system;
- ✓ Ensuring that the training is ongoing so that all new members of the judicial/disciplinary board receive information, especially if the board is appointed on a rotating basis;
- ✓ Maintaining retention of “trained” board members given the complexities and difficulties of such cases;
- ✓ Creating training that is effective and does not “promote bias” for either victims or offenders;
- ✓ Ensuring that all judicial/disciplinary cases are pursued in the same manner, regardless of “who” the victim and/or offender may be;
- ✓ Confidentiality issues: open or closed hearings;
- ✓ Relevant state and federal laws;
- ✓ Working with law enforcement officials from the local jurisdiction; and
- ✓ The “preponderance of evidence standard” as the appropriate judicial standard for deciding cases of sexual assault.

Specific Considerations

When developing trainings for disciplinary or judicial boards, campuses should also address the following specific topics:

- ✓ Reasons why victims may or may not choose (and/or wait) to report;
- ✓ Ways that the disciplinary system can “re-traumatize” victims;
- ✓ The importance of avoiding victim blaming;
- ✓ Viewing all information without bias;
- ✓ Review of general sexual violence information, including issues of power and control;
- ✓ Dating violence as a form of sexual violence, including relevant laws;
- ✓ Stalking in a “closed” campus environment;
- ✓ Dynamics of both victimization and perpetration;
- ✓ What constitutes consent; and
- ✓ Socio-cultural issues (e.g. race/ethnicity, sexual orientation and gender dynamics).

Effective training on sexual violence requires a presenter with extensive knowledge and experience. We suggest that colleges partner with the local rape crisis center to train campus judicial board members or to develop training materials and protocols.

Sample Disciplinary Process

(Adapted from Lewis and Clark College, Campus Outreach Services, *Sample Sexual Misconduct Policy Manual 7.9*)

[*Insert name of college*]'s disciplinary procedures should be viewed as a resource to the victim of sexual assault, rape and sexual harassment. Sexual assault and rape are criminal violations and violations of [*insert name of college*] policy. A student charged with sexual misconduct can be prosecuted under West Virginia law if the victim chooses, and separately disciplined by [*insert name of college*]. Even if the criminal justice authorities choose not to prosecute, a student charged with any type of sexual misconduct will be subject to [*insert name of college*]'s disciplinary process. If the Sexual Misconduct Review Board finds that the reported misconduct occurred, disciplinary action includes the strong possibility of suspension or dismissal from [*insert name of college*]. Hearing procedures and disciplinary sanctions are outlined below.

Initial Steps

1. It is possible for a victim to make a first report to a number of different contact points throughout the [*insert name of college*] community [*insert contacts such as sexual assault response advocate, health center, counseling center, Dean of Students, or campus security officer*]. If, after meeting with any of these contact points, the victim determines that he or she would like to pursue a college disciplinary hearing, the contact point will direct the student to meet with the Dean of Students.
2. Once a meeting is arranged, the Dean will outline the options available, including how a conduct hearing will work, along with its possible outcomes. If the victim decides to make a charge, the Dean will take a written (or tape-recorded) statement of the victim's account of the incident. The accused student will also be given the opportunity to provide the Dean with a written statement after the charge has been made by the victim. It should be noted that if [*insert name of campus security office*] has already taken a written statement from the victim and/or the accused, the Dean may use these statements in lieu of the statements mentioned above.
3. The Dean will then present the accused student with a written statement of the victim's charges against him or her. The Dean will also provide the victim with copies of any written response to the charge that the accused provides. The Dean will notify the accused student that the hearing board members are being chosen and provide him or her with the date of the hearing. The hearing will be held within five working days of the victim's initiation of charges. If this condition cannot be met, both the victim and the accused will be notified regarding the status of the case. Both the victim and the accused will be informed in writing of the hearing format and specific charges.
4. If the Dean determines that it is in the best interest of either student for safety or other reasons, the accused and/or the victim will be provided different accommodations (e.g., housing, class schedule, cafeteria schedule). The Dean will also make decisions regarding no-contact orders and may implement a skewed no contact orders if it is

deemed appropriate. (i.e., Sanctions against the offender if the no contact order is violated but no sanctions automatically imposed against the victim if, for example, the victim chose to attend a campus activity that the offender attends – such as an athletic event at which the offender is a member of the team).

5. If these instructions are not heeded, disciplinary action will be taken, including the possibility of immediate suspension from *[insert name of college]* and removal from campus. Additionally, assistance is available for changing academic and living situations after a report of sexual misconduct is filed, if so requested by the victim and if such changes are reasonably available.

Note: In the context of *[insert name of college]* conduct process, the victim is initiating formal allegations of misconduct. The charges of misconduct remain allegations until a decision is reached by the Sexual Misconduct Review Board.

Sexual Misconduct Review Board Composition and Training

The Sexual Misconduct Review Board is composed of administrators, staff, and students as members. Board members are appointed by the Dean of Students.

When selected, all members of the board receive comprehensive training. It is essential that these trainings occur regularly and are mandated for all board members since the characteristics of sexual assault are unique and often misunderstood.

The U.S. Department of Justice, Office on Violence Against Women, recommends that when designing and implementing training programs, campuses should consider (but not be limited to) the following issues:

- ✓ The differences between the processes of the criminal justice system and the academic judicial/disciplinary system;
- ✓ Ensuring that the training is ongoing so that all new members of the judicial/disciplinary board receive information, especially if the board is appointed on a rotating basis;
- ✓ Maintaining retention of “trained” board members given the complexities and difficulties of such cases;
- ✓ Creating training that is effective and does not “promote bias” for either victims or offenders;
- ✓ Ensuring that all judicial/disciplinary cases are pursued in the same manner, regardless of “who” the victim and/or offender may be;
- ✓ Confidentiality issues: open or closed hearings;
- ✓ Relevant state and federal laws;
- ✓ Working with law enforcement officials from the local jurisdiction; and
- ✓ The “preponderance of evidence standard” as the appropriate judicial standard for deciding cases of sexual assault.

Specific Considerations

When developing trainings for disciplinary or judicial boards, campuses should also address the following specific topics:

- ✓ Reasons why victims may or may not choose (and/or wait) to report;

- ✓ Ways that the disciplinary system can “re-traumatize” victims;
- ✓ The importance of avoiding victim blaming;
- ✓ Viewing all information without bias;
- ✓ Review of general sexual violence information, including issues of power and control;
- ✓ Dating violence as a form of sexual violence, including relevant laws;
- ✓ Stalking in a “closed” campus environment;
- ✓ Dynamics of both victimization and perpetration;
- ✓ What constitutes consent; and
- ✓ Sociocultural issues (e.g. race/ethnicity, sexual orientation, gender dynamics).

The board will be composed of a pool of administrators, staff, and students, three of whom will be selected to hear any given case. Both men and women will comprise the pool and each convened board. The Dean will chair the board during the hearing and provide administrative support and clarifications as needed.

The students involved may challenge the composition of the board. The accused and victim will be notified of the names of those who will serve on the board at the time the hearing is scheduled. If either objects to any member/members of the board, he or she must commit the reasons for the objection to writing. The Dean will review the objection and decide whether the hearing board member(s) should or should not be replaced. Removal from the hearing board will occur only if the Dean is convinced that absence of impartiality or other extenuating circumstances would result from allowing the hearing board member to adjudicate the incident. Any member who personally knows the accused or the victim will be excused from the case.

Elements of the Hearing

The hearing will be convened in a private room where there will be no disturbances from other members of the campus community. The hearing will not be open to the public. A record of the hearing (audio tape recording and/or written) will be maintained and made available to the accused and victim if requested. There will be separate waiting rooms for the witnesses of the accused and for the victim’s witnesses. A list of witnesses for each side must be submitted to the Dean of Students at least 48 hours prior to the hearing.

The victim and the accused do not need to be present in the hearing room at the same time. Both the victim and the accused may be present throughout the hearing. Both may present evidence on their own behalf through the presentation of witnesses.

Both may choose a person to accompany them during judicial proceedings. Both may have advisory participation from counsel (counsel may not serve in an advocacy role in the hearing).

The victim will present his or her case first, and be able to call witnesses. There are some situations in which the victim cannot or will not present his or her own case. In these situations, the Dean may appoint an administrator to present the case for *[insert name of college]* in the victim’s stead. If the victim elects to let *[insert name of college]* present the case, the victim still may be present throughout the entire proceeding.

Next, the accused student may present his or her case, at which point the accused can call witnesses. The hearing board may recall any witnesses at any point to clarify or challenge statements made during the hearing. The hearing board members are allowed to ask questions at any point throughout the hearing. Neither the accused nor the victim may directly question each other during the hearing. Questions and clarifications must be directed to the board.

Prior sexual behavior/sexual history of the victim is not relevant and will not be allowed to be presented during the hearing. Hearing board members are obligated to prevent such information from being admitted.

The Decision Making Process

Once the hearing is concluded, the board members will, after meeting in closed session, render a decision within 48 hours. However, if they cannot reach a decision in that time, witnesses may be recalled for further questioning. The members of the hearing board have to decide if the accused student's actions meet *[insert name of college]*'s definition of sexual misconduct.

To establish responsibility, the hearing board must decide that the accused's behavior satisfies the definition of the misconduct to the extent required by the standard of proof in sexual misconduct cases— "more likely than not." Once a decision is made, the Dean of Students will inform the accused student first, then the victim, in the form of a letter which will include an explanation of the Board's deliberations. They will be informed separately and at different times so that they do not encounter each other.

Appeal Process

The decision of the hearing board may be appealed by both the victim and the accused. The Provost or designate is the appellate for decisions reached by the Sexual Misconduct Review Board. Either party is entitled to an appeal if he or she can show that the adjudication was in any way biased or unfair, or that the process and/or sanctions violated college policy. Appeals must be submitted in writing to the provost or designate within five days of the decision of the board.

F4. SEXUAL MISCONDUCT POLICY INTRODUCTION FOR COLLEGE CAMPUSES

Checklist for a Sexual Misconduct Policy

Through NotAlone.gov, the White House Task Force to Protect Students from Sexual Assault offers a [checklist for a sexual misconduct policy](#). It **highlights elements that are important to consider not only for sexual misconduct**, but also for violations involving the other forms of interpersonal violence addressed in this toolkit (although some of the Title IX requirements may not apply if the violence is not a component of sex discrimination). Even if the college is does not have a separate sexual misconduct policy, the checklist elements should be

considered for inclusion its campus conduct policies. The checklist is provided here for ease of reference (note some slight adaptation from the original).

- ✓ **Introduction:** Statements of 1) the college's prohibition against sex discrimination, which includes sexual misconduct; and 2) its commitment to address sexual misconduct.
- ✓ **Scope of the policy:** 1) Identify persons, conduct, locations (including off campus), programs, activities, and relationships covered by the policy. 2) Clearly state the policy applies to all students and employees, regardless of sexual orientation or gender identity, and explain that the policy applies to third parties. 3) Briefly explain the college's confidentiality policy, including reference to the more detailed policy provisions. (See below for a [sample confidentiality policy](#).)
- ✓ **Options for assistance following an incident of sexual misconduct**
 - **Immediate assistance—**
 - Identify and provide contact information for the trained on- and off- campus advocates and counselors who can provide an immediate confidential response in a crisis situation;
 - Provide emergency numbers for on- and off- campus safety/law enforcement and other first responders (e.g., the Title IX coordinator);
 - Describe the sexual assault response team (SART) process and resources;
 - Identify health care options, both on- and off- campus;
 - Ensure the victim is aware of options for treatment for injuries, preventative treatment for sexually transmitted infections, and other health services.
 - Discuss the option of seeking medical treatment in order to preserve evidence. Identify where/how to get evidence collected or find a Sexual Assault Nurse Examiner (SANE). List including contact information for an advocate (e.g., a local rape crisis center, on-campus advocacy program) who can accompany a victim to the hospital or health provider.
 - **Ongoing assistance**
 - Counseling, advocacy and support, both on- and off-campus. Identify counseling and support for victims of sexual misconduct, whether or not a victim chooses to make an official report or participate in the institutional disciplinary or criminal process. Identify options for disclosing confidentially with counseling, advocacy, health, mental health, or sexual-misconduct-related sources, both on and off campus. Identify those who can provide ongoing support during the institutional disciplinary or criminal process.
 - Academic accommodations and interim measures. Describe the immediate steps and interim measures that the college can provide to ensure the safety and well-being of the victim, such as the ability to move dorms, change work schedules, alter academic schedules, withdraw from/retake a class without penalty, and access academic support (e.g., tutoring). Describe additional interim measures that the college may be able to provide for complainants while an investigation is pending such as no contact orders and changing the alleged perpetrator's living arrangements or course schedule.
- ✓ **Title IX coordinator:** Identify the college's Title IX coordinator and briefly explain the Title IX coordinator's role in the college's overall response to sexual misconduct; provide references to sections of the policy that provide greater details regarding the Title IX coordinator's duties.
- ✓ **Definitions:** Clearly define all conduct prohibited by the policy, including: sexual harassment, hostile environment caused by sexual harassment, sexual assault (non-consensual sexual contact, and non-consensual sexual intercourse), domestic violence, dating violence, sexual exploitation, stalking, retaliation and intimidation. Additional terms that should be defined include:
 - **Consent.** At minimum, the definition should recognize that: consent is a voluntary agreement to engage in sexual activity; someone who is incapacitated cannot consent; past consent does not imply future consent; silence or an absence of resistance does not imply consent; consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another; consent can be withdrawn at any time; and coercion, force, or threat of either invalidates consent.

- **Incapacitation** (such as due to the use of drugs or alcohol, when a person is asleep or unconscious, or because of an intellectual or other disability that prevents the student from having the capacity to give consent).
- ✓ **Reporting policies and protocols**
 - Identify formal reporting options – e.g., criminal complaint, institutional complaint, report to “responsible employee,” including the Title IX coordinator. Explain how each option works and include contact information for the people to whom one can make a report.
 - Identify alternatives to reporting – e.g., privileged or confidential disclosures
 - Describe policies governing confidentiality:
 - Specify those employees to whom a student can disclose in confidence and those “responsible employees” who must report incidents to the Title IX coordinator. Consider particularly how the college will ensure that a student understands an employee’s reporting obligation before he or she reveals any information to that employee.
 - Describe what information will be kept confidential and what information may be disclosed, to whom it will be disclosed, and why.
 - Explain when the college may not be able to honor a student’s request that his/her name not be disclosed to the alleged perpetrator or that no investigatory or disciplinary action be taken. Identify the employee responsible for evaluating such requests.
 - Explain the college’s reporting obligations under the Clery Act.
 - Explain the process for third-party and anonymous reporting.
 - Ensure the policy prohibits retaliation against those who file a complaint or third-party report, or otherwise participate in the investigative and/or disciplinary process (e.g., as a witness), and explain that the college will take strong responsive action if retaliation occurs.
 - Describe when the college will grant amnesty from drug, alcohol or other conduct policies.
- ✓ **Investigation procedures and protocols**
 - Identify the Title IX Coordinator(s) and explain roles and responsibilities.
 - Identify who conducts the investigation and what an investigation might entail.
 - Specify a reasonably prompt time frame for conducting the investigation and resolving the complaint, as well as the process for extending the timeframe.
 - Explain the processes for preserving evidence.
 - Provide the respondent and complainant equitable rights during the investigative process.
 - Set forth parameters and clarify what information may and may not be shared during a parallel investigation with law enforcement (e.g., via an MOU with local law enforcement).
 - Explain that where necessary, the college will take immediate steps to protect complainants pending the final outcome of an investigation, including academic accommodations and other interim measures. These steps may include the ability to change housing or dining facilities; change work schedules; alter academic schedules; withdraw from/retake a class without penalty; access academic support such as tutoring; issue no contact orders; and change the alleged perpetrator’s living arrangements or course schedule.
 - Explain the college’s response if a victim’s request for confidentiality limits the college’s ability to investigate a particular matter. The college may take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Examples include: providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; revising and publicizing the college’s policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.
- ✓ **Grievance/adjudication procedures**
 - Explain the grievance/adjudication process, including: that mediation is never appropriate in sexual misconduct cases; that the preponderance-of-the-evidence standard will be used in Title

IX fact-finding and related proceedings; identify the adjudicators (the trained individuals who determine whether the alleged sexual misconduct occurred, the individuals who determine the sanction a process by which either party may raise issues related to potential conflicts of interest of such individuals, and the persons who may attend and/or participate in the adjudication process and the extent of that participation).

- Outline the rights and roles of both parties in the adjudication process, including: notice of hearing(s) to both parties; an opportunity for both parties to present witnesses and other evidence, including a description of the types of evidence that may or may not be presented, including but not limited to prohibiting questioning or evidence about the complainant's prior sexual conduct with anyone other than the alleged perpetrator clarifying that evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct if the college conducts a hearing, and generally allows for cross-examination, a description of alternative methods that preclude the respondent from personally cross-examining the complainant extension of any other rights given to the alleged perpetrator to the complainant.
 - Explain the possible results of the adjudication process, including: sanctions; remedies for the victim; and additional remedies for the college community.
 - Outline how parties will be informed of adjudication results (simultaneous written notice to parties of the outcome of the complaint and the option to appeal, if applicable; and a statement that the college will not require a party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent re-disclosure of information related to the outcome of the proceeding.
 - Describe the appellate procedures, if appeals are permitted (grounds for appeal, standards of review, the person/entity deciding appeals, and the applicable reasonably prompt time frames).
- ✓ **Prevention and Education:** Outline the college's approach to prevention, including type and frequency of prevention programming and educational/outreach activities. Include bystander intervention and programs to educate students about the college's sexual misconduct policies.
- ✓ **Training:** Outline how faculty and staff are trained and on what issues. At minimum, personnel to be trained includes the Title IX coordinator, law enforcement, "responsible employees," victim advocates, and anyone else who is involved in responding to, investigating or adjudicating sexual misconduct.

The task force notes that "the policy of each institution will vary in detail, specificity and components, reflecting differences in state or local legal requirements and each college's students, size, administrative structure, and what it has learned from past experiences." Despite this variation, the policy needs to comply with applicable federal, state and local laws and coordinate with other college policies and procedures. It should be published in formats that make it readily available everywhere, including to students with disabilities and English language learners, and widely publicized to the entire campus community. Mandatory training on the new policy should be provided to students and employees.

The following samples are included in this section:

- ✓ Sample Introduction to Sexual Misconduct Policy;
- ✓ Sample Policy Introduction;
- ✓ Sample Statement of Institutional Philosophy; and
- ✓ Sample Statement of Intent.

Sample Introduction to Sexual Misconduct Policy

(National Education for Higher Education Risk Management (NCHERM), *NCHERM Model Sexual Misconduct Policy*)

[Insert name of college] believes in a zero tolerance policy for sexual misconduct. Members of the *[insert name of college]* community, guests and *visitors have the right to be free from sexual violence. When an allegation of sexual* misconduct is brought to the administration, and a respondent is found to have violated this policy, serious sanctions will be used to ensure that such actions are never repeated. All members of the community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The *[insert name of college]* Sexual Misconduct Policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy has dual purposes. It serves as a measure for us to determine, after the fact, if behaviors trespass on community values. It also should serve as a guide for you on the expectations we have, preventatively, for sexual communication, sexual responsibility and sexual respect.

Sample Policy Introduction

(Adapted from SUNY Albany, Antioch College, and Norwich University, Inter-Campus Sexual Assault Task Force of Campus Action)

[Insert name of college] is committed to creating and maintaining a community in which all persons who participate in *[insert name of college]*'s programs and activities can work together in an atmosphere free of all forms of sexual assault, sexual harassment, exploitation, intimidation and violence.

Every member of the *[insert name of college]* community should be aware that all sexual contact and conduct on the campus and/or occurring with a member of the *[insert name of college]* community must be consensual. *[Insert name of college]* will not tolerate sexual assault, sexual harassment and any other form of nonconsensual behavior. Such behavior is prohibited both by State and Federal law and by *[insert name of college]* policy.

It is the intention of *[insert name of college]* to take whatever action may be needed to prevent, correct and, if necessary, sanction individuals who act in violation of this policy.

It is essential that students who are sexually assaulted receive proper medical treatment, legal advocacy and counseling support as soon as possible – if they so desire.

[Insert name of college] will also provide and maintain educational programs for all members of its community, some aspects of which are required. The educational aspects of this policy are intended to heighten community awareness and ultimately to prevent sexual offenses.

The implementation of this policy utilizes established *[insert name of college]* governance

structures and adheres to contractual obligations. This document will outline the procedures that will allow all members of the *[insert name of college]* community to be effective in providing victims of assault medical, psychological, educational and legal resources.

Sample Statement of Institutional Philosophy

(Adapted from Pennsylvania Coalition Against Rape, *Reconstructing Norms: Preventing Alcohol Related Sexual Assault on College Campuses*)

[Insert name of college] is committed to creating and maintaining a community in which all persons who participate in *[insert name of college]* programs and activities can work together in an atmosphere free of all forms of harassment, assault, exploitation, or intimidation, including that which is sexual in nature. Every member of the campus community should be aware that *[insert name of college]* does not tolerate sexual assault or sexual misconduct. Sexual assault is also prohibited both by state and federal law. It is the intention of *[insert name of college]* to take prompt and equitable action to prevent the reoccurrence of behaviors that violate this policy.

Sample Statement of Intent

(National Education for Higher Education Risk Management, *Creating a Proactive Campus Sexual Misconduct Policy*)

[Insert name of college] is a community of trust whose very existence depends on strict adherence to standards of conduct set by its members. Sexual misconduct is a crime punishable by both civil and criminal legal action and a serious violation of the *[insert name of college]* Standards Of Conduct. It will not be tolerated within our community. Students at *[insert name of college]* are charged with the responsibility of being familiar with and abiding by the standards of conduct set forth herein.

F5. REPORTING

Sample Reporting and Confidentiality Policy

The following sample policy is also provided by and available through NotAlone.gov (note some slight adaptation to the original):

The college encourages victims of sexual violence, domestic violence, dating violence and stalking to talk to somebody about what happened, so they can get the support they need, and so the college can respond appropriately. Different employees on campus have different abilities to maintain a victim's confidentiality.

- ✓ Some are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication."
- ✓ Other employees may talk to a victim in confidence, and generally only report to the college that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger a college investigation into an incident against the victim's wishes.
- ✓ Some employees are required to report all the details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX coordinator. A report to these employees (called

“responsible employees”) constitutes a report to the college – and generally obligates the college to investigate the incident and take appropriate steps to address the situation.

This policy is intended to make students aware of the various reporting and confidential disclosure options available to them, so they can make informed choices about where to turn should they become a victim of sexual violence and other forms of interpersonal violence. The college encourages victims to talk to someone identified in one or more of these groups.

The Options

A. Privileged and confidential communications

- ✓ **Professional and pastoral counselors:** Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the college community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without a victim’s permission.
- ✓ **Non-professional counselors and advocates:** Individuals who work or volunteer in the on-campus [list the offices that pertain to your college: sexual assault center, victim advocacy office, women’s center, health center], including front desk staff and students, can generally talk to a victim without revealing any personally identifying information about an incident to the college. A victim can seek assistance and support from these individuals without triggering a college investigation that could reveal the victim’s identity or that the victim has disclosed the incident.
- ✓ While maintaining a victim’s confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX coordinator. This limited report – which includes no information that would directly or indirectly identify the victim – helps keep the Title IX coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX coordinator, these individuals will consult with the victim to ensure that no personally identifying details are shared with the Title IX coordinator.
- ✓ A victim who speaks to a professional or non-professional counselor or advocate must understand that, if the victim wants to maintain confidentiality, the college will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.
- ✓ Even so, these counselors and advocates will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules.
- ✓ A victim who at first requests confidentiality may later decide to file a complaint with the college or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors and advocates will provide the victim with assistance if the victim wishes to do so.
- ✓ Note: While these professional and non-professional counselors and advocates may maintain a victim’s confidentiality vis-à-vis the college, they may have reporting or other obligations under state law. Also note: If the college determines that the alleged perpetrator(s) pose a serious and immediate threat to the college community, those college officials who are campus security authority under the Clery Act may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the victim.

B. Reporting to “responsible employees.”

- ✓ A “responsible employee” is a college employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. (NOTE to college: although some of the non-professional counselors and advocates described above could have responsibilities that would otherwise make them “responsible employees” for Title IX purposes, they need only report general,

non-personally identifying information to the Title IX coordinator, not the details of an incident. See U.S. Department of Education, Office for Civil Rights, *Questions and Answers on Title IX and Sexual Violence* (2014), E-3 which urging colleges to designate these individuals as confidential sources, and exempting them from detailed-reporting requirement.

- ✓ When a victim tells a responsible employee about an incident of sexual violence, the victim has the right to expect the college to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.
- ✓ A responsible employee must report to the Title IX coordinator all relevant details about the alleged sexual violence shared by the victim and that the College will need to determine what happened – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.
- ✓ To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College's response to the report. A responsible employee should not share information with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement. NOTE to college: Colleges may want to clarify the limitation on information-sharing in a memorandum of understanding with local law enforcement.
- ✓ Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee's reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources.
- ✓ If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the victim that the college will consider the request, but cannot guarantee that the college will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the coordinator of the victim's request for confidentiality.
- ✓ Responsible employees will not pressure a victim to request confidentiality, but will honor and support the victim's wishes, including for the college to fully investigate an incident. By the same token, responsible employees will not pressure a victim to make a full report if the victim is not ready to.

C. Requesting confidentiality: How the college will weigh the request and respond

- ✓ If a victim discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the college must weigh that request against the college's obligation to provide a safe, non-discriminatory environment for all students, including the victim.
- ✓ If the college honors the request for confidentiality, a victim must understand that the college's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.
- ✓ Although rare, there are times when the college may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students.
- ✓ When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, [name/position] will consider a range of factors, including the following: The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as: 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 victim or others; whether the sexual violence was committed by multiple perpetrators; whether the sexual violence was perpetrated with a weapon; whether the victim is a minor; whether the college possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence); whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.
- ✓ The presence of one or more of these factors could lead the college to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will likely respect the victim's request for confidentiality.

D. If the college determines that it cannot maintain a victim’s confidentiality, it will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College’s response.

- ✓ The college will remain ever mindful of the victim’s well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or College employees, will not be tolerated.
- ✓ The college will also: assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus (see portion of policy identifying these); provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and inform the victim of the right to report a crime to campus or local law enforcement – and provide the victim with assistance if the victim wishes to do so.
- ✓ The college may not require a victim to participate in any investigation or disciplinary proceeding.
- ✓ Because the college is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

E. If the college determines that it can respect a victim’s request for confidentiality, the college will also take immediate action as necessary to protect and assist the victim.

F. Miscellaneous

- ✓ **Anonymous reporting:** Although the college encourages victims to talk to someone, the college provides an online [or other system] for anonymous reporting. The system will notify the user (before s/he enters information) that entering personally identifying information may serve as notice to the College for the purpose of triggering an investigation.
- ✓ **Off-campus counselors and advocates:** Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the college unless the victim requests the disclosure and signs a consent or waiver form. Note: While these off-campus counselors and advocates may maintain a victim’s confidentiality vis-à-vis the College, they may have reporting or other obligations under state law.

The following samples are included in this section:

- ✓ Sample Policy Addressing Voluntary Confidential Reporting;
- ✓ Sample Policy on Confidentiality and Reporting;
- ✓ Sample Policy on Immediate Response to Sexual Misconduct;
- ✓ Sample Reporting Policy Including Confidential Reporting; and
- ✓ Sample Policy for Reporting Abuse of Minors.

If a campus has a policy on confidentiality and reporting, it is imperative that the definition of ‘confidentiality’ and any limitations be disclosed in that policy. For example, having a policy that states that strict confidentiality will be maintained when a sexual assault is reported while having a protocol that requires that staff report the victim’s name and the incident to campus security may appear to be disparate practices. Clear definitions enable victims to make informed choices regarding reporting.

Sample Policy Addressing Voluntary Confidential Reporting

(Adapted from U.S. Department of Education, *The Handbook for Campus Crime Reporting*)

If you are the victim of a crime and do not want to pursue action within the [insert name of college] system or the criminal justice system, you may still want to consider making a confidential report. With your permission, the Chief or a designee of [insert name of campus security/police department] can file a report on the details of the incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. With such information, [insert name of college] can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime with regard to a particular location, method or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crimes statistics for the institution. Your identifying information will not be disclosed and you will not be asked, expected, or pressured to continue reporting to any other agencies.

Sample Policy on Confidentiality and Reporting

(Adapted from National Education for Higher Education Risk Management (NCHERM), *NCHERM Model Sexual Misconduct Policy*)

Different people on campus have different reporting responsibilities, and different abilities to maintain your confidentiality, depending on their roles at the college.

When consulting campus resources, victims should be aware of confidentiality and mandatory reporting, in order to make informed choices. On campus, some resources may maintain your complete confidentiality, offering you options and advice without any obligation to tell anyone, unless you want them to. Other resources are expressly there for you to report crimes and policy violations, and they will take action when you report your victimization to them. Most resources on campus fall in the middle of these two extremes. Neither the college nor the law requires them to divulge private information that you share with them, except in extremely rare circumstances, described below. You may seek assistance from them without starting a chain of events that takes things out of your control, or violates your privacy.

To Report Confidentially

If you desire that details of the incident be kept confidential, you may speak with on-campus counselors, campus health service providers or off-campus rape crisis resources, who will maintain confidentiality. Campus counselors are available to help you free of charge, and can be seen on an emergency basis. In addition, you may speak on and off-campus with members of the clergy and chaplains, who will also keep reports made to them confidential.

Quasi-Confidential Reporting

You can seek advice from certain resources that are not required to tell anyone else your private, personally identifiable information unless there is cause for fear for your safety, or the safety of others. These resources include those without supervisory responsibility or remedial authority to address sexual misconduct, such as RAs, faculty members, advisors to student

organizations, career services staff, admissions officers, student activities personnel, local rape crisis centers, and many others. If you are unsure of someone's duties and ability to maintain your privacy, ask them before you talk to them. They will be able to tell you, and help you make decisions about who can help you best. Some of these resources, such as RAs, are instructed to share incident reports with their supervisors, but they do not share any personally identifiable information about your report unless you give permission, except in the rare event that the incident reveals a need to protect you or other members of the community such as cases where possibilities of homicide or suicide exist. If your personally identifiable information is shared, it will be shared with as few people as possible, and all efforts will be made to protect your confidentiality to the greatest extent. For more clarification on reporting options and confidentiality, you should contact your local rape crisis center at *[insert contact for local rape crisis center]* or the National Sexual Assault Hotline at 1-800-656-HOPE.

Non-Confidential Reporting Options

You are encouraged to speak to officials of the institution to make formal reports of incidents (deans, vice presidents, or other administrators with supervisory responsibilities, campus security and human resources). You have the right and can expect to have incidents of sexual misconduct to be taken seriously by *[insert name of college]* when formally reported, and to have those incidents investigated and properly resolved through administrative procedures. Formal reporting does not mean that your report won't be confidential, but it does mean that people who need to know will be told, and information will be shared as necessary with investigators, witnesses, and the accused. The circle of people will be kept as tight as possible, to preserve your rights and privacy.

Sample Policy on Immediate Responses to Sexual Misconduct

*(Adapted from Pennsylvania Coalition Against Rape, *Reconstructing Norms: Preventing Alcohol Related Sexual Assault on College Campuses*)*

The *[insert name of college]* recognizes that any decision to report a sexual assault and/or sexual misconduct to the police is the right of the victim/complainant. However, once an incident or complaint of sexual assault and/or sexual misconduct is reported to the *[insert title of appropriate person]*, he or she will inform the victim/complainant of the options of criminal prosecution, medical assistance, and use of this policy to file a complaint or report a sexual assault and/or sexual misconduct. The *[position responsible for handling sexual assault/misconduct reports]* will assist the victim/complainant with these contacts if requested. In addition, confidential counseling, support services, academic assistance, future security and alternative housing (for students) can be coordinated as appropriate.

Whether or not a victim chooses to initiate criminal charges, he/she retains the right to file a complaint through the student judicial system or employee grievance process. Once a report is made, the victim may not have the ability to withdraw the report or petition to stop the investigation. More information on reporting options and confidentiality can be obtained by contacting the local rape crisis center at *[insert contact information for the local rape crisis center]* or by calling the National Sexual Assault Hotline at 1-800-656-HOPE.

Sample Reporting Policy Including Confidential Reporting

(Adapted from College of Saint Rose, SUNY Albany, and Lawrence University)

All reports of sexual assault to *[insert name of college]* faculty, staff, advocates, support services, as well as to the local rape crisis center will be kept strictly confidential. At no point will the name of the victim be made public without the victim's consent. No details about the sexual assault, attempted sexual assault, or sexual harassment will be reported without the victim's consent.

If the crime is reported to the police, the name of the perpetrator and details of the crime may become public. However, the victim has a right not to make a report. The decision must be made by the victim.

1. The victim is may obtain immediate assistance from a local rape crisis center. Rape crisis center staff and volunteers are trained to help a victim review all of her/his options.
2. Sexual assault is a crime and the victim may report the incident to the community police.
3. The victim may also report all incidents of sexual assault to the *[insert name of appropriate college office]*, in order to receive help in accessing support services and in prosecuting the sex offender. However, there are many reasons that a person may choose not to report. The victim has a right not to make a report. The decision whether or not to report must be made by the victim. The victim's, decision will be respected by all members of *[insert name of college]*.

On campus, the victim can initiate *[insert name of college]*'s reporting process by contacting: *[insert name of appropriate offices, staff and organizations]*.

[Insert name of college] personnel, informed of a sexual assault, will seek the victim's consent to notify *[insert name of appropriate location]*.

The victim will be asked to fill out only one *[insert name of college]* intake form, detailing the incident. This is to relieve the burden of having to constantly repeat the incident to each new *[insert name of college]* office or service. Should the victim remember information related to the assault, this may be added to the original intake form at a later time. This form also will be kept confidential. Information could be used from the form in the process of reporting to the police, or at a judicial hearing; but will not be so used without the victim's consent.

[Insert title of appropriate person] will collect information from Campus Security, the Health Services, and the Counseling Services to compile the annual report to the campus showing how many students sought campus sexual assault related services.

Sample Policy for Reporting the Abuse of a Minor

(Adapted from NCHERM Model Policy on Reporting the Abuse of Minors on Campus)

In addition to state reporting mandates, all employees who become aware of or suspect child abuse, sexual abuse of minors, and/or criminal acts against minors will report that information to

Campus Security and [insert name/position on campus designated to report suspected cases of child abuse to Child Protective Services] immediately, and within not more than 48 hours. Clery Act reporting of offenses for statistical purposes occurs whether victims are minors or adults.

Alternate language for campuses without sworn law enforcement:

In compliance to state reporting mandates, all employees who become aware of or suspect child abuse, sexual abuse of minors, and/or criminal acts against minors will report that information to [insert name/position on campus designated to report suspected cases of child abuse to Child Protective Services] and a law enforcement agency immediately, and within not more than 48 hours. Clery Act reporting of offenses for statistical purposes occurs whether victims are minors or adults.

F6. RIGHTS OF VICTIMS AND OFFENDERS

The following sample policies and procedures are included in this section:

- ✓ Sample Rights of the Complainant;
 - ✓ Sample Rights of the Respondent;
 - ✓ Sample Statement of the Rights of the Accused; and
 - ✓ Sample Statement of the Rights of the Victim of the Reported Sexual Assault.
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Sample Rights of the Complainant

(Adapted from Pennsylvania Coalition Against Rape, *Reconstructing Norms: Preventing Alcohol Related Sexual Assault on College Campuses*)

Individuals pursuing a complaint of sexual assault and/or sexual misconduct who report their experience to [insert name of college] officials can anticipate that:

- ✓ All reports of sexual assault and/or sexual misconduct will be treated seriously. Complainants will be treated with confidentiality, sensitivity, dignity and respect and in a non-judgmental manner.
- ✓ Complainants may invite a support person to accompany them through all parts of [insert name of college] complaint resolution procedures.
- ✓ Complainants will be afforded the opportunity to request immediate on-campus housing relocation (for students), transfer of classes, or other steps to prevent unnecessary or unwanted contact or proximity to a respondent when possible.

The unrelated sexual history of the complainant is not considered relevant to the truth of the allegation; therefore, information regarding sexual history external to the relationship between the complainant and the respondent will not be considered in complaint resolution procedures.

Complainants may make a “victim impact statement” and suggest appropriate sanctions if the respondent is found in violation of the policy.

Sample Rights of Respondent

(Adapted from Pennsylvania Coalition Against Rape, *Reconstructing Norms: Preventing Alcohol Related Sexual Assault on College Campuses*)

An individual accused of sexual assault and/or sexual misconduct that is reported to **[insert name of college]** officials can anticipate that:

- ✓ All reports of sexual assault and/or sexual misconduct will be treated seriously.
- ✓ The respondent will be treated with confidentiality, sensitivity, dignity, respect, and in a nonjudgmental manner.
- ✓ The respondent may invite a support person to accompany him or her through all parts of **[insert name of college]** complaint resolution procedures.
- ✓ The unrelated sexual history of the respondent is not considered relevant to the truth of the allegation; therefore, information regarding sexual history external to the relationship between the complainant and the respondent will not be considered in complaint resolution procedures.

Statement of the Rights of the Accused

(Adapted from National Education for Higher Education Risk Management (NCHERM), *NCHERM Model Sexual Misconduct Policy*)

An individual accused of sexual assault and/or sexual misconduct that is reported to **[insert name of college]** officials will have:

- ✓ The right to investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to **[insert name of college]** administrators against the accused student;
- ✓ The right to be treated with respect by **[insert name of college]** officials;
- ✓ The right to be informed of and have access to campus resources for medical, counseling and advisory services;
- ✓ The right to be fully informed of the nature, rules and procedures of the campus conduct process and to timely written notice of all reported violations within the complaint, including the nature of the violation and possible sanctions;
- ✓ The right to a hearing on the complaint, including timely notice of the hearing date, and adequate time for preparation;
- ✓ The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing;
- ✓ The right to appeal the finding and sanction of the conduct body, in accordance with the standards for appeal established by the institution;
- ✓ The right to review all documentary evidence available regarding the complaint, subject to the confidentiality limitations imposed by state and federal law, at least 48 hours prior to the hearing;
- ✓ The right to be informed of the names of all witnesses who will be called to give testimony, within 48 hours of the hearing, except in cases where a witness' identity will not be revealed to the accused student for compelling safety reasons (this does not include the name of the alleged victim/complainant, which will always be revealed);
- ✓ The right to a hearing closed to the public;

- ✓ The right to petition that any member of the conduct body be removed on the basis of bias;
- ✓ The right to have [insert name of college] compel the presence of student, faculty and staff witnesses, and the right to ask questions, directly or indirectly, of witnesses, and the right to challenge documentary evidence;
- ✓ The right to have complaints heard by conduct officers who have received annual sexual misconduct adjudication training;
- ✓ The right to have [insert name of college] policies and procedures followed without material deviation;
- ✓ The right to have an advisor or advocate to accompany and assist in the campus hearing process—this advisor can be anyone, [optional: including an attorney, provided at the accused student's own cost], but the advisor may not take part directly in the hearing itself, though they may communicate with the accused student as necessary;
- ✓ The right to a fundamentally fair hearing;
- ✓ The right to a campus conduct outcome based solely on evidence presented during the conduct process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- ✓ The right to written notice of the outcome and sanction of the hearing;
- ✓ The right to a conduct panel comprised of representatives of both genders; and
- ✓ The right to be informed in advance, when possible, of any public release of information regarding the complaint.

Sample Statement of the Rights of the Victim of the Reported Sexual Assault

(Adapted from National Education for Higher Education Risk Management (NCHERM), *NCHERM Model Sexual Misconduct Policy*)

A victim of sexual assault and/or sexual misconduct that is reported to [insert name of college] officials will have:

- ✓ The right to investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to [insert name of college] administrators;
- ✓ The right to be treated with respect by [insert name of college] officials;
- ✓ The right of both accuser and accused to have the same opportunity to have others present (in support or advisory roles) during a campus disciplinary hearing;
- ✓ The right not to be discouraged by [insert name of college] officials from reporting an assault to both on-campus and off-campus authorities;
- ✓ The right to be informed of the outcome and sanction of any disciplinary hearing involving sexual assault, usually within 24 hours of the end of the conduct hearing;
- ✓ The right to be informed by [insert name of college] officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses. This also includes the right not to report, if this is the victim's desire;
- ✓ The right to be notified of available counseling, mental health or student services for victims of sexual assault, both on-campus and in the community;
- ✓ The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing;

- ✓ The right not to have any complaint of sexual assault mediated (as opposed to adjudicated);
- ✓ The right to make a victim-impact statement at the campus conduct proceeding and to have that statement considered by the board in determining its sanction;
- ✓ The right to a campus restraining order against another student who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complaining student or others;
- ✓ The right to have complaints of sexual misconduct responded to quickly and with sensitivity by campus law enforcement.
- ✓ The right to appeal the finding and sanction of the conduct body, in accordance with the standards for appeal established by the institution;
- ✓ The right to review all documentary evidence available regarding the complaint, subject to the confidentiality limitations imposed by state and federal law, at least 48 hours prior to the hearing;
- ✓ The right to be informed of the names of all witnesses who will be called to give testimony, within 48 hours of the hearing, except in cases where a witness' identity will not be revealed to the accused student for compelling safety reasons (this does not include the name of the alleged victim/complainant, which will always be revealed);
- ✓ The right to preservation of confidentiality, to the extent possible and allowed by law;
- ✓ The right to a hearing closed to the public;
- ✓ The right to petition that any member of the conduct body be removed on the basis of demonstrated bias;
- ✓ The right to bring a victim advocate or advisor to all phases of the investigation and campus conduct proceeding;
- ✓ The right to give testimony in a campus hearing by means other than being in the same room with the accused student (closed circuit live audio/video is the recommended method);
- ✓ The right to present relevant witnesses to the campus conduct body, including expert witnesses;
- ✓ The right to be fully informed of campus conduct rules and procedures as well as the nature and extent of all alleged violations contained within the complaint;
- ✓ The right to have *[insert name of college]* compel the presence of student, faculty and staff witnesses, and the right to ask questions, directly or indirectly, of witnesses (including the accused), and the right to challenge documentary evidence;
- ✓ The right to be present for all testimony given and evidence presented before the conduct body;
- ✓ The right to have complaints heard by conduct officers who have received annual sexual misconduct adjudication training;
- ✓ The right to a conduct panel comprised of representatives of both genders;
- ✓ the right to have *[insert name of college]* policies and procedures followed without material deviation;
- ✓ The right to be informed in advance of any public release of information regarding the complaint;
- ✓ The right not to have released to the public any personal information about the complainant, without his or her consent; and
- ✓ The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available (no formal campus or criminal complaint or

investigation need occur before this option is available). Accommodations may include:

- Change of an on-campus student's housing to a different on-campus location;
- Assistance from *[insert name of college]* support staff in completing the relocation;
- Arranging to dissolve a housing contract and pro-rating a refund;
- Exam (paper, assignment) rescheduling;
- Taking an incomplete in a class;
- Transferring class sections;
- Temporary withdrawal; and
- Alternative course completion options such as free tutoring, exam flexibility and other assistance to make it as easy as possible for the complainant to keep attending classes.

F7. SAFETY

The following sample is included in this section:

- ✓ Sample Policy on Safety Measures.

Every campus should have a clearly defined process for training campus security personnel on issues related to sexual assault, stalking and harassment. Training content should be clearly defined with a training schedule to ensure that each campus security worker receives initial training and ongoing continuing education. Given the differences in capacity and structure of security on each campus, the U.S. Department of Justice, Office on Violence Against Women (OVW) (http://www.ovw.usdoj.gov/campus_desc.htm) recommends that campus training incorporate as many of the following general topics as possible:

- ✓ Relevant federal and state laws;
- ✓ Jurisdictional issues;
- ✓ Confidentially issues;
- ✓ Risk assessment for victims;
- ✓ Understanding threat assessment;
- ✓ Crime scene preservation and evidence collection;
- ✓ Interviewing techniques for working with victims and avoiding "victim blaming;"
- ✓ Probable cause as it relates to violence against women cases;
- ✓ Review of the student code of conduct and judicial/disciplinary process on campus;
- ✓ Enforcing protection orders;
- ✓ Arrest protocols;
- ✓ Availability of local rape crisis center; including clarification of roles and responsibilities;
- ✓ Departmental decisions on how appropriately to handle victims who are facing issues of other violations in connection with their assault – such as underage consumption or marijuana and other illegal substance possession;
- ✓ Coordination between campus security personnel and campus health units or local hospitals working with Sexual Assault Forensic Examiner or Sexual Assault Nurse Examiner protocols;

- ✓ Issues surrounding cyberstalking as the misuse of campus computers/property – officers should be encouraged to be familiar with campus policies on computer use and what constitutes violations of the student conduct code;
 - ✓ How to document stalking violations by keeping notes, tracking phone calls, and collecting evidence to support the victim’s account of the incidences; and
 - ✓ Title IX compliance requirements.
-

Sample Policy on Safety Measures

(Adapted from the Campus Action Inter-Campus Sexual Assault Taskforce Conference)

1. All students, faculty and staff will be given a listing of on- and off-campus support services with names and numbers to contact. Such numbers will include the area rape crisis center, campus support groups, faculty members trained to assist in this situation and *[insert name of counseling center]*.
2. *[Insert name of college]* will maintain a blue light system on the campus. At each light, a phone will be directly connected to the campus security. Anytime the phone is picked up, a security guard will immediately respond. These phones will be accessible to those with disabilities, including a system for those with vision disabilities to be able to locate them. Phones will be widely placed throughout the entire campus, especially in areas that are not well lit. A map of the blue light phones will be distributed to all members of the college community. The phones and lights will have regular weekly checks to make sure they are in full working order.
3. There will be a campus police escort group available every night for any person requesting their services. The group members must be trained in self-defense and travel in pairs when escorting someone.
4. Escort services need to be provided for off-campus students as well. It will be the responsibility of two members of the group to ride the school buses to provide students an escort to their home for those who request such a service.
5. The campus will be lit at night, including paths in wooded and secluded areas. Lights will receive regular maintenance.
6. The campus security will provide regular patrolling, by foot and car to provide security for the campus community.
7. For the victim of a sexual assault, or a reported sexual assault, the following measures will be taken:
 - ✓ Moving the accused perpetrator to another dorm if the two reside in the same hall.
 - ✓ Providing protection, such as a bodyguard, or watch person, if the victim feels she/he is being stalked or harassed.

F8. SEXUAL HARASSMENT, SEXUAL EXPLOITATION, AND NONCONSENSUAL INTERCOURSE/CONTACT AND CONSENSUAL

RELATIONSHIPS

The following samples are included in this section:

- ✓ Sample Policy Expectations with Respect to Consensual Relationships;
 - ✓ Sample Policy on Nonconsensual Sexual Intercourse and Contact;
 - ✓ Policy on Effective Consent; and
 - ✓ Sample Policy on Sexual Harassment and Sexual Exploitation.
-

Sample Policy Expectations with Respect to Consensual Relationships

(Adapted from National Education for Higher Education Risk Management (NCHERM), *NCHERM Model Sexual Misconduct Policy*)

[*Insert name of college*] does not interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of [*insert name of college*]. For the personal protection of members of this community, faculty-student relationships are discouraged, generally. However, consensual romantic or sexual relationships in which one party retains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities. This includes resident assistants (RAs) and students over whom they have direct responsibility.

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student or supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent does not remove grounds for a charge of a violation of applicable parts of the faculty/staff handbooks.

Sample Policy on Nonconsensual Sexual Intercourse and Contact

(Adapted from National Education for Higher Education Risk Management (NCHERM), *NCHERM Model Sexual Misconduct Policy*)

- ✓ Nonconsensual sexual intercourse means any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person.

- ✓ Nonconsensual sexual contact means any intentional touching, either directly or through clothing, of the breasts, buttocks, anus or any part of the sex organs of another person, or intentional touching of any part of another person's body by the actor's sex organs, and the touching is done for the purpose of gratifying the sexual desire of either party.
- ✓ Nonconsensual sexual intrusion means any act between persons involving penetration, however slight, of the female sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party.

*Consent is informed, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity.

Consent to one form of sexual activity cannot imply consent to other forms of sexual activity.

Previous relationships or consent cannot imply consent to future sexual acts.

Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or other forms of coercion. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

In order to give effective consent, one must be of legal age.

If you have sexual activity with someone you know to be (or should know to be) mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), you are in violation of this policy. Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand the who, what, when, where, why or how of their sexual interaction.

- ✓ This policy also covers someone whose incapacity results from mental disability, sleep, involuntary physical restraint or from the taking of a drug. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc., is prohibited and administering one of these drugs to another student for the purpose of inducing incapacity is a violation of this policy. More information on these drugs can be found at <http://www.fris.org>.
- ✓ Use of alcohol or other drugs will never excuse behavior that violates this policy.

Sexual activity includes:

- ✓ Intentional contact with the breasts, buttock, groin or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact

with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

- ✓ Intercourse, however slight, meaning vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue or finger, and oral copulation.

Sanction Statement

Any student found responsible for violating the policy on Nonconsensual Sexual Contact (where no intercourse has occurred) will likely receive a sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations. Any student found responsible for violating the policy on Nonconsensual Sexual Intercourse will likely face a recommended sanction of suspension or expulsion*.

*The conduct body reserves the right to broaden or lessen any range of recommended sanctions in the complaint of serious mitigating circumstances or egregiously offensive behavior. Neither the initial hearing officers nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

Policy on Effective Consent

(Adapted from Wake Forest University Sexual Misconduct Policy)

The college's definition of sexual misconduct mandates that each participant obtains and gives effective consent in each instance of sexual activity (including but not limited to oral, anal, or vaginal sexual contact). Effective consent is informed, freely and actively given, mutually understandable words or actions, which indicate a willingness to participate in mutually agreed upon sexual activity. In the absence of mutually understandable words or actions it is the responsibility of the initiator, that is, the person who wants to engage in the specific sexual activity, to make sure that they have consent from their sexual partner(s). Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a mutually understandable agreement between them to do the same act, in the same way, at the same time, with each other. **Relying solely upon non-verbal communication can lead to miscommunication. It is important not to make assumptions. If confusion or ambiguity on the issue of consent arises anytime during the sexual interaction, the initiator should stop and verbally clarify the other individual's willingness to continue.**

- ✓ Consent may not be inferred from silence, passivity or lack of active resistance alone.
- ✓ A current or previous dating or sexual relationship (or the existence of such a relationship with anyone else) may not, in itself, be taken to imply consent.
- ✓ Consent cannot be implied by attire, or inferred from the buying of dinner or the spending of money on a date.
- ✓ Consent to one type of sexual act may not, in itself, be taken to imply consent to another type of sexual act.
- ✓ Consent expires. Consent lasts for a reasonable time, depending on the circumstances.
- ✓ Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly; upon clear communication, all sexual activity must cease.
- ✓ Consent which is obtained through the use of fraud or force, whether that force is physical force, threats, intimidation, or coercion, is ineffective consent. Intimidation or coercion is

determined by reference to the reasonable perception of a person found in the same or similar circumstances.

- ✓ Consent may never be given by:
 - Minors (under the age of 16 in West Virginia)
 - Persons with certain intellectual disabilities
 - Persons who are incapacitated as a result of alcohol or other drugs or who are unconscious or otherwise physically helpless. Incapacitation means that a person is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a controlled or intoxicating substance.
- ✓ One may not engage in sexual activity with another who one knows, or should reasonably have known, is incapacitated as a result of alcohol or other drugs.
- ✓ The use of alcohol or other drugs can have unintended consequences. Alcohol or other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and effectively given. The perspective of a reasonable person will be the basis for determining whether one should have known about the impact of the use of alcohol or drugs on another's ability to give consent. Being intoxicated or high does not diminish one's responsibility to obtain consent and is never an excuse for sexual misconduct.

Sample Policy on Sexual Harassment and Sexual Exploitation

(Adapted from National Education for Higher Education Risk Management (NCHERM), *NCHERM Model Sexual Misconduct Policy*)

Sexual Harassment

Gender-based verbal or physical conduct that unreasonably interferes with or deprives someone of educational access, benefits or opportunities.

Three Types of Sexual Harassment

1. Hostile environment sexual harassment includes any situation in which there is harassing conduct that is sufficiently severe, pervasive/persistent and patently/objectively offensive that alters the conditions of education or employment, from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint.

The determination of whether an environment is hostile must be based on all of the circumstances. These circumstances could include:

- ✓ The frequency of the conduct;
- ✓ The nature and severity of the conduct;
- ✓ Whether the conduct was physically threatening;
- ✓ Whether the conduct was humiliating;
- ✓ The effect of the conduct on the alleged victim's mental or emotional state;
- ✓ Whether the conduct was directed at more than one person;
- ✓ Whether the conduct arose in the context of other discriminatory conduct;
- ✓ Whether the conduct unreasonably interfered with the alleged victim's educational or work performance; or
- ✓ Whether the statement is a mere utterance of an epithet which engenders offense in an employee or student, or offends by mere discourtesy or rudeness: and

- ✓ Whether the speech or conduct deserves the protections of academic freedom.

2. Quid pro quo sexual harassment exists when there are:

- ✓ Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and
- ✓ Submission to or rejection of such conduct results in adverse educational or employment action.

3. Retaliatory harassment is any adverse employment or educational action taken against a person because of the person's participation in a complaint or investigation of discrimination or sexual misconduct.

Sexual Exploitation

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

- ✓ Prostituting another student;
- ✓ Nonconsensual video- or audio-taping of sexual activity;
- ✓ Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- ✓ Engaging in peeping or voyeuristic behaviors;
- ✓ Knowingly transmitting a sexually transmitted disease (STD) or HIV to another student.

The requirements of this policy are blind to the sexual orientation or preference of individuals engaging in sexual activity.

Sanction Statement

Any student found responsible for violating the policy on sexual exploitation or sexual harassment will likely receive a recommended sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations*.

*The conduct body reserves the right to broaden or lessen any range of recommended sanctions in the complaint of serious mitigating circumstances or egregiously offensive behavior. Neither the initial hearing officers nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

F9. SEX OFFENDER REGISTRATION

The following sample is included in this section:

- ✓ Sample Sexual Offender Registration.

Sample Sexual Offender Registration Policy

(U.S. Department of Education, *The Handbook for Campus Crime Reporting*)

In accordance to the "Campus Sex Crimes Prevention Act" of 2000, which amends the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, the Jeanne Clery Act and the Family Educational Rights and Privacy Act of 1974, *[insert name of college]* is providing a link to the West Virginia State Police Sex Offender Registry. This act requires institutions of higher education to issue a statement advising the campus community where law enforcement information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders already required to register in a State to provide notice of each institution of higher education in that State at which the person is employed, carries a vocation, or is a student. In West Virginia, convicted sex offenders must register with the Sex Offender Registry maintained by the West Virginia State Police

The West Virginia Sex Offender Registry is available via Internet pursuant to Section 15-12-2, (h), of the West Virginia Code. Registry information provided under this section shall be used for the purposes of the administration of criminal justice, screening of current or prospective employees, volunteers or otherwise for the protection of the public in general and children in particular. **Unlawful use of the information for purposes of intimidating or harassing another is prohibited and willful violation shall be punishable as a Class 1 misdemeanor.**

The West Virginia State Polices is responsible for maintaining this registry. Follow the link below to access the West Virginia State Police website.

<https://apps.wv.gov/StatePolice/SexOffender/Forms/>

F10. STALKING AND HARASSMENT

The following samples are included in this section:

- ✓ Sample Statement of Purpose;
- ✓ Sample Policy on Reporting Stalking;
- ✓ Sample Statement on Safety for Victims of Stalking; and
- ✓ Sample Statement on Cyberstalking and Cyberbullying.

In addition to strong policies against stalking and harassment, campuses should consider multiple options for remediation and employ a multifaceted approach. In addition to penalties like suspension or probation, campuses should also consider subsequently requiring violators of campus stalking policy to undergo counseling and behavior change intervention as these approaches have been shown effective in changing stalking behavior. More detailed information on stalking, harassment, cybercrimes, and West Virginia state law can be found in Section B. What You Need to Know. If you would like more detailed information on these issues, please refer to www.fris.org.

Sample Statement of Purpose

(Adapted from CALCASA/The National Center for Victims of Crime/Stalking Resource Center, *Model*

[*Insert name of college*] is determined to provide a campus environment free of violence for all members of the campus community. For this reason, [*insert name of college*] does not tolerate stalking or harassment, and will sanction those found guilty to the fullest extent possible.

[*Insert name of college*] is also committed to supporting victims of stalking or harassment through the appropriate provision of safety and support services. This policy applies to all students, employees, faculty and staff of [*insert name of college*].

Incidents of stalking and harassment are occurring at an alarming rate on the nation's college campuses. They are crimes that happens to men and women of all races/ethnicities, religions, ages, abilities, sexual orientations, and sexual identities. These crimes can affect every aspect of a victim's life. Harassment often begins with phone calls, emails, social networking posts and/or letters, and can escalate to stalking and even violence.

National and local data include the following statistics:

- ✓ Fill in national data; and
- ✓ Fill in any local data on stalking and harassment (if college data is not available, consider using any local or state data).

Stalking and harassment are crimes in West Virginia and are subject to criminal prosecution. Students perpetrating such acts of violence will be subject to disciplinary action through the [*insert name of college*] Office of Judicial Affairs (or appropriate division office). This can include expulsion from [*insert name of college*] and/or criminal prosecution simultaneously.

Sample Policy on Reporting Stalking or Harassment

(Adapted from CALCASA/The National Center for Victims of Crime/Stalking Resource Center, *Model Campus Stalking Policy*)

[*Insert your campus procedure for reporting stalking and harassment here*]

[*Insert name of college*] encourages reporting of all incidents of stalking or harassment to law enforcement authorities, and respects that whether or not to report to the police is a decision that the victim needs to make. Advocates at your local rape crisis center are available at [*insert name/contact information for local center*]. Additionally [*insert campus services*] can provide assistance if you are being stalked or harassed. These resources can also inform you of your legal options.

In certain instances, [*insert name of college*] may need to report an incident to [*insert appropriate person/agency here*]. Such circumstances may include any incidents that warrant the undertaking of additional safety and security measures for the protection of the victim and the campus community or other situations in which there is clear and imminent danger, and when a weapon may be involved. However, it is crucial in these circumstances to consult with supervisory staff and/or [*insert appropriate person/agency here*], to ensure the safety of the

victim. *[Insert name of campus counseling/mental health center]* is the only fully confidential reporting site on campus.

Safety for Victims of Stalking or Harassment

[Insert name of college] is committed to supporting victims of stalking and harassment by providing the necessary safety and support services. Student victims of stalking or harassment may be entitled to reasonable accommodations. Due to the complex nature of this problem, the student victim may need additional assistance in obtaining one or more of the following:

- ✓ No-contact order;
- ✓ Services of a victim advocate;
- ✓ Witness impact statement;
- ✓ Change in an academic schedule;
- ✓ Provision of alternative housing opportunities;
- ✓ The imposition of an interim suspension on the accused; and
- ✓ The provision of resources for medical and/or psychological support.

For assistance obtaining these safety accommodations, please contact *[insert appropriate office/ person here]*.

If safety is an immediate concern, victims are encouraged to call 911 or campus law enforcement at *[contact information]* for assistance.

Sample Statement on Cyberstalking and Cyberharassment

(Adapted from Clarion University Statement on Social Media)

[Insert name of college] addresses cyberstalking and cyberbullying as forms of harassment and/or discrimination. It is important that students report being harassed so investigations can occur, talk about options and students' rights, as well as be provided with on or off campus resources as needed.

Reducing Your Risk

Although no prevention strategy is 100% effective, following basic safety measures can help reduce your risk of being a victim of cyberstalking or cyberharassment. For example:

- ✓ Never post or share your personal information online (this includes your full name, address, telephone number, school name, credit card number, or Social Security number) or your friends' personal information.
- ✓ Never share your Internet passwords.
- ✓ Never meet alone with anyone face-to-face whom you only know online or provide your home address for that initial meeting. Practice caution when meeting for the first time someone whom you only know online. Meet in a public place, rely on your own transportation, and meet in a group. Recognize that trust needs to be established over time.

F11. STUDENT EDUCATION/PREVENTION

The following samples are included in this section:

- Sample Policy Addressing Security Awareness Programs
- Sample Policy on Sexual Misconduct Education

In addition to ensuring full compliance with Title IX, schools should take proactive measures to prevent sexual harassment and violence. OCR recommends that all schools implement preventive education programs and make victim resources, including comprehensive victim services, available. Schools may want to include these education programs in their (1) orientation programs for new students, faculty, staff, and employees; (2) training for students who serve as advisors in residence halls; (3) training for student athletes and coaches; and (4) school assemblies and “back to school nights.” These programs should include a discussion of what constitutes sexual harassment and sexual violence, the school’s policies and disciplinary procedures, and the consequences of violating these policies.

The education programs also should include information aimed at encouraging students to report incidents of sexual violence to the appropriate school and law enforcement authorities. Schools should be aware that victims or third parties may be deterred from reporting incidents in alcohol, drugs, or other violations of school or campus rules were involved. As a result, schools should consider whether their disciplinary policies have a chilling effect on victims’ or other students’ of sexual violence offenses. For example, OCR recommends that schools inform students that the schools’ primary concern is student safety, that any other rules violations will be addressed separately from the sexual violence allegation, and that use of alcohol or drugs never makes the victim at fault for sexual violence.

OCR also recommends that schools develop sexual violence materials that include the schools’ policies, rules, and resources for students, faculty, coaches, and administrators. Schools also should include such information in their employee handbook and any handbooks that student athletes and members of student activity groups receive. These materials should include where and to whom students should go if they are victims of sexual violence. These materials also should tell students and school employees what to do if they learn of an incident of sexual violence. Schools also should assess student activities regularly to ensure that the practices and behavior of students do not violate the schools’ policies against sexual harassment and sexual violence.

Note: *Reconstructing Norms* is a resource that provides specific training curricula for male students, female students, faculty, staff, campus security and healthcare staff with up to date information specific to West Virginia. *Reconstructing Norms* may be accessed at www.fris.org.

Promoting Awareness of the College Transition (PACT) is a resource that is designed to address the dangers of sexual and relationship violence, particularly for students transitioning from high school to college. *PACT* may be accessed at www.fris.org.

Sample Policy Addressing Security Awareness Programs

(Adapted from U.S. Department of Education, *The Handbook for Campus Crime Reporting*)

All new incoming students, regardless of their time of enrollment, will receive an orientation during which they will be informed of services offered by the *[insert name of police/security department]*. Orientation staff will utilize a variety of presentation materials that outline ways to maintain personal safety and residence hall security. Students will be informed about crime on campus and in surrounding areas. Similar information is presented to all new faculty and staff as well as for any groups (such as youth camps) that are residential. Crime prevention programs and sexual assault prevention programs are offered on a continual basis.

Periodically during the academic year the *[insert name of police/security department]*, in cooperation with other campus-wide organizations and departments, present crime prevention awareness sessions on sexual assault (rape and acquaintance rape) drug-facilitated sexual assault, theft and vandalism, as well as educational sessions on personal safety and residence hall security.

A common theme of all awareness and crime prevention programs is to encourage students and employees to be aware of their own safety and the safety of others.

In addition to seminars, information is disseminated to students and employees through crime prevention awareness packets, security alert posters, displays, videos and articles and advertisements in college and student newspapers.

When time is of the essence, information is released to the campus community through security alerts posted prominently throughout campus, through computer memos sent over the campus electronic mail system and a voice mail broadcasting system.

Sample Policy on Sexual Misconduct Education

(Adapted from The College of St. Rose, Oberlin College and Antioch College, Campus Action Inter-Campus Sexual Assault Taskforce)

1. *[Insert title of position]* will be responsible for campus-wide education programs regarding sexual offenses, including orientation for incoming students, mandatory workshops for all students, faculty and staff training, the training of the Peer Advocacy Group, and training of Sexual Offense Hearing panels. Potential topics could include:

- ✓ Sexual assault and sexual abuse;
- ✓ Relationship/dating violence;
- ✓ Sexual harassment;
- ✓ Stalking;
- ✓ Alcohol, drugs and sexual assault; including information on drugs used to facilitate rape; and
- ✓ Bystander intervention.

2. All faculty, staff, campus security personnel, health services personnel, and campus residence staff will receive training on sexual assault and relationship violence prevention including, but not limited to *[insert name of college]* policies, responding to and reporting sexual

assault and sexual harassment, victim resources, responding to victim's emotional needs and appropriate responses to disclosures of victimization. Training will be conducted, when possible, in conjunction with representatives from the local rape crisis center. Faculty will also be provided with up to date print resources on these topics annually.

3. An information packet will be distributed to each student at the beginning of each year. It will include:

- ✓ An overview of sexual assault, sexual violence, and sexual harassment;
- ✓ A copy of the campus policy on sexual misconduct;
- ✓ A description of campus and off-campus sexual assault support services; a description of campus safety measures;
- ✓ Risk reduction tips;
- ✓ Information on how to report sexual harassment and assault; and
- ✓ Campus Title IX responsibilities and Title IX coordinator information

4. Sexual assault prevention education will be provided at orientation for all incoming students.

5. Also, supplemental risk reduction workshops will be held in each dorm, each semester. Workshops for students on sexual offenses will be offered by the *[insert name of office]*. Participation in these workshops will be required for graduation. These workshops will be offered each semester, and attendance will be taken during each session to ensure proper credit. Students will need to take at least one workshop each year at *[insert name of college]*, in order to graduate.

Topics for these workshops will include, but not be limited to:

- ✓ Role plays addressing consent;
- ✓ Dispelling the myths of sexual assault;
- ✓ Risk reduction; and
- ✓ Bystander intervention.