



E. 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].

E1. 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.

E2. 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.

E3. 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;
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- ✓ 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.

E4. SEXUAL MISCONDUCT POLICY INTRODUCTION FOR COLLEGE CAMPUSES

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.

E5. REPORTING

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.

E6. 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.

E7. 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.

E8. 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.
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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.

E9. SEX OFFENDER REGISTRATION

The following sample is included in this section:

- ✓ Sample Sexual Offender Registration.
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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/>

E10. 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 Campus Stalking Policy*)

[*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.

E11. 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.