



POLICY MANUAL

VOLUME II

Community Policies

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Volume II Community Policies

2.0 Introduction

Volume II of the *Davis & Elkins College Policy Manual* outlines the College's community policies, procedures, and programs. The volume does not create an expressed or implied contract.

While Davis & Elkins College has made this edition of Volume II of the *Davis & Elkins College Policy Manual* as comprehensive as possible, it is not possible to foresee every situation that may occur. Therefore, the appropriate administrator will handle circumstances not specifically addressed in the *Davis & Elkins College Policy Manual* on a case-by-case basis.

As Davis & Elkins College continues to grow, the need may arise to improve, modify, revise, supplement, or rescind, suspend, terminate, or change policies, procedures, programs, or portions of this volume. Additionally, national and state laws affecting Davis & Elkins College operations may require changes to the volume. Therefore, Davis & Elkins College reserves the right to make any changes at its sole and absolute discretion as deemed necessary and the campus community may receive updated information concerning these changes from time to time.

2.1 General Institutional Policies

2.1.1 *Equal Opportunity and Discrimination and Harassment Policies*

2.1.1.1 Equal Opportunity and Non-Discrimination Statement

Davis & Elkins College, in compliance with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the West Virginia Human Rights Act is an equal opportunity institution that does not discriminate on the basis of race, color, sex, including sexual and gender-based harassment, assault, and violence, religion, ancestry, national origin, age, sexual orientation, disability, veteran status, gender identification, or genetic information or any other characteristic protected by federal, state or local law. This policy applies to all terms and conditions of employment, admission to and enrollment with the College, including, but not limited to, recruitment, selection, hiring, placement, transfer, promotion, training, compensation, benefits, discipline, termination, educational policies, admission policies, financial aid, scholarship and loan programs, housing, athletic and other College-administered programs and activities. For inquiries regarding Title IX and/or 504 compliance and/or the filing of a complaint, contact the College's Title IX/Section 504 Coordinator or Deputy Coordinators using the information below or by filing a report online at <http://www.dewv.edu/form/title-ix-incident-report-form>.

Davis & Elkins College Title IX/Section 504 Coordinators

Bruce Blankenship

Title IX Coordinator
Scholar's Room, Booth Library, 3rd Floor
Office: (304) 637-1244
detitleix@dewv.edu

Kate Garlick

Dean of Students
Deputy Title IX Coordinator
Liberal Arts Hall 102
Office: (304) 637-1241 | Cell: (304) 276-2033
garlickk@dewv.edu

Jane Corey

Deputy Title IX Coordinator
Director of Human Services
Liberal Arts Hall, Room 203
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Head Swim Coach, Director of Aquatics & Fitness, Senior Woman Advisor
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Mary Jo DeJoice

Director of Booth Library
Section 504 Coordinator
Booth Library
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dejoicem@dewv.edu

Under the supervision of the Title IX Coordinator, with assistance of the deputies and their expertise and oversight over the different areas of campus, Davis & Elkins College will investigate and remedy all reports of discrimination and harassment in accordance with the College's Gender-based Discrimination, Harassment, and Sexual Misconduct Policy or the Discrimination and Harassment Policy. Questions may also be directed to:

Office of Civil Rights
Department of Education Building
400 Maryland Ave, SW
Washington, DC 20202
(800) 421- 3481

2.1.1.2 Non- Discrimination and Harassment Policies

I. Introduction

The mission of Davis & Elkins College is to prepare and inspire students for success and for thoughtful engagement in the world. To that end, the College is committed to maintaining a healthy and safe learning, living, and working environment that promotes responsibility and respect among all members and guests of the campus community and where no one is unlawfully excluded from participation in, denied the benefits of, or subjected to discrimination in any College program or activity on the basis of race, color, gender, sex, sexual orientation, sexual identity, gender identity, gender expression, religion, ancestry, national origin, age, disability, veteran status, genetic information or any other characteristic protected by federal, state or local law.

In support of its commitment to provide an educational and working environment free from unlawful discrimination and harassment, Davis & Elkins College has adopted the following policies:

- **Sexual and Gender-Based Misconduct Policy:** In compliance with Title IX of the Educational Amendments of 1972, the Violence Against Women Act as reauthorized by the Campus SaVE Act and other applicable federal and state laws, Davis & Elkins has adopted a [Policy Prohibiting Title IX Sexual Harassment](#) that includes student and employee specific reporting and grievance procedures to ensure the prompt and equitable resolution of complaints alleging any form of unlawful sex or gender based discrimination or harassment. The College's Gender-Based Discrimination, Harassment and Sexual Misconduct Policy specifically addresses incidents of Sexual Harassment, Hostile Environment caused by Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Sexual Exploitation, and Stalking.
- **Non-Discrimination and Harassment Policy:** In addition, Davis & Elkins College has adopted this Non-Discrimination and Harassment Policy to ensure a prompt and equitable resolution of all discrimination and harassment complaints not involving unlawful sex or gender discrimination or harassment.

II. Policy Statement

Davis & Elkins College is an equal opportunity institution that does not discriminate on the basis of race, color, religion, sex, sexual orientation, sexual identity, gender, gender expression, or gender identity, age, national origin, ancestry, citizenship, disability, gender related status, pregnancy, genetic disposition, veteran or military status, marital status, familial status or any other legally protected characteristic in accordance with federal and West Virginia State law (“Protected Characteristic”). It is therefore a violation of Davis & Elkins College policy to discriminate in the provision of educational or employment opportunities, benefits, programs, activities, or privileges; to create discriminatory work or academic conditions; or to use discriminatory evaluative standards in employment or educational settings if the basis of that discriminatory treatment is, in whole or part, based upon protected characteristic as established by this policy or law.

A. Applicable Laws

The College complies with all applicable state and federal laws prohibiting unlawful discrimination and harassment, including, but not limited to:

- Titles VI and VII of the Civil Rights Act of 1964;
- Title IX of the Educational Amendments of 1972;
- Section 504 of the Rehabilitation Act of 1973;
- The Americans with Disabilities Act of 1990;
- The West Virginia Human Rights Act;
- The Pregnancy Discrimination Act;
- The Equal Pay Act of 1963 (EPA);
- The Age Discrimination in Employment Act of 1967 (ADEA);
- The Age Discrimination Act of 1975;
- Titles I and V of the Americans with Disabilities Act of 1990 (ADA);
- Sections 102 and 103 of the Civil Rights Act of 1991;
- Sections 501 and 505 of the Rehabilitation Act of 1973;
- The Genetic Information Nondiscrimination Act of 2008 (GINA);
- The Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended; and
- Any other applicable federal, state, or local law addressing nondiscrimination and/or equal employment opportunity.

B. Scope of Policy

The College's non-discrimination and harassment policy applies to all Davis & Elkins College students, faculty, staff, volunteers, visitors, and other members of the Davis & Elkins College community, as well as to applicants, contractors, consultants, and vendors while doing business or providing services to the College ("Third Parties"). Moreover, the College's prohibition against unlawful Discrimination, Harassment and Retaliation applies to all terms and conditions of employment, admission to and enrollment with the College, including, but not limited to, recruitment, selection, hiring, placement, transfer, promotion, training, compensation, benefits, discipline, termination, educational policies, admission policies, financial aid, scholarship and loan programs, housing, athletic and other College-administered programs and activities.

C. Coordination with the College's Gender-Based Discrimination, Harassment and Sexual Misconduct Policy

The College's [Policy Prohibiting Title IX Sexual Harassment](#) that specifically address incidents of Sexual Harassment, Hostile Environment caused by Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Sexual Exploitation, and Stalking. When misconduct relates to both a person's gender related status and other protected characteristics, the College will coordinate the investigation and resolution efforts by following the process set forth in the Gender-Based Discrimination, Harassment and Sexual Misconduct Policy to address any and all harassment and discrimination. When the alleged misconduct relates to any other Protected Characteristic, the College's investigation and resolution efforts will be guided by this Policy.

D. Points of Contact

Inquiries concerning all forms of unlawful discrimination, harassment and retaliation, including but not limited to incidents of discrimination and harassment on the basis of sex and gender, may be referred to the Davis & Elkins College's Title IX or Deputy Coordinator (or to the [U.S. Department of Education's Office for Civil Rights](#)). In addition, individuals may contact any of the College's designated Deputy Title IX Coordinators with inquiries concerning all forms of unlawful Discrimination, Harassment and Retaliation:

Bruce Blankenship

Title IX Coordinator

Scholar's Room, Booth Library, 3rd Floor

Office: (304) 637-1244

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Section 504 Coordinator
Booth Library
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The Title IX Coordinator and Title IX Deputy Coordinators may be contacted in any of the following manners:

- Filing a complaint on the Incident Form, which is available on the Davis & Elkins College website at <https://secure.dewv.edu/form/incident-report-form>
- Leaving a private voice message for the Title IX Coordinator or a Title IX Deputy Coordinator;
- Sending an email to the Title IX Coordinator or a Title IX Deputy Coordinator;
- Mailing a letter to the Title IX Coordinator or a Title IX Deputy Coordinator; or
- Visiting in person the Title IX Coordinator or a Title IX Deputy Coordinator.

In addition, the Campus Conduct Hotline at 866-943-5787 may be utilized.

III. Confidentiality and Prohibition Against Retaliation

The College will treat all information submitted in connection with a report of unlawful discrimination, harassment or retaliation as confidential. Subject to FERPA and other applicable privacy laws, however, the College official investigating the complaint will inform individuals with a legitimate need to know of the grievance and may provide them related information as necessary to allow the College official to conduct a meaningful and thorough investigation. The

College official investigating the complaint will inform all involved parties of the need to maintain the confidentiality of such information.

Davis & Elkins College strictly prohibits any retaliation against any individual for reporting, providing information, exercising one's rights or responsibilities under this Policy, or otherwise being involved in the process of responding to, investigating, or addressing allegations of discrimination or harassment. Therefore, any retaliation, intimidation, threats, coercion, or discrimination against any such individual will be addressed in the most serious way by the College, and individuals who engage in such actions are subject to disciplinary action that may include suspension, exclusion, or dismissal from the College. Anyone who is aware of possible Retaliation or has other concerns regarding the response to a complaint of Discrimination or Harassment should report such concerns to the Title IX Coordinator or a Deputy Title IX Coordinator, who will take appropriate actions to address such conduct in a prompt and equitable manner.

IV. Definitions

A. Discrimination, Harassment and Retaliation

For purposes of this Policy, unlawful discrimination, harassment and retaliation is defined to include the following:

Discrimination: Discrimination is defined as conduct that is based upon an individual's basis of race, color, religion, sex, sexual orientation, sexual identity, gender, gender expression, or gender identity, age, national origin, ancestry, citizenship, disability, gender related status, pregnancy, genetic disposition, veteran or military status, marital status, familial status or any other legally protected characteristic in accordance with federal and West Virginia State law that is so severe, persistent or pervasive that it excludes an individual from participation in, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, or participation in a Davis & Elkins College program or activity.

Listed below are examples of conduct that can constitute discrimination if based on an individual's protected characteristic. This list is not all-inclusive; in addition, each situation will be considered in light of the specific facts and circumstances to determine if Discrimination has occurred.

- Singling out or targeting an individual for different or adverse treatment (e.g., more severe discipline, lower salary increase) because of his or her actual or perceived protected characteristic.
- Failing or refusing to hire or admit an individual because of his/her actual or perceived protected characteristic.
- Terminating an individual from employment or an educational program or activity based on his/her actual or perceived protected characteristic.

Other Forms of Discrimination: In addition to the above, the following acts of discrimination are prohibited by this policy:

- Causing physical harm, verbal abusing, intimidating or engaging in other conduct that threatens the health or safety of any member of the College community based on his or her actual or perceived protected characteristic.
- Hazing (defined as acts likely to cause physical or psychological harm or social exclusion or humiliation) any member of the College community based on his or her actual or perceived protected characteristic.
- Bullying (defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or degrade another person physically or mentally) any member of the College community based on his or her actual or perceived protected characteristic.

Hostile Environment Harassment: Hostile Environment Harassment is defined as the unlawful harassment of an individual or group on the basis of their race, color, religion, sex, sexual orientation, sexual identity, gender, gender expression, or gender identity, age, national origin, ancestry, citizenship, disability, gender related status, pregnancy, genetic disposition, veteran or military status, marital status, familial status or any other legally protected characteristic in accordance with federal and West Virginia State law when the conduct is either:

- Sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit the individual's ability to participate in or benefit from the College's programs or activities; or
- The conduct has the purpose or effect of unreasonably interfering with an individual's employment or education.

The determination of whether an environment is "hostile" must be based on all the criteria listed above, giving consideration to whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Also, the following factors will be considered:

- The degree to which the conduct affected one or more individual's education, employment, or contractual agreement with the College.;
- The nature, scope, frequency, duration, severity, and location of incident or incidents; and
- The identity, number, and relationships of persons involved.

A single or isolated incident of Hostile Environment Harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to provide a hostile environment, particularly if the harassment is physical in nature.

Retaliation: Retaliation is defined as taking adverse action against an individual making a complaint under this Policy or against any person cooperating in the investigation of a complaint under this Policy. Retaliation includes intimidation, threats, harassment, and other adverse action including adverse job action and adverse academic action against any such reported victim or third party.

Intimidation: Intimidation is defined as implied threats or acts that cause an unreasonable fear of harm in another.

B. Other Definitions

Assigned Title IX Coordinator: The “Assigned Title IX Coordinator” means either the Title IX Coordinator or the Deputy Title IX Coordinator assigned by the Title IX Coordinator to handle a given Complaint.

Day. A “day” is a business day, unless otherwise specified.

Employee: For purposes of this Policy, an employee is any member of the faculty or staff employed by Davis & Elkins on either a full or part-time basis. Solely for purposes of this definition, the term “employee of the College” does not include students who are employed by the College through a work-study or similar program.

Investigator means the person tasked with investigating a report of unlawful Discrimination, Harassment or Retaliation. Investigators shall receive training annually on such issues as the laws governing Discrimination, Harassment and Retaliation; Student and witness privacy rights; and the Family Educational Rights and Privacy Act of 1974 (FERPA). The Investigator shall not be within the administrative control or authority of any employee Respondent.

Personally Identifiable Information. “Personally Identifiable Information” (as that term is defined by FERPA) includes, but is not limited to:

- A student's name;
- The name of a student's parent(s) or other family members;
- The address of a student or a student's family;
- A personal identifier, such as a student's Social Security number, student number, or biometric record;
- Other indirect identifiers, such as a student's date of birth, place of birth, or mother's maiden name;
- Other information that, alone or in combination, is linked or linkable to a specific student and that would allow a reasonable person in the College community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or,
- Information requested by a person whom the College reasonably believes knows the identity of the student to whom the education record relates.

Preponderance of Evidence: Preponderance of evidence is the required standard for determining a policy violation. Administrators charged with rendering a decision regarding policy violations must be convinced, based on the information provided, that a policy violation was more likely to have occurred than not to have occurred in order to find a respondent responsible for violating a policy.

Reported Victim: Any currently enrolled student or candidate for admission, current employee, candidate for employment, or third party to the College who believes they experienced unlawful discrimination, harassment or retaliation and has reported the incident to the College.

Reporting Party: Any currently enrolled student or candidate for admission, current employee, candidate for employment, or third party to the College who has information that discrimination, harassment or retaliation may have been committed by a College student, employee, third Party or a participant in a College program or activity.

Respondent: An individual who has been accused in a formal complaint of committing unlawful discrimination, harassment and/or retaliation in violation of this Policy.

Student: Any individual who is not an employee of the College and who, at the time of the alleged misconduct and the filing of a report or complaint to the College, is either: (1) admitted as a student to the College and has been moved to deposited status (2) an enrolled student (includes students auditing courses); (3) a Davis & Elkins student between academic terms or on a Leave of Absence; (4) a graduate awaiting a degree (note: students are classified as such until they receive their degree; students who petition the College to complete their degree via distance or some other arrangement forfeit their student status if they do not complete their degree during the period of time specified in their agreement with the College); or (5) a Davis & Elkins student who withdraws from the College while a disciplinary matter (including an investigation) is pending. A student ceases to be a student when they graduate; in the event that they are expelled for academic or conduct reasons; or in the event that the student formally withdraws from the College and there is no pending disciplinary investigation. Solely for purposes of this definition, the term “employee of the College” does not include students who are employed by the College through a work-study or similar program.

Third Party: A third party is any guest of the College; alumnus or alumna; volunteer; or contractor, consultant, or vendor doing business or providing services to the College.

Title IX Coordinator & Deputy Title IX Coordinators: The Title IX Coordinator means the Davis & Elkins employee assigned by the President to coordinate the College’s compliance with state and federal laws prohibiting discrimination, harassment and retaliation based on a protected characteristic. The Deputy Title IX Coordinators work under the oversight of the Title IX Coordinator to assist with the handling of reports alleging unlawful discrimination, harassment and/or retaliation in violation of this Policy. The Title IX Coordinator may, at his or her discretion, designate one of the Deputy Title IX Coordinators as the Assigned Title IX Coordinator in connection with a given report.

V. Reporting Incidents of Unlawful Discrimination, Harassment or Retaliation to the College

Davis & Elkins College encourages all individuals to report incidents of unlawful discrimination, harassment, or retaliation to the appropriate individuals at the College via the reporting options below.

A report may be made by:

- Any currently enrolled student or candidate for admission, current employee, candidate for employment, or third party to the College who believes they experienced discrimination,

harassment or retaliation in a program or activity sponsored by the College (a “Reported Victim”); or

- Any currently enrolled student or candidate for admission, current employee, candidate for employment, or third party to the College who has information that discrimination, harassment or retaliation may have been committed by a College student, employee, third party or a participant in a College program or activity (a “Reporting Party”).

If a reported victim chooses not to participate in the College review of the report, the College may pursue the report without that person’s participation. Moreover, if information about unlawful harassment, discrimination or associated incidents of retaliation comes to the attention of the College, Davis & Elkins may start an investigation even in the absence of a filed report.

Upon receipt of a report, the matter will be referred to the appropriate Coordinator, who will review the facts and implement interim measures, if necessary, to provide for the safety of the reported victim and the College community.

A. How to Report

A report may be made to the Title IX Coordinator or any of the Deputy Title IX Coordinators, regardless of whether individual making the report is a student, employee, or third party:

Davis & Elkins College Title IX Coordinator

Bruce Blankenship

Title IX Coordinator

Scholar’s Room, Booth Library, 3rd Floor

Office: (304) 637-1244

detitleix@dewv.edu

Kate Garlick

Dean of Students

Deputy Title IX Coordinator

Liberal Arts Hall 102

Office: (304) 637-1241 | Cell: (304) 276-2033

garlickk@dewv.edu

Jane Corey

Deputy Title IX Coordinator

Director of Human Services

Liberal Arts Hall, Room 203

Office: (304) 637-1344

coreym@dewv.edu

Robert Phillips

Deputy Title IX Coordinator

Vice President for Academic Affairs

Liberal Arts Hall, Suite 106

Office: (304) 637-1292
phillipsr@dewv.edu

Nikki Rose

Head Swim Coach, Director of Aquatics & Fitness, Senior Woman Advisor
Deputy Title IX Coordinator
Hermanson Center / George A. Myles Pool
Office: (304) 637-1202
rosen@dewv.edu

Mary Jo DeJoice

Director of Booth Library
Section 504 Coordinator
Booth Library
Office: (304) 637-1359
dejoicem@dewv.edu

A report to the Title IX Coordinator and Title IX Deputy Coordinators may be made in any of the following manners:

- File a report on the Incident Form, which is available on the Davis & Elkins College website at <https://secure.dewv.edu/form/incident-report-form>
- Leave a private voice message for the Title IX Coordinator or a Title IX Deputy Coordinator;
- Send an email to the Title IX Coordinator or a Title IX Deputy Coordinator;
- Mail a letter to the Title IX Coordinator or a Title IX Deputy Coordinator; or
- Visit in person the Title IX Coordinator or a Title IX Deputy Coordinator.

In addition, anonymous reports may be made by calling the **Campus Conduct Hotline** at (866) 943-5787.

B. Timeframe for Filing a Report

Davis & Elkins does not limit the timeframe for filing a report related to gender based discrimination, harassment, or sexual misconduct. Other reports may be made in accordance with state and federal laws.

C. False and Malicious Reports

False and malicious reports of harassment, discrimination, or retaliation as opposed to reports that even if erroneous, are made in good faith, may be subject to appropriate disciplinary action up to and including termination or expulsion.

VI – Responding to Incidents of Discrimination, Harassment and Retaliation

Once the College receives a report of or is put on notice of an incident of unlawful discrimination, harassment or associated incidents of retaliation, the College will generally proceed as follows:

A. Interim Measures

The appropriate Coordinator, in consultation with other appropriate administrators as necessary, will determine whether any interim measures, including interim disciplinary sanctions, are warranted and appropriate. The College may implement such measures regardless of whether an investigation has commenced.

Such interim measures may include, but are not limited to, limiting interaction between the parties or the imposition of no contact orders, or, if deemed warranted, placing the individual against whom the grievance is filed on paid leave or suspension. Other examples include the ability to move dorms, change work schedules, alter academic schedules, changing the respondent's living arrangements or course schedule, etc.

The specific interim measures implemented, whether protective or disciplinary in nature, and the process for implementing those measures will vary depending on the facts of each case. In general, when taking interim measures, the College will seek to minimize the burden on the reported Victim. For example, if the reported victim and respondent share the same class or residence hall, the College will typically not remove the victim from the class or housing while allowing the respondent to remain. Throughout the College's investigation and resolution process, the assigned Title IX Coordinator will periodically check with the reported victim to ensure interim measures are effective and, if not, identify alternatives.

B. Informal Resolution

The appropriate Coordinator may manage the report informally, with the agreement of the reported victim, through the use of any of the methods detailed below. The informal resolution procedure is designed to facilitate a satisfactory resolution of an incident of unlawful discrimination, harassment or retaliation in an informal manner. This process may be used as a prelude to using the formal resolution process or as an alternative. It is not necessary that this option be used and the reported victim has the option to forego the informal resolution procedure and proceed to the formal resolution procedure. Informal resolution may be an appropriate choice when the conduct involved is not of a serious or repetitive nature, and disciplinary action is not required to remedy the situation. No formal investigation is involved in the informal resolution process.

Examples of Informal Resolution methods include:

- **One-On-One Meetings.** The reported victim, either alone or with another person, may choose to meet with the individual whose behavior is offensive, discuss the situation, and make it clear that the behavior is unwanted and must cease.
- **Intervention by a supervisor.** The Reported victim, with the assistance of the assigned Title XI Coordinator, may contact an individual with supervisory authority and request assistance to stop the behavior.
- **Facilitated Conversation or Mediation.** A Reported Victim may contact the appropriate coordinator request the assistance of a facilitator or mediator to attempt to reach a resolution.

Should any of the above informal resolution methods fail to resolve the matter satisfactorily, the

matter will move to the “Formal Resolution” process.

All resolutions achieved with the assistance of a supervisor, the appropriate coordinator during the Informal Resolution process must be agreed to and signed by both parties. Informal Resolutions are binding and a request to proceed to a formal resolution process may not be pursued later on the same set of circumstances. However, any conduct admitted by the respondent as part of the informal resolution process may be considered in any future discrimination or harassment investigation. Any breach of the terms of an informal resolution agreement may result in disciplinary action or a further claim of discrimination or harassment. All informal resolutions efforts conducted with the assistance of a supervisor, the appropriate Coordinator will be documented and retained in the appropriate Coordinator’s office.

C. Formal Resolution

1. Assignment of Investigator

If the Title IX Coordinator determines that an investigation is warranted to resolve a report of discrimination, harassment or retaliation or informal resolution efforts were not successful, the assigned Title IX Coordinator will appoint an investigator or an investigative team (“Investigator”) who has specific training and experience investigating allegations of discrimination or harassment. The Title IX Coordinator will notify both the reported victim and the respondent in writing of the investigation and the name of the Investigator(s).

Either the respondent and/or the reported victim may protest the appointment of the investigator(s) by identifying a possible conflict of interest in writing to the Assigned Title IX Coordinator within twenty-four (24) hours of receiving notice of the name of the investigator(s). The Assigned Title IX Coordinator will carefully consider such statements and will assign a different investigator(s) if it is determined that a material conflict of interest exists.

2. Investigator’s Activities

The Title IX investigation will be conducted in a manner appropriate in light of the circumstances of the case. The formal investigatory process may include, but is not limited to, conducting interviews of the reported victim, the respondent(s), and any witnesses (witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual’s character); reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; and gathering, examining, and preserving other relevant documents and physical, written (including medical records), and electronic evidence (including social media, communications between parties security camera footage, etc.). The parties will have an equal opportunity to present relevant witnesses and evidence to the investigator, as well as identify witnesses who may have relevant information. Moreover, both the reported victim and respondent(s) may have an advisor accompany (but not actively participate) him or her through the investigation process.

In gathering the facts and arriving at a conclusion, the Investigator may consider the respondent’s prior conduct history if:

- The Respondent was previously found to be responsible for a violation of an institutional policy which has bearing on or was connected to the current allegation and/or was substantially similar to the present allegation; and/or

- The information indicates a pattern of behavior by the respondent.

The investigator(s) will take reasonable care to protect the privacy of involved parties.

Note: The Investigator should obtain, where applicable and where possible, the written consent of any third-party witnesses to the disclosure of any personally identifiable information (as that term is defined by FERPA) contained in reports and/or any other documents the disclosure of which is contemplated by this policy in order to further the resolution of the complaint. If the investigator is unable to obtain the consent of such third-party witnesses, he or she must redact the investigative report to the extent necessary to avoid disclosure of such witness's personally identifiable information, while ensuring that such redaction does not prevent resolution of the report.

3. *Investigatory Process Findings & Outcome Notification*

The investigatory process, which will typically be completed within 30 business days after the investigation begins, will result in a written report detailing the investigation and including a synthesized presentation of the facts and key points that will lead to the determination of whether there is reasonable cause to believe that the respondent(s) engaged in a non-discrimination and harassment policy violation. The written report will include an overview of each interview, a summary of key points, and an assessment of each individual's credibility.

The written report will be provided to the Title IX Coordinator and be used in the decision-making process to determine whether or not the Policy has been violated. The Assigned Title IX Coordinator, in conjunction with the lead Investigator, will present the report to the remaining Title IX and Deputy Coordinators (minus the person charged with granting an appeal) to determine an outcome as to whether or not the non-discrimination and harassment policy has been violated based on the preponderance of evidence standard. The decision will be rendered by the Title IX Coordinator and Deputies (minus the Coordinator who will serve as the appeal person.)

If it is determined that the preponderance of evidence standard cannot be met or that there is no reasonable cause to determine a Policy violation, the matter will be closed subject to a final appeal. Preponderance of evidence is the required standard for determining a policy violation. Administrators charged with rendering a decision of policy violation must be convinced based on the information provided that a policy violation was more likely to have occurred than to not have occurred in order to find a Respondent responsible for violating a policy.

Written notice of the outcome, rationale for the decision, and instructions for filing an appeal will be provided to both parties

4. *Sanctions*

Should a respondent accept responsibility for a policy violation, or if it is determined that the preponderance of evidence establishes that it is more likely than not that the respondent violated the policy, the Assigned Title IX Coordinator will determine an appropriate sanction in conjunction with the appropriate administrator.

- If the respondent is a student: The sanction will be administered by the Vice President for Student Affairs.
- If the respondent is an employee: The sanction will be administered by the Director of Human Resources.

- If the respondent is a member of faculty: The sanction will be administered by the Vice President for Academic Affairs.
- If the respondent is a third party: The sanction will be administered by the Title IX Coordinator.

The administrator must be a neutral and impartial decision-maker. Any administrator who has reason to believe s/he cannot make an objective determination must recuse oneself from the process.

The sanction rendered by the appropriate administrator will be issued within five (5) business days following the receipt of the written decision or the Respondent's admission of responsibility. Consideration may be given to the nature of, and circumstances surrounding, the violation, prior disciplinary violations, precedent cases, the College's safety concerns, or any other information deemed relevant by the appropriate administrators. The severity of the offense will determine the severity of the sanction. See Appendix A for the College's Sanctioning Matrix. Outcomes of the decision and sanction will be provided to the reported victim and respondent, via the Assigned Title IX Coordinator.

Examples of Disciplinary Sanctions:

Disciplinary Sanctions may include, but are not limited to:

- Disciplinary sanctions for students found to have violated the College's non-discrimination and harassment policy may include any of the sanctions outlined in the Code of Student Conduct, including but not limited to education, referral to counseling, warnings, probation, suspension, and suspension from participation in activities or privileges, suspension from the College or the residence halls, or expulsion.
- Sanctions for faculty, staff or volunteers may include, for example, education, referral to counseling, and disciplinary actions such as warnings, reprimands, withholding of a promotion or pay increase, reassignment, restriction in activities or privileges, temporary suspension without pay, compensation adjustments, or termination.

If the decision rendered is accepted by both the reported victim and respondent and no appeal is made, the Title IX Coordinator or Deputy Coordinator overseeing the case and the appropriate administrator will implement the sanction, and act promptly and effectively to remedy the effects of the incidents upon the Reported Victim and the campus community.

5. Appeals

Both parties have the right to appeal the finding within five (5) business days upon receipt of the written notice. Disagreement with the finding and/or with the sanctions does not, by itself, represent grounds for appeals. Legitimate grounds for an appeal are confined to those instances in which there was a demonstrable procedural error and/ or new evidence, not previously available, becomes available.

- If the respondent is a student: The written appeal shall be submitted to the Vice President for Academic Affairs.

- If the respondent is a staff member, volunteer, or third party: The written appeal shall be submitted to the Vice President for Student Affairs.
- If the respondent is a faculty member: The written appeal shall be submitted to the Director of Human Resources.

If an appeal is granted by the appeal officer as noted above, the appeal officer will notify the Title IX and Deputy Coordinators of the error or new evidence, and they will reconsider the case and render a new decision according to the evidence based upon the preponderance of evidence standard.

6. Adjustment of Deadlines

The Title IX Coordinator may change the above deadlines for good cause, such as semester or summer breaks. Likewise, if the application of time deadlines creates a hardship due to the urgency of the matter or the proximity of an event, the Title IX Coordinator, in consultation with the appropriate administrator, will determine if an expedited procedure can be created.

VII. General Provisions Applicable to All Complaints of Unlawful Discrimination and Harassment

A. Confidentiality of Records

Once a final decision regarding the grievance has been made, the records related to the grievance will be confidentially maintained in the Title IX Coordinator's office for a minimum of seven years.

B. Disability Accommodations

The College will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations as needed to participate in the resolution procedures. Accommodations may include, but are not limited to, providing interpreters for the deaf, providing recordings of materials for the blind, and assuring a barrier-free location for the proceedings.

C. External Complaints

The availability and use of this policy does not prevent a member of the College community from filing a complaint of discrimination or harassment with external agencies such as the U.S. Department of Education, Office for Civil Rights, the U. S. Equal Employment Opportunity Commission, and/or the West Virginia Human Rights Commission as applicable.

Students: Students (either undergraduate or graduate) and student applicants may file formal complaints with the following agency:

Office for Civil Rights (OCR), Headquarters

400 Maryland Avenue, SW

Washington, DC 20202-1100

Customer Service Hotline: (800) 421-3481

TDD: (877) 521-2172

Facsimile: (202) 453-6012

Email: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

Office for Civil Rights, Philadelphia Office

U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: (215) 656-8541
Facsimile: (215) 656-8605
Email: OCR.Philadelphia@ed.gov

Employees, Employment Applicants, Volunteers and other 3rd Parties: Employees, applicants for employment and other 3rd Parties may file formal complaints with the following agencies:

U. S. Equal Employment Opportunity Commission

Philadelphia District Office
21 South 5th Street 4th Floor
Philadelphia, PA 19106
Phone: (215) 440-2600
TTY: (215) 440-2610

West Virginia Human Rights Commission

1321 Plaza East Room 108A
Charleston, WV 25301-1400
Telephone: (304) 558-2616
Toll Free: (888) 676-5546
Fax: (304) 558-0085

2.1.1.3 Gender-based Discrimination, Harassment, and Sexual Misconduct Policies

The mission of Davis & Elkins College is to prepare and inspire students for success and for thoughtful engagement in the world. To that end, the College is committed to maintaining a healthy and safe learning, living, and working environment that promotes responsibility and respect among all members and guests of the campus community and where no one is unlawfully excluded from participation in, denied the benefits of, or subjected to discrimination in any College program or activity on the basis of gender, sex, sexual orientation, sexual identity, gender identity, or gender expression.

This Policy addresses the College's responsibilities under Title IX and the Violence Against Women Reauthorization Act of 2013. As a recipient of federal funds, Davis & Elkins College is required to comply with [Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. \("Title IX"\)](#), which prohibits discrimination on the basis of sex in educational programs or activities, admission and employment. Under certain circumstances, Sexual and Gender-Based Misconduct (as defined in the Definitions Section below) constitutes sexual discrimination prohibited by Title IX. Section 304 of the Violence Against Women Reauthorization Act of 2013

requires colleges and universities receiving federal funds to have procedures in place to respond to matters of Sexual Assault, Domestic Violence, Dating Violence and Stalking. Inquiries concerning the application of Title IX and/or Section 304 of the Violence Against Women Reauthorization Act of 2013 may be referred to the College's Title IX Coordinator or to the U.S. Department of Education's Office for Civil Rights.

Davis & Elkins College's Title IX Coordinator is Mr. Bruce Blankenship. He may be contacted by phone at (304) 637-1244 or by email at detitleix@dewv.edu. He may also be visited in person in his office, which is located in the Scholars Room in Booth Library.

Sexual and Gender-Based Misconduct comprises a broad range of behaviors focused on sex and/or gender that include Sexual Harassment, Hostile Environment caused by Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Sexual Exploitation, and Stalking, and discrimination on the basis of sex or gender. (see Definitions Section below). Sexual and Gender-Based Misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship. Sexual and Gender-Based Misconduct can be committed by anyone regardless of gender identity, and it can occur between people of the same or different sexes or genders. The College will not tolerate any form of Sexual and Gender-Based Misconduct, and all Sexual and Gender-Based Misconduct is prohibited by this policy. This conduct, and any Retaliation or Intimidation associated with the investigation and/or sanctioning of such conduct, is prohibited by the College and may also violate federal and state law.

The College seeks to prevent Sexual and Gender-Based Misconduct offenses by providing:

- Education, prevention, and training programs that inform the community about the risks and myths that contribute to Sexual and Gender-Based Misconduct;
- Assistance and support, including procedures sensitive to individuals who have been reported to be the victim of a Sexual and Gender-Based Misconduct offense; and
- A process for the prompt and equitable investigation and resolution of incidents of Sexual and Gender-Based Misconduct that includes appropriate disciplinary sanctions for those who commit Sexual and Gender-Based Misconduct offenses, as well as the imposition of remedial actions to address and remedy the effects of such offenses.

The College is committed to stopping incidents of Sexual and Gender-Based Misconduct, preventing their recurrence, and addressing and remedying its effects within the Davis & Elkins campus community. It makes this policy and accompanying information readily available to all students, employees and other members of the College community. Violations of this Policy may result in the imposition of sanctions up to and including termination, dismissal, or expulsion.

SECTION I - SCOPE & JURISDICTION

A. Scope of Policy

This policy applies to all Davis & Elkins College students, faculty, staff, volunteers, visitors, and other members of the Davis & Elkins College community regardless of their sexual orientation or

gender identity, as well as to contractors, consultants, and vendors doing business or providing services to the College (“Third Parties”).

The College’s prohibition against sexual and gender-based misconduct applies not only in the educational, student residential and working environment, but also to all other work-related, student residential and educational life settings, such as business trips and business-related social functions, as well as educational field trips, athletic trips, and internship placements. Further, the prohibition applies whether or not the incident(s) occurs on the Davis & Elkins College campus and whether or not the incident(s) occurs during working/educational hours. This means that students, staff, faculty and third parties are protected under this policy in connection with all the College’s programs and activities. Moreover, the College will respond to reports of Sexual and Gender-Based Misconduct that arise from events that initially occurred off College property or outside a College program or activity if both parties are members of the College community. In responding to off- campus events, the College will consider the effects of the off-campus conduct on an individual’s working, residential life or educational experience, including the impact on the individual’s ability to participate in College activities or programs. Finally, the College’s prohibition against sexual and gender-based misconduct applies to not only physical contact, but also oral, written, electronic, and other technology-assisted communications, such email, voice mail, Internet communications and searches. In addition, this policy specifically prohibits associated incidents of retaliation and intimidation as defined below.

B. Period of Limitations

There is no specific period of time after an incident of sexual or gender-based misconduct is alleged to have occurred during which a report must be made. The College, however, strongly encourages timely reporting in order to preserve evidence for a potential legal or College resolution proceeding. Delays in reporting may limit the College’s ability to respond fully to the report.

If the alleged perpetrator is no longer a student or employee, the College may not be able to take disciplinary action against the individual, but it will still seek to meet its Title IX obligation by providing support for a reported victim, taking steps to end the harassment, preventing its recurrence, and addressing its effects.

Note: The use of alcohol and/or drugs is not an excuse for violation of this policy and will not constitute a valid defense.

C. Coordination with the College’s Non-Discrimination and Anti-Harassment Policy

The College recognizes that harassment related to an individual’s gender related status can occur in conjunction with misconduct related to an individual’s race, color, gender, sex, sexual orientation, sexual identity, gender identity, gender expression, religion, ancestry, national origin, age, disability, veteran status, genetic information or any other characteristic protected by federal, state or local law (“protected characteristics”). Targeting individuals on the basis of these protected characteristics is also a violation of Davis & Elkins College policy. When misconduct relates to both a person’s gender related status and other protected characteristics, the College will coordinate the investigation and resolution efforts by following the process set forth in this policy to address all harassment and discrimination.

SECTION II – NON-DISCRIMINATION STATEMENT

Davis & Elkins College, in compliance with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the West Virginia Human Rights Act is an equal opportunity institution that does not discriminate on the race, color, gender, sex, sexual orientation, sexual identity, gender identity, gender expression, religion, ancestry, national origin, age, disability, veteran status, genetic information or any other characteristic protected by federal, state or local law. This policy applies to all terms and conditions of employment, admission to and enrollment in the College, including, but not limited to, recruitment, selection, hiring, placement, transfer, promotion, training, compensation, benefits, discipline, termination, educational policies, admission policies, financial aid, scholarship and loan programs, housing, athletic and other College-administered programs and activities.

SECTION III - TITLE IX AND THE TITLE IX COORDINATOR & DEPUTY COORDINATORS

A. TITLE IX

Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* (“Title IX”) is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX states in part:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

The principal objective of Title IX is to avoid the use of federal money to support sex discrimination in education programs and to provide individual citizens effective protection against those practices. Title IX applies, with a few specific exceptions, to all aspects of federally funded education programs or activities. In addition to traditional educational institutions such as colleges, universities, and elementary and secondary schools, Title IX also applies to any education or training program operated by a recipient of federal financial assistance.

Title IX prohibits all forms of discrimination on the basis of sex (gender), including pregnancy and related conditions, all forms of sexual violence, sexual assault and sexual harassment. This prohibition applies to all Davis & Elkins College faculty, staff, students and third parties in both the educational and employment settings. If inappropriate gender-based or sexual misconduct occurred, the College will take prompt and effective steps to end the behavior, prevent its reoccurrence and address its effects.

B. TITLE IX COORDINATOR

The Title IX Coordinator is responsible for monitoring the overall Title IX implementation for Davis & Elkins College and coordinating compliance with all areas and departments covered under Title IX regulations. If a complaint is filed, the Title IX Coordinator will attempt to meet with the reported victim to explain the available options, the process used to investigate the complaint, and any available support, resources, and protective measures.

The President shall give the Title IX Coordinator the training, authority, and visibility to fulfill the required duties. The Title IX Coordinator shall have knowledge of Title IX requirements, of Davis & Elkins policies and procedures on sex and gender-based discrimination and harassment, and of all complaints raising Title IX issues throughout the College. Davis & Elkins shall appropriately train the Title IX Coordinator in all areas over which the Title IX Coordinator has responsibility.

The Title IX Coordinator shall be informed of all reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office or if the investigation is to be conducted by another individual or office.

The Title IX Coordinator shall have no other job responsibilities which create a conflict of interest with the responsibilities associated with being the Title IX Coordinator.

Davis & Elkins College Title IX Coordinator

Bruce Blankenship

Title IX Coordinator

Scholar's Room, Booth Library, 3rd Floor

Office: (304) 637-1244

detitleix@dewv.edu

Title IX Coordinator Responsibilities: The Title IX Coordinator is a neutral administrator in any Sexual or Gender-Based Misconduct investigatory and resolution proceedings, including any allegations pertaining to incidents of Retaliation and Intimidation as defined in Section V. The Title IX Coordinator is responsible for:

- Overseeing all Title IX complaints and investigations so as to provide prompt, fair, and equitable resolutions and working with all parties (the Title IX Coordinator does not, however, make unilateral decisions regarding whether or not a Sexual or Gender-Based Misconduct Policy violation has occurred);
- Identifying and addressing any patterns or systemic problems that may arise;
- Being available to meet with students and employees, provide support and answer questions;
- Working with other College officials;
- Coordinating training, education, and communication pertaining to Title IX, as well as periodic reviews of the College's climate and culture with regard to Sexual and Gender-Based Misconduct;
- Determining appropriate interim measures for a reported victim upon learning of a report or complaint of sexual or gender-based misconduct;
- Being available to assist with the College's Office of Public Safety and local law enforcement if necessary;

- Ensuring that appropriate policies and procedures are in place for working with local law enforcement and coordinating services with local victim advocacy organizations and service providers, including rape crisis centers;
- Ensuring that the College carries out its Title IX responsibilities.
- The Title IX Coordinator also:
 - Assists reported victims with accessing medical and mental health treatment;
 - Assists reported victims with accessing support and resources; and
 - Meeting with members of the campus community as requested.

In addition, the Title IX Coordinator maintains an annual report documenting: (1) the number of reports or complaints received pursuant to the College's Gender-Based Discrimination, Harassment and Sexual Misconduct Policy; (2) the categories of those involved in the allegations; (3) the number of Policy violations found; and (4) examples of sanctions imposed for each violation of this Policy.

C. DEPUTY TITLE IX COORDINATORS

The Deputy Title IX Coordinators work under the oversight of the Title IX Coordinator to assist with the handling of gender-Based discrimination, harassment and sexual misconduct complaints. The Title IX Coordinator may, at his or her discretion, designate one of the Deputy Title IX Coordinators as the Assigned Title IX Coordinator in connection with a given complaint.

The Title IX Deputy Coordinators at Davis & Elkins College are:

Jane Corey

Director of Human Resources
Office: (304) 637-1344 | Cell: (304) 940-3575
coreym@dewv.edu
Liberal Arts Hall, Room 203
100 Campus Drive, Elkins, WV 26241

Scott Goddard

Vice President for Student Affairs
Office: (304) 637-1352 | Cell: (304) 642-1352
goddards@dewv.edu
Liberal Arts Hall, Suite 102
100 Campus Drive, Elkins, WV 26241

Robert Phillips

Vice President of Academic Affairs
Office: (304) 637-1292
phillipsr@dewv.edu
Liberal Arts Hall, Suite 106
100 Campus Drive, Elkins, WV 26241

Amanda Larkin
Assistant Athletic Director
Director for NCAA Compliance
Office: (304) 637-1222
larkina@dewv.edu
Hermanson Center, Room C
100 Campus Drive, Elkins, WV 26241

SECTION IV - PROHIBITED CONDUCT AND DEFINITIONS

A. PROHIBITED CONDUCT

1. Prohibition Against Sexual and Gender-Based Misconduct

Davis & Elkins College prohibits all forms of gender-based discrimination, harassment and sexual misconduct as defined in Paragraph B below. Sexual and gender-based misconduct is a broad term that includes discrimination on the basis of sex or gender, sexual harassment, sexual assault, domestic violence, dating violence, sexual exploitation, and stalking.

The College also prohibits hostile environment harassment, which includes acts of verbal, non-verbal, or physical aggression, intimidation, or hostility based on sex, gender identity, or gender expression, even if those acts do not involve conduct of a sexual nature.

Gender-based discrimination, harassment and sexual misconduct can occur between people of different sex or gender or of the same sex or gender. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others.

2. Anti-Retaliation and Intimidation

In addition, the College strictly prohibits retaliation against anyone who files a complaint, serves as a witness, or otherwise participates in the enforcement of this Policy. The College does not allow threats or other forms of retaliation or intimidation against any students, employees, or third parties who file a complaint or participate in the enforcement of any College Policy. Any form of retaliation should be reported promptly to the Title IX Coordinator or Deputy Title IX Coordinators or, in instances where safety is an issue, the Office of Public Safety. Instances of retaliation or intimidation in violation of this Policy may result in disciplinary action independent of the sanctions or interim measures imposed in response to the underlying allegations.

Initiating a complaint under this Policy will not affect a reporting party or reported victim's employment, compensation or work assignments or, in the case of students, grades, class selection, or any other matter pertaining to student status.

B. GENDER-BASED DISCRIMINATION, HARASSMENT AND SEXUAL MISCONDUCT DEFINITIONS

For purposes of this Policy, gender-based discrimination, harassment and sexual misconduct is defined to include the following:

Sexual Harassment: For purposes of this policy, Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, other verbal, visual or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence or other offensive behavior directed toward an individual because of or on account of the individual's sex, whether by a person of the opposite or same gender, when either:

- Submission to, rejection, or toleration of such conduct is made explicitly or implicitly a term or condition of an individual's employment, education, living environment, or participation in a Davis & Elkins College program or activity; or
- Submission to, rejection, or toleration of such conduct is used as a basis for or a factor in decisions affecting that individual's employment, education, living environment or participation in a Davis & Elkins College program or activity; or
- Such conduct creates a hostile environment (see Hostile Environment Harassment).

Gender-Based Hostile Environment Harassment: For purposes of the Policy, gender-based hostile environment harassment is defined as the unlawful harassment against an individual on the basis of his or her gender, sex, sexual orientation, sexual identity, gender identity, or gender expression when the conduct is either:

- Sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit the individual's ability to participate in or benefit from the College's programs or activities; or
- The conduct has the purpose or effect of unreasonably interfering with an individual's employment or education.

The determination of whether an environment is "hostile" must be based on all of the circumstances, giving consideration to whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Also, the following factors will be considered:

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

A single or isolated incident of Gender-Based Hostile Environment Harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to provide a hostile environment, particularly if the harassment is physical in nature.

Forms of Sexual Harassment or Gender-Based Hostile Environment Harassment: Sexual harassment or hostile environment harassment based on one's sex or gender-related status may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or gender-related status, even if the acts do not involve conduct of a sexual nature. In either type of harassment, the effect will be evaluated based on the

standard of a reasonable person in the position of the reported victim. Sexual harassment or gender-based hostile environment harassment can take many forms:

- It may be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- It does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- It may be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships (e.g., supervisor to subordinate, faculty member to student, coach to student-athlete, student leader to first year student), harassment can occur in any context and between persons of equal power status (e.g., student to student, staff to staff, faculty member to faculty member, visitor/contracted employee to staff).
- It may be committed by a stranger, an acquaintance, or someone with whom the reported victim has an intimate or sexual relationship.
- It may be committed by or against an individual or may be a result of the actions of an organization or group.
- It may occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- It may occur in the classroom, in the workplace, in residential settings, over electronic media (including the Internet, telephone, and text), or in any other setting.
- It may be a direct proposition of a sexual nature.
- It may be a one-time event or part of a pattern of behavior.
- It may be committed in the presence of others or when the parties are alone.
- It may affect the reported victim and/or third parties who witness or observe harassment.

Examples of behavior that might be considered Sexual or Gender-Based Hostile Environment Harassment include, but are not limited to:

- Threats, either directly or by implication, of adverse employment or academic action if sexual favors are not granted or punishing, either directly or by implication, for refusing to tolerate harassment, for refusing to submit to sexual activity, or for reporting harassment;
- Promising favorable treatment or continued employment in return for sexual favors;
- Change of academic or employment responsibilities (increase in difficulty or decrease of responsibility) based on sex or gender-related status;

- Unwanted, unnecessary and objectively inappropriate physical contact or suggestive body language, such as touching, patting, pinching, hugging, kissing, or brushing against an individual's body;
- Sexual assault;
- Physical coercion or pressure on an individual to engage in sexual activity or punishment for a refusal to respond or comply with sexual advances;
- Display or distribution of pornographic material or sexual explicit drawings, pictures, or written materials;
- Sexual rumors or ratings of sexual activity/performance or the circulation, display, or creation of emails or websites of a sexual nature;
- Excessively offensive remarks, including unwelcome graphic or suggestive comments about an individual's body, appearance or dress;
- Jokes and humor about sex or gender-specific traits;
- Inappropriate use of sexually explicit or offensive language or derogatory language directed at another person's sexuality, gender, gender identity, sexual orientation or gender expression;
- Insults and threats based on sex, gender, gender identity, sexual orientation or gender expression;
- The display in the workplace of sexually suggestive objects or pictures which create an intimidating or hostile work environment;
- The display or circulation of written materials or pictures degrading to an individual(s) or gender group where such display is not directly related to an educational/pedagogical, artistic, or work goal;
- Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping. Harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex, or for failing to conform to stereotypical notions of masculinity and femininity, regardless of actual or perceived gender related status of the harasser or her/his/their target;
- Abusive, disruptive or harassing behavior, whether verbal or physical, which endangers another's mental or physical health, including but not limited to threats, acts of violence, or assault based on gender-related status and/or in the context of intimate partner violence; and
- Other unwelcome and unwanted conduct of a sexual nature, such as leering, name-calling, suggestive comments and sexual propositions or innuendos and other oral, written or electronic communications of a sexual nature that an individual communicates.

Sexual Assault: Sexual assault is defined by this Policy to include:

Non-Consensual Sexual Contact: Any intentional sexual touching, however slight and with any object or body part, that is without consent (as defined in this Policy) and/or by threat, intimidation, coercion, duress, violence, or by causing a reasonable fear of harm. This includes intentional contact with breasts, buttocks, groin, mouth, or genitals, as well as any other intentional bodily contact that occurs in a sexual manner.

Non-Consensual Sexual Intercourse: Any sexual penetration or copulation, however slight and with any object or body part that is without consent and/or by force or coercion. Intercourse includes anal or vaginal penetration by a penis, object, tongue, or finger, and oral copulation (mouth and genital/anal contact), no matter how slight the penetration or contact.

Note: The above definitions will be utilized in determining whether an incident of sexual violence in violation of this Policy by the preponderance of the evidence standard has occurred (and not to determine whether a crime has been committed). The above definitions will also be utilized by the College for Clery Act reporting purposes. In compliance with the Violence Against Women Act, applicable criminal definitions for Sexual Assault in the State of West Virginia are set forth in Appendix A.

Dating Violence: “Dating Violence” is a form of intimate partner violence meaning violence by a person who has been in a romantic or intimate relationship with the victim. Violence can be psychological or physical abuse related to emotional and physical control.

Domestic Violence: The term “Domestic Violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction. In compliance with the Violence Against Women Act, the applicable criminal definition for domestic violence in the State of West Virginia is set forth in Appendix A.

Sexual Exploitation: Sexual exploitation is an act or omission to act that involves a member of the Davis & Elkins College community taking non-consensual, unjust, humiliating, or abusive sexual advantage of another, either for the individual’s own advantage or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to the following:

1. Creating pictures, movies, web cam, tape recording, graphic written narrative or other means of memorializing sexual behavior or a state of undress of another person without the other’s knowledge and consent;
2. Sharing items described in paragraph (1) above, beyond the boundaries of consent where consent was given. For example, showing a picture to friends where consent to view it was given for oneself only;
3. Observing or facilitating observation by others of sexual behavior or a state of undress of another person without the knowledge and/or consent of that person;
4. “Peeping Tom”/Voyeuristic behaviors;

5. Engaging in sexual behavior with knowledge of an illness or disease (HIV or STD) that could be transmitted by the behavior;
6. Engaging in or attempting to engage others in “escort services” or “dating services” which include or encourage in any way sexual behavior in exchange for money;
7. Surreptitiously providing drugs or alcohol to a person for the purpose of sexual exploitation; and
8. Causing another person to be exposed to pornographic material without the person’s advance knowledge or consent.

Sexual and Gender-Based Misconduct: For the purposes of this Policy, sexual and gender-based misconduct is an umbrella term that includes sexual assault, sexual harassment, hostile environment harassment, domestic and dating violence, stalking, and, sexual exploitation.

Stalking: For purpose of this Policy, “Stalking” is defined as engaging in a course of conduct (e.g., repeatedly following, harassing, threatening or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method) directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer other emotional distress.

The College also considers Stalking to include the concept of cyber-stalking, a particular form of stalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Examples of stalking include:

- Unwelcome and repeated visual or physical proximity to a person;
- Repeated oral or written threats;
- Extortion of money or valuables;
- Unwelcome/unsolicited and repeated written communication, including letters, cards, emails, gifts, instant messages, and messages on on-line bulletin boards;
- Unwelcome/unsolicited and repeated communications about a person, their family, friends, or co- workers;
- Sending/posting unwelcome and/or unsolicited messages with another username;
- Implicitly threatening physical conduct or any combination of these behaviors directed toward an individual person.

In compliance with the Violence Against Women Act, the applicable criminal definition for Stalking in the State of West Virginia is set forth in Appendix A.

Retaliation: Retaliation is defined as taking adverse action against an individual making a complaint under this Policy or against any person cooperating or participating in the investigation of a complaint or the enforcement of any interim measures or sanctions under this Policy. Retaliation includes intimidation, threats, harassment, and other adverse action including adverse job action and adverse academic action against any reported victim or reporting party.

Intimidation: Intimidation is defined as implied threats or acts that cause an unreasonable fear of harm in another.

Aiding or Facilitating Sexual or Gender-Based Misconduct: Promoting, aiding, facilitating or encouraging the commission of any behavior prohibited under this Policy is also prohibited by this Policy.

C. OTHER DEFINITIONS

Assigned Title IX Coordinator: The “Assigned Title IX Coordinator” means either the Title IX Coordinator or the Deputy Title IX Coordinator assigned by the Title IX Coordinator to handle a given complaint.

Awareness Programs: Community-wide or audience specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

Bystander Intervention: Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes: a.) recognizing situations of potential harm; b.) understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking actions to intervene.

Coercion: The improper use of force, threats, or unreasonable pressure to compel another individual to initiate or continue sexual activity against an individual’s will. Coercion includes continued pressure after an individual has made it clear that he/she does not want to engage in the behavior.

Confidential Employee: A College employee who is available to offer victims of gender-based discrimination, harassment and/or sexual misconduct support and guidance in a confidential environment. Confidential employees can provide individuals with both immediate and long-term assistance and options for obtaining additional support but are typically not required to disclose the reported victim’s identity to the Title IX Coordinator or Deputy Title IX Coordinator. The College’s confidential sources will preserve an individual’s privacy to the extent possible by the law.

Consent: Consent is defined as voluntary permission to engage in sexual activity. It may be given by words or actions, so long as those words or actions create clear, mutually understood permission to engage in (and the conditions of) sexual activity. Consent, which can be withdrawn at any time, must meet all of the following standards:

1. Active, not passive. Silence, in and of itself, cannot be interpreted as consent. There is no requirement that an individual resist a sexual act or advance, but resistance is a clear demonstration of non-consent. A person cannot give consent under force, threats, or unreasonable pressure (coercion). Coercion includes continued pressure after an individual has made it clear that he/she does not want to engage in the behavior.

2. Provided knowingly. Legally valid consent to sexual activity cannot be given by a person under the legal age to consent; or an individual who is known to be (or based on the circumstances should reasonably be known to be) mentally or physically incapacitated. An incapacitated individual is someone who cannot make rational, reasonable decisions because he or she lacks the capacity to understand the “who, what, when, where, why, or how” of a sexual interaction. This includes a person whose incapacity results from mental disability, sleep, involuntary physical restraint, unconsciousness, use of alcohol or other drugs.
3. Specific. Permission to engage in one form of sexual activity does not imply permission for another activity. In addition, previous relationships or prior consent do not imply consent to future sexual acts. It is the responsibility of the initiator of the act to receive permission for the specific act. As a result, consent may be requested and given several times by multiple parties during a sexual encounter involving multiple acts. Moreover, consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

The above definitions will be used in the compilation and evaluation of reports or complaints alleging that the Davis & Elkins College Gender-Based Discrimination, Harassment and Sexual Misconduct Policy has been violated. In compliance with the Violence Against Women Act, the applicable criminal definition for Lack of Consent in the State of West Virginia is set forth in Appendix A.

Day. A “day” is a business day, unless otherwise specified.

Employee: For purposes of this Policy, an employee is any member of the faculty or staff (senior staff, administrative staff, professional/non-faculty staff and non-administrative staff) employed by Davis & Elkins on either a full or part-time basis. Solely for purposes of this definition, the term “employee of the College” does not include students who are employed by the College through a work-study or similar program.

Expulsion: An expulsion is a permanent separation of the student from the College. The student may never again register for classes, attend classes, or receive grades from the institution. The student may never be present on campus or at a campus sponsored event for any reason whatsoever.

Incapacitation: Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because she/he lacks conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if she/he is asleep, unconscious or otherwise unaware that sexual activity is occurring.

Where alcohol or other drugs are involved, incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness or emotional volatility.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual’s:

- Decision-making ability;
- Awareness of consequences;
- Ability to make informed judgments;
- Capacity to appreciate the nature and the quality of the act; or
- Level of consciousness.

Evaluating incapacitation also requires an assessment of whether a respondent should have been aware of the reported victim's incapacitation based on objectivity and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the respondent's position.

An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of making a rational, reasonable decision about whether to engage in sexual activity is in violation of this Policy.

Investigator means the person tasked with investigating a Complaint. All investigators shall receive annual training regarding such issues as the laws governing discrimination, harassment and retaliation; Title IX and VAWA/Campus SaVE Act (as defined below); as well as other related state and federal laws prohibiting discrimination, harassment and retaliation based on gender or sex, including sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence and stalking; Student and witness privacy rights; and the Family Educational Rights and Privacy Act of 1974 (FERPA). The Investigator shall not be within the administrative control or authority of any employee Respondent.

Ongoing Prevention & Awareness Campaigns: Programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution.

Personally Identifiable Information. "Personally Identifiable Information" (as that term is defined by FERPA) includes, but is not limited to:

- A student's name;
- The name of a student's parent(s) or other family members;
- The address of a student or a student's family;
- A personal identifier, such as a student's Social Security number, student number, or biometric record;
- Other indirect identifiers, such as a student's date of birth, place of birth, or mother's maiden name;
- Other information that, alone or in combination, is linked or linkable to a specific student and that would allow a reasonable person in the College community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or

- Information requested by a person whom the College reasonably believes knows the identity of the student to whom the Education Record relates.

Preponderance of Evidence: Preponderance of evidence is the required standard for determining a policy violation. Administrators charged with rendering a decision of policy violation must be convinced, based on the information provided, that a policy violation was more likely to have occurred than to not have occurred in order to find a respondent responsible for violating a policy.

Primary Prevention Programs: Programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in a healthy and safe direction.

Proceeding: As provided by federal law, all activities related to a non-criminal resolution of an institutional disciplinary report, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and reported victims concerning accommodations or protective measures to be provided to a reported victim.

Reported Victim: An individual who has experienced gender-based discrimination, harassment and/or sexual misconduct, regardless of whether that individual participates in the disclosure or review of that report by the College at any point.

Reporting Party: An individual who reports to the College a concern regarding possible sexual misconduct. A reporter need not be a reported victim.

Respondent: An individual who has been accused in a complaint of committing sexual or gender-based misconduct.

Responsible employee: A responsible employee is any employee who has the authority to take action to redress the harassment, has the duty to report other harassment or misconduct to appropriate officials, or is someone a student could reasonably believe has this authority or responsibility.

Risk Reduction: Options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

Student: Any individual who is not an employee of the College and who, at the time of the alleged misconduct and the filing of a report or complaint to the College, is either: (1) admitted as a student to the College and has been moved to deposited status (2) an enrolled student (includes students auditing courses); (3) a Davis & Elkins student between academic terms or on a Leave of Absence; (4) a graduate awaiting a degree (note: students are classified as such until they receive their degree; students who petition the College to complete their degree via distance or some other arrangement forfeit their student status if they do not complete their degree during the period of time specified in their agreement with the College); or (5) a Davis & Elkins student who withdraws from the College while a disciplinary matter (including an investigation) is pending. A student ceases to be a student when they graduate; in the event that they are expelled for academic or

conduct reasons; or in the event that the student formally withdraws from the College and there is no pending disciplinary investigation. Solely for purposes of this definition, the term “employee of the College” does not include students who are employed by the College through a work-study or similar program.

Suspension: A suspension is a separation of the student from the College for a defined period of time (minimum of one semester). During this period the student may not be registered for classes, attend classes, receive grades from the institution, or be present on campus or attend a College sponsored event for any reason. The student may be required to re-apply and be re-admitted after the suspension.

- **Suspension from Residence Halls:** The student’s privilege of living in College owned housing and visiting the residential areas of campus is suspended for a defined period of time.

Third Party: A “Third Party” is any guest of the College; alumnus or alumna; volunteer; or contractor, consultant, or vendor doing business or providing services to the College.

Title IX: Title IX means Title IX of the Education Amendments of 1972 (“Title IX”), which is a federal law that prohibits sexual discrimination in federally funded education programs and activities.

Title IX Coordinator & Deputy Title IX Coordinators: The Title IX Coordinator means the Davis & Elkins employee assigned by the President to coordinate the College’s compliance with Title IX; VAWA/Campus SaVE Act; and other related state and federal laws prohibiting discrimination, harassment and retaliation based on gender or sex, including sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, and stalking. The Deputy Title IX Coordinators work under the oversight of the Title IX Coordinator to assist with the handling of gender-based discrimination, harassment and sexual misconduct Complaints. The Title IX Coordinator may, at his or her discretion, designate one of the Deputy Title IX Coordinators as the Assigned Title IX Coordinator in connection with a given complaint.

VAWA means the Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery Disclosure of Campus Crimes Statistics Act, commonly known as the Clery Act) (20 U.S.C. 1092(f)), under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act).

SECTION V - REPORTING GENDER-BASED DISCRIMINATION, HARASSMENT AND SEXUAL MISCONDUCT, RETALIATION OR INTIMIDATION INCIDENTS

For information regarding suggested actions for immediate and ongoing assistance to victims of Sexual and Gender-Based Misconduct, including important contact information for on and off campus resources, see Appendix A attached to this Policy.

Davis & Elkins College encourages all individuals to report incidents of gender-based discrimination, harassment and sexual misconduct, retaliation or intimidation to the appropriate individuals at the College via the reporting options below and to report any potential criminal conduct to law enforcement. Both the on and off-campus reporting options set forth below may be pursued simultaneously.

A report may be made by:

- A person who believes they experienced gender-based discrimination, harassment and sexual misconduct, retaliation or intimidation (a “Reported Victim”); or
- A person who has information that gender-based discrimination, harassment and sexual misconduct, retaliation or intimidation may have been committed by a College student, employee, third party or a participant in a College program or activity (a “Reporting Party”).

Reported Victims have the option not to report alleged gender-based discrimination, harassment and sexual misconduct, retaliation or intimidation to the College or to law enforcement authorities and the College respects the decision in regards to reporting. If a reported victim chooses not to participate in the College review of the report, the College may, subject to the confidentiality provisions outlined in this Policy, pursue the report without that person’s participation. Moreover, if information about sexual or gender-based misconduct or associated incidents of retaliation or intimidation comes to the attention of the College, Davis & Elkins (1) may start an investigation even in the absence of a filed complaint and/or (2) may notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware.

Upon receipt of a non-confidential report, the matter will be referred to the Title IX Coordinator, who will review the facts and make an immediate assessment of any risk of harm to the reported victim or to the broader College community and will take steps necessary to address those risks. If warranted, these steps will include interim measures to provide for the safety of the reported victim and the College community.

A. REPORTING OPTIONS WITH THE COLLEGE

Reported victims or witnesses of gender-based discrimination, harassment and sexual misconduct or associated incidents of retaliation or intimidation are encouraged to talk to somebody about what happened – so individuals can get the support they need, and so the College can respond appropriately. The various confidential and non-confidential disclosure options available to members of the Davis & Elkins College community are set forth below:

1. Confidential Communications to College Resources

Reporting parties and Reported victims have the option to report incidents of gender-based discrimination, harassment and sexual misconduct or associated incidents of retaliation or intimidation to the confidential sources on campus listed below. Reporting parties and Reported victims may choose this option if they want to report the incident but do not want any immediate, formal action to be taken by the College. Confidential Sources can provide individuals with both immediate and long-term help. They will listen and help access additional assistance and explain

options for obtaining additional protections and support from the College and others. Such protection and support may include, for example, victim advocacy services, academic support or accommodations, health or mental health services, and changes to living, working or course schedules. These confidential sources will also explain that Title IX includes protections against retaliation and intimidation, and that the Title IX Coordinator and Deputy Title IX Coordinators will not only take steps to prevent retaliation and intimidation, but also take strong responsive action should it occur. This includes retaliatory actions taken by the College and College administrators.

The College's confidential sources will preserve an individual's privacy to the extent possible by the law. This means that personally identifiable information shared with these individuals is not part of students' or employees' College records and will not be reported to other College personnel (including the Title IX Coordinator and Deputy Title IX Coordinators), to the respondent, or to others (unless the reported victim gives his or her consent to the disclosure of personally identifiable information or the law requires it (as may be the case with alleged sexual or gender-based misconduct involving a minor or under conditions involving imminent harm to one or more members of the College community, for example)). It also means that disclosures to these individuals generally will not trigger a College investigation into an incident against the victim's wishes. See "Requesting Confidentiality from Davis & Elkins College." Reported Victims choosing this option can decide to make a formal complaint and/or criminal report at a future date, and thus have the incident fully investigated. These confidential sources will provide assistance in making such a report if the individual wishes them to do so.

a. Davis & Elkins College 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) free of charge are not required to report any information about a Sexual or Gender-Based Misconduct incident to the Title IX Coordinator or Deputy Title IX Coordinators without the Reported Victim's permission.

The following offices and individuals provide confidential mental health and/or pastoral counseling to members of the Davis & Elkins College community:

**Margaret Falletta
College Counselor**

Robert C. Byrd Conference Center, Office 205
Office: (304) 637- 1363
Email: fallettam@dewv.edu

**Laura Brekke
College Chaplain**
Liberal Arts Hall 209
Office: (304) 637-1267
brekkel@dewv.edu

b. Student Health Service Care Providers

The College nurse and physician at Student Health Services can provide treatment for injuries and for potential exposure to sexually transmitted diseases. They also provide emergency contraception and other health services. They can assist in preserving evidence or documenting any injuries, including by helping find a Sexual Assault Nurse Examiner, who is specifically trained to collect evidence. Taking these steps promptly after an incident can be very helpful in later criminal proceedings and/or in seeking a protective order.

While the College nurse and physician at Student Health Services are obligated to maintain confidentiality and not report an individual's identity to the College, under West Virginia law, a medical provider may be required to notify law enforcement of a reported sexual assault involving minors and/or weapons. The individual, however, may decline to speak with a law enforcement officer or participate in a criminal prosecution. In addition, the health care providers at Student Health Services are obligated to report Sexual and Gender-Based Misconduct incidents without any of the victim's identifying information to the Title IX Coordinator to enable the College to understand the existence of, and potential extent of, the problem (Title IX). If the incident is a crime, these providers will report it without any identifying information to Office of Public Safety for inclusion in the daily crime log and annual statistical report and for issuance of any required timely warning (Clery Act).

The Davis & Elkins College Student Health Center is located in Gribble Hall and can be contacted at 304-637-1234. The Student Health Center may be visited in person during normal business hours or an appointment may be made. The Student Health Center's normal hours of operation are:

Days and Time of Operation

Monday – Friday

11:00 a.m. to 3:00 p.m.

Gribble Hall

2. Reporting to Appropriate College Officials

Individuals who believe that they have been the subject of or have witnessed an incident of gender-based discrimination, harassment and sexual misconduct and/or associated incidents of retaliation or intimidation are encouraged to report the conduct to College officials so that they can take immediate and appropriate steps to investigate or otherwise determine what occurred (subject to the confidentiality provisions), and, if it is determined that sexual and gender-based misconduct has occurred, take appropriate steps to address the situation.

When a reported victim or reporting party makes a report, he or she 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. Moreover, the College will remain ever mindful of the reported victim or reporting party's well-being and will take ongoing steps to protect the reported victim or reporting party from retaliation or harm and work with the individual to implement interim measures as necessary and appropriate. Retaliation or intimidation, whether by students, college

employees or third parties, will not be tolerated.

There are three ways to report an incident of Gender-based discrimination, harassment and sexual misconduct and/or associated incidents of retaliation or intimidation to the College:

a. Reporting to the Title IX Coordinator or Deputy Title IX Coordinators

A report may be made to the Title IX Coordinator or Deputy Title IX Coordinators regardless of whether the reporting party is a student, employee, or third party:

Davis & Elkins College Title IX Coordinator

Bruce Blankenship

Title IX Coordinator

Scholar's Room, Booth Library, 3rd Floor

Office: (304) 637-1244

detitleix@dewv.edu

Kate Garlick

Dean of Students

Deputy Title IX Coordinator

Liberal Arts Hall 102

Office: (304) 637-1241 | Cell: (304) 276-2033

garlickk@dewv.edu

Jane Corey

Deputy Title IX Coordinator

Director of Human Services

Liberal Arts Hall, Room 203

Office: (304) 637-1344

coreym@dewv.edu

Robert Phillips

Deputy Title IX Coordinator

Vice President for Academic Affairs

Liberal Arts Hall, Suite 106

Office: (304) 637-1292

phillipsr@dewv.edu

Nikki Rose

Head Swim Coach, Director of Aquatics & Fitness, Senior Woman Advisor

Deputy Title IX Coordinator

Hermanson Center / George A. Myles Pool

Office: (304) 637-1202

rosen@dewv.edu

Mary Jo DeJoice
Director of Booth Library
Section 504 Coordinator
Booth Library
Office: (304) 637-1359
dejoicem@dewv.edu

The Title IX Coordinator and Title IX Deputy Coordinators may be contacted in any of the following manners:

- File a complaint or report on the gender-based discrimination, harassment and sexual misconduct incident form, which is available on the Davis & Elkins website at <https://secure.dewv.edu/form/incident-report-form>
- Leave a private voice message for the Title IX Coordinator or a Title IX Deputy Coordinator;
- Send an email to the Title IX Coordinator or a Title IX Deputy Coordinator;
- Mail a letter to the Title IX Coordinator or a Title IX Deputy Coordinator; or
- Visit in person the Title IX Coordinator or a Title IX Deputy Coordinator.

b. Reporting to Public Safety and Security

A report may also be made to the Office of Public Safety, regardless of whether the reporting party or reported victim is a student, employee, or third party. The Office of Public Safety office is located at the Gatehouse. Public Safety Officers can be accessed at (304) 704-9111, 24 hours a day.

The Office of Public Safety personnel will immediately report to the Title IX Coordinator (or in his or her absence a Title IX Deputy Coordinator) all relevant details about the alleged incident that the College will need to determine what happened – including the names of the victim and alleged perpetrator, any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

c. Reporting to a “Responsible employee”

Any member of the College community has the option to report an incident of gender-based discrimination, harassment and sexual misconduct and/or associated incidents of retaliation or intimidation to a “Responsible employee” of the College.

A “Responsible employee” is a College employee who either has the authority to redress sexual and gender-based misconduct, has the duty to report incidents of sexual and gender-based misconduct or other student misconduct, or is an individual who a student could reasonably believe has this authority or duty.

When a member of the College community tells a responsible employee about an incident of gender-based discrimination, harassment and sexual misconduct and/or associated incidents of

retaliation or intimidation, the individual 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 will immediately inform the Title IX Coordinator (or in his or her absence a Title IX Deputy Coordinator) all relevant details about the alleged incident that the College will need to determine what happened – including the names of the victim and alleged perpetrator, any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident. Any Responsible employee who knew about a violation of this Policy and took no action to stop it or failed to report the prohibited act may be subject to disciplinary action.

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 will not share information with law enforcement without the reported victim's consent or unless the reported victim has also reported the incident to law enforcement.

The following positions have been designated by the College to be responsible employees:

Board of Trustees Members; the President; the Vice Presidents; the Deans; the Directors; Coordinators; Supervisors; All Athletic Department Coaches and Staff; All Admissions Staff; All Public Safety Staff; All Student Life Staff; All Resident Assistants; Resident Directors; Professional Academic Staff; and Faculty.

Before a reported victim or reporting party reveals any information to a responsible employee, a responsible employee should make reasonable efforts in light of the circumstances to ensure that the victim understands the employee's reporting obligations – and, if the reported victim or reporting party wants to maintain confidentiality, direct the reported victim or reporting party to confidential resources.

If the reported victim wants to tell the responsible employee what happened but also maintain confidentiality, the responsible 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 Title IX Coordinator of the Reported Victim's request for confidentiality.

Responsible employees will not pressure a reported victim to request confidentiality, but will honor and support the reported victim's wishes, including for the College to fully investigate an incident. For the same reason, responsible employees will not pressure a reported victim to make a report or formal complaint if the reported victim is not ready to.

3. Anonymous Reporting to the College

Although the College encourages a reported victim or reporting party to talk to someone, the College provides an online webpage for anonymous reporting (<https://secure.dewv.edu/form/incident-report-form>). The system notifies the user (before s/he enters information) that entering Personally Identifying Information may serve as notice to the College for the purpose of triggering a Title IX investigation. In addition, the **Campus Conduct Hotline** at (866) 943-5787 may be utilized.

4. Timeframe for Filing a Report

Davis & Elkins does not limit the timeframe for filing a report. Reports can be submitted at any

time following an incident, although the College's ability to take any action may be limited by the matriculation or employment status of the alleged respondent.

C. REPORTING OPTIONS OUTSIDE THE COLLEGE

1. Off-Campus Privileged and Confidential Communications

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. Confidential off campus resources include:

Women's Aid In Crisis, Inc.

(www.waicwv.com/)

P.O. Box 2062

Elkins, WV 26241

Phone: (304) 636-8433

Fax: (304) 636-5564

Davis Medical Center

812 Gorman Avenue

Elkins, WV 26241

(304) 636-8080

National Sexual Assault Hotline

(800) 656-4673

Employee Assistance Program (For Employees)

Online: <http://www.workhealthlife.com/Standard3>

Phone: 888-293-6948 TDD: 800-327-1833

Available 24 hours a day, 7 days a week

Note: While these off-campus counselors and advocates may agree not to share confidential information with Davis & Elkins College, they may have reporting or other obligations under state law.

2. Filing a Report with Law Enforcement

Any member of the College community who has experienced an incident of sexual misconduct and gender-based misconduct involving potential criminal conduct has the option to report the conduct to the law enforcement agency that has jurisdiction over the location where the incident occurred by calling 911. In Elkins, the Elkins City Police Department may be contacted at (304) 636-0678 or by calling 911. If the conduct is reported to the College, the individual will be informed of his or her option to also report any potential criminal activity to law enforcement. The College, however, may be obligated to report the matter to local law enforcement as required by law.

The College and the police/legal system work independently from one another. Individuals can file reports with the College, with law enforcement, with both systems, or with neither. Because

the standards for finding a violation of criminal law are different from the standards in this Policy, neither the results of a criminal investigation nor the decision of law enforcement to investigate, or decline to investigate a matter, is determinative of whether a violation of this Policy has occurred.

Victim support and resources are available even if a student, employee or third party elects not to pursue criminal charges or file a report or complaint with the College. Because sexual misconduct and gender-based misconduct may, in some instances, constitute both a violation of College policy and a criminal activity, and because the College resolution process is not a substitute for instituting legal action, the College provides guidance and, if requested, assistance regarding how to report an incident to law enforcement authorities who have jurisdiction over the location where the incident occurred.

If an individual chooses to report an incident to law enforcement, any of the following on and off-campus resources may be contacted for assistance in filing a report with local law enforcement:

REPORTING NON-CONFIDENTIAL RESOURCES

Davis & Elkins College Office of Public Safety

(304) 704-9111

Davis & Elkins College Title IX Coordinator

Bruce Blankenship

Title IX Coordinator

Scholar's Room, Booth Library, 3rd Floor

Office: (304) 637-1244

detitleix@dewv.edu

Davis & Elkins College Title IX Deputy Coordinators

Kate Garlick

Dean of Students

Deputy Title IX Coordinator

Liberal Arts Hall 102

Office: (304) 637-1241 | Cell: (304) 276-2033

garlickk@dewv.edu

Jane Corey

Deputy Title IX Coordinator

Director of Human Services

Liberal Arts Hall, Room 203

Office: (304) 637-1344

coreym@dewv.edu

Robert Phillips
Deputy Title IX Coordinator
Vice President for Academic Affairs
Liberal Arts Hall, Suite 106
Office: (304) 637-1292
phillipsr@dewv.edu

Nikki Rose
Head Swim Coach, Director of Aquatics & Fitness, Senior Woman Advisor
Deputy Title IX Coordinator
Hermanson Center / George A. Myles Pool
Office: (304) 637-1202
rosen@dewv.edu

Mary Jo DeJoice
Director of Booth Library
Section 504 Coordinator
Booth Library
Office: (304) 637-1359
dejoicem@dewv.edu

CONFIDENTIAL RESOURCES

Student Health Services
Byrd Conference Center, Room 204
Office: (304) 637-1234

College Counselor
By Appointment
Robert C. Byrd Conference Center, Office 205
(304) 637-1363
Email: fallettam@dewv.edu

College Chaplain
Liberal Arts Hall 209
Office: (304) 637-1267

Campus Victim Advocate
Albert Hall, 207
Office: (304) 637-1321
Email: talbotc@dewv.edu

Women's Aid In Crisis, Inc.
(www.waicwv.com)

P.O. Box 2062
Elkins, WV 26241
Phone: (304) 636-8433
Fax: (304) 636-5564

Davis Medical Center
812 Gorman Avenue
Elkins, WV 26241
(304) 636-3300

A criminal investigation into a matter does not preclude the College from conducting its own investigation. If a report is filed with both the College and law enforcement, the College will proceed with its normal investigatory process. The College may, however, need to temporarily delay its fact-finding portion of the investigatory process while law enforcement is gathering initial evidence. This delay typically takes three to 10 calendar days, although it may take longer in certain instances. If a delay in the College's Title IX investigatory process occurs, it will take Interim Measures to protect the reported victim in the educational or work setting as applicable. Moreover, the Title IX Coordinator will continue to update the parties on the status of the investigation and inform them when the College's Title IX investigatory process resumes, which will occur promptly after law enforcement notifies the College that it has completed its evidence gathering stage of the criminal investigation. The College will not, however, delay its investigatory process until the ultimate outcome of the criminal investigation or the filing of any charges.

Anonymous Reporting to Law Enforcement: Any member of the Davis & Elkins College community who has experienced or witnessed an incident of sexual misconduct and gender-based misconduct may also decide to report the alleged incident anonymously to law enforcement. Law enforcement will record the date and time of the alleged assault, the mode of operation of the assailant, and any description of the assailant given. If the assailant's name is reported, it will be recorded. Also, law enforcement stores the information in the event a pattern of crimes by the assailant is detected. The purpose of an anonymous confidential report is to comply with the reported victim's wish to keep the matter confidential, while taking steps to ensure the future safety of the reported victim and others. Anonymous reports to law enforcement do not relieve responsible employees of their reporting duties under Title IX. Anonymous and confidential reports are counted and disclosed in the annual crime statistics for the College.

3. Filing a Report with External Agencies

In addition to the College's internal remedies, members of the campus community should also be aware that the Office of Civil Rights investigates and prosecutes complaints of prohibited sex discrimination. This agency may be contacted as follows:

Office for Civil Rights (OCR), Headquarters
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline: 800-421-3481
TDD: 877-521-2172
Facsimile: (202) 453-6012

Email: OCR@ed.gov
Web: www.ed.gov/ocr

Office for Civil Rights, Philadelphia Office

U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: (215) 656-8541
Facsimile: (215) 656-8605
Email: OCR.Philadelphia@ed.gov

Complaints with the Office for Civil Rights must be filed within one hundred eighty (180) days of the last act that the reported victim believes was discriminatory. There is no time limit for making a report to the College.

Employees, Employment Applicants, Volunteers and other Third Parties: In addition, employees, applicants for employment and other third Parties may also file a formal complaint of sex discrimination with the following federal agency:

U. S. Equal Employment Opportunity Commission

Philadelphia District Office
21 South 5th Street, 4th Floor
Philadelphia, PA 19106
Phone: (215) 440-2600
TTY: (215) 440-2610

SECTION VI - REQUESTING CONFIDENTIALITY & REQUESTS NOT TO PURSUE RESOLUTION

Davis & Elkins encourages victims and witnesses of an incident of sexual and gender-based misconduct, retaliation or intimidation to talk to somebody about what happened – so reported victims can get the support they need, and so the College can respond appropriately.

Different College employees have different abilities to maintain a reported victim's confidentiality.

- Some are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.” Disclosures to these employees will **not** trigger a College investigation into an incident against the reported victim's wishes.
- Some employees are required to report all the details of an incident of which they have knowledge (including the identities of both the reported victim and respondent) to the College's Title IX Coordinator. A report to these employees (called “responsible employees”) constitutes a formal report to the College.

This Policy is intended to make members of the College community 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 and gender-based misconduct. The College encourages reported victims to talk to someone.

1. Evaluation of Requests for Confidentiality or Not to Pursue Resolution

Reported victims may (i) request that the College not investigate the information or allegation(s) reported, (ii) request confidentiality, (iii) refuse to file a report, and/or (iv) refuse to cooperate in the investigation and/or resolution of allegation(s).

The College takes such requests and decisions seriously; however, such requests and decisions may limit the College's ability to investigate and take reasonable action in response to a report of sexual or gender-based misconduct. In such cases, the College will evaluate such requests and decisions in the context of the College's commitment to provide a reasonably safe and non-discriminatory environment.

In order to make such an evaluation, the Title IX Coordinator may conduct an inquiry into the alleged sexual or gender-based misconduct and may weigh such requests and decisions against the following factors:

1. The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
 - a. Whether there have been other sexual or gender-based misconduct complaints about the same alleged perpetrator;
 - b. Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
 - c. Whether the alleged perpetrator threatened further sexual or gender-based misconduct or other violence against the victim or others;
 - d. Whether the sexual or gender-based misconduct was committed by multiple perpetrators.
2. The seriousness of the alleged sexual or gender-based misconduct, including but not limited to:
 - a. Whether the sexual or gender-based misconduct was perpetrated with a weapon;
 - b. Whether the reported victim is a minor;
 - c. The respondent's right to receive information about the allegations if the information is maintained by the College as an "Education Record" under FERPA;
 - d. Whether the college possesses other means to obtain relevant evidence of the sexual or gender-based misconduct (e.g., security cameras or security personnel, physical evidence);
 - e. Whether the reported 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 or person.

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 reported victim's request for confidentiality or not to pursue resolution. If the College honors the request, it will offer interim measures and/or remedial action to the victim and the

community, but will not otherwise pursue formal resolution.

There are times when the College may not be able to honor a reported victim's request (for confidentiality or not to pursue resolution) in order to provide a safe, non-discriminatory environment for all members of the College community. If the Assigned Title IX Coordinator determines that he or she cannot honor the reported victim's request for confidentiality, the Assigned Title IX Coordinator or designee will inform the reported victim prior to starting the investigatory process and will, to the extent possible, only share information with people responsible for handling the College's response. The College, however, will not require a victim to participate in the investigatory process or any disciplinary proceedings.

The College will remain ever mindful of the reported victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to implement interim measures. Retaliation against the reported victim or reporting party, whether by students, College employees or third parties, will not be tolerated. The College will also:

1. Assist the reported victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus;
2. Provide other security and support, which could include issuing a no-contact order (or orders), helping arrange a change of living or working arrangements or course schedules (including for the respondent pending the outcome of an investigation) or adjustments for assignments or tests; and
3. Inform the reported victim of his or her right to report a crime to campus security or local law enforcement – and provide the reported victim with assistance if the reported victim wishes to do so.

In addition to the above, because the College is under a continuing obligation to address the issue of sexual and gender-based misconduct, reports of sexual and gender-based misconduct (including non-identifying reports) will prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual and gender-based misconduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

SECTION VII - GENERAL PROVISIONS APPLICABLE TO ALL REPORTS & COMPLAINTS OF GENDER-BASED DISCRIMINATION, HARASSMENT AND SEXUAL MISCONDUCT

A. TIME FRAME FOR RESOLUTION

The investigation and resolution of all reports or complaints of gender-based discrimination, harassment and sexual misconduct will generally be completed within 60 to 90 days. Extenuating circumstances, including, but not limited to, the complexity and severity of a complaint may arise

that require the process to extend beyond 60 to 90 days. In general, a reported victim and respondent can expect to receive periodic updates from the Title IX Coordinator and/or Investigator as to the status of the review or investigatory process.

This timeframe may be extended by the Title IX Coordinator for good cause based on factors such as, but not limited to, criminal investigations, schedule and availability of witnesses, holidays or semester breaks, and the complexity of the complaint. If the investigatory process cannot be completed within 60 days, the Title IX Coordinator will notify the reported victim and respondent(s) of that fact and provide a timeframe for completing the investigatory process.

B. PRIVACY

The College is committed to protecting the privacy of all individuals involved in a report and/or complaint of gender-based discrimination, harassment, and sexual misconduct. When a report is made to the College, all individuals involved in the investigatory process, including but not limited to the reported victim, respondent, witnesses, or the investigators, etc., will be notified of the College's expectation that the privacy of all parties involved in the report will be maintained. The College will make all reasonable efforts to maintain the privacy of parties involved in a gender-based discrimination, harassment and sexual misconduct investigatory process. Privacy generally means that information related to a report of misconduct will only be shared with those College employees who "need to know" in order to assist in the active review, investigatory process, or resolution of a report. While not bound by confidentiality, those individuals who are not considered to be confidential resources will be discreet and respect the privacy of all individuals involved in the process. Breaches of privacy or retaliation against any person involved in the investigatory process may result in disciplinary action.

C. PUBLIC AWARENESS EVENTS

Public awareness events such as candlelight vigils, protests, or other forums in which students might disclose incidents of Sexual Misconduct, are not considered notice to the College of sexual or gender-based misconduct for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about students' Title IX rights at these events.

D. FALSE INFORMATION AND MALICIOUS ACCUSATIONS

Any individual who knowingly files false and malicious accusations of gender-based harassment, discrimination and/or sexual misconduct, retaliation or intimidation, who knowingly provides false information to College officials, or who intentionally misleads College officials who are involved in the investigation or resolution of a report of gender-based harassment, discrimination and/or sexual misconduct, retaliation or intimidation may be subject to disciplinary action or other sanctions up to and including termination or dismissal. Erroneous reports or complaints of gender-based harassment, discrimination and/or sexual misconduct, retaliation or intimidation made in good faith are exempted from this provision.

E. CLERY ACT STATISTICAL AND TIMELY WARNING REPORTING OBLIGATIONS

Statistical Reporting: The Clery Act is a federal law requiring institutions of higher education to collect and report statistics on certain crimes in an annual security report

(https://www.dewv.edu/sites/default/files/shared/annual_security_and_fire_safety_report_05_20_17.pdf). Campus Security Authorities at the College have a duty to provide the College's Office of Public Safety with information regarding certain crimes when they are reported to them. All personally identifiable information is kept confidential from the report, but statistical information regarding Clery reportable crimes must be shared, including the date and location of the incident (but not the specific address) and information about the reported crime to allow for proper classification. This report provides the College community with information about the extent and nature of crime on the College's campus and helps ensure greater community safety.

Timely Warning Notifications: If a report of sexual or gender-based misconduct reveals that there is an immediate threat to the health or safety of students or employees on campus, or that an ongoing serious or continuing threat to the campus community exists, an emergency Timely Warning notification will be issued. The purpose of the Timely Warning notification is to enable individuals to protect themselves and to increase safety awareness, as well as seek information that will lead to eradication of the threat. The victim's names and other personally identifiable information will not be included in any emergency notification or public safety advisory.

F. AMNESTY POLICY

Individuals may be hesitant to report conduct which they have experienced or witnessed, to participate in an investigation and/or grievance proceeding, or to speak truthfully because they fear College disciplinary action due to their own consumption of alcohol or other drugs at or near the time of the incident. While the College does not condone underage drinking or drug use, the College may extend limited immunity from College sanctioning in the case of illegal drug and alcohol use to victims, witnesses and those reporting incidents and/or assisting the victims of sexual offenses, provided that they are acting in good faith in such capacity.

G. DOCUMENTATION

The College will retain documentation (including but not limited to the records of each report and formal complaint, notifications, the investigation report, any written findings of fact, petitions for appeal, and any written communication between the parties), for at least seven years. Documentation pertaining to expulsions or degree revocations will be retained indefinitely or in accordance with College policy.

H. INDIVIDUALS WITH DISABILITIES AND INTERNATIONAL STUDENTS

This Policy is accessible to students, employees and third parties with disabilities. The College will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations as needed to participate in the steps and procedures outlined in this Policy.

In addition, this Policy is accessible to students who are English language learners and is distributed on campus in such a way that all students are aware of their rights under Title IX and the Violence Against Women Act.

I. SHARING RECORDS WITH LAW ENFORCEMENT

The College will share with law enforcement, as necessary and appropriate, information or records permitted to be released under any exception to the privacy protections of the Family Educational Rights and Privacy Act (FERPA), including the Health and Safety Emergency exception and/or records/information otherwise protected by any other state laws or local ordinances. It should be

noted that FERPA applies only to records created by the College and to information derived from tangible records. FERPA does not protect the confidentiality of information in general and, therefore, does not apply to the disclosure of information derived from a source other than an education record, even if education records exist which contain that information. As a general rule, information that is obtained through personal knowledge or observation and not from an education record is not protected from disclosure under FERPA. Thus, a non-confidential verbal report of an offense of violence or sexual assault can be reported to the appropriate law enforcement agency.

In those instances when a student is formally charged by law enforcement with a crime of violence or sexual assault, the College may provide to local law enforcement the name of the student found responsible for violating the College's Code of Student Conduct, the Code of Student Conduct violation, and the final results of the disciplinary proceedings.

In the event there is a concern that some information/record regarding a sexual or gender-based misconduct incident may not be shared because of FERPA constraints, the College's legal counsel will be consulted.

J. BYSTANDER INTERVENTION

The College encourages all community members to take reasonable and prudent actions to prevent or stop an act of gender-based discrimination, harassment and/or sexual misconduct or associated incidents of retaliation or intimidation. Taking action may include direct intervention, calling law enforcement, or seeking assistance from a person in authority.

K. ADVISORS

The reported victim and the respondent have the right to have one advisor of his/her choice present during any meeting or interview regarding a report or complaint alleging that the College Gender-Based Discrimination, Harassment and Sexual Misconduct Policy has been violated. This may include, but is not limited to, any part of an investigatory process, informal or formal resolution, appeal and/or sanction proceeding conducted under this Policy. The Advisor may not have personal involvement regarding any facts or circumstances of the alleged misconduct. The Advisor's only functions shall be to accompany the reported victim and respondent to the meeting, interview and/or proceeding and assist and/or consult with the reported victim and respondent. The Advisor may not act as a spokesperson for the reported victim or respondent or answer questions on their behalf. The Advisor may be an attorney but participation shall be limited, as stated above.

SECTION VIII – RESPONDING TO INCIDENTS OF GENDER-BASED DISCRIMINATION, HARASSMENT & SEXUAL MISCONDUCT

Once the College receives a report of or is put on notice of an incident of sexual or gender-based misconduct or associated incidents of retaliation or intimidation, the College will generally proceed as follows:

A. INTERIM MEASURES

Once the College receives a report of or is put on notice of an incident of sexual or gender-based misconduct or associated incidents of retaliation or intimidation, the Assigned Title IX Coordinator, in consultation with other appropriate administrators necessary, will determine

whether any interim and protective measures (“Interim Measures”) and/or interim disciplinary sanctions are warranted and appropriate.

The College may implement such measures regardless of whether a report has been made (with either campus officials or law enforcement agencies) or whether an investigation has commenced. Moreover, a victim who has not reported the misconduct to a Title IX Coordinator(s), Office of Public Safety or a responsible employee has the option to disclose the misconduct to a professional counselor from the Counseling or Health Centers or an on or off-campus victim advocate, who in turn can request Interim Measures on the victim’s behalf from the College. Under this option, victims should be aware that when a counselor or advocate requests interim measures on their behalf from the Title IX Coordinator and discloses that the reason for the request is sexual or gender-based misconduct, the request may trigger the College’s Title IX obligation to investigate. To the extent the counselor or advocate makes such a disclosure, but, consistent with the victim’s wishes, asks that the College not investigate or otherwise notify the alleged perpetrator of the report, the Title IX coordinator will consider whether it can honor the request while still providing a safe and nondiscriminatory environment for all students, as set forth in the College’s Confidentiality Policy and take interim measures to protect the victim as necessary.

1. Interim and Protective Measures

When warranted to protect the parties (reported victim, reporting party, respondent, witnesses, etc.) the Assigned Title IX Coordinator may implement one or more interim measures, if appropriate and/or reasonably available, including, but not limited to the following:

- a. Issuing of mutual no-contact orders to prevent any contact between the victim, the respondent, witnesses and/or other community members to ensure the safety of all parties and the integrity of the process;
- b. Providing an escort to ensure that he or she can move safely between classes, work and/or activities;
- c. Changing on-campus housing, if any, to a different on-campus location and providing assistance from College support staff in completing the relocation;
- d. Rescheduling class work, assignments and examinations;
- e. Changing work arrangements or schedules;
- f. Providing academic support services such as providing alternative course completion options, dropping a course without penalty or transferring to a different class section (with the agreement of the appropriate faculty);
- g. Limiting an individual’s or organization’s access to certain College facilities or activities pending resolution of the matter;
- h. Transportation accommodations, such as shuttle service, cab voucher or parking arrangements, to ensure safety and access to other services; and
- i. Preserving eligibility for academic, athletic or other scholarships, financial aid, internships, study abroad, or foreign student visas.

Note: Failure to comply with the terms of interim measures may be considered a separate violation of this Policy.

2. Interim Measures for Respondents:

a. For Student Respondents:

- Request that the Office of Student Affairs temporarily suspend the student respondent from the College; or
- Request that the Office of Student Affairs summarily suspend the respondent from campus housing on an interim basis and/or restrict his or her movement on campus.

The specific interim measures implemented and the process for implementing those measures will vary depending on the facts of each case. The appropriate Assigned Title IX Coordinator will consider a number of factors in determining what interim measures to take, including, for example, the specific need expressed by the victim; the age of the parties involved; the severity or pervasiveness of the alleged behaviors or activities; any continuing effects on the Victim; whether the victim and respondent share the same residence hall, class, transportation or job location; and whether other judicial measures have been taken to protect the Victim (e.g., civil protection orders).

In general, when taking interim measures, the College will seek to minimize the burden on the victim. For example, if the victim and respondent share the same class or residence hall, the College will typically not remove the victim from the class or housing while allowing the respondent to remain. The College does, however, make such decisions on a case-by-case basis.

Even when the Assigned Title IX Coordinator has determined that the College may not be able to respond fully to an allegation of Sexual and Gender-Based Misconduct and initiate formal action against a respondent because of the victim's request for confidentiality, the Assigned Title IX Coordinator will take immediate action to protect the victim and the College community while keeping his or her identity confidential. These actions may include: providing support services to the victim; changing living arrangements or course schedules, modifying assignments or tests; and providing increased monitoring, supervision or security at locations or activities where the misconduct is alleged to have occurred.

Throughout the College's investigation and resolution process, the Assigned Title IX Coordinator will periodically check with the victim to ensure interim measures are effective and, if not, identify alternatives.

B. INITIAL MEETINGS WITH THE ASSIGNED TITLE IX COORDINATOR

1. Meeting with the Reporting Party and/or Reported Victim

Within five business days following the filing of a report or being put on notice of a possible incident of Sexual or Gender-Based Misconduct or associated incidents of Retaliation or Intimidation (or as soon as is reasonably practicable), the assigned Title IX Coordinator will contact the reporting party or reported victim to schedule an initial meeting to discuss the report and avenues for its resolution. If the report was made by a reporting party, the assigned Title IX

Coordinator will attempt to meet with such person and gather information from him or her before speaking with the reported victim. Following the initial meeting with the reported victim, the assigned Title IX Coordinator will, if applicable and warranted by the facts, promptly determine the interim measures to be provided to him or her. If interim measures have already been implemented, the assigned Title IX Coordinator will evaluate whether they should continue to be provided and whether other interim measures should also be implemented.

During the initial meeting with the reported victim, the assigned Title IX Coordinator will, as applicable:

- Review and provide a written copy of this Policy, including a review of applicable rights under the Policy and how to access the Policy (see Appendix B);
- Provide written notification of the counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available for victims both within the College and in the community and the availability of changes to academic, living, transportation, and working situations or protective measures regardless of whether the victim reports to law enforcement;
- Explain the avenues for formal and, if applicable, informal resolution of the Complaint;
- Explain the steps involved in a Formal Title IX investigation;
- Advise the reported victim that he or she may have an advisor of his or her choice present throughout the Title IX investigation and resolution process. The advisor may be anyone of the reported victim's choosing, including an attorney retained at the individual's initiative. Any advisor may participate as a silent observer in any meeting or proceeding related to the investigation or resolution process;
- Discuss confidentiality standards and concerns;
- Determine whether the reported victim wishes to pursue an informal (if applicable) or formal resolution through the College, law enforcement, both or no resolution of any kind;
- Refer the reported victim to counseling and other on- and off-campus resources, as appropriate;
- Discuss the importance of preserving relevant evidence or documentation of relevance to the investigatory process (e.g., texts, emails, notes, photographs, etc.);
- Discuss protection from and reporting of retaliation and intimidation; and
- Discuss with the reported victim, as appropriate, possible interim measures that can be provided to him or her during the pendency of the investigative and resolution processes. (If interim measures above have already been implemented, the Title IX Coordinator will evaluate whether they should continue to be provided and whether other Interim Measures should also be implemented.) The College may implement such measures regardless of whether a report has been filed (with either campus officials or law enforcement agencies) or whether the investigatory process has commenced.

2. Meeting with the Responding Party

If the reported victim wishes to pursue resolution through the College or if the College otherwise deems that further investigation is warranted, as soon as is practicable after the assigned Title IX

Coordinator's initial assessment, the assigned Title IX Coordinator will schedule an initial meeting with the respondent. During the initial meeting with the respondent, the assigned Title IX Coordinator will, as applicable:

- Provide the respondent sufficient information to allow him or her to respond to the substance of the allegation, including, if possible, the name of the reported victim and the date, location, and nature of the alleged sexual or gender-based misconduct;
- Review with and provide the respondent a written copy of this Policy and how to access it, including a review of his or her rights under the Policy (see Appendix B);
- Explain the College's procedures for resolution of the complaint;
- Explain the steps involved in a formal Title IX investigation;
- Advise the Respondent that he or she may have an advisor of his or her choice present throughout the Title IX inquiry, investigation, and resolution process. The advisor may be anyone of the respondent's choosing, including an attorney retained at the individual's initiative. Any advisor may participate as a silent observer in any meeting or proceeding related to the investigation or resolution process.
- Discuss confidentiality standards and concerns with the respondent;
- Discuss non-retaliation and intimidation requirements with the respondent;
- Inform the respondent of any interim measures already determined and to be provided to the reported victim that directly affect the respondent (e.g., changing the respondent's class schedule or moving the respondent to an alternate residence hall);
- Discuss the importance of preserving evidence or documentation relevant to the investigation (e.g., texts, emails, notes, photographs, etc.);
- Refer the respondent to a counselor or other resources, as appropriate; and
- Discuss with the respondent, as appropriate, possible interim measures that can be provided to the respondent during the pendency of the investigative and resolution processes. The College may implement such measures if requested and/or appropriate, and reasonably available, whether a formal complaint has been filed (with either campus officials or law enforcement agencies) or whether an investigation has commenced (by either campus officials or law enforcement agencies).

C. TITLE IX COORDINATOR'S INITIAL ASSESSMENT

The Title IX Coordinator will make an assessment, after meeting with the reported victim and if possible and prudent the respondent, as to whether or not there are reasonable grounds for believing that the conduct at issue constitutes gender-based discrimination, harassment and/or sexual misconduct.

In the event that the assigned Title IX Coordinator determines there are no reasonable grounds for believing that the conduct at issue constitutes gender-based discrimination, harassment and/or sexual misconduct as defined by this Policy, the Title IX Coordinator will determine in separate consultation as appropriate with the reported victim, the respondent and/or other College administrators and document the appropriate resolution of the complaint. Appropriate resolution measures will include the consideration of broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual and gender-based

misconduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting College policies, procedures and practices.

If, however, in the judgment of the Title IX Coordinator, reasonable grounds for believing that the conduct at issue constitutes gender-based discrimination, harassment and/or sexual misconduct, the Title IX Coordinator will determine whether (a) the case can possibly be resolved through informal resolution; or (b) a formal Title IX Investigation is warranted to resolve the case.

D. INFORMAL RESOLUTION

Informal resolution is often used for less serious, yet inappropriate, behaviors and may be an alternative to the formal resolution process. The assigned Title IX Coordinator will determine if informal resolution is appropriate, based on the willingness of the parties and the nature of the conduct at issue. Informal resolution will not be the primary resolution mechanism used to address a report of *Sexual Assault, Dating Violence, Domestic Violence, Sexual Exploitation of any kind or in other cases of serious violations of the Gender-Based Discrimination, Harassment and Sexual Misconduct Policy as determined by the Title IX Coordinator* or in other cases of serious violations of this Policy, though it may be made available should the parties and the assigned Title IX Coordinator believe that it could be beneficial.

While informal resolution measures will not be used as the primary resolution mechanism for cases involving those incidents described in the preceding paragraph, Informal resolution measures may be used as appropriate: (1) To determine remedial actions when the assigned Title IX Coordinator determines there are no reasonable grounds for believing that a report constitutes gender-based discrimination, harassment and/or sexual misconduct as defined by this Policy; (2) To determine disciplinary sanctions and/or remedial actions when the respondent has admitted that he or she has violated this Policy; (3) To determine disciplinary sanctions and remedial actions when the respondent, as a result of the formal investigation process, has been found by the preponderance of the evidence to have violated this Policy; or (4) To determine appropriate remedial actions whenever a reported victim does not wish to start or continue a formal investigatory process, and no pattern, predation, threat, violence or weapon presents the College with the obligation to proceed formally despite the reported victim's request.

It is not necessary to pursue informal resolution first, and anyone participating in informal resolution can stop that process at any time and request a formal resolution. Participating parties must voluntarily elect to pursue an informal resolution process without pressure or compulsion from others. The College or the parties may, at any time, elect to end such proceedings and initiate formal resolution instead. In such cases, information provided by the parties in the course of the investigation and conflict resolution may be considered in the subsequent formal resolution. Moreover, the reported victim and respondent may be accompanied by an advisor at any meetings related to the informal resolution process. If a satisfactory resolution is reached the matter will be considered completed. If these efforts are unsuccessful, the formal resolution process will commence.

Information shared or obtained during an informal resolution process will be treated as confidential to the extent permitted by law. Any agreements reached in an informal resolution process must be

approved by the Title IX Coordinator to ensure consistency with the College's Title IX obligations. The Title IX Coordinator will maintain records of all reports and conduct resolved through informal resolution. Informal resolution will typically be completed within 60 business days as is reasonable and practicable.

E. FORMAL RESOLUTION PROCEDURES

It is the goal of Davis & Elkins to provide for an adequate, reliable and impartial investigation of each report, including the opportunity for both the reported victim and respondent to present witnesses and evidence.

1. Assignment of Investigator

If the Title IX Coordinator determines that a formal Title IX Investigation is warranted to resolve a report of sexual or gender-based misconduct or informal resolution efforts were not successful, the assigned Title IX Coordinator will appoint an investigator or an investigative team ("Investigator") who has specific training and experience investigating allegations of gender-based discrimination, harassment and sexual misconduct. The Title IX Coordinator will notify both the reported victim and the respondent in writing of the formal Title IX investigation and the name of the investigator(s).

Either the respondent and/or the reported Victim may protest the appointment of the investigator(s) by identifying a possible conflict of interest in writing to the assigned Title IX Coordinator within 24 hours of receiving notice of the name of the investigator(s). The assigned Title IX Coordinator will carefully consider such statements and will assign a different Investigator(s) if it is determined that a material conflict of interest exists.

2. Investigator's Activities

The Title IX investigation will be conducted in a manner appropriate in light of the circumstances of the case. The formal investigatory process may include, but is not limited to, conducting interviews of the reported victim, the respondent(s), and any witnesses (witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character); reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; and gathering, examining and preserving other relevant documents and physical, written (including medical records), and electronic evidence (including social media, communications between parties, security camera footage, etc.). The parties will have an equal opportunity to present relevant witnesses and evidence to the investigator, as well as identify witnesses who may have relevant information. Moreover, both the reported victim and respondent(s) may have an advisor accompany (but not actively participate) him or her through the investigation process.

In gathering the facts and arriving at a conclusion, the Investigator may consider the Respondent's prior conduct history if:

- The respondent was previously found to be responsible for a violation of an institutional policy which has bearing on or was connected to the current allegation and/or was substantially similar to the present allegation; and/or
- The information indicates a pattern of behavior by the respondent.

Additionally, the investigator will refrain from posing questions about or considering the reported victim's sexual history with anyone other than the respondent. 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 gender-based discrimination, harassment and sexual misconduct. The investigator(s) will strive to conduct the investigation in a manner that does not inflict additional trauma on the reported victim and will take reasonable care to protect the privacy of involved parties.

Note: The investigator should obtain, when applicable and when possible, the written consent of any third-party witnesses to the disclosure of any personally identifiable information (as that term is defined by FERPA) contained in the complaint, the investigative report, and/or any other documents the disclosure of which is contemplated by this policy in order to further the resolution of the complaint. If the investigator is unable to obtain the consent of such third-party witnesses, he or she must redact the investigative report to the extent necessary to avoid disclosure of such witness's personally identifiable information, while ensuring that such redaction does not prevent resolution of the complaint.

Findings & Outcome Notification

The investigatory process, which will typically be completed within 30 business days after the investigation begins, will result in a written report detailing the investigation and including a synthesized presentation of the facts and key points that will lead to the determination of whether there is reasonable cause to believe that the respondent(s) engaged in a Gender-Based Discrimination, Harassment and Sexual Misconduct Policy violation. The written report will include an overview of each interview, a summary of key points, and an assessment of each individual's credibility.

The written report will be provided to the Title IX Coordinator and be used in the decision-making process to determine whether or not the Policy has been violated. The assigned Title IX Coordinator, in conjunction with the lead investigator, will present the report to the remaining Title IX and Deputy Coordinators (minus the person charged with granting an appeal) to determine an outcome as to whether or not the Gender-Based Discrimination, Harassment and Sexual Misconduct Policy has been violated based on the preponderance of evidence standard. The decision will be rendered by the Title IX Coordinator and Deputies (minus the Coordinator who will serve as the appeal person).

If it is determined that the preponderance of evidence standard cannot be met or that there is no reasonable cause to determine a Policy violation, the matter will be closed subject to a final appeal. Preponderance of evidence is the required standard for determining a policy violation. Administrators charged with rendering a decision of policy violation must be convinced based on the information provided that a policy violation was more likely to have occurred than to not have occurred in order to find a respondent responsible for violating a policy.

Written notice of the outcome, rationale for the decision, and instructions for filing an appeal will be provided to both parties

4. Sanctions

Should a respondent accept responsibility for a Policy violation, or if it is determined that the preponderance of evidence establishes that it is more likely than not that the respondent violated the Policy, the assigned Title IX Coordinator will determine an appropriate sanction in conjunction with the appropriate administrator.

- If the respondent is a student: The sanction will be administered by the Vice President for Student Affairs.
- If the respondent is an employee: The sanction will be administered by the Director of Human Resources.
- If the respondent is a member of Faculty: The sanction will be administered by the Vice President for Academic Affairs.
- If the Respondent is a third party: The sanction will be administered by the Title IX Coordinator.

The Administrative Officer must be a neutral and impartial decision-maker. Any Administrative Officer who has reason to believe s/he cannot make an objective determination must recuse oneself from the process.

The sanction rendered by the appropriate administrator will be issued within five (5) business days following the receipt of the written decision or the respondent's admission of responsibility. Consideration may be given to the nature of, and circumstances surrounding, the violation, prior disciplinary violations, precedent cases, the College's safety concerns, or any other information deemed relevant by the appropriate administrators. The severity of the offense will determine the severity of the sanction. See Appendix C for the College's Sanctioning Matrix. Copies of the decision and sanction will be provided to the reported victim and respondent, via the assigned Title IX Coordinator, via hand delivery or certified mail.

Examples of Disciplinary Sanctions

Disciplinary Sanctions may include, but are not limited to:

- Disciplinary sanctions for students found to have violated the College's Gender-Based Discrimination, Harassment and Sexual Misconduct Policy may include any of the sanctions outlined in the Code of Student Conduct, including but not limited to education, referral to counseling, warnings, probation, suspension, suspension from participation in activities or privileges, suspension from the College or the residence halls, or expulsion.
- Sanctions for faculty, staff or volunteers may include, for example, education, referral to counseling, and disciplinary actions such as warnings, reprimands, withholding of a promotion or pay increase, reassignment, restriction in activities or privileges, temporary suspension without pay, compensation adjustments, or termination.

If the decision rendered is accepted by both the reported victim and respondent and no appeal is made, the Title IX Coordinator or Deputy Coordinator overseeing the case and the appropriate administrator will implement the sanction, and act promptly and effectively to remedy the effects of the incidents upon the reported victim and the campus community.

5. Appeals

Both parties have the right to appeal the finding within five (5) business days upon receipt of the written notice. Disagreement with the finding and/or with the sanctions does not, by itself, represent grounds for appeals. Legitimate grounds for an appeal are confined to those instances in which there was a demonstrable procedural error and/ or new evidence, not previously available, becomes available.

- If the respondent is a student: The written appeal shall be submitted to the Vice President for Academic Affairs.
- If the respondent is a staff member, volunteer, or third party: The written appeal shall be submitted to the Vice President for Student Affairs.
- If the respondent is a faculty member: The written appeal shall be submitted to the Director of Human Resources.

If an appeal is granted by the appeal officer as noted above, the appeal officer will notify the Title IX and Deputy Coordinators of the error or new evidence, and they will reconsider the case and render a new decision according to the evidence based upon the preponderance of evidence standard.

6. Remedial Action

In addition to the imposition of disciplinary sanctions, the Title IX Coordinator may take remedial action to remedy a hostile environment. Such remedies may be imposed to protect the victim and the College community and are considered separate from, and in addition to, any disciplinary sanction or interim measure that may have been provided prior to the conclusion of the College's investigation.

Examples of Remedial Action for the reported victim as determined by the Title IX Coordinator may include, but are not limited to:

- Providing an effective escort to ensure that the reported victim can move safely between classes and activities;
- Ensuring the reported victim and respondent(s) do not share classes or extracurricular activities;
- Moving the respondent or reported victim (if the reported victim requests to be moved) to a different residence hall;
- Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
- Arranging for the reported victim 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 reported victim to see if there is a causal connection between the sexual assault and the misconduct that may have resulted in the Reported Victim being disciplined.

Examples of Remedial Action for the Broader College Community

Remedies for the broader College community, as determined by the Title IX Coordinator may include, but are not limited to:

- Training or retraining employees on the College's responsibilities to address allegations of sexual and gender-based misconduct and how to conduct Title IX investigations;
- Developing materials on sexual and gender-based misconduct;
- Conducting bystander intervention and sexual and gender-based misconduct prevention programs with students;
- Issuing policy statements or taking other steps that clearly communicate that the College does not tolerate sexual and gender-based misconduct and will respond to any incidents and to any student who reports such incidents;
- Conducting a campus climate check to assess the effectiveness of efforts to ensure that the College is free from sexual and gender-based misconduct, 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 and gender-based misconduct created a hostile environment in a residence hall or on an athletic team; and
- Developing a protocol for working with local law enforcement.

When the College is unable to conduct a full investigation into a particular incident (i.e., when the reported victim insists on confidentiality, when it received a general report of sexual and gender-based misconduct without any personally identifying information, etc.), the Title IX Coordinator will pursue remedies for the broader College community in an effort to limit the effects of the conduct at issue and prevent its recurrence.

Note: The College does not permit a student respondent to formally withdraw from the College if a complaint is pending against the Respondent. Should a student decide to leave the College and not participate in the investigation and/or hearing, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to Davis & Elkins College unless all sanctions have been satisfied. A hold may be placed on the student's account to prohibit re-enrollment and the release of transcripts.

SECTION IX – PREVENTION AND AWARENESS PROGRAMS

The College is committed to preventing and eliminating discrimination and harassment of students, faculty, and staff. To that end, the College will broadly disseminate the Gender-Based Discrimination, Harassment, and Sexual Misconduct Policy, distribute a list of resources available to respond to concerns of sexual harassment and discrimination and related retaliation and intimidation, and develop and present appropriate primary prevention and awareness programs for new students and employees, as well as on-going prevention and awareness programs for students and faculty as necessary and applicable.

A. PREVENTION AND EDUCATIONAL RESOURCES

Davis & Elkins College provides resources for education about and prevention of Sexual and Gender-Based Misconduct. On-campus prevention and awareness resources regarding Sexual and Gender-Based Misconduct are available online, across campus, and at the following offices:

Davis & Elkins College Office of Public Safety
(304) 704-9111

Title IX Coordinator, Bruce Blankenship
Scholars Room, 3rd Floor, Booth Library

The Office of Student Life
Liberal Arts Hall 102

Student Health Services
Room 204, Byrd Conference Center

College Counselor

College Chaplain
Liberal Arts Hall 209

B. TRAINING

Primary and ongoing sexual and gender-based misconduct prevention and awareness training, which includes training with respect to sexual assault offenses, is provided for members of the Davis & Elkins College community according to the following schedule:

- All students - annually;
- New full-time faculty and staff - within six months of hire;
- All responsible employees - annually;
- All campus security authorities – annually;
- All investigators – annually;
- Title IX Coordinator and Deputy Coordinators – annually;
- All Public Safety and Security officers - annually.

1. Employee Awareness and Prevention Programs

Training for employees includes practical information about how to prevent and identify sexual and gender-based misconduct, including same-sex sexual and gender-based misconduct; the behaviors that may lead to and result in sexual and gender-based misconduct; the attitudes of bystanders that may allow conduct to continue; the potential for re-victimization by responders and its effect on the reported victim; appropriate methods for responding to a reported victim who may have experienced an incident of sexual and gender-based misconduct, including the use of

nonjudgmental language; the impact of trauma on victims; and, as applicable, the person(s) to whom such misconduct must be reported. The College's training also specifically reviews the College's Policy and prohibition of the crimes of Sexual Assault, Dating Violence, Domestic Violence and Stalking; the definitions of these terms in West Virginia; the state of West Virginia's definition of 'consent' in relation to sexual activity; and a review of safe and positive options for bystander intervention and information on risk reduction (see Appendix D). It further explains responsible employees' reporting obligations, including what should be included in a report, consequences for failing to report, procedures for responding to a victim's request for confidentiality, and the contact information for the College's Title IX Coordinator. The College also trains responsible employees to inform victims of the reporting obligations of responsible employees; the victim's option to request confidentiality and available confidential advocacy, counseling or other support services; and the victim's right to file a Title IX complaint with the College and to report a crime to campus or local law enforcement.

2. Student Awareness and Prevention Programs

At a minimum, the following topics (as appropriate) are covered during the College's sexual and gender-based misconduct student training:

- Title IX and what constitutes sexual assault, including same-sex assault, under the College's Sexual and Gender-Based Misconduct Policy;
- The College's definition of consent applicable to sexual conduct, including examples;
- How the College analyzes whether conduct was unwelcome under Title IX;
- How the College analyzes whether unwelcome sexual conduct creates a hostile environment;
- Reporting options, including formal reporting and confidential disclosure options;
- Identification of the offices or individuals with whom victims can speak confidentially and the offices or individuals who can provide resources such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance;
- Identification of those employees who are considered responsible employees;
- The College's investigation procedures and proceedings when a sexual and gender-based misconduct report is made;
- Sanctions relating to sexual and gender-based misconduct;
- Effects of trauma, including neurobiological changes;
- The role alcohol and drugs often play in sexual and gender-based misconduct incidents, including the deliberate use of alcohol and/or other drugs to perpetrate sexual assault and other forms of sexual and gender-based misconduct;
- Strategies and skills for bystanders to intervene to prevent possible sexual assault;
- How to report criminal sexual and gender-based misconduct incidents to campus or local law enforcement and the ability to pursue law enforcement proceedings simultaneously with a Title IX grievance;
- A review of the state of West Virginia's definition of "consent" in relation to sexual activity;

- A review of safe and positive options for bystander intervention and information on risk reduction (see Appendix D); and
- Title IX's protections against retaliation.

The College's training also encourages students to report incidents of sexual and gender-based misconduct and explains that students (and their parents or friends) do not need to determine whether incidents of sexual assault or other sexual and gender-based misconduct created a hostile environment before reporting the incident. The training also highlights that the College's primary concern is student safety, and the use of alcohol or drugs never makes the survivor at fault for an incident of sexual and gender-based misconduct.

SECTION X - ANNUAL REPORT

The Title IX Coordinator maintains and delivers an annual report to the Cabinet documenting: (1) the number of reports or complaints received pursuant to this policy; (2) the categories of those involved in the allegations; (3) the number of policy violations found; and (4) examples of sanctions imposed for policy violations.

APPENDIX A - IMMEDIATE AND ON-GOING ASSISTANCE FOLLOWING A SEXUAL OR GENDER-BASED MISCONDUCT INCIDENT

Davis & Elkins College recognizes that deciding how to respond to an incident of sexual or gender-based misconduct can be difficult and encourages all individuals to seek the immediate use and support of all available resources on and off campus, regardless of when or where the incident occurred. Confidential and non-confidential care and support resources, which are listed below, are available both on and off campus on an immediate and ongoing basis.

A. IMMEDIATE ASSISTANCE AND RESOURCES

It is the College's goal to empower individuals who believe they have experienced an incident of sexual or gender-based misconduct to make the decisions that are best for them. Various campus and community advocates, counselors and emergency first responders are available to offer assistance in this regard. Moreover, seeking assistance and advice promptly from one of these resources may also be important to ensure one's physical safety or to obtain medical care or other support. It may also be necessary to preserve evidence, which can assist the College and/or law enforcement in responding effectively. Assistance is available 24 hours a day, 7 days a week. The [Resource Guide](#) provides contact information for the various campus and community advocates, counselors and emergency first responders available to provide assistance.

Get to a Safe Place: First and foremost, an individual who is the victim of sexual assault (non-consensual sexual contact and non-consensual sexual intercourse), domestic violence, dating violence, stalking or other violent actions is urged to get to a safe place away from the perpetrator or from any other potential danger as soon as possible. Individuals on campus that are not in a safe place should contact the Office of Public Safety at (304) 704-9111 (24 hours) or local law enforcement at 911 immediately (24 hours). Individuals off campus should contact local law enforcement at 911 immediately (24 hours).

Preserve Evidence: Collecting evidence does not obligate an individual to any particular course of action, but can assist law enforcement should criminal charges ultimately be pursued. For evidence collection purposes, it is important that, if possible, victims do not shower, bathe, wash, comb their hair, use the toilet, smoke, brush their teeth, eat or drink, and wash clothes, sheets, blankets or other items. Anything of evidentiary value should be placed in a paper bag (plastic bags are discouraged). Also, victims are urged to photograph visible injuries. Pictures of injuries should be taken in both close-up and wide-angle formats. A credit card, coin or dollar bill should be used in the pictures for reference of size.

Contact a Confidential Counselor or Health Care Providers: Individuals who believe that they or someone they know has been a victim of sexual or gender-based misconduct may seek medical, counseling, support and reporting information from any of the College or off-campus confidential resources listed in the [Resources Guide](#). Discussing a matter with these offices or individuals is not considered a report to the College or a request that any action be taken by the College in response to a sexual or gender-based misconduct incident unless specifically requested by the victim. Conversations with these resources are confidential, except as described in the [Resources Guide](#).

The confidential counselors and healthcare members listed in the [Resources Guide](#) can provide individuals with both immediate and long-term help. They will listen and help access additional assistance, and explain options for obtaining additional support from the College and others. They can also arrange for medical care and accompany victims, or arrange for someone to accompany individuals, to seek such care. In addition, they can provide assistance in filing a complaint with local law enforcement. These resources may be used regardless of whether the victim wants to file an official report or participate in College investigation and resolution proceedings or the criminal process. They are familiar with the College's investigation and resolution process, can explain what to expect, and provide support while College or legal processes are pending, all on a confidential basis.

Contact a Non-Confidential College Resource: In addition to confidential resources, any individual who has experienced or witnessed an incident of sexual or gender-based misconduct has the option and is encouraged to contact any of the non-confidential College resources listed in the Resource Table below for immediate assistance.

Upon the receipt of the initial report, the victim's immediate health and safety needs will be assessed by the First Responder (usually a Public Safety Officer). The First Responder will outline all of the options for the reported victim, including but not limited to medical treatment, access to an on-campus safe room, the importance of preserving relevant evidence or documentation, and filing a report with the appropriate law enforcement authority. Additionally, the First Responder will advise the reported victim that the College has a duty to investigate the report in order to remedy the effects of any hostile environment created for the reported victim and the campus community.

Make a Report to Local Law Enforcement (Non-Confidential): Any individual who has experienced an incident of sexual or gender-based misconduct involving potential criminal conduct has the option to report the conduct to the law enforcement agency that has jurisdiction over the location where the incident occurred. If the conduct is reported to the College, a victim will be informed of his or her option to also report any potential criminal activity to law

enforcement. A criminal charge and a report with the College may be pursued at the same time, however, individuals may pursue a Complaint with the College without pursuing criminal charges and vice versa. The College, however, may still be obligated to investigate the matter even if the victim elects not to file a formal complaint with the College. Because the standards for finding a violation of criminal law are different from the standards in this Policy, criminal investigations or reports are not determinative of whether or not sexual or gender-based misconduct under this Policy has occurred. Any of the College resources listed in the [Resource Guide](#) can provide assistance in filing a complaint with local law enforcement.

Seek Medical Care (Health Care Options): Whether a member of the College community who has experienced an incident of sexual assault (non-consensual sexual contact and non-consensual sexual intercourse), domestic violence, dating violence or other violent actions elects to report the incident or not, it is important that medical attention be sought as soon as possible. This will allow the individual to get care for any injuries that may have resulted from the assault, receive medications in order to prevent sexually transmitted infections in the event of a sexual assault and to properly collect and preserve evidence, if the patient consents to do so. A medical examination within 72 hours is critical in preserving evidence of sexual assault and proving a criminal or civil case against a perpetrator.

A listing of local hospitals that have rape kits and/or Sexual Assault Nurse Examiners (SANE), which will assist law enforcement should criminal charges ultimately be pursued by the victim, are set forth in the Resources Guide.

Getting to the Hospital: For victims with injuries that require emergency medical care, it is imperative that Office of Public Safety be contacted at (304) 704-9111 (24 hours) or that Emergency Medical Services be contacted at 911 to request emergency transport.

Transportation Assistance: If there are no pressing medical needs, the individual may make arrangements for travel to the hospital or contact any of the College or off-campus resources listed in the Resource Guide for assistance in seeking medical attention off campus.

Request Interim Measures: Interim measures are those services (counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, etc.), accommodations (academic, living, transportation and working situations), protective measures or other assistance that the College puts in place for reported victims after receiving notice of alleged sexual and gender-based misconduct but before any final outcomes – investigatory, disciplinary or remedial – have been determined. These services and accommodations are available regardless of whether the reported victim reports to law enforcement.

The College offers victims of sexual and gender-based misconduct two options for reporting the misconduct and requesting interim measures required by Title IX. The first option allows the victim to report the misconduct to the Title IX Coordinator(s), Office of Public Safety or a responsible employee. The second option allows a victim who has not reported the misconduct to a Title IX Coordinator(s), Office of Public Safety or a responsible employee to disclose the misconduct to a professional counselor from the Counseling or Health Centers or off-campus victim advocate, who in turn can request interim measures on the victim's behalf from the College.

Under the second option, victims should be aware that when a counselor or advocate requests interim measures on their behalf from the Title IX Coordinator and discloses that the reason for the request is sexual or gender-based misconduct, the request may trigger the College's Title IX obligation to investigate. To the extent the counselor or advocate makes such a disclosure, but, consistent with the victim's wishes, asks that the College not investigate or otherwise notify the alleged perpetrator of the report, the Title IX Coordinator will consider whether it can honor the request while still providing a safe and nondiscriminatory environment for all students, as set forth in the College's Confidentiality Policy and take interim measures to protect the victim as necessary.

B. ONGOING ASSISTANCE

1. Counseling, Advocacy and Support

The counseling and support programs listed in the [Resource Guide](#) are available for victims of sexual or gender-based misconduct at any time, whether or not the victim chooses to make an official report or participate in a College disciplinary or criminal process.

2. Interim Measures

Upon learning of an incident of sexual or gender-based misconduct involving a member of the College community, the Title IX Coordinator will take immediate steps and interim measures to ensure the safety and well-being of the victim, such as the ability to move residence halls, change work schedules, alter academic schedules, withdraw from/retake a class without penalty, and access academic support (e.g., tutoring). Additional interim measures that may be implemented while the investigatory process is pending may include the issuance of no contact orders. See Request Interim Measures in Section A above for additional information.

3. No Contact Orders Issued By a Court of Law

The College will enforce active no contact orders (and restraining orders) issued by a court of law. If you are a student and have a court issued no contact order, please contact the Title IX Coordinator or the Office of Public Safety. Please be aware that if you notify the College of an existing no contact order, the Title IX Coordinator may follow up with you as prescribed by Title IX.

APPENDIX B – VIOLENCE AGAINST WOMEN ACT DISCLOSURES

In compliance with Violence Against Women Reauthorization Act of 2013, the local definitions of the crimes of sexual assault, domestic violence and stalking, as well as the definition of consent, are set forth below. Please note that the state of West Virginia does not legally define Dating Violence.

Sexual Assault

In the State of West Virginia, Sexual Assault is legally referred to as a Sexual Offense and law enforcement will utilize the legal definitions set forth below to determine whether criminal charges will be pursued. See [W.V.S. §61-8B](#) (Sexual Offenses). *The decision to investigate and sanction*

an incident under the College's Policy does not constitute a determination that the incident is a criminal offense. The decision to criminally charge an incident as a "sexual assault" is determined by local law enforcement authorities. Below is a listing of Sexual Offenses crimes in the State of West Virginia.

§61-8B-3. Sexual assault in the first degree. (a) A person is guilty of sexual assault in the first degree when:

(1) The person engages in sexual intercourse or sexual intrusion with another person and, in so doing:

(i) Inflicts serious bodily injury upon anyone; or

(ii) Employs a deadly weapon in the commission of the act; or

(2) The person, being fourteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is younger than twelve years old and is not married to that person.

(b) Any person violating the provisions of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than fifteen nor more than thirty-five years, or fined not less than one thousand dollars nor more than ten thousand dollars and imprisoned in a state correctional facility not less than fifteen nor more than thirty-five years.

(c) Notwithstanding the provisions of subsection (b) of this section, the penalty for any person violating the provisions of subsection (a) of this section who is eighteen years of age or older and whose victim is younger than twelve years of age, shall be imprisonment in a state correctional facility for not less than twenty-five nor more than one hundred years and a fine of not less than five thousand dollars nor more than twenty-five thousand dollars.

§61-8B-4. Sexual assault in the second degree. (a) A person is guilty of sexual assault in the second degree when:

(1) Such person engages in sexual intercourse or sexual intrusion with another person without the person's consent, and the lack of consent results from forcible compulsion; or

(2) Such person engages in sexual intercourse or sexual intrusion with another person who is physically helpless.

(b) Any person who violates the provisions of this section shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than ten nor more than twenty-five years, or fined not less than one thousand dollars nor more than ten thousand dollars and imprisoned in the penitentiary not less than ten nor more than twenty-five years.

§61-8B-5. Sexual assault in the third degree. (a) A person is guilty of sexual assault in the third degree when:

(1) The person engages in sexual intercourse or sexual intrusion with another person who is mentally defective or mentally incapacitated; or

(2) The person, being sixteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is less than sixteen years old and who is at least four years younger than the defendant and is not married to the defendant.

(b) Any person violating the provisions of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than five years, or fined not more than ten thousand dollars and imprisoned in a state correctional facility not less than one year nor more than five years.

§61-8B-7. Sexual abuse in the first degree. (a) A person is guilty of sexual abuse in the first degree when:

(1) Such person subjects another person to sexual contact without their consent, and the lack of consent results from forcible compulsion; or

(2) Such person subjects another person to sexual contact who is physically helpless; or

(3) Such person, being fourteen years old or more, subjects another person to sexual contact who is younger than twelve years old.

(b) Any person who violates the provisions of this section shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than five years, or fined not more than ten thousand dollars and imprisoned in a state correctional facility not less than one year nor more than five years.

(c) Notwithstanding the provisions of subsection (b) of this section, the penalty for any person violating the provisions of subsection (a) of this section who is eighteen years of age or older and whose victim is younger than twelve years of age, shall be imprisonment for not less than five nor more than twenty-five years and fined not less than one thousand dollars nor more than five thousand dollars.

§61-8B-8. Sexual abuse in the second degree. a) A person is guilty of sexual abuse in the second degree when such person subjects another person to sexual contact who is mentally defective or mentally incapacitated.

(b) Any person who violates the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not more than twelve months, or fined not more than five hundred dollars and confined in the county jail not more than twelve months.

§61-8B-9. Sexual abuse in the third degree. (a) A person is guilty of sexual abuse in the third degree when he subjects another person to sexual contact without the latter's consent, when such lack of consent is due to the victim's incapacity to consent by reason of being less than sixteen years old.

(b) In any prosecution under this section it is a defense that:

- (1) The defendant was less than sixteen years old; or
- (2) The defendant was less than four years older than the victim.
- (c) Any person who violates the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not more than ninety days, or fined not more than five hundred dollars and confined in the county jail not more than ninety days.

Domestic Violence

W.V.S. [§48-27-202](#) defines Domestic Violence as:

§48-27-202. Domestic violence defined. "Domestic violence" or "abuse" means the occurrence of one or more of the following acts between family or household members, as that term is defined in section two hundred four of this article:

- (1) Attempting to cause or intentionally, knowingly or recklessly causing physical harm to another with or without dangerous or deadly weapons;
- (2) Placing another in reasonable apprehension of physical harm;
- (3) Creating fear of physical harm by harassment, stalking, psychological abuse or threatening acts;
- (4) Committing either sexual assault or sexual abuse as those terms are defined in articles eight-b and eight-d, chapter sixty-one of this code; and
- (5) Holding, confining, detaining or abducting another person against that person's will.

West Virginia law enforcement agencies will utilize the above in determining whether to pursue criminal Domestic Violence charges. The decision to investigate and sanction an incident under this procedure does not constitute a determination that the incident is a criminal offense. The decision to criminally charge an incident is determined by local law enforcement authorities.

Stalking

In the State of West Virginia (West Virginia Code [§61-2-9](#)), Stalking is defined as:

- (a) Any person who willfully and repeatedly follows and harasses a person with whom he or she has or in the past has had or with whom he or she seeks to establish a personal or social relationship, whether or not the intention is reciprocated, a member of that person's immediate family, his or her current social companion, his or her professional counselor or attorney, is guilty of a misdemeanor and, upon conviction thereof, shall be incarcerated in the county or regional jail for not more than six months or fined not more than one thousand dollars, or both.
- (b) Any person who willfully and repeatedly follows and makes a credible threat against a person with whom he or she has or in the past has had or with whom he or she seeks to establish a personal or social relationship, whether or not the intention is reciprocated, or against a member of that person's immediate family, his or her current social companion,

his or her professional counselor or attorney with the intent to place or placing him or her in reasonable apprehension that he or she or a member of his or her immediate family will suffer death, sexual assault, kidnaping, bodily injury or battery is guilty of a misdemeanor and, upon conviction thereof, shall be incarcerated in the county or regional jail for not more than six months or fined not more than one thousand dollars, or both.

(c) Any person who repeatedly harasses or repeatedly makes credible threats against a person with whom he or she has, or in the past has had or with whom he or she seeks to establish a personal or social relationship, whether or not the intention is reciprocated, or against a member of that person's immediate family, his or her current social companion, his or her professional counselor or attorney, is guilty of a misdemeanor and, upon conviction thereof, shall be incarcerated in the county or regional jail for not more than six months or fined not more than one thousand dollars, or both.

(g) For purposes of this section:

(1) "Harasses" means willful conduct directed at a specific person or persons which would cause a reasonable person mental injury or emotional distress;

(2) "Credible threat" means a threat of bodily injury made with the apparent ability to carry out the threat and with the result that a reasonable person would believe that the threat could be carried out;

(3) "Bodily injury" means substantial physical pain, illness or any impairment of physical condition; and

(4) "Immediate family" means a spouse, parent, stepparent, mother-in-law, father-in-law, child, stepchild, sibling, or any person who regularly resides in the household or within the prior six months regularly resided in the household.

See W.V.S. §61-2-9a. West Virginia law enforcement agencies will utilize the above in determining whether to pursue criminal Stalking charges. *The decision to investigate and sanction an incident under the College's Policy does not constitute a determination that the incident is a criminal offense. The decision to criminally charge an incident as a "stalking" is determined by local law enforcement authorities.*

Consent

The state of West Virginia (**W.V.S. §61-8B-2**) defines lack of consent, which is applicable to criminal prosecutions for sex offenses in West Virginia, as follows:

(a) Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without the consent of the victim.

(b) Lack of consent results from:

(1) Forcible compulsion;

(2) Incapacity to consent; or

(3) If the offense charged is sexual abuse, any circumstances in addition to the forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

(c) A person is deemed incapable of consent when such person is:

- (1) Less than sixteen years old;
- (2) Mentally defective;
- (3) Mentally incapacitated;
- (4) Physically helpless; or
- (5) Subject to confinement or supervision by a state or local government entity, when the actor is a person prohibited from having sexual intercourse, or causing sexual intrusion or sexual contact pursuant to subsections (a) and (b) of section ten of this article.

APPENDIX C – REPORTED VICTIM AND RESPONDENT RIGHTS

Reported Victim Rights: Reported Victims are afforded the following rights in the College’s investigative and resolution process:

- To be treated with respect, dignity and sensitivity throughout the process;
- To seek and receive appropriate support services at the College;
- To the presence of an advisor throughout the process;
- To confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). The College will make all reasonable efforts to ensure preservation of privacy, restricting information to those with a legitimate need to know;
- To be informed of the College’s Gender-Based Discrimination, Harassment, and Sexual Misconduct Policy;
- To a prompt and thorough investigation of the allegations;
- To challenge any individual taking part in an administrative review process if a conflict of interest is present;
- To participate or decline to participate in the College’s investigation. However, the College will determine an outcome with the information available pursuant to applicable proceedings;
- To refrain from making self-incriminating statements;
- To be notified, in writing, of the case resolution – including the outcome of any sanctions/remedial action and appeal;
- To report incidents of criminal sexual and gender-based misconduct to law enforcement if she/he wishes to do so;
- To understand that information collected in this process may be subpoenaed in criminal or civil proceedings.

Respondent(s) Rights: Respondents are afforded the following rights in the College’s investigative and resolution process:

- To be treated with respect, dignity and sensitivity throughout the process;
- To seek and receive appropriate support services at the College;
- To the presence of an advisor throughout the process;
- To confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). The College will make all reasonable efforts to ensure preservation of privacy, restricting information to those with a legitimate need to know;
- To be informed of the College's Gender-Based Discrimination, Harassment, and Sexual Misconduct Policy;
- To a prompt and thorough investigation of the allegations;
- To challenge any individual taking part in an administrator review process if a conflict of interest is present;
- To participate or decline to participate in the College's investigation. However, the College will determine an outcome with the information available pursuant to applicable proceedings;
- To refrain from making self-incriminating statements;
- To be notified, in writing, of the case resolution – including the outcome of any sanctions/remedial action and appeal;
- To understand that information collected in this process may be subpoenaed in criminal or civil proceedings.

APPENDIX D – SANCTIONING MATRIX

Prohibited Behavior/Conduct	Range of Sanctions
Sexual/Gender-Based Misconduct Constituting Sexual Assault	Expulsion/Termination
Sexual/Gender-Based Misconduct Not Constituting Sexual Assault	Expulsion/Termination Suspension Probation
Unwanted Sexual Touching	Expulsion/Termination Suspension Probation Community Service Educational/Counseling Consultation
Non-physical Sexual Harassment	Expulsion/Termination Suspension Probation Community Service Educational/Counseling

	Consultation
Discrimination	Expulsion/Termination Suspension Probation Community Service Educational/Counseling Consultation
Retaliation/Intimidation False Allegations	Expulsion/Termination Suspension Probation Community Service Educational/Counseling Consultation

APPENDIX E - Sexual Assault, Dating Violence, Domestic Violence, and Stalking Risk Reduction Tips

- Program the Office of Public Safety's telephone number (304) 704-9111 into your cell phone.
- Be aware that you are a potential victim of crime. Stay alert and attuned to people and circumstances around you.
- Immediately notify Office of Public Safety of suspicious activity or people.
- Avoid the use of excessive alcohol and other drugs. Persons under the influence are much more likely to be the victims of a serious crime.
- Do not allow non-residents into residential facilities.
- Lock your room when you are out - even for just a few minutes. Keep your door locked when sleeping.
- Never lend your room or apartment key to anyone.
- Keep your valuables in a safe place. Do not leave valuables in the open and unattended. Utilize GPS or "locate" software for your electronics.
- Do not prop open locked outside doors and stairwell doors; ensure they close and lock behind you. Do not allow anyone other than your personal guests to enter the building behind you.

With no intent to victim-blame and recognizing that only sexual predators are responsible for sexual assault, the following are some strategies to reduce one's risk of sexual assault or harassment (Rape, Abuse, & Incest National Network, www.rainn.org)

- Be aware of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
- Try to avoid isolated areas. It is more difficult to get help if no one is around.
- Walk with purpose. Even if you don't know where you are going, act like you do.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
- Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
- Make sure you take your cell phone and it is charged.
- Don't allow yourself to be isolated with someone you don't trust or someone you don't know.
- Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.
- When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the event and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately by calling 911 or Office of Public Safety.
- Don't leave your drink unattended even while talking, dancing, using the restroom or making a phone call. If you have left your drink alone, just get a new one.

- Don't accept drinks from people you don't know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, do not drink from the punch bowls or other large common open containers.
- Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they have had, or is acting out of character, get him or her to a safe place immediately.
- If you suspect you or a friend has been drugged, contact law enforcement immediately. Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
- If you need to get out of an uncomfortable or scary situation here are some things that you can try:
 - Remember that being in this situation is not your fault. You did not do anything wrong; it is the person who is making you uncomfortable who is to blame.
 - Be true to yourself. Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable doing.
 - Have a code word with your friends or family so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
 - Lie. If you don't want to hurt the person's feelings, it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.
- Try to think of an escape route. How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?
- If you and/or the other person have been drinking, you can say that you would rather wait until you both have your full judgment before doing anything you may regret later.

Safe and Positive Options for Bystander Intervention

Bystander Intervention is a helping behavior whereby an individual or individuals utilize safe and positive options in emergency or non-emergency situations to prevent harm or intervene when there is a risk of sexual assault, dating violence, domestic violence, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene when it is safe to do so.

The most basic and best action an active bystander can take is to call Office of Public Safety or local law enforcement at 911.

Additional ways to be an active bystander include:

- Being vigilant by watching out for your friends and fellow students or employees;
- If you see someone who is too intoxicated to consent, enlist their friends to help them leave safely;
- Intervening and asking if a person needs help (e.g., “Do you need a ride?” or “Do you want me to call Security or the police?”);
- Confronting people who seclude, hit on, and try to make out with, or have sex with people who may be incapacitated;
- Speaking up when someone discusses plans to take sexual advantage of another person;
- Believing someone who discloses sexual assault, abusive behavior, or experience with stalking;
- Encouraging victims to self-report;
- Refer people to on- or off-campus resources listed in this document for support in health, counseling, or with legal assistance.

(Bystander intervention strategies adapted in part from Old Dominion University and Stanford University).

Additional intervention strategies include:

- Trust your gut. If something looks like it might be a bad situation, it probably is;
- Avoid using violence when intervening; approach in a friendly, honest and direct manner;
- Keep an eye on someone who has had too much to drink. Do not leave another person alone in a situation in which you feel uncomfortable; develop a buddy system;
- If you see someone who is too intoxicated to consent, enlist their friends to help them leave safely;
- Create and negotiate possible solutions; maintain an open dialogue; communicate clearly;
- Be aware if someone is deliberately trying to intoxicate, isolate or corner someone else;
- Use distraction techniques such as humor, reframing, redirection or personalization to reduce tension between individuals and to stall for time in which to intervene;
- Recruiting help; group interventions can make individuals aware of patterns of behaviors of concern;
- Focusing on your feelings about the behavior rather than criticizing the person;
- Encourage respect; speak up if you find a behavior offensive (e.g., do not laugh at offensive jokes but rather indicate your disapproval); and
- Use body language that indicates disapproval of or concern about a behavior (e.g., silent stare, crossed arms, wrinkling of the nose, raised eyebrows and wide eyes, stepping between two people).

2.1.1.4 Equity in Davis & Elkins College Intercollegiate Athletics Programs

Davis & Elkins College believes that all students should have the opportunity to participate in athletic programs free from discrimination, including sexual harassment and/or retaliation. Pursuant to Title IX of the Educational Amendments of 1972 no person may be excluded from participation in, denied the benefits of, or subjected to discrimination in programs or activities on the basis of gender.

The College seeks to fully and effectively accommodate the interests of both sexes in College athletic programs, and to provide equity both among student athletes and programs. Title IX requires equity for men and women with regard to participation and treatment in athletics programs. Equity refers to how men as compared to women are treated in the aggregate given the unique features of their sports. Men and women are treated equitably across multiple programs when considering the unique requirements of each, such as different equipment, medical attention, and numbers of coaches; however, it is not expected that such treatment will be identical.

Petitions: Those students who wish to compete on an intercollegiate sport that is not currently offered at the College may file a petition with the Athletic Director or the Title IX Coordinator. Petitions will be reviewed annually. Factors considered include but are not necessarily limited to gender equity, interest and ability, intercollegiate competitive opportunities, facility space and available resources.

Grievance Procedure: Individuals who believe that a student or students have been denied equitable treatment in intercollegiate athletics should report their concerns to:

Title IX Coordinator

Bruce Blankenship

Title IX Coordinator

Scholar's Room, Booth Library, 3rd Floor

Office: (304) 637-1244

detitleix@dewv.edu

or

Nikki Rose

Deputy Title IX Coordinator

NCAA Compliance Director

Hermanson Center, Room C

Individuals also may utilize the grievance procedures set forth in the Davis & Elkins College Discrimination and Harassment Policy.

Retaliation for filing a good faith concern or complaint under this policy, or cooperating with any investigation related to any concern or complaint, is strictly forbidden and is prohibited by the Davis & Elkins College Discrimination and Harassment Policy, regardless of whether the matter reported is substantiated. Individuals who believe they have been subjected to retaliation should report the conduct to the Davis & Elkins College Title IX Coordinator.

2.1.2 Community Statement

The faculty, staff, and students of Davis & Elkins College are a multicultural community of individuals encompassing a broad spectrum of religious traditions, political beliefs, ethnicities, cultures, genders and sexual orientations. The College community is unique in that it strives to work and live together. In the process, members of the College community learn from one another in an atmosphere of positive contact and mutual respect. The Davis & Elkins community is committed to behaving and expecting others to behave in ways that demonstrate its beliefs about the respectful treatment of each member of the College community. Davis & Elkins College believes that members of the College community are individually and collectively responsible for their behavior and are fully accountable for their actions. Davis & Elkins College students must take initiative and responsibility for their own learning and awareness of the differences which exist in the community and avoid all actions that negatively impact others. Davis & Elkins College is committed to these principles which are an integral part of the College's purpose, values, and daily activities. Individuals engaging in behavior that is believed to violate these policies will be held accountable through the appropriate disciplinary process.

2.1.3 Consumer Information

The Higher Education Opportunity Act (HEOA), as well as other federal regulations, requires colleges and universities that participate in federal student financial aid programs to disclose certain information to current and prospective students, and employees. In compliance with the HEOA, Davis & Elkins College posts the consumer information set forth below on the College's website.

1. General Institutional Information:

Academic Programs: Davis & Elkins College provides information regarding its educational programs in the [College Catalog](#), as well as on the College website at www.dewv.edu/academics/academic-programs.

Accreditation: A list of all agencies that accredit Davis & Elkins College and its specific programs is provided in the College Catalog, as well as on the College website at:

www.dewv.edu/academics/de-education/office-academic-affairs/accreditation-assessment

College Navigator: Consumer information regarding Davis & Elkins College is available on the College Navigator website at:

nces.ed.gov/collegenavigator/?q=Davis+and+Elkins+College&s=all&id=237358

Peer-to-Peer File Sharing/Copyright Infringement Policies and Sanctions: Davis & Elkins College Copyright policies are set forth in Volume II of the *Davis & Elkins College Policy Manual*.

Facilities and Services for Students with Disabilities: Information regarding College campuses and facilities is available in the [College Catalog](#), as well as on the College website. The Naylor Center provides support services to students with documented disabilities. See the College Catalog and the [Volume VI](#) of the Davis & Elkins College Policy Manual, as well as the [College website](#) for additional information regarding the Naylor Learning Center.

Faculty: A listing of College instructional personnel and their academic credentials is available in the [College Catalog](#), as well as the [College website](#)

Student Diversity: Davis & Elkins College annually calculates information relating to the diversity of its students, including the percentage of enrolled, full-time students in the following categories: male, female, self-identified members of a major racial or ethnic group, and federal Pell Grant recipients. This information is posted on the [College website](#).

Net Price Calculator: Davis & Elkins College provides a net price calculator on the College website that assists students in estimating their net cost of attendance:

www.dewv.edu/calculator/npcalc.htm.

Price of Attendance: Information regarding the costs of attending Davis & Elkins College is posted on the College's website at:

www.dewv.edu/future-students/afford

Privacy of Educational Records - FERPA: Davis & Elkins College annually publishes to enrolled and prospective students a notice of FERPA rights in [Volume II](#) and [Volume VI](#) of the *Davis & Elkins College Policy Manual*, the [College Catalog](#), as well as the College website.

Refund and Withdrawal Information: Davis & Elkins College policies regarding refunds and withdrawal are available in the [College Catalog](#).

Student Activities: A listing of available student activities is provided in [Volume VI](#) of the *Davis & Elkins College Policy Manual* as well as the [College website](#).

Textbook Information: The Campus Store provides information on what textbooks students will need for the classes they select. Textbook information is organized by Course Title, Section Number and Instructor, and the information provided regarding textbooks includes Title, Author, Edition, ISBN # and pricing information.

Online Students Textbook Information: See the College's Bookstore website at: www.bkstr.com/decstore.

Transfer of Credit Policy/Articulation Agreements: Policies addressing the transfer of credit are available in the College Catalog, as well as on the College website at:

www.dewv.edu/future-students/getting-started/transfer-students.

Articulation Agreements: Davis & Elkins College publicly discloses and makes available a list of institutions with which it has articulation agreements. Such information is available in the Office of the President and on the College website at: www.dewv.edu/future-students/explore/transfer-students.

2. Financial Assistance Information and Related Policies

Notice of Availability of Financial Aid: Contact information for assistance in obtaining institutional or financial aid is available in the [College Catalog](#), as well as on the College website at:

www.dewv.edu/future-students/afford

Assistance Available from Federal, State, Local and Institutional Programs: Information regarding the various types of financial assistance available to Davis & Elkins College students may be found in the [College Catalog](#) and on the College website at:

www.dewv.edu/future-students/afford

Federal Student Financial Aid Penalties for Drug Law Violations: Davis & Elkins College provides to each student, upon enrollment, a separate, clear, and conspicuous written notice that advises the student that a conviction for any offense, during a period of enrollment for which the student was receiving Title IV, HEA program funds, under any federal or state law involving the possession or sale of illegal drugs will result in the loss of eligibility for any Title IV, HEA grant, loan, or work-study assistance. In addition, the College includes this information in Volume II of the *Davis & Elkins College Policy Manual*.

Terms and Conditions of Accepting Financial Aid Award: Terms and conditions of accepting financial aid awards are set forth in the College Catalog.

Academic Progress and Financial Aid Eligibility: Davis & Elkins College policies regarding academic progress and financial aid eligibility are set forth in Volume V of the *Davis & Elkins College Policy Manual* and the [College Catalog](#).

Initial Loan Counseling for Student Borrowers: Before receiving a student loan, borrowers must complete an entrance counseling session with a member of the Financial Aid Office. This session will provide useful tips and tools to help borrowers develop a budget for managing their educational expenses and help them understand their loan responsibilities.

Exit Counseling for Student Borrowers: Prior to graduating or leaving school, loan borrowers must complete exit counseling. During the exit counseling, financial aid staff explain borrower's rights and responsibilities as loan borrowers.

Preferred Lender Information: Information regarding preferred private loan lenders may be found at:

www.elmselect.com/link/Query?SchoolID=178&utm_campaign=ES1&utm_medium=Redirect&utm_source=School.

3. Health and Safety Information

Drug and Alcohol Abuse Prevention Program: Davis & Elkins College annually prepares and distributes to all students, faculty, and staff information regarding its alcohol and drug abuse prevention programs. This information is included in Volume II and VI of the *Davis & Elkins College Policy Manual*, the College website and other designated College publications.

Vaccination Policies: College policies regarding required student vaccinations and immunizations are set forth in Volume VI the *Davis & Elkins College Policy Manual* and the [College Catalog](#).

Campus Security Policies, Crime Statistics, and Crime Log: The College annually provides a report that provides a detailed disclosure of information regarding campus security practices (including [Emergency Response and Safety Plan](#), Timely Warnings, Emergency Warnings, Missing Persons and Crime Log policies), as well as crime statistics for the preceding year. Additional information and the College's crime log are available in the Office of Public Safety.

Fire Safety Policies, Fire Statistics, and Fire Log: The College annually provides a [report](#) to each student and current employee that discloses campus fire safety policies, fire prevention activity data, and any fire-related incident that occurs with on campus housing. Additional information is available from the Office of Public Safety. Prospective students and prospective employees receive a notice of the report's availability. In addition to the above, the College fire safety policies are published in the *Davis & Elkins College Policy Manual* [Volume VI](#).

4. Student Outcomes

Retention Rate: The College provides retention rates for students, which are available on the College [website](#).

<https://nces.ed.gov/collegenavigator/?q=davis+%26+elkins+college&s=WV&id=237358#retgrad>

Graduation Rates: The College provides graduation rates, which are available on the College [website](#).

<https://nces.ed.gov/collegenavigator/?q=davis+%26+elkins+college&s=WV&id=237358#retgrad>

Intercollegiate Athletics Graduation Rates: The College reports annually on the graduation rates of students receiving grant-in-aid support for their participation in intercollegiate athletics. For more information regarding the data included in this report, contact the College's Department of Athletics.

Post Graduate Survey (Placement in Employment, Job Placement, and Graduate and Professional Education): The College gathers data from graduates, such as survey response rates, employment rates, and graduate/professional school attendance rates, that it hopes will be helpful to current and prospective students.

5. Intercollegiate Athletic Program Participation Rates and Financial Support Data:

The Equity in Athletics Disclosure Act requires co-educational institutions of postsecondary education that participate in a Title IV federal student financial assistance program and have an intercollegiate athletic program, to prepare an annual report to the U.S. Department of Education. This report includes information on athletic participation, staffing, and revenues and expenses.

Athletic Program Participation Rates and Financial Support Data Report:

<http://ope.ed.gov/athletics/>

A copy of this report may be requested by contacting the Director of Athletics

6. Teacher Preparation Program Report

To request a copy of the College's Teacher Preparation Program Report, please contact Desiree Carlyle, (304) 637-1299 or carlyled@dewv.edu.

7. Voter Registration

The Student Life Office sends an electronic notice to all enrolled students that includes information regarding how students can obtain West Virginia voter registration forms prior to the deadline for registering to vote for all Federal and State elections.

2.1.4 Child Abuse and Neglect

The following groups must follow the child abuse and neglect policies:

- College employees;
- Key students, defined as those students who are in practicum involving protected persons or the medical field, student teachers, students working with minors under the age of eighteen and resident assistants;
- Student employees over the age of 18;
- Camp counselors and program leaders defined as those students, faculty, staff and volunteers who in the course and scope of their employment or service to Davis & Elkins College conduct activities at or on behalf of Davis & Elkins College and come in contact with minors under the age of eighteen; and,
- College volunteers and third-party vendors.

These employees, key students, student employees, camp counselors and program leaders, College volunteers and third-party vendors, have:

1. A responsibility to ensure that they do not abuse or neglect children under the age of eighteen engaged in a College activity or program;
2. An affirmative duty to report knowledge or suspicion of child abuse or neglect, which according to West Virginia law is defined as *“physical injury, mental or emotional injury, sexual abuse, sexual exploitation, sale or attempted sale or negligent treatment or maltreatment of a child by a parent, guardian or custodian who is responsible for the child's welfare, under circumstances which harm or threaten the health and welfare of the child”*;
3. Freedom from retaliation if they report such cases in good faith; and
4. A duty to comply with child protection investigations and all other provisions of law relating to child abuse and neglect.

Reporting Suspected Child Abuse and Neglect

Individuals over the age of eighteen who witness or suspect an incident of child abuse or neglect on campus or at a Davis & Elkins College activity are obligated to make a report utilizing the following procedures:

1. Under West Virginia Law (WV Code [§49-6A-2](#)), certain persons are required to directly report incidents or suspicions of child abuse or neglect to Child Protective Services (see contact information below) immediately and not more than forty-eight hours after suspecting the abuse or neglect. These persons include: Any medical, dental or mental health professional, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-enforcement official, youth camp administrator or counselor, employee, coach or volunteer, or commercial film or photographic print processor.
2. In any case where a member of the campus community over the age of eighteen who believes that a child has suffered serious physical abuse or sexual abuse or sexual assault while on campus or at a College sanctioned event, the individual must also immediately report (no more

than forty-eight hours after suspecting the abuse or neglect) the incident to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint.

3. In addition to the above, members of the College community are also expected to immediately report an incident of child abuse or neglect to the Office of Public Safety immediately at (304) 704-9111;
3. Do not directly question or solicit information from the child. This responsibility lies with the Child Protective Services and, in certain circumstances, with law enforcement;
4. Immediately after making the foregoing reports, College employees, volunteers, and agents must report the information to an immediate supervisor. Athletic staff must also report the incident to the Director of Athletics.

Randolph County DHHR Office Contact Information

1027 N. Randolph Avenue
Elkins, West Virginia 26241

Phone: (304) 637-5560

Fax: (304) 637-0391

Hours: 8:30 am to 5:00 pm - Monday thru Friday

Failure to Report

Failure to report suspected child abuse or neglect may subject employees to disciplinary action. Such action would be determined by the appropriate Vice President in consultation with the Director of Human Resources and carried out based on applicable disciplinary procedures.

Immunity

Pursuant to West Virginia statute, any individual reporting suspected child abuse or participating in a judicial proceeding resulting from such report is immune from any civil or criminal liability they otherwise might be imposed as a result of such actions when taken in good faith.

False Reports

A person who knowingly makes or causes another person to make a false report that alleges that any person has committed an act or omission that results in a child being an abused or a neglected child is guilty of a misdemeanor in the first degree.

Sex-Related Background Screens

Pursuant to the College's Background Checks Policy, the following pre-employment background checks on all new employees are performed by Davis & Elkins College:

- A search for sex-related offenses in an individual's counties of residence for the past seven years;
- A search of the state registry of sex offenders; and
- A database search for criminal activity in the individual's states of residence for the past seven years.

In addition, the above background checks are also required for all key students, camp counselors and program leaders, resident assistants, College volunteers, and third party vendors who in the course and scope of their employment or service to Davis & Elkins College will come in contact with minors under the age of eighteen.

2.1.5 Constitution Day Celebration

In accordance with federal law, Davis & Elkins College annually recognizes and celebrates Constitution Day on September 17. Announcement of the scheduled event is communicated to the public.

2.1.6 Discounts for Vendor Employees

Davis & Elkins College recognizes employees with whom the College has an outsourced contractual agreement for on campus services as an important part of the campus community and encourages them to participate in College activities. The College therefore offers the following discounts:

- Athletic and Cultural Events, Fitness Center, Outdoor Resource Center, College Bookstore, Swimming Pool, Library and Media Center. The same benefits/discounts are offered to vendors' employees as are listed in [Volume III](#) of the *Davis & Elkins College Policy Manual*.
- Graceland Inn and Mingo Room - Offers various discounts on food purchases and for accommodations at the Inn depending on the room requested.
- Augusta - Same as Davis & Elkins College employees for public concerts and dances. (This does not include discounts for Augusta classes.)

When the above-identified employees attend any of the referenced activities/events, they may be asked to present their employee identification in order to receive the discount.

2.1.7 Freedom of Expression

Davis & Elkins College values the freedom of expression and assembly. At the same time, the College recognizes that such freedom must exist within the context of the law, common decency, and responsibility for one's actions. The College has therefore established the following freedom of expression guidelines, which seek to preserve the integrity of freedom of speech, thought, assembly and expression, including artistic expression, while at the same time preserving the right of the College to make fair, balanced and considered judgments not to permit or exhibit expressions which are either not appropriate within the context of the mission of the College and its Presbyterian Church (USA) affiliation or in violation of federal or state law or established College policies. Artistic expression includes, but is not limited to the fine arts, the performing arts, the graphic arts or less traditional forms of creative expression, i.e., electronic, computer, etc.

Freedom of Expression Guidelines:

1. Davis & Elkins College students, administrators, staff, faculty, and organizations are generally free to exercise the rights to assemble and engage in expressive activity, whether on campus or in the electronic information environment, in a constitutionally protected manner, provided

the activity is expressed in an appropriate manner consistent with the College's mission, Presbyterian Church affiliation, federal and state laws, and College policies.

2. An individual's expression must not:
 - a. Interfere with his or her academic responsibilities to the College;
 - b. Interfere materially with the general operation of the College;
 - c. Infringe upon the safety or rights of members of the College community;
 - d. Be obscene, slanderous, or inappropriate within the context of the College's Mission or Presbyterian Church affiliation; and/or,
 - e. Demean an individual(s) on the basis of race, color, sex, religion, ancestry, national origin, age, sexual orientation, disability, veteran status, gender identification, or genetic information, or any other characteristic protected by federal, state or local law.
3. Expressions uttered on campus or via the College's information technology network must recognize the diversity of people and points of view. Planned demonstrations, lectures, exhibits or artistic performances, whether presented on campus or via the College's information technology network, that may be potentially offensive or controversial, if deemed appropriate and approved in advance in accordance with established approval procedures, must be advertised as such so people can make an informed decision before attending the event. (See the College's Demonstrations and Guest Speakers and Performers policies respectively for relevant approval procedures).
4. Faculty, administrators, staff, and students of the College are citizens and members of an educational institution. When they speak, write or create art, they are free from institutional censorship or discipline within the guidelines above. Moreover, as members of the College, faculty, staff, and students, who freely choose to be part of the College, have additional obligations imposed upon them. They should remember that the public might judge their institution by their words and works. They should at all times exercise appropriate sensitivity, show respect for the opinions of others, and recognize that their words, actions and expressions will reflect on Davis & Elkins College. They are also responsible for making clear that they are participating in such activities only as individuals and not on behalf of, at the direction of, or with the encouragement of the College. See the College's Academic Freedom Policy for additional information.

Inevitably there will be differing opinions or doubt regarding whether the College should permit a planned assembly, demonstration, lecture, exhibit or artistic performance. At such times and in situations not specifically addressed in the *Davis & Elkins College Policy Manual*, the President will decide whether to approve the proposed assembly, demonstration, lecture, exhibit or artistic performance since no individual's right to freedom of expression is unfettered.

In permitting freedom of expression within the guidelines set forth above, the College does not endorse, or relieve any person from legal liability for actions that amount to libel, slander, or obscenity. Moreover, by supporting the exercise of freedom of expression on campus, Davis & Elkins College does not sanction the messages that are being declared or the methods of expression used, unless expressly stated otherwise. Finally, the College reserves the right to (a) adopt and enforce rules and regulations as it may deem necessary and proper in order to serve the interest of

health and safety, prevent disruption of the educational process or working environment, and to protect against the invasion of the rights of others; and (b) may cancel any planned assembly, demonstration, lecture, exhibit or artistic performance that creates a public health or safety concern, disrupts the educational or working environment, or uses the College as a platform to disparage the Presbyterian Church or mission of the College.

2.1.8 Gambling

Playing or engaging in any non-College sponsored, illegal or unauthorized gambling activity or games of chance, including but not limited to gambling on College-athletic and professional sporting events, while on College property is not acceptable behavior or permitted. Violators shall be subject to appropriate disciplinary action. The Vice President for Student Affairs and the Vice President for Institutional Advancement must jointly approve all raffles and sales for charitable purposes.

2.1.9 Guest Speakers and Performers

Davis & Elkins College encourages the hosting of outside speakers and performers on campus and its online resources. The intent of this policy is to provide a broad exposure to a diversity of issues and perspectives, and to ensure that all members of the College community engage those issues and perspectives in a manner consistent with the Mission of the College. Sponsorship of off-campus speakers or performers is restricted to academic and co-curricular departments, the administration, and officially registered student and employee organizations.

The reservation of the College facilities for guest speakers or performers is required to ensure that there is orderly scheduling of facilities and adequate preparation for the event, and that the occasion is conducted in a manner appropriate to the academic community. Reservation of College facilities and spaces must be made in accordance with the College's Facilities Reservations and Rental Policy once approval of the event is received from the President (see Approval Guidelines below).

Sponsoring of guest speakers or performers does not necessarily imply approval or endorsement of the views expressed by the speaker, the attendees, or the sponsoring party or organization. The College realizes that some among the invited speakers or performers will espouse ideas that individuals and groups within the College community consider hostile to their interests, values, or feelings. Speakers or performers that may be potentially offensive or controversial, if deemed appropriate and approved in advance in accordance with established approval procedures below, must be advertised as such so people can make an informed decision before attending the event.

The College also reserves the right to adopt and enforce rules and regulations as it may deem necessary and proper in regard to the issuance of invitations to outside or off-campus speakers or performers in order to serve the interest of health and safety, prevent disruption of the educational process or working environment, and to protect against the invasion of the rights of others. Moreover, the President may cancel any event or lecture that creates a public health or safety concern, disrupts the educational or working environment, or uses the College as a platform to disparage the Mission of the College. See the College's Freedom of Expression Policy for additional information. Finally, an invitation to speak at the College does not include license for unlawful activity or activity that endangers or imminently threatens to endanger the safety of any member of the community or any of the community's physical facilities, nor any activity that

disrupts or obstructs the functions of the College or imminently threatens such disruption or obstruction.

Note: This policy and procedure does not apply to speakers invited by faculty to address students enrolled in a course they are teaching, or to internal faculty and/or staff seminars, workshops, conferences, or colloquia. The Vice President for Academic Affairs or the appropriate Vice President must approve speakers or visitors in individual classes and/or seminars, workshops, conferences, or colloquia.

Approval Guidelines:

Individuals or organizations at Davis & Elkins College intending to invite a speaker or performer to campus must:

1. Determine who would be an appropriate speaker or performer given the College's mission statement;
2. Consult with the appropriate Vice President with oversight responsibility for the individual or organization sponsoring the speaker or performer concerning the qualifications and appropriateness of the proposed speaker or performer and receive preliminary approval;
3. Prepare a budget (include speaker's fees, reception costs, transportation costs, etc.) and submit a funding request to the appropriate department or division head;
4. Receive final approval from appropriate Vice President. The written request to the appropriate Vice President must include the following:
 - a. The name of the individual(s) to be invited, the group(s) to be addressed, and the subject and title of the presentation or performance;
 - b. If a speaking engagement, a professional vita or description of the qualifications of the speaker to address the subject of the presentation;
 - c. The purpose, time and date of the presentation or performance, facility requirements, audio-visual needs, food service needs, etc.; and
 - d. Any associated costs of the presentation (speaker fees, food costs, travel expenses, rental expenses, housing costs, etc.).
5. If the speaker or performance is approved by the Vice President, a contract rider and/or performance agreement will need to be drafted by the appropriate Vice President for the College's outside legal counsel;
6. Send copy of the contract rider and/or performance agreement to the speaker;
7. Once a signed contract and contract rider are received, the appropriate Vice President signs the final contract.

2.1.10 Information Security and Identity Theft Prevention Program

Davis & Elkins College has adopted an Information Security and Identity Theft Prevention Program in compliance with the [Gramm-Leach-Bliley Act of 2000](#) (GLB) and the Federal Trade Commission's Red Flag Rule.

Gramm-Leach-Bliley Act and Red Flag Rule Requirements

GLB mandates that Davis & Elkins College designate an officer to coordinate the information security program, conduct a risk assessment of likely security and privacy risks, institute a training program for all employees and volunteers who have access to customer's sensitive information, oversee service providers and related contracts, and evaluate and adjust the program periodically. The Red Flag Rule, which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003, has similar requirements, including mandating Davis & Elkins College to have a program to identify, detect and respond appropriately to relevant "red flags."

Definitions

Identity Theft – fraud committed or attempted using the identifying information of another person without authority.

Covered Account – an account that a creditor offers or maintains, primarily for personal, family, or household purposes that involves or is designed to permit multiple payments or transactions.

Red Flag – a pattern, practice or specific activity that indicates the possible existence of identity theft.

Sensitive Information (whether stored in electronic, printed, or other format)

- Credit card information;
- Tax identification numbers;
- Payroll information;
- Cafeteria plan check requests and associated paperwork;
- Student, parent, and employee tuition and loan accounts information;
- Student educational records as defined by FERPA;
- Photographic images (especially of face or other identifying characteristic), fingerprints, handwriting, or other biometric data (e.g., retina scan, voice signature, facial geometry);
- Medical or financial information for any employee, temporary worker, or student;
- Other personal information to include date of birth, address, phone numbers, maiden names, customer numbers, social security numbers.

Covered Accounts – a covered account includes any account that involves or is designed to permit multiple payments or transactions. Every new and existing customer account that meets the following criteria is covered by this program.

1. Business, personal and household accounts for which there is a reasonably foreseeable risk of identity theft; or
2. Business, personal and household accounts for which there are reasonably foreseeable risks to the safety or soundness of the College from identity theft, including financial, operational, compliance, reputation, or litigation risks.

Safeguarding Sensitive Information

With respect to the safeguarding provisions of the GLB Act, the Davis & Elkins College Information Security and Identity Theft Prevention Program ("program") is designed to promote

the security, integrity, and confidentiality of non-public sensitive information, protecting it against anticipated threats, and guarding it against unauthorized access or use. Covered under the program are safeguards used in the collection, distribution, processing, protection, storage, use, transmission, handling, or disposal of non-public sensitive information. The program covers actions by both Davis & Elkins College employees, volunteers, and outside vendors.

Physical Safeguards: Davis & Elkins College uses direct personal control or direct supervision to control access to and handling of all sensitive information. Whether the information is stored in paper form or any electronically accessible format, sensitive information is maintained, stored, transmitted and otherwise handled under the direct personal control of an authorized employee of Davis & Elkins College. Sensitive information is collected, processed, transmitted, distributed and ultimately disposed of with constant attention to its privacy and security. Conversations concerning non-public customer information are held in private. Papers with non-public customer information are mailed via official campus mail, U.S. mail, or private mail carrier. When best practices or the Davis & Elkins College Record Retention Schedule permit the disposal of sensitive information, it is shredded or destroyed. Confidential material is kept secure. Most offices have locked windows and locked doors with restricted access. For those that do not, materials are kept in locked filing cabinets or other locked storage areas. Non-public customer information that is stored off campus by remote hosting and systems administrators is locked and secured by 24-hour security.

Technical Safeguards: The Information Services Department provides network security and administrative software password access security according to industry standards and pursuant to College Information Technology policies. All information, including institutional data and sensitive information is stored on secured servers. In addition, sensitive information is encrypted when transmitted electronically over networks or when stored online. Additional technical safeguards such as firewalls, antivirus software and all applicable updates and patches are utilized to secure the Davis & Elkins College network.

Employee, Volunteer and Vendor Safeguards: Davis & Elkins College employees, volunteers, and outside vendors contracted with the College must use common sense judgment in securing sensitive information. Examples of common mitigation techniques utilized by Davis & Elkins College personnel, volunteers, and vendors include but are not limited to:

1. Maintaining physical security by locking rooms and file cabinets where customer and sensitive information is stored;
2. Maintaining adequate key control and limiting access to sensitive areas to those individuals with appropriate clearance who require access to those areas as result of their job;
3. Securing personal work areas to discourage casual viewing of sensitive information by unauthorized individuals;
4. Holding conversations concerning sensitive information in private;
5. Complying with the Davis & Elkins College Information System Security, Educational Records, Confidentiality, and HIPAA policies;

6. Referring calls, emails, texts, mail, and other communications requesting customer information to those individuals who are familiar with safeguarding information;
7. Shredding and erasing sensitive information when no longer needed; and
8. Reporting suspicious activity to supervisors and law enforcement authorities.

Identity Theft Protection

In addition to safeguarding sensitive information, the Program also includes policies and procedures designed to:

1. Identify and detect relevant red flags for new and existing covered accounts;
2. Respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and
3. Ensure the Program is updated periodically to reflect changes in risks associated with identity theft.

Identification of Red Flags: When appropriate, Davis & Elkins College will consider the following risk factors when identifying red flags:

1. Alerts, notifications or warnings from credit reporting agencies;
2. The presentation of suspicious documents;
3. Notices from customers, law enforcement authorities, or other persons regarding possible identity theft in connection with covered accounts; and
4. Unusual use of, or suspicious activity related to, a covered account.

Detection of Red Flags: Davis & Elkins College will attempt to detect red flags in connection with the opening of covered accounts and existing covered accounts by:

1. Obtaining identifying information about, and verifying the identity of, a person opening a covered account;
2. Authenticating customers, monitoring transactions, and verifying the validity of change of address requests in the case of existing covered accounts; and
3. Rejecting any application for a service or transaction that appears to have been altered or forged.

Responding to Red Flags: All potentially fraudulent activity must be reported to the Vice President for Business and Administration. When appropriate, Davis & Elkins College will take the following steps to prevent identity theft:

1. The Vice President for Business and Administration (or a designee) and relevant personnel will gather all related documentation;
2. The Vice President for Business and Administration (or a designee) and relevant personnel will complete additional authentication to determine whether the attempted transaction was fraudulent or authentic and will respond appropriately. Appropriate responses may include, but are not limited to:

- a. Terminating a transaction;
- b. Contacting the customer;
- c. Changing passwords, security codes, or other security devices that permit access to a covered account;
- d. Not opening a covered account;
- e. Closing an existing covered account;
- f. Notifying and cooperating with appropriate law enforcement; and/or
- g. Determining that no response is warranted under the particular circumstances.

Program Administration: Administration, oversight, and responsibility of the Davis & Elkins College Information Security and Identity Theft Prevention Program will include the following:

1. Involvement of Management:
 - a. The Information Security and Identity Theft Prevention Program is the responsibility of the Audit Committee of the Board of Trustees.
 - b. Operational responsibility of the program is delegated to the Vice President for Academic Affairs (or a designee), who is designated as the Davis & Elkins College Information Security and Identity Theft Prevention Program Officer, in collaboration with the Cabinet.
2. Training: All employees, volunteers, and vendors for whom it is reasonably foreseeable that they may come into contact with covered accounts or sensitive information will receive appropriate training. Department and division heads are responsible for ensuring all requisite employees, volunteers, and vendors in their respective departments receive training as needed in all elements of this program. This includes appropriate FERPA training for those employees, volunteers, and vendors who have access to student educational records.
3. Oversight of Service Provider Arrangements: Davis & Elkins College is responsible for ensuring that the activities of service providers are conducted in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft. When appropriate, contractual arrangements with service providers will require the service provider to maintain its own information security and identity theft prevention program.

Periodic Updates to the Plan: At periodic intervals, or as required, the program will be re-evaluated to determine whether all aspects of the program are up to date and applicable in the current business environment. Periodic reviews will include, at a minimum, an assessment of:

1. The types of covered accounts offered or maintained;
2. The methods provided to open covered accounts;
3. The methods provided to access covered accounts and sensitive information;
4. The physical, technical, and departmental methods to safeguard covered accounts and sensitive information;
5. Previous experience with identity theft;

6. Red flags as identified above and the need to define new red flags;
7. Response procedures defined above and their efficacy to reduce damage to the College and its customers.

2.1.11 Institutional Research

The Office of Institutional Research is responsible for compiling data and submitting various reports required by Federal and State agencies, professional organizations, and private agencies. These reports may not be completed and submitted without the consent and knowledge of the Office of Institutional Research. The Office of Institutional Research is available for research, analysis, and consultation on all reports submitted by College departments and division to professional organizations and private agencies. The Office of Institutional Research must be contacted for the integration of data gathering, analysis, and dissemination that supports planning, assessment, and decision-making both College-wide and for program studies.

2.1.12 Political Activities

Davis & Elkins College reserves the right to support or oppose issues that affect its values, welfare, the institution itself, and/or values and the welfare of higher education. In addition, Davis & Elkins College encourages its faculty, staff, trustees, students, and campus organizations to participate actively in political activities on an individual basis. Political activities on Davis & Elkins College property, however, must be conducted in a neutral and nonpartisan manner and in furtherance of the College's legitimate not-for-profit function (education).

To protect the neutrality of Davis & Elkins College in political contests, the College has established the following guidelines to assist members of the campus community in determining which political activities are appropriate:

1. In order to preserve Davis & Elkins College's not-for-profit ([IRS § 501\(c\)\(3\)](#)) status, the Internal Revenue Service requires that the College refrain from participating in or intervening in any political campaign on behalf of (or in opposition to) any candidate for public office;
2. Davis & Elkins College is not permitted to endorse or oppose, expressly or impliedly, any candidate for political office or political party. In addition, Davis & Elkins College must not make any financial contributions to a political campaign fund, a political party, or political action committee (PAC). Contributions to a PAC supporting specific issues pertinent to Davis & Elkins College's tax-exempt purposes, particularly if it has a track record of commenting on such issues in non-election years, are exempted;
3. Davis & Elkins College also is prohibited from commenting on specific actions, statements, or positions taken by candidates for public office, including incumbents, in the course of their campaigns. Similarly, Davis & Elkins College may not promote action (voting) with respect to issues that have become highly identified as dividing lines between candidates for political office. Comments pertaining to specific issues pertinent to Davis & Elkins College's tax-exempt purposes, particularly if it has a track record of commenting on such issues in non-election years, are exempted;
4. All address lists used by Davis & Elkins College are considered confidential and may not be shared with political candidates, parties, or PACS. Individuals may personally deliver

campaign literature, but Davis & Elkins College mail facilities and computer technology resources are not to be used for addressing, emailing or otherwise distributing political materials;

5. Campaign posters may not be posted in or on any of Davis & Elkins College buildings or on any Davis & Elkins College owned grounds prior to or during election times, with the exception of those used for historical displays or educational purposes;
6. Campus organizations may use campus communications to announce political forums and discussions sponsored by officially constituted campus groups;
7. No campus political activities, including services and materials, may be paid for with Davis & Elkins College funds;
8. Use of Davis & Elkins College properties is subject to the Davis & Elkins College Facility Use by Candidates for Political Office procedures;
9. Funds or contributions for political candidates or campaigns, political parties, or PACS may not be solicited in the name of Davis & Elkins College or on any Davis & Elkins College facility, and College resources may not be used in soliciting such funds. If Davis & Elkins College students, faculty, or staff make political contributions, they must do so as individuals and not on behalf of Davis & Elkins College. Davis & Elkins College will not reimburse students, faculty, or staff for such contributions;
10. Davis & Elkins College communication and support systems, including any postal service, phone system, computer network or technologies, or office machinery (photocopier, fax machine, etc.), may not be used in support of one particular candidate, political party, or PAC free of charge. If such systems are rented or sold to a candidate or campaign, the items must be made available to all other candidates on the same terms and at fair market prices;
11. Using message boards and forums affiliated with the Davis & Elkins College website to support particular candidates, if the statements of the provider of the information can be reasonably attributed to the institution, are prohibited. A disclaimer that states that the opinions are neither those of Davis & Elkins College nor sanctioned by Davis & Elkins College is required in those public discussion areas where the information could reasonably be attributed to Davis & Elkins College;
12. Providing hyperlinks to web pages or other space on Davis & Elkins College's website of one or more candidates for public office in a manner that favors one candidate over another is prohibited;
13. Davis & Elkins College students are free to express their individual and collective political views provided they understand and make clear they are not speaking for or in the name of Davis & Elkins College;
14. Davis & Elkins College's name, logo, and insignia may not appear on stationery or any other material used or intended for support of a particular candidate, political party, or PAC. This prohibition also applies to any Davis & Elkins College entities supported in whole or part by Davis & Elkins College funds, such as registered student organizations;

15. Davis & Elkins College will not publish ratings of candidates running for public office, particularly in situations where the ratings could be viewed as reflecting the views of the institution. Similarly, Davis & Elkins College resources may not be used in connection with the preparation or publication of such ratings without reimbursement at the usual and normal charge;
16. Davis & Elkins College may not coordinate voter education or registration activities with political campaign events. Non-partisan voter education and registration activities on campus, however, are permitted.

2.1.13 Program Integrity Complaints

United States Department of Education Regulation [34 CFR 600.9](#), the “Program Integrity Rule,” was adopted to ensure that students have the opportunity to voice concerns relating to programs offered by postsecondary educational institutions authorized under Title IV of the Higher Education Act, as amended. The regulations require states to provide the opportunity for students to lodge the following types of complaints:

1. Allegations of state consumer protection violations, including, but not limited to fraud and false advertising.
2. Allegations that state laws or rules addressing the licensure of postsecondary institutions have been violated.
3. Allegations regarding the quality of education or other accreditation requirements.

In compliance with Federal Program Integrity Rule, Davis & Elkins College has listed multiple alternatives for individuals who wish to submit complaints regarding the above. The College expects that any student complaint will be filed in accordance with any procedures currently in place at the institution before resolution is sought from a state agency or the College’s accreditation body. In the absence of a procedure, the complaint should be filed with the Office of the President for appropriate referral.

Filing a Complaint

Davis & Elkins College has adopted a general Student Grievance Policy to address and resolve questions and concerns students may have relating to the Program Integrity Rule. Please refer to the Student Grievance Policy for additional information.

The College summarizes the number and type of complaints received pursuant to the Student Grievance Policy and tracks their resolutions.

For Complaints Alleging Consumer Fraud

West Virginia Attorney General’s Consumer Protection Division

www.wv.gov/residents/consumerprotection

The West Virginia Attorney General Consumer Protection Division is committed to regulating industries and protecting consumers who use goods and services from those industries. The State

of West Virginia ensures fair competition and the free flow of truthful information in the marketplace.

For Complaints Regarding State Licensing of Postsecondary Institutions

Higher Learning Commission-A Commission of the North Central Association

230 South LaSalle Street, Suite 7-500

Chicago IL 60604-1413

Ph: (803) 737-2260,

Fax No: (803) 737-2297

www.che.sc.gov/AcademicAffairs/License/Complaint_procedures_and_form.pdf

Accreditation Association Contact Information

Davis & Elkins is accredited by the **Higher Learning Commission of the North Central Association of Colleges and Schools**.

The Higher Learning Commission

30 North LaSalle Street

Chicago, IL 60602-2504.

Ph: (800)621-7440

www.ncahlc.org

Davis & Elkins College holds full approval from the West Virginia Board of Education (WVBE) as an Education Preparation Provider (EPP). Additionally, the College's Educator Program was accepted as a candidate for national accreditation by the **Council on Accreditation of Educator Preparation** (CAEP).

CAEP

1140 19th St NW, Suite 400

Washington, D.C. 20036

(202) 223-0077

<http://caepnet.org/>

The Business Education program has also been accredited by the **National Association for Business Teacher Education**.

The Associate Degree Nursing Program is a member of the National League for Nursing and is accredited by the **Accreditation Commission for Education in Nursing (ACEN)**.

ACEN

3343 Peachtree Road N.E., Suite 850

Atlanta, GA 30326.

Ph: 404-975-5000

www.acenursing.org.

The program is also accredited by the West Virginia Board of Examiners for Registered Nurses.

Davis & Elkins College is an accredited institutional member of the **National Association of Schools of Theatre (NAST)** and the **International Assembly for Collegiate Business Education (IACBE)**.

Complaints Arising Outside of West Virginia

Students participating in a Davis & Elkins College educational program outside the State of West Virginia, such as through distance learning, may choose to avail themselves of state processes for complaints related to institutional licensure and consumer protection in that state. The following website provides contact information to various states:

www.sheeo.org/stateauth/Complaint%20Process%20Links.pdf.

Please note, however, that many states require a showing that an attempt was made to resolve the complaint with the institution directly.

2.1.14 Solicitations

In order to avoid disruption in the workplace and academic setting, Davis & Elkins College has developed the following guidelines regarding the solicitation of products or services, distribution of product or service related literature or information, and collection of monies on Davis & Elkins College property, whether it be in person or by means of Davis & Elkins College's network systems, supplies, services, or equipment (i.e., telephones, voice mail, email, computer systems, FAX, interoffice mail, and bulletin boards):

1. Individuals not employed by Davis & Elkins College or currently enrolled as students are prohibited from any form of solicitation or distribution of product or service related literature on Davis & Elkins College property at any time and in any manner unless granted specific authorization by the appropriate Vice President;
2. Employees are generally prohibited from soliciting products or services, distributing literature or information, and collecting of monies during working time. Work time does not include break periods, meal times, or other specified periods during the workday when employees are not engaged in performing their work tasks. The appropriate Vice President however, may make an exception to this prohibition.
 - a. Fund-raising activities by employees may not conflict with Davis & Elkins College's own efforts to raise funds for the institution as a whole. Soliciting alumni and outside business, industry, government, or foundations is generally prohibited except with written approval from the Vice President for Institutional Advancement.
3. In general, individual students may not engage in solicitation for personal profit on Davis & Elkins College property in person or by means of Davis & Elkins College systems, supplies, services, and equipment including telephones, voice mail, email, computer systems, FAX, interoffice mail, and bulletin boards. The appropriate Vice President, however, may make an exception to this prohibition.

- a. Fundraising activities by students and student organizations must obtain approval from the Vice President for Student Affairs and the Vice President for Institutional Advancement (see the Davis & Elkins College Guest Speakers and New Groups Policy in [Volume VI](#) of the *Davis & Elkins College Policy Manual*).

2.1.15 Student Record Confidentiality (FERPA)

Preamble

The intent of this section is to comply with the Federal “Family Educational Rights and Privacy Act of 1974,” as amended. Davis & Elkins College collects and retains information about students for designated periods of time. The College recognizes the privacy rights of individuals in exerting control over what information may be disclosed, and, at the same time, attempts to balance that right with the institution’s need for information.

Definitions

For the purpose of this policy, Davis & Elkins College has adopted the following definitions of terms:

Attendance includes, but is not limited to—

1. Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a student is working under a work-study program.

College Official—A College Official is one of the following individuals:

1. A person employed by Davis & Elkins College in an administrative, supervisory, academic, research or support staff position;
2. A person elected to the Board of Trustees;
3. A person employed by or under contract to Davis & Elkins College to perform a special task (such as an attorney or auditor);
4. A contractor, consultant, volunteer or other outside party providing services that would otherwise be provided by a Davis & Elkins College employee; or
5. A student serving on an official Davis & Elkins College committee or assisting a College official in the performance of his or her tasks.

Dates of Attendance—the period of time during which a student attends or attended an educational agency or institution. Examples of dates of attendance include an academic year or a spring semester. The term does not include specific daily records of a student’s attendance at an educational agency or institution.

Disciplinary Action or Proceeding—the investigation, adjudication, or imposition of sanctions by the College with respect to an infraction or violation of the internal rules of conduct applicable to Davis & Elkins College students.

Disclosure—to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records.

Educational Record—those files, documents, and other materials (in handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche) that contain information directly related to a student which are maintained by Davis & Elkins College or by a person acting for the College pursuant to College or departmental policy. Information that is captured as a result of a student's various activities at the Davis & Elkins College is part of the student record. This information includes, but may not be limited to, logs, databases or other records of: websites the student has visited, purchases made at Davis & Elkins College facilities, entry day/time into Davis & Elkins College facilities, library use and biometric records.

The term "Student Record" **does not** include:

- Notes belonging to a faculty or staff member and intended for the faculty/staff member's own use are not subject to inspection, disclosure, or challenge unless the person maintaining the notes disclosed the information to a person in the College community other than the student named in the notes. (Upon such a disclosure, the records are then open for review by the student);
- Records of the Office of Public Safety or Title IX pertaining to an investigation when the record is maintained solely for campus safety and security purposes, is revealed only to law enforcement agencies of the same jurisdiction, and is maintained separately from education records;
- Student employment records, provided the record is maintained in the normal course of business and is used only in relation to the student's employment;
- Educational records that are made or maintained by a physician, counselor, psychologist, or other recognized professional acting in that capacity are not subject to the provisions of access, disclosure, and challenge when the records are used only for treatment of a student and are made available only to persons providing the treatment;
- Records which contain only information about an individual after he or she is no longer a student at Davis & Elkins College, such as alumni records; and
- Grades on peer-graded papers before they are collected and recorded by a teacher.

Parent—a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

Student—an individual currently or previously matriculated in any course offering of the College. An individual will be considered in attendance when he or she has formally enrolled in a class.

Public/Directory and Non-Directory Information

Davis & Elkins College from time to time makes public certain kinds of information about students, such as the names of those who receive scholarships, who hold offices, or who are members of athletic teams. Various kinds of campus directories are published throughout the year to help members of the College community locate and communicate with each other. The commencement programs publish the names of those who have received degrees during the year.

The Family Educational Rights and Privacy Act of 1974, as amended, defines the term "directory information" to include the following categories of information: the student's name, address, telephone number, email address, date and place of birth and citizenship, major field of study, participation in officially recognized activities and sports, photographs, weight and height of members of athletic teams, date of attendance, degrees and awards received, the most recent previous educational agency or institution attended by the student and classification. Directory information does not include the student's Social Security number or student identification (ID) number. Exception: Directory information includes a student ID number, user ID, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user.

The College will limit information that is made public to these categories but will not necessarily publish all such information in every listing. Students who do not wish to have such directory published without their prior consent must submit the "Prevent Disclosure of Directory Information" form available in the Office of the Registrar and the College website. The form should be submitted before the sixth-class day of the spring or fall semester or the fourth class day of the summer term.

Davis & Elkins College will not disclose non-directory information from a student's education record without the written consent of the student. A student may request that non-directory information or educational records be released to a third party by submitting the "Release of Student Information" form available in the Office of the Registrar and the College website.

Disclosure of Educational Records

Students are accorded the right to inspect, in the presence of a staff member, official College records, files, and data primarily and directly related to themselves. This right includes an explanation of any information contained in these records. Students are entitled to exercise this right within a reasonable time (no later than 45 days) after they personally appear in the appropriate College office to initiate such a request in writing. If students cannot appear personally, they must submit a notarized request to the appropriate office, authorizing a designated individual to receive a copy of the record. The College records custodian will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records custodian to whom the request was submitted does not maintain the records, the record custodian will advise the student of the correct custodian to whom the request should be addressed.

Where any such records, files, or data contain information about a third person, the student may inspect and review only the records that relate to him or her.

Records Not Accessible:

There are some records, however, to which the student has no right of access under FERPA. These are:

1. Financial information furnished by the student's parents in support of an application for financial aid;

2. Confidential letters and statements of recommendation for which the student has waived in writing his or her right to access, or which were placed in the student's education record prior to January 1, 1975;
3. Any and all records connected with an application to attend Davis & Elkins College if that application was denied, or accepted and the applicant never enrolled (FERPA rights are provided only to applicants upon actual acceptance and subsequent enrollment); or
4. Records excluded from the definition of "Educational Records" by this policy.

Copies of Education Records:

A student may obtain copies of his or her records at a cost not to exceed the actual cost to Davis & Elkins College. The student is entitled to a response from Davis & Elkins College to reasonable requests for explanations and interpretations of the student's records and to an opportunity for a hearing to challenge the contents of those records (see Challenge of Record Entry section below).

All requests for Educational Records, whether granted or not, must be made in writing in a form which becomes part of the student record. This does not apply to requests for directory information.

Withholding Information: There may be conditions such as financial obligations, violations of non-academic regulations, etc., under which Davis & Elkins College will withhold transcripts, certifications, or other information about a student. The Registrar's Office notifies students of holds placed on their records and directs them to the office that placed the hold.

Disclosure of Education Records

Generally, Davis & Elkins College must have written permission from the student in order to release any information from a student's education record. A student desiring to release information from the education record must submit the Grade Disclosure Request Form to the appropriate record custodian. (Forms are available at the Office of the Registrar or the College website.) However, FERPA allows schools to disclose records, without consent, to the following parties:

1. School employees who have a need to know: One exception that permits disclosure without a student's consent is disclosure to Davis & Elkins College officials with legitimate educational interests. A Davis & Elkins College official is a person employed by the College in an administrative, supervisory, academic or research, or support staff position (including safety personnel and health staff); a person or company with whom Davis & Elkins College has contracted (such as an attorney, auditor, or collection agent); a person serving on the Board of Trustees; or a student serving on an official committee, such as disciplinary or grievance committee, or assisting another school official in performing official tasks.
 - a. Davis & Elkins College officials have a legitimate educational interest if they need to review an education record in order to fulfill their professional responsibilities.
 - b. Additionally, education records may be released to contractors, consultants, volunteers, and other outside service providers used by Davis & Elkins College to perform institutional services and functions, that it would otherwise use employees of the College to perform.

- c. Davis & Elkins College must use “reasonable methods” to ensure that the school official obtain access to only those education records—paper or electronic—in which they have legitimate educational interests and the burden falls to the institution to justify access if questioned.
2. Other schools to which a student is transferring: The authority to disclose or transfer education records to a student’s new school does not cease automatically the moment a student has enrolled in the new school and continues to be enrolled at any future point in time so long as the disclosure is for purposes related to the student’s enrollment or transfer. This means that a school may disclose any records or information, including health and disciplinary records, that the school could have disclosed when the student was seeking or intending to enroll in the new school.
3. Parents of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1954 as amended;
4. Certain government officials in order to carry out lawful functions;
5. Appropriate parties in connection with financial aid to a student as necessary to determine eligibility for, amount or conditions of the aid, or to enforce the terms and conditions of the aid.
6. Organizations doing certain studies for the school if such studies are conducted in a manner that does not permit personal identification of parents and students as individuals other than representatives of the organization.
7. Accrediting organizations;
8. Individuals who have obtained court orders or lawfully issued subpoenas;
9. Persons who need to know in cases of health and safety emergencies;
10. State and local authorities to whom disclosure is required by state laws adopted before November 19, 1974.
11. An alleged victim of any crime of violence or a non-forcible sex offense and concerns the final results of any disciplinary proceeding conducted by Davis & Elkins College with respect to that crime or offense against the alleged perpetrator of that crime or offense;

In addition, the College may release an educational record when the disclosure is to a court when a parent or eligible student has initiated legal action against the College or the disclosure is of records which are returned to the apparent creator of the records.

While Davis & Elkins College reserves the right under the above stated circumstances to disclose information from a student’s education records without the student’s written consent, Davis & Elkins College is under no obligation to do so.

Davis & Elkins College offices maintaining educational records keep records of all parties requesting or obtaining access to the contents of educational records (except in case of requests by school officials; or by parties requesting directory information). These records of request must identify the legitimate interest the person(s) had in seeking or obtaining information contained in a record and may be available for inspection by the student identified by the record.

Challenge of Record Entry

The student is entitled to challenge and/or add to the factual basis of any record entry contained in records, files, and/or data. The purpose of this challenge is to ensure that such entries are not inaccurate, misleading, or otherwise contain inappropriate data. The challenge should be submitted in a timely manner to the appropriate College official in whose area of responsibility the questioned material is kept. The College official is authorized to rectify the entry and so notify the student without a hearing if such a course of action is warranted. The designated official will provide the student with an opportunity to present both a verbal and written challenge to the questioned entry, and will determine whether or not the material is defective in a manner justifying its correction or removal from the records. The student's written statement of challenge will remain part of the record, regardless of the outcome of the challenge.

The student may appeal in writing an adverse decision to the next level of administrative authority. Such a hearing will be conducted pursuant to the following guidelines:

1. The hearing will be conducted and decided within a reasonable period of time following the request for the hearing. The student will be notified as to the time and place of any hearing. For distance learners, the hearing may be held electronically;
2. The student will be afforded a full and fair opportunity to present evidence relevant to the issues raised;
3. Davis & Elkins College will be afforded the opportunity to present testimonial and/or documentary evidence in response to any evidence presented by the student;
4. The hearing will be conducted, and the decision rendered, by a Davis & Elkins College official or other party who does not have a direct interest in the outcome of the hearing. The appropriate Vice President with oversight over the record in question is responsible for appointing such official or other party;
5. The decision will be rendered in writing within a reasonable period of time after the conclusion of the hearing;
6. The record of the hearing and decision will be preserved in the student's file.

Annual Notification

All students are notified of this policy prior to the beginning of the Fall Semester each year. New students who enroll beginning in the Spring Semester are notified prior to that semester's start date.

Parental Access

At the postsecondary level, parents have no inherent rights to inspect a student's education record. The right to inspect is limited solely to the student. Records may be released to parents only under the following circumstances:

- Through the written consent of the student.
- In compliance with a subpoena.
- If a health or safety emergency involves their son or daughter.

- If a student under age 21 has violated any law or policy concerning the use of possession of alcohol or a controlled substance.

Student Right to File a Complaint

Students have the right to file written complaints with the Office of the Secretary of the U. S. Department of Education concerning the Davis & Elkins College's alleged failure to comply with FERPA or the regulations promulgated therein. The address is:

Family Policy Compliance Office

U.S. Department of Education
600 Independence Avenue, SW
Washington, D.C. 20202-4605
(202) 260-3887

Training

Employees, volunteers, and vendors who are authorized to access student educational records are required to participate in the Davis & Elkins College FERPA online training program. Appropriate department heads are responsible for ensuring that employees and volunteers under their supervision have participated in the training program.

2.1.15.1 Notice to all Students Regarding FERPA

The Family Educational Rights and Privacy Act (FERPA) afford eligible students certain rights with respect to their education records. (An "eligible student" under FERPA is a student who is 18 years of age or older or who attends a postsecondary institution.) These rights include:

1. The right to inspect and review the student's education records within 45 days after the day Davis & Elkins College receives a request for access. A student should submit to the Registrar or other appropriate official, a written request that identifies the record(s) the student wishes to inspect. The school official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the school official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.
2. The right to request the amendment of the student's education records that the student believes is inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

A student who wishes to ask the school to amend a record should write the school official responsible for the record, clearly identify the part of the record the student wants changed, and specify why it should be changed.

If the school decides not to amend the record as requested, the school will notify the student in writing of the decision and the student's right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.

3. The right to provide written consent before the College discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

The school discloses education records without a student's prior written consent under the FERPA exception for disclosure to school officials with legitimate educational interests. A school official is a person employed by Davis & Elkins College in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel and health staff); a person serving on the Board of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee. A school official also may include a volunteer or contractor outside of Davis & Elkins College who performs an institutional service of function for which the College would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, or collection agent or a student volunteering to assist another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibilities for Davis & Elkins College.

Upon request, the College also discloses education records without consent to officials of another school in which a student seeks or intends to enroll. FERPA requires Davis & Elkins College to make a reasonable attempt to notify each student of these disclosures.

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by Davis & Elkins College to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

FERPA permits the disclosure of PII from students' education records, without consent of the student, if the disclosure meets certain conditions found in §99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the student, §99.32 of FERPA regulations requires the institution to record the disclosure. Eligible students have a right to inspect and review the record of disclosures. A postsecondary institution may disclose PII from the education records without obtaining prior written consent of the student –

- To other school officials, including teachers, within Davis & Elkins College whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the College has outsourced institutional services or functions, provided that the conditions listed in §99.31(a)(1)(i)(B)(I) - (a)(1)(i)(B)(2) are met. (§99.31(a)(1))
- To officials of another school where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of §99.34. (§99.31(a)(2))
- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as a State postsecondary authority that is responsible for supervising the university's State-supported

education programs. Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf. (§§99.31(a)(3) and 99.35)

- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§99.31(a)(4))
- To organizations conducting studies for, or on behalf of, Davis & Elkins College, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction. (§99.31(a)(6))
- To accrediting organizations to carry out their accrediting functions. (§99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena. (§99.31(a)(9))
- To appropriate officials in connection with a health or safety emergency, subject to §99.36. (§99.31(a)(10))
- Information Davis & Elkins College has designated as “directory information” under §99.37. (§99.31(a)(11))
- To a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, subject to the requirements of §99.39. The disclosure may only include the final results of the disciplinary proceeding with respect to that alleged crime or offense, regardless of the finding. (§99.31(a)(13))
- To the general public, the final results of a disciplinary proceeding, subject to the requirements of §99.39, if the school determines the student is an alleged perpetrator of a crime of violence or non-forcible sex offense and the student has committed a violation of the school’s rules or policies with respect to the allegation made against him or her. (§99.31(a)(14))
- To parents of a student regarding the student’s violation of any Federal, State, or local law, or of any rule or policy of Davis & Elkins College, governing the use or possession of alcohol or a controlled substance if the school determines the student committed a disciplinary violation and the student is under the age of 21. (§99.31(a)(15))

2.1.16 Survey Administration

Davis & Elkins College recognizes the important role that survey research can play in collecting information for evaluative and decision-making purposes. The College recognizes its responsibilities:

- to ensure the privacy and confidentiality of all survey respondents;
- to prevent the over-surveying of the campus community; and
- to ensure surveys are administered in as efficient a fashion as possible.

In support of these objectives Davis & Elkins College has established a review process for proposed surveys as well as a set of criteria used to determine whether surveys shall be administered.

Definition of a Survey

A survey is as an instrument specifically designed to elicit information for analysis. Any survey (whether administered online, via email, on paper, or in an interview format) must be approved by the Office of Institutional Research in conjunction with the Office of Academic Affairs if it is to be administered to any of the following groups:

- Currently Enrolled Students
- Formerly Enrolled Students
- Alumni
- Faculty
- Staff

Any research involving human subjects requires review and action by the College's Institutional Review Board (IRB). IRB guidelines are available on the Office of Institutional Research webpage. Only the IRB may determine if a project is exempt from their review. Registering a survey with the Office of Institutional Research in conjunction with Office of Academic Affairs does not constitute review by the IRB.

The Director of Institutional Research reviews exempt survey proposals.

Criteria for the Evaluation of Surveys

The following criteria will be used when making decisions about administering surveys to the campus community:

1. *Importance:* The survey provides information tied to the mission, goals, and future planning of the College that addresses questions of academic performance and/or evaluates services currently being provided to students or other constituencies. The survey does not excessively duplicate information collected via other surveys on the College survey calendar.
2. *Protection of Research Subjects:* All survey responses are to remain anonymous. Every survey response is to be held in strictest confidence. No one is to identify anyone individually or include any identifying characteristics in any kind of reports, written or verbal.
3. *Survey Design and Administration:*
 - The survey is well-designed, of reasonable length, and follows sound survey methods and practices.
 - The survey should state its goal or purpose, how the data will be utilized, incentives for participation if any (e.g. class credit, prize drawing, etc.), and include a statement regarding confidentiality and the protection of research subjects.

- The administration of the survey is not overly burdensome to the sample population being studied. As far as possible, surveys should not overlap with other surveys of the same population.
4. *Access:* All survey results are to be shared with the Office of Institutional Research. The Office of Institutional Research will be free to share those results with other campus offices as appropriate.
 5. *Compliance with College Policy and Legal Requirements:* All surveys must comply with College policy and not violate of federal, state or local laws.

In summary a survey cannot:

- Violate privacy or confidentiality rules;
- Be burdensome to the surveyed population;
- Overtax the College resources;
- Duplicate other survey(s);
- Interfere in the administration of another survey on the College's survey calendar; and
- Violate College policy.

Process

The Office of Institutional Research in conjunction with the Office of Academic Affairs will serve as the oversight office for the administration of surveys at Davis & Elkins College. Requests to administer surveys to the College community will be submitted for review and consideration using the appropriate form and, if approved, added to the College survey calendar. Review forms are available at the Office of Institutional Research and on the College website.

2.1.17 Tuition Discount Program for Alumni and Senior Citizens

Alumni: Alumni who have graduated from Davis & Elkins with a bachelor's degree will be eligible to enroll for regular courses at the College at the special tuition of \$100 per credit hour. To participate in this program, an alumnus/alumna:

- Must have earned a bachelor's degree from Davis & Elkins College;
- Must have been out of school three or more years prior to entering the program; and
- May enroll for up to nine credit hours during either the fall or spring semester on a space-available basis.

This program does not apply to mentor-assisted (MAP) courses, courses offered by special arrangement, summer school classes, or private music instruction. However, all other courses offered by the College are covered by this special tuition offer.

Once a Davis & Elkins graduate enrolls under the program, he or she may take courses as frequently or infrequently as desired, so long as the program continues. Work taken may apply to an additional degree or may simply satisfy a desire to be in a Davis & Elkins College classroom again.

Seniors: Senior citizens, defined as persons fifty-five years of age or older, will be eligible to enroll under the same conditions, whether or not they graduated from Davis & Elkins, and even if they have taken courses on campus more recently than three years ago.

This special program is valid until notice of termination. It does not constitute a permanent entitlement for alumni and seniors and may be cancelled at any time at the discretion of Davis & Elkins College.

2.1.18 Volunteers

Davis & Elkins College has developed the following policy and procedures pertaining to volunteers performing work, services, or activities under the direction and control of an authorized College employee. Volunteers perform such work, services, or activities without promise, expectation or receipt of any compensation, future employment, or any other tangible benefit.

Responsibilities and Rights of Davis & Elkins College Volunteers

1. Davis & Elkins College volunteers must comply with College and department policies and procedures, as well as legal requirements that govern their actions. These include, but are not limited to those relating to employee conduct, safety, confidentiality, sensitive information, protected health information, information technology use, financial responsibility, and drug or alcohol use. Department heads are responsible for making certain volunteers comply with all applicable policies, procedures, and laws.
2. Volunteers are not covered by the Fair Labor Standard Act and therefore are not considered employees for any purpose. As such, they are not eligible for compensation or benefits.

Eligibility

Anyone, including retirees, students, alumni, or others, may provide volunteer services to Davis & Elkins College, with the following restrictions:

1. Individuals under the age of fifteen may not become volunteers;
2. An individual under the age of eighteen must obtain parental or guardian consent to volunteer;
3. A current employee may not become a volunteer at Davis & Elkins College in any capacity in which the employee is presently employed at the College, or which is essentially similar to or related to the individual's regular work at Davis & Elkins College.

4. Selection and Assignment

When selecting and engaging a volunteer, it is the department's responsibility to be certain the individual has adequate experience, qualifications, and training for the assigned task(s). The following procedures are required to engage a volunteer:

1. Departments desiring to engage volunteers must complete a description of the duties and services to be performed by the volunteer and obtain approval from the appropriate Vice President;
2. Each potential volunteer (or their parent/guardian) must complete a Volunteer Registration Form available on the College website and, if working with protected persons satisfactorily complete a background check (see the College's Background Check Policy in [Volume III](#) of

the *Davis & Elkins College Policy Manual*). The form must be filed with Human Resources upon completion;

3. Each volunteer must complete a Release and Waiver of Liability Form available on the College website. Non-Davis & Elkins College students under the age of eighteen must have a parent or guardian sign the form prior to beginning their service. The completed form is then forwarded to Human Resources for filing;
4. Appropriate training must be completed for all volunteers prior to beginning service at Davis & Elkins College;
5. All completed forms and description of service must be submitted to the department head for approval and then to Human Resources;
6. If the individual is a returning volunteer but the break in their service is greater than one year, all applicable forms, background checks and processes described above must be completed once again;
7. If the individual is a current volunteer but their duties are changed, all applicable forms and process described above must be completed once again.

Dismissal

A volunteer's term of service may be terminated at any time and without prior notice by the supervisor or the appropriate Cabinet member.

2.2 Health, Environmental Safety and Risk Management

2.2.1 Campus Health

2.2.1.1 Drug and Alcohol Prevention Program

Pursuant to the Federal Drug-Free Schools and Communities Act Amendments of 1989, Davis & Elkins College has a drug and alcohol prevention program for its students and employees. The program includes an annual disclosure to each student and to all employees outlining the standard of conduct expected of students and employees in relationship to the possession, use or distribution of illicit drugs and alcohol on campus or as part of any College activity; a description of the applicable legal sanctions under local, state and federal law which may arise from the unlawful possession or distribution of illicit drugs; a description of the health risks associated with the use of illicit drugs; a description of the College's Drug and Alcohol Abuse Prevention Program and a clear statement of the disciplinary sanctions which may be imposed upon students and employees for violations of the standard of conduct. The College's program is reviewed biennially by the Director of Counseling and Wellness in collaboration with Student Life and Human Resources to determine effectiveness and to implement changes (if needed) to ensure that the College's disciplinary sanctions (below) are consistently enforced. Davis & Elkins College is subject to the laws of the State of West Virginia, those of Randolph County and the City of Elkins.

2.1.1.1.1 Alcohol Policy

Consumption, purchasing, possession, or transportation of any alcoholic beverages by people under the age of 21 on College property or at any College sponsored activity is illegal and a

violation of College policy. It is also unlawful and a violation of College policy for any person to knowingly provide alcoholic beverages to anyone under the legal drinking age of 21. Students and employees are expected to obey the law and to take responsibility for their own conduct. In addition, Davis & Elkins College maintains the following student regulations regarding alcohol on College property or at any College sponsored activity:

1. The possession and/or use of hard liquor in any form is prohibited;
2. Students (and/or guests) of legal age (21 or over) may possess and consume alcoholic beverages (beer and wine) in the privacy of their own residence unit with the door closed, but only if they reside in a private room, or unit with roommates of legal age;
3. Students (and/or guests) under the legal age of drinking shall not buy, drink, or possess (hold) alcoholic beverages;
4. Students (and/or guests) shall not act belligerently, or be visibly intoxicated;
5. The possession and consumption of alcohol shall not infringe upon the privacy or peace of other individuals;
6. Items used for the mass consumption of alcohol (beer bong, kegs, pony kegs, punch bowls, beer balls, trash cans, or other common containers of alcoholic beverages of similar nature) are strictly prohibited;
7. Possession of an open container or consumption of alcoholic beverages in any area other than individual rooms is prohibited except in specified areas or at special events sponsored by, and posted accordingly by the College;
8. Drinking games in any form are prohibited (beer pong, flip cup, etc.); and
9. Empty alcohol bottles are prohibited from being displayed in the residence halls.
10. Employees may not report to work, perform work, be on a published/scheduled on-call shift, return to work after being off-site, or operate equipment, machinery, or vehicles for the College while under the influence of drugs or alcohol. Failure to comply will result in appropriate disciplinary action up to and including expulsion or dismissal, cancellation of their contract, or other appropriate responsive action.

See the College Reservation of Facilities Policy for additional information.

With the exception of approved events, the consumption of alcoholic beverages is prohibited in all “public areas” of the College, including athletic facilities and outside grounds. Alcoholic beverages may not be included in organized membership recruitment activities. The advertising, promotion, and sale of alcohol are prohibited (outside of licensed spaces or events). Individual students and student organizations are responsible for their conduct, and the conduct of their guests and for promoting compliance with West Virginia laws and College policy. College faculty and staff are expected to promote compliance with West Virginia laws and College policies regarding alcohol.

Consequences for Alcohol Policy Violations

The following are the minimum sanctions for alcohol violations.

Student Sanctions: Students found responsible for violating the Davis & Elkins College Alcohol Policy are subject to the jurisdiction of the City of Elkins, Randolph County and state of West Virginia. See the following chart for possible penalties:

	1st offense	2nd offense	3rd offense
Fine	\$150	\$300	\$500
Education	Mandatory Alcohol Education Class	Refresher Course	Deferred
Counseling/Assessment/Treatment Plan	At Counselor's recommendation	Mandatory	Mandatory
Community service	5 Hours	10 Hours	20 Hours
Parent notification of Dependent Students	Optional	Yes	Yes
Probation		30 days	60 days

Third offenses are independently evaluated based on the circumstance of the incident and may include suspension from the College.

Community service will be completed in one calendar month from which the offense took place unless the time remaining in the semester prohibits it. In that case the community service will be completed by the end of the first month in the following semester.

Students who do not participate in the mandatory alcohol education, attend recommended counseling or complete the community service requirements will have a hold placed on their account and will not be permitted to register for classes until the requirements have been met.

Students have the option to receive evaluation and services off campus at their own expense. Documentation of completed education, evaluation and treatment will be required from the community-based counselor. The counselor shall be a certified alcohol and drug counselor in the state of West Virginia or the equivalent if the counseling is completed out of state.

Employee Sanctions: Pursuant to the Davis & Elkins College Employee Drug-Free Policy, any Board member, employee, independent contractor, vendor, alumnus, volunteer, student or other individual who conducts business for Davis & Elkins College who violates the College's Alcohol or Employee Drug-Free Policy, any city ordinances, state criminal laws, or federal laws relating to alcohol or drug use, or who does not cooperate with the College in its attempts to maintain a drug-free environment, will face appropriate disciplinary action up to and including expulsion or dismissal, cancellation of their contract, or other appropriate responsive action. In the case of applicants, the offer of employment can be withdrawn and the applicant may not reapply. Also,

individuals violating any city ordinances, state criminal laws, or federal laws relating to alcohol or drug use also risk fines and/or imprisonment.

Alcohol: Health Risks

As students and employees make choices concerning the use of alcohol, it is important to consider the health risks associated with consumption. Alcohol is a depressant, although it may initially stimulate emotions. It slows heart rate and respiration and may cause intoxication, sedation, unconsciousness and death. Alcohol is generally metabolized at the rate of one drink per hour. Mixing alcohol with other drugs can be lethal. Food slows down the absorption of alcohol. Long term alcohol misuse can lead to liver disorders, heart disease, brain damage, sterility, and dependency.

Approximately 1 in 10 drinkers becomes an alcoholic; children of alcoholics are 3-4 times more likely to become alcoholics themselves. BAC (Blood Alcohol Concentration) is affected by the amount consumed, rate of drinking, size and gender of drinker, and tolerance. Alcohol impairs judgment, performance, memory, and motor skills. An impaired person is usually unable to recognize his/her own impairment. Tolerance, the need to use more of a substance to maintain the effectiveness of that substance, occurs with use over an extended period of time. Tolerance increases the risk of alcohol-related problems, including alcoholism and social problems.

Educational Resources and Treatment Options

It is recommended that any organization planning an event at which alcohol will be available to those of legal age, formulate and implement a program to increase alcohol awareness and prevent alcohol misuse for those who will attend. There are a number of resources available on and off campus to provide alcohol education or assistance with alcohol concerns:

1. The Office of Residence Life, including the Coordinators of Campus Housing, Resident Directors and Resident Assistants, are a valuable resource and provide much of the alcohol education programming on campus.
2. Counseling services are available to address individual concerns, provide assessments and referrals for treatment on and off campus, and to provide information and education about alcohol use.
3. Student Health Services is available to assist individuals with situations involving alcohol that affect the physical well-being of a student.

In addition, employees who are diagnosed as chemically dependent will be treated in the same manner as employees with other types of illnesses with the coverage being limited by the insurance coverage provided by the group health insurance plan. On the basis of proper medical certification of chemical dependency, they will qualify for the same employee benefits and group insurance coverage which are provided for other medically certified illnesses covered in employee benefit plans, except as may be limited by the specific benefit plans concerned. While treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan, the ultimate financial responsibility for recommended treatment belongs to the employee. The College's employee group medical insurance coverage for inpatient and outpatient treatment is detailed in the College's health plan documents.

In addition, employees may utilize the College's Employee Assistance Program:

Online: <http://www.workhealthlife.com/Standard3>
Phone: 888-293-6948 TDD: 800-327-1833
Available 24 hours a day, 7 days a week

2.1.1.1.2 Drug-Free Schools and Community Act Compliance

In accordance with state and federal laws, it is illegal for students and employees to possess, use or sell illegal drugs, as well as to abuse or distribute prescription drugs. Prescription drugs are only legal if the individual possessing them is the patient to whom the medication is prescribed. Included in these categories are: opiates, barbiturates, amphetamines, marijuana, hallucinogens, illegal steroids, date-rape drugs, and other illegal or prescription drugs. Not only is it unlawful, but the presence, use, and abuse of these drugs within the College is contrary to the intellectual and educational purposes of the College. Possession of these substances may well be an indication that the student or employee is not constructively engaged in academic or work-related endeavors, respectively.

Students: Students arrested for selling drugs or found to be in possession of significant quantities shall be subject to immediate suspension pending final disposition of the case in the College judicial process. If the student is subsequently found responsible by the College, she or he will be expelled from Davis & Elkins College.

Use or abuse of illegal and controlled substances is a violation of College regulations. Students violating this policy should expect disciplinary action, which may include suspension from the College. Subsequent violations may result in suspension or expulsion.

The possession of paraphernalia, making no distinction between whether it has or has not been used for its intended purpose, is prohibited. Therefore, students should not possess hookahs, water pipes or bongs, pipes designed to smoke tobacco alternatives, or any other paraphernalia suspected or associated with drug use. Any items found will be confiscated and destroyed by the Office of Public Safety.

The Office of Student Life staff members are available to provide referrals to students with concerns about alcohol or drug use. Referrals to free, on campus counseling services are available and a list of off campus providers is also available. Students assume full financial responsibility for any off-campus services.

Drug Use Consequences

Student Consequences: The following are the minimum sanctions for Drug Use & Abuse violations. Students found responsible for violating the Davis & Elkins College Drug Use and Abuse Policy are subject to the jurisdiction of the State of West Virginia, U.S. Federal Law Enforcement. See the following chart for possible penalties.

	1st offense	2nd offense	3rd offense
Fine	\$150	\$300	\$500
Education	Mandatory Drug Education Class	Refresher Course	Deferred

Counseling/Assessment/ Treatment Plan	At Counselor's recommendation	Mandatory	Mandatory
Community service	5 Hours	10 Hours	20 Hours
Parent notification of Dependent Students	Yes	Yes	Yes
Probation		30 days	60 days

Third offenses are independently evaluated based on the circumstance of the incident and may include suspension from the College.

Community service will be completed in one calendar month from which the offense took place unless the time remaining in the semester prohibits it. In that case the community service will be completed by the end of the first month in the following semester.

Students who do not participate in the mandatory alcohol education, attend recommended counseling or complete the community service requirements will have a hold placed on their account and will not be permitted to register for classes until the requirements have been met.

Students have the option to receive evaluation and services off campus at their own expense. Documentation of completed evaluation and treatment will be required from the community based counselor. The counselor shall be a certified alcohol and drug counselor in the state of West Virginia or the equivalent if the counseling is completed out of state.

Those who are found to have violations related to the manufacture, delivery, possession with intent to manufacture or deliver a controlled substance or other violations that would be considered a felony offense will receive a minimum of parental notification and immediate suspension and or dismissal.

Employees Consequences: Any Board member, employee, independent contractor, vendor, alumnus, volunteer, student or other individual who conducts business for Davis & Elkins College who violates the College's policies pertaining to drug use or possession, any city ordinances, state criminal laws, or federal laws relating to alcohol or drug use, or who does not cooperate with the College in its attempts to maintain a drug-free environment, will face appropriate disciplinary action up to and including expulsion or dismissal, cancellation of their contract, or other appropriate responsive action. In the case of applicants, the offer of employment can be withdrawn and the applicant may not reapply. Also, individuals violating any city ordinances, state criminal laws, or federal laws relating to alcohol or drug use also risk fines and/or imprisonment.

Criminal Penalties for Psychoactive Drugs

Penalties for the use and possession of illicit drugs, along with illegal use of prescription drugs, vary greatly. Possession of a larger amount of a drug will typically result in charges of distribution, leading to much stiffer penalties. Some examples of penalties:

1. A federal or state drug conviction can disqualify a student for federal student aid.
2. A criminal record for drug possession may prevent professional licensing and/or certification.
3. Possession of up to 30 grams of marijuana: up to 30 days in prison, \$500 in fines.

4. Possession of any controlled substance, such as heroin: up to 1 year in prison, \$5,000 in fines.
5. Possession of 5+ grams of cocaine: 5-20 years in prison, \$1000 in fines.
6. Manufacture, distribution, importation of any designer drug, such as ecstasy: up to 20 years in prison and \$250,000 in fines.

In situations where drugs and/or drug paraphernalia, weapons, or other dangerous or potentially dangerous items are found in plain view, Public Safety Officers may perform a room or workplace search within legal limits.

If the College receives a report of a potential policy violation, particularly a violation of the College's drug, health and safety, and/or weapons and explosive materials policies, the Vice President for Student Affairs, Director of Human Resources or Vice President for Academic Affairs or his/her designee may authorize a search in writing. The Vice President for Student Affairs and/or Coordinators of Campus Housing must be present at any such residence life room search. Only Public Safety officers can perform residence life room searches.

Drug Use and Abuse: Health Risks

As students and employees make choices concerning the use and misuse of drugs and controlled substances, it is important to consider the health risks associated with consumption.

Cocaine and Crack are powerful central nervous system stimulants that constrict blood vessels, dilate pupils, increase blood pressure, and elevate heart rate. Cocaine use may induce restlessness, irritability, anxiety, paranoia, seizures, cardiac arrest, respiratory failure, and death. Cocaine is extremely addictive, both psychologically and physically. Great risks exist whether cocaine is ingested through inhalation (snorting), injection, or smoking. Compulsive cocaine use may develop even more rapidly if the substance is smoked, and smoking crack cocaine can produce particularly aggressive paranoid behavior in users.

Date Rape Drugs (Rohypnol, rophies, roofies, GHB, Ketamine, etc.) may incapacitate a person, particularly when used with alcohol. Rohypnol and GHB (gammahydroxybutyrate) are characterized as "date rape" drugs because they incapacitate users, thereby increasing vulnerability to sexual assault and other crime. Sedation, relaxation, and amnesia are associated with Rohypnol use. Rohypnol may be psychologically and physically addictive and can cause death if mixed with alcohol or other depressants. GHB usage may result in coma and seizures and when combined with methamphetamine appears to cause an increased risk of seizure. Combining use with other drugs such as alcohol can result in nausea and difficulty in breathing. *GHB* may also produce withdrawal effects, including insomnia, anxiety, tremors, and sweating. Ketamine may induce feelings of near-death experiences.

Ecstasy (X, Adam, MDMA, XTC, etc.) has amphetamine-like and hallucinogenic properties. Its chemical structure is similar to other synthetic drugs known to cause brain damage. Ecstasy use may cause psychological difficulties including confusion, depression, sleep problems, drug craving, severe anxiety, paranoia, and even psychotic episodes. Similar difficulties may occur weeks after taking MDMA. Physical symptoms such as increases in heart rate and blood pressure may result from use of such substances. Other physical symptoms include muscle tension, blurred vision, nausea, rapid eye movement, and involuntary teeth clenching.

Hallucinogens (acid, PCP, LSD, psilocybin [mushrooms], dextromethorphan [dxin]) are among the most potent mood-changing chemicals and may produce unpredictable effects that may impair coordination, perception, and cognition. Some LSD users experience flashbacks, often without warning, without the user having taken the drug again. Violence, paranoia, delusions, hallucinations, convulsions, coma, cardiac arrest, and respiratory failure may result from hallucinogen use.

Marijuana/CBD (pot, grass, hash, cannabis sativa, etc.) may impair memory, attention, coordination, and learning. Short-term effects of smoking marijuana may include problems with memory, learning, distorted perception, difficulty in thinking and problem solving, loss of coordination, increased heart rate, anxiety, and panic attacks. Persons who smoke marijuana regularly may have many of the same respiratory problems as tobacco smokers, including daily cough and phlegm, chronic bronchitis, and more frequent chest colds. Because users of marijuana deeply inhale and hold marijuana smoke in their lungs, they incur a higher risk of getting lung cancer.

Narcotics (heroin, opium, morphine, codeine, pain medication [Demerol, Percodan, Lortab, etc.]) may produce temporary euphoria followed by depression, drowsiness, cognitive impairment, and vomiting. Narcotic use may cause convulsions, coma, and death. Tolerance and dependence tend to develop rapidly. Using contaminated syringes to inject drugs may result in contracting HIV and other infectious diseases such as hepatitis.

Nicotine (tobacco, cigarettes, cigars, chewing tobacco, nicotine chewing gum and patches) is highly addictive and according to the Surgeon General is a major cause of stroke and is the third leading cause of death in the United States. Over time, higher levels of nicotine must be consumed to achieve the same effect. Nicotine consumption results in central nervous system sedation and after initial activation may cause drowsiness and depression. If women smoke cigarettes and also take oral contraceptives, they are more prone to cardiovascular and cerebrovascular diseases than are other smokers. Pregnant women who smoke cigarettes run an increased risk of having stillborn or premature infants or infants with low birth weight.

Sedative-hypnotics (depressants, Quaaludes, Valium, Xanax, etc.) depress central nervous, cardiovascular, and respiratory functions. Sedative-hypnotic use may lower blood pressure, slow reactions, and distort reality. Convulsions, coma, and death are outcomes associated with sedative-hypnotic use. Consuming sedative-hypnotics with alcohol is especially dangerous.

Steroids (anabolic-androgenic) may permanently damage liver, cardiovascular, and reproductive systems. Possible side effects include liver tumors, cancer, jaundice, fluid retention, and hypertension. In men, steroids may cause shrinking of testicles, reduced sperm count, infertility, baldness, breast development, and increased risk for prostate cancer. In women, steroid use may cause growth of facial hair, male-pattern baldness, menstrual changes, enlarged clitoris, and deepened voice.

Stimulants (amphetamine, methamphetamine, speed, crystal, crank, Ritalin, ephedra, caffeine, various over-the-counter stimulants and diet aids) are powerful central nervous system stimulants that may increase agitation, physical activity, and anxiety. Stimulants may decrease appetite, dilate pupils, and cause sleeplessness. Dizziness, high blood pressure, paranoia, mood disturbance,

hallucination, dependence, convulsions, and death due to stroke or heart failure may also result from use.

Synthetic Drugs (spice, K2, bath salts, etc.) are synthetic substances produced in a laboratory. They are chemical cousins of other drugs. They are often found in retail stores and are marketed as “herbal incense,” “plant food” or “bath salts”. They generally come in small tea bag size packets and are labeled “not for human consumption.” They are marketed as a “legal high”. These substances have been outlawed in West Virginia. These may cause agitation, extreme nervousness, hallucinations, seizures, paranoia, and violent behaviors which can be extremely dangerous to the person consuming them and to those around them. Suicide attempts are very common among people who consume these substances. Emergency treatment is critical if you suspect that someone has ingested them. The packaging should be taken to the emergency department if available.

(Source: National Institute on Drug Abuse, National Institutes of Health, www.nida.nih.gov)

Amnesty Policy

As partners with the College in promoting health and safety, all students have a responsibility and obligation to seek immediate assistance for any student known to be experiencing a serious health crisis, including one resulting from high risk drinking or the abuse of other drugs.

As such, students who seek assistance on behalf of a peer and are themselves under the influence of alcohol or drugs in violation of this Policy will not receive a Code of Conduct sanction for this action. Additionally, the student who is the subject of the report will not receive a Code of Conduct sanction for this action.

Additionally, individuals may be hesitant to report conduct which they have experienced or witnessed, to participate in an investigation and/or grievance proceeding, or to speak truthfully because they fear College disciplinary action due to their own consumption of alcohol or other drugs at or near the time of the incident. While the College does not condone underage drinking or drug use, the College may extend limited immunity from College sanctioning in the case of illegal drug and alcohol use to victims, witnesses and those reporting incidents and/or assisting the victims of sexual offenses, provided that they are acting in good faith in such capacity.

The College will provide students with the assistance needed to respond to high risk drinking and other drug abuse. Students may seek such assistance by contacting the Office of Student Life or Office of Public Safety.

After the crisis is resolved, the student who experienced the health crisis, as a result of alcohol intoxication or other drug consumption, will be referred to the substance abuse prevention and treatment specialist. The substance abuse prevention and treatment specialist will provide further assessment, substance abuse education, counseling, recommendations and/or referral as applicable to the individual student’s need.

Educational Resources and Treatment Options

There are a number of resources available on and off campus to provide drug education or assistance with drug use concerns:

1. The Office of Residence Life, including the Coordinators of Campus Housing, Resident Directors and Resident Assistants, are a valuable resource and provide much of the drug education programming on campus.
2. Counseling services are available to address individual concerns, provide assessments and referrals for treatment on and off campus, and to provide information and education about drug use.
3. Student Health Services is available to assist individuals with situations involving drugs.

In addition, employees who are diagnosed as chemically dependent will be treated in the same manner as employees with other types of illnesses with the coverage being limited by the insurance coverage provided by the group health insurance plan. On the basis of proper medical certification of chemical dependency, they will qualify for the same employee benefits and group insurance coverage which are provided for other medically certified illnesses covered in employee benefit plans, except as may be limited by the specific benefit plans concerned. While treatment for drug use disorders may be covered by the employee benefit plan, the ultimate financial responsibility for recommended treatment belongs to the employee. The College's employee group medical insurance coverage for inpatient and outpatient treatment is detailed in the College's health plan documents.

In addition, employees may utilize the College's Employee Assistance Program:

Online: <http://www.workhealthlife.com/Standard3>

Phone: 888-293-6948 TDD: 800-327-1833

Available 24 hours a day, 7 days a week

2.1.1.1.3 Drug Free Workplace

In compliance with the Drug Free Workplace Act of 1988, Davis & Elkins College has developed a comprehensive Drug Free Workplace Policy, which prohibits the unlawful manufacture, use, dispensing, possession, or distribution of controlled substances by any employee, volunteer, or other individual participating in the College workplace. See Volume III of the *Davis & Elkins College Policy Manual* for additional information.

2.1.1.1.4 Serving Alcohol on Campus

All activities at which alcoholic beverages will be present must be approved in advance as follows:

- Student Sponsored Events: Any student or student organization seeking to serve alcohol at an event must secure written approval from the Student Life Office. Prior to approval, the student or student organization must designate a staff or faculty sponsor for the event. The staff or faculty sponsors will attend and assume the responsibility for adhering to College policies and state law, and insuring that appropriate behavior is maintained at all times.
- College Sponsored Events: Any non-student College organization, department, or division seeking to serve alcohol at an event must secure written approval from the President's Office.
- Third Party Events: Third party events must be coordinated with and approved by Hospitality Services.

Prior to the event, the sponsoring individual or entity must secure and present any necessary permits and/or insurance to the approving authority listed above. The College will cancel the event if such licensure and/or insurance is not obtained.

At any approved College-sponsored event where alcohol will be served, all policies and procedures set forth in the College's Alcohol Policy must be strictly observed, including the following:

1. No College event can charge for alcohol without proper licensing, whether or not the event is held at the College.
2. All events must terminate by 12:00 a.m. Sunday through Thursday and by 2:00 a.m. on Friday and Saturday.
3. Alcoholic beverages are to be consumed only in the designated room(s) or areas approved for the event.
4. Proof of legal drinking age will be required prior to service.
5. Only those beverages provided by the sponsoring organization of an event are to be consumed. Individuals are not permitted to bring their own beverages to an event.
6. The College encourages low risk use of alcohol. No person will be served alcohol if they are already visibly intoxicated. No alcohol will be given away as a prize.
7. Drinking games will not be allowed.
8. No person may obtain alcohol for another person unless the person is present at the time of service, regardless of whether they are of legal drinking age.
9. Soft drinks and food must be made available for the duration of any activity where alcoholic beverages are served.
10. The sponsoring organization is responsible for establishing procedures to provide impaired guests or participants a ride home. Such procedures can include assigning one or more members of each group of guests or participants the responsibility of being a designated driver who will refrain from drinking. Another alternative is to provide a shuttle service.

Davis & Elkins College discourages the inappropriate use of alcohol by any member of its community.

2.2.1.2 Communicable Diseases

The purpose of this policy is to establish guidelines for the effective and appropriate management of issues relating to communicable diseases affecting members of the Davis & Elkins College campus community.

A **communicable disease** for the purposes of this policy is any disease that can be transmitted from one individual directly to another individual. Some communicable diseases can be spread by casual contact. For example, colds, flu, and tuberculosis can be spread from respiratory droplets that may be transmitted through coughing, sneezing, or a runny nose. Other communicable diseases require contact with an infected individual's blood, body fluids, or genitalia, such as Hepatitis B, the Human Immunodeficiency Virus (the virus that causes AIDS), chlamydia, genital herpes, and syphilis. This policy is concerned only with those communicable diseases that pose a

significant threat to the life or health of others, and all references to “communicable diseases” herein are to be understood as having that more restricted meaning.

Actions taken by Davis & Elkins College regarding individuals with communicable diseases will comply with applicable laws, will be guided by medical advice that is current and well-informed, and will seek to protect the rights and well-being of both the College community at large and the infected individual. The harassment of individuals with or suspected of being infected with any disease is not acceptable behavior at Davis & Elkins College and will be strictly censored. Finally, Davis & Elkins College will treat all medical information obtained from students or employees diagnosed with a communicable disease or any of its related conditions confidentially in accordance with applicable law. Confidentiality will be superseded only by life-threatening circumstances.

Infected Individuals: An individual who either has or reasonably suspects a communicable disease infection is expected to obtain expert medical advice about the known or suspected health condition and, if indicated, to obtain follow-up treatment. Such individual is obligated, ethically and legally, to act responsibly in light of such knowledge, so as to protect other members of the Davis & Elkins College community. If an official of Davis & Elkins College becomes aware that a student or employee is infected, and that student or employee fails to respond to counseling and engages in risky conduct likely to infect others, Davis & Elkins College will seek expert legal and medical advice prior to taking any action. When Davis & Elkins College becomes aware that a student or employee is infected with a communicable disease through voluntary admission, the appropriate College staff will help the individual in seeking recommended treatment and appropriate counseling. Compassion and understanding will guide efforts in assisting individuals with a communicable disease.

Consistent with its commitment to maintain a safe and healthy environment, Davis & Elkins College will treat those infected with a communicable disease the same as other illnesses in terms of employee and student policies and benefits, such as group health and life insurance, disability leaves of absence, and other disability benefits. A medical judgment that limitations are necessary for the health or welfare of the infected individual and/or other members of the Davis & Elkins College community (e.g., an employee is contagious or is demonstrating behaviors that are inappropriate in the workplace and cannot be reasonably accommodated) will be rendered on a case by case basis. All reasonable consideration will be given in order to determine if reasonable accommodations can be made by Davis & Elkins College to allow the individual to participate in a normal course of study or work without risk to the individual or others.

Davis & Elkins College Reporting Requirements: Davis & Elkins College will comply with legal requirements regarding the reporting of communicable diseases to appropriate health authorities.

Public Health Emergencies and Pandemics: Should a pandemic outbreak occur, the College will begin to activate its [Emergency Response and Safety Plan](#). A pandemic is a global disease outbreak in which the disease spreads easily from person to person, causes serious illness, and can spread around large distances in a short amount of time.

Steps will be taken to (a) help faculty, staff and students depart the College before national and international travel restrictions begin; (b) maintain a reduced level of key campus operations

through remote or online interaction; (c) implement payment of wages and other payments through direct deposit and other electronic means; (d) communicate contingency responses; and (e) begin the recovery process once the outbreak has been controlled.

The College's Pandemic Response Plan may be activated in several escalating levels and in consonance with guidance received from the World Health Organization, the U. S. Department of Health and Human Services, the Center for Disease Control, and local health departments. The following list describes the stages of movement of a pandemic.

Operating principles:

- If students or employees are suspected of carrying pandemic flu, they should not remain on campus.
- The College will designate Emergency Response Team main areas for suspected carriers and prepare to support them when necessary.
- Spread of disease is to be avoided.
- As the College closes for an undetermined amount of time, it will attempt to provide alternative instruction based on its ability to do so.
- The College will keep the community informed of the status of the College via traditional notification procedures.

Level 1. First cases of efficient human-to-human transmission internationally

1. The Emergency Response Team will meet to monitor the event and prepare emergency resources.
2. Communication will be established with the local health department to discuss upcoming events.
3. The Emergency Response Team will determine whether College students abroad are at risk and bring them home if necessary.
4. Student Health Services will:
 - Distribute current information on good-practice guidelines for infection control hygiene;
 - Inventory and take stock of infection prevention supplies;
 - Take steps to identify critical health supplies in case of a surge in need.
5. The Emergency Response Team will prepare the College to respond to liberal leave of students and employees.
6. The Emergency Response Team and Student Health Services will broadcast and communicate the policy that employees and students with known or suspected pandemic illness should not remain on campus and should return only after their symptoms resolve and they are physically ready to return to campus.
7. The Emergency Response Team will prepare for possible evacuation.
8. The Emergency Response Team will test communications among the College community and to the outside community.

Level 2: First verified case is reported in North America AND one or more other triggering events.

The criteria of events that will trigger moving to Level 2 include (a) the World Health Organization declaration reflecting an increased and sustained transmission in the general U.S. population, (b) confirmation of a high rate of infectivity, morbidity (rate of infection) and/or mortality (death rate), (c) rate/speed of disease spreading, (d) local public health recommendation to curtail/cancel public activities in county or state, (e) falling class attendance and/or students departing the campus, (f) rising employee absenteeism, (g) other regional schools and school systems closing, (h) transportation systems closing or curtailing interstate travel, and (i) cases in the local southeast area occurring early in the overall U.S. experience with the unfolding pandemic.

In the event of a Level 2, the Emergency Response Team will implement the following procedures:

1. Monitor the progress of infection and collaboration with regional emergency response organizations is intensified.
 - Attend local emergency response meetings to be informed of local preparations.
2. Prepare for likely evacuation.
 - Assist bringing home the abroad students who may want to return home.
3. Work with human resources and department heads to activate and assign essential/non-essential employees.
4. Communicate the possibility of a long term closure of the College.
5. Activate preparations for alternative instruction and liberal leave.
6. Activate preparations to maintain the health of the business and financial responsibilities of the College.
7. Activate in collaboration with the Student Health Services preparations for the care and isolation of those who may become sick.

Level 3. Suspected/confirmed case is reported within a 250-mile radius of the campus.

1. The Emergency Response Team will:
 - Attend local emergency response meetings to be informed of local preparations;
 - Ready the evacuation process;
 - Ready the alternative instruction delivery;
 - Ready the maintenance of the financial and business functions of the College in response to an extended closure;
 - Continue to educate on good practices for infection control;
 - Canvass the campus population to determine who may be feeling ill.
2. Provide ongoing information to the College community and concerned outsiders through traditional notification procedures.

Level 4: Suspected/confirmed case is reported on campus.

1. The Emergency Response Team will:
 - Attend local emergency response meetings to be informed of local preparations;
 - Activate the campus evacuation process.
2. The Emergency Response Team will provide ongoing information to the College community and concerned outsiders through traditional notification procedures.

3. Facilities are monitored and maintained by essential personnel.
4. Campus security is enforced and monitored.
5. Decision of refunds for tuition and housing is made by the President.

Recovery level: The pandemic is under control.

Once the danger of the pandemic has passed, the campus will reopen for business.

2.2.1.3 Disability Support (ADA)

Davis & Elkins College is committed to complying with all applicable provisions of the Americans with Disabilities Act of 1990 (“ADA”), the Rehabilitation Act of 1973, and state and local disability laws, as applicable. Accordingly, Davis & Elkins College provides reasonable accommodations to qualified students, employees, and applicants who have disabilities where such accommodations would not cause the College undue hardship. Davis & Elkins College strives to foster a culture where such students, employees, and applicants feel no hesitation about requesting accommodations that will enable them to participate in employment, social, academic, and Davis & Elkins College-sponsored extracurricular programs.

Definitions

Disability: An individual with a disability is defined as any person who (1) has a physical or mental impairment which substantially limits one or more major life activities; (2) has a record of such impairment; or (3) is regarded as having such an impairment.

Reasonable Accommodations: Davis & Elkins College will reasonably accommodate a qualified individual with a disability, provided that the accommodation does not impose an undue burden on Davis & Elkins College. Reasonable accommodations will be provided only when qualified individuals with a covered disability identify themselves and provide appropriate documentation. Davis & Elkins College is not required to provide an accommodation that will have the effect of eliminating an essential function of the job in question or an essential requirement of an academic or student life program, activity, or service.

In the **employment setting**, a reasonable accommodation is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. A *qualified* applicant or employee is a person who, with or without reasonable accommodations, is able to perform the essential functions of the position.

In the **student setting**, a reasonable accommodation is an adjustment or modification to a course, program, service, activity or facility that allows the qualified student with a disability to participate as fully as possible in the programs and activities offered by Davis & Elkins College inside or outside of the classroom. A *qualified* student is a person who “meets the academic and technical standards requisite to admission or to participation in the educational program or activity, with or without reasonable modifications to rules, policies, or practices;

the removal of architectural, communication, or transportation barriers; or the provision of auxiliary aids and services.”

Employees and Employee Applicants with Disabilities

It is Davis & Elkins College’s policy not to discriminate against qualified individuals with disabilities and to provide reasonable accommodation as required by law to otherwise qualified applicants or employees with disabilities in all employment practices, including job application procedures, hiring, advancement, job assignments, leaves of absence, transfers, layoffs, demotions, discipline, discharge, compensation, fringe benefits and job training. Employment opportunities will not be denied to an otherwise qualified applicant or employee because of the need to make reasonable accommodations to the physical or mental impairment of such individual. Employees and applicants seeking an accommodation should do so pursuant to the Davis & Elkins College Employees with Disabilities Policy in [Volume III](#) of the *Davis & Elkins College Policy Manual*.

Students with Disabilities

Davis & Elkins College does not discriminate on the basis of disability in the administration of its educational services and programs, housing programs, or activities and is committed to making reasonable accommodations for qualified applicants for admission and enrolled students with disabilities. Students seeking more information regarding reasonable academic accommodations or any other related issues should contact the Naylor Learning Center. Students seeking more information regarding reasonable living accommodations should contact the Office of Student Life.

Reasonable Accommodations at Campus Events

Events Open to the Public: Davis & Elkins College provides reasonable accommodations to campus visitors with disabilities and, therefore, all events open to the public are generally scheduled in accessible space. If for any reason a community event is scheduled in a space that is not accessible and the event organizer receives a request for an accommodation from an individual with a disability, the division or department organizing the event will work with the Hospitality Services to find an alternate location that is accessible.

Events Open only to the Davis & Elkins College Community: For events open to the Davis & Elkins College community, Hospitality Services, in collaboration with the event sponsor, will make reasonable efforts to ensure that events are scheduled in accessible spaces. If for any reason a community event is scheduled in a space that is not accessible and the event organizer receives a request for an accommodation from an individual with a disability, the individual, division or department organizing the event will work with Hospitality Services to find an alternate location that is accessible. A club or student organization or an academic group that meets at regular intervals and has received a request for accommodations will schedule all meetings for that academic year in an accessible space.

Complaints about lack of accessibility with respect to Davis & Elkins College events should be directed to the [Section 504 Coordinator](#).

Electronic Accessibility

It is the policy of Davis & Elkins College to provide access to College programs and services to individuals with disabilities to the fullest reasonable extent possible, as required by Section 504 of

the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. In order for Davis & Elkins College to meet its responsibility, the following procedures set forth minimum standards for electronic accessibility at Davis & Elkins College:

1. **Access to Electronic and Information Technology:** It is the policy of Davis & Elkins College to ensure reasonable access to the electronic and information technology utilized by the College. Access to technology and electronic information at Davis & Elkins College is comprised of three facets: the purchase of technology and electronic information products and services, assistive software, and accessibility of web pages.
 - a. Information Technology products (i.e., software applications, telecommunications, videos, multimedia, ATM's, copiers, fax machines, and desktop and portable computers) purchased by Davis & Elkins College must have the capability to use assistive software and hardware;
 - b. Select student computer labs have accessible stations for students with disabilities;
 - c. Davis & Elkins College will provide accessible computers for employees with disabilities; and
 - d. All official Davis & Elkins College information published on Davis & Elkins College websites must be accessible to all users.
2. **Access to Davis & Elkins College Academic Programs and Courses:** It is also the policy of Davis & Elkins College to ensure reasonable access to web enhanced instruction, informational or instructional video media, and alternate media formats utilized by Davis & Elkins College as part of its academic offerings:
 - a. Web enhanced instruction: Access to Davis & Elkins College web-enhanced programs and courses includes distance learning courses and informational presentations such as PowerPoint, streaming video and multimedia resources.
 - b. Video captioning: All instructional and informational video media must be closed captioned or be otherwise accessible to a student via a reasonable accommodation request to the Naylor Learning Center. For example, closed captioning of all television broadcasts and videotaped distance education course materials must be provided to persons with hearing disabilities.
 - c. Alternate media: Alternate media provides the production of alternate print materials for students/employees with verifiable print disabilities. Alternate formats include, but are not limited to: Braille, electronic text, audio recording, large print, tactile graphics and captioning.

ADA Grievances:

Individuals may file ADA/Section 504 related grievances pursuant to the procedures set forth in the Davis & Elkins College Discrimination and Harassment Policy.

2.2.1.4 Health Insurance Portability and Accountability Act (HIPAA)

Davis & Elkins College complies with all laws that govern employee and students' medical records, their review, and their dissemination. Davis & Elkins College will not require individuals

to waive their health privacy rights as a condition for treatment, payment, enrollment in the health plan, and/or eligibility for benefits. Nor will Davis & Elkins College intimidate, threaten, coerce, discriminate against, or take other retaliatory action against an individual for exercising health privacy rights. For more detailed information, please refer to the website for the United States Department of Health and Human Services at www.hhs.gov/ocr/hipaa.

2.2.1.5 Pets and Service Animals

While it is the College's policy to generally prohibit privately-owned animals on campus, the College reasonably accommodates persons with disabilities who require the assistance of Service or Support Animals, as appropriate. This policy and the following requirements are designed to facilitate a process for assuring equal access while addressing health and safety concerns. Moreover, this policy supports the College's commitment to comply with state and federal laws, rules and regulations pertaining to the Americans with Disabilities Act of 1990, as amended and related laws, rules and regulations including, without limitation to, Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Amendments.

I. Definitions

Service Animal: A service animal means any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.

Support Animal: A support animal is an animal that a College student with a disability requires due to their disability, for use in their College residence, in order to have an equal opportunity to use and enjoy their residence/dwelling or to participate in the residence life program. The animal provides emotional support which alleviates one or more identified symptoms or effects of the student's disability. The animal does not need to be specifically trained to perform tasks for a person who suffers from emotional disabilities. There must, however, be an identifiable and medically indicated relationship between the individual's disability and the assistance the animal provides. **Unlike a service animal, a support animal is not granted access to places of public accommodation and they are not permitted in other areas of the College (e.g. libraries, academic buildings, classrooms, dining areas, labs, work areas, student centers, etc.).**

Pet: A pet is an animal kept for ordinary use and companionship. A pet is not considered a service animal or an emotional support animal, and therefore, it is not covered by this policy. Due to health and safety concerns, pets and other animals are not permitted in College buildings for long periods of time. This applies to all students and employees as well as visitors and guests. Visitors and guests should be made aware of the policy to prevent misunderstanding. College employees residing in College owned properties are permitted to have pets (i.e. in Hearthstone, in other College properties surrounding campus, and in Resident Director apartments).

Owner: An owner is the member of the College community with a disability who has received approval for use of a service or support animal as an accommodation on the College's campus.

II. Service Animals

Service Animals, as defined by the Americans with Disabilities Act (see Definitions), are generally permitted in campus buildings, residence halls and on the College campus. The College, however, may prohibit the use of Service Animals in certain locations due to health or safety hazards, where Service Animals may be endangered, or where their use may compromise the integrity of research or fundamentally alter the nature of a program or activity. Restricted locations may include, but are not limited to: research laboratories, classrooms with demonstration/research animals present, medical areas, mechanical rooms or custodial closets, workshops with operating machinery, and food preparation areas. The safety of locations will be considered by a committee (“Committee”) that includes administrators, medical professionals, and student life staff. In making its decision, the committee will consult with the appropriate department and/or laboratory representative regarding the nature of the restricted area and any ongoing research. If a location is determined to be unsafe for the use of a service animal, alternative reasonable accommodations will be explored and provided as appropriate to ensure the individual equal access to the activity.

Voluntary Registration:

- Employees desiring to register a Service Animal with the College may contact Human Resources.
- Students residing in the College resident halls desiring to register a Service Animal with the College may contact the Office of Student Life.
- All other persons bringing Service Animals onto the campus who desire to register a Service Animal with the College should contact the Section 504 Coordinator and/or the Office of Public Safety for assistance and further guidance. The Section 504 Coordinator’s office is located in Halliehurst, 2nd Floor or the individual may call (304) 637-1277. The Office of Public Safety is located in the Gatehouse or the individual may call (304) 704-9111.

In situations where it is not obvious that the dog or miniature horse is a Service Animal, College staff may inquire whether: (1) the animal is a Service Animal required because of a disability? and; (2) what work or task the animal has been trained to perform. College staff will not request any documentation for the animal, require that the animal demonstrate its task, or inquire about the nature of the person's disability.

Owners accompanied by a Service Animal on campus must comply with the **Service and Support Animal Owner’s Responsibilities** rules set forth in Section IV below. Failure to adhere to these rules may result in the removal of the Service or Support Animal from campus and other discipline as applicable.

III: Support Animals in College Housing

Under the Fair Housing Amendments, a student with a disability may request to keep a Support Animal, sometimes called assistance animals, as a reasonable accommodation in housing facilities as a modification to the College’s Pet Policy which generally prohibits animals on campus. In order to qualify for such an accommodation, the Support Animal must be necessary to afford the individual an equal opportunity to use and enjoy a dwelling or to participate in the residential life program. Further, there must be a relationship, or connection, between the individual’s disability

and the assistance the animal provides.

Application and Approval Procedures:

1. Students requesting to have a support animal residing in college housing must register with the Office of Student Life and provide medical documentation of a disability which also describes the support the animal provides and the need for this type of accommodation.
2. Specifically, the student must submit documentation on the letterhead of a treating physician or qualified mental health provider documenting that: (1) the individual has a disability; (2) the animal is necessary for the individual to have an equal opportunity to use and enjoy their College residence; and that (3) there is an identifiable relationship between the disability and the assistance that the animal provides. Determination of reasonable accommodation will be made on a case-by-case basis and includes, but is not limited to, consideration of the following: does the animal pose a direct threat to the health and safety of others; would the animal pose an undue financial and administrative burden on the College; or would the animal fundamentally alter the nature of any of the College's programs or operations. Animals that may pose a health risk or danger to others or fundamentally alter the nature of any of the College's programs or operations will not be permitted.
3. The Committee will initially review all requests and determine whether the necessary information or documentation is present. Alternative accommodations may be discussed during this process and offered where appropriate.
4. Upon approval, the student will be notified and a plan must be made with the Office of Student Life for proper care and control of the animal.

Residence Hall Responsibilities:

1. Support Animals must be kept in student residence halls rooms and are not allowed in public areas of the residence hall except to enter or exit the building and are not allowed in other campus buildings. All roommates or suitemates of the owner must sign an agreement allowing the approved animal to be in residence with them. In the event that one or more roommates or suitemates does not approve, either the owner and animal or the non-approving roommates or suitemates, as determined by residential life and the Office of Student Life, may be moved to a different location.
2. Approved animals may not be left overnight in College housing to be cared for by another student. Animals must be taken with the student if they leave campus for more than one day.
3. The owner must notify the Office of Student Life and residence life in writing if the approved animal is no longer needed as an approved animal or is no longer in residence. To replace an approved animal, the owner must file a new request in writing to the Office of Student Life.
4. If fleas, ticks or other pests are detected, the residence will be treated using approved fumigation methods by a college approved pest control service. The owner will be billed for the expense of any pest treatment above and beyond regularly scheduled pest management in the residence halls (the first Friday of every month).
5. The College reserves the right to inspect the owner's residence to ensure it is being properly

- cleaned and that sanitary and safe conditions are being maintained.
6. Owners are responsible for any expenses incurred for cleaning above and beyond a standard cleaning or for repairs to College premises that are assessed after the student and animal vacate the residence. The College shall have the right to bill the student account of the owner for unmet obligations.
 7. Owners are financially responsible for the actions of the approved animal including bodily injury or property damage. The owner's responsibility covers, but is not limited to replacement of furniture, carpeting, windows, wall coverings, and the like. The owner is expected to cover these costs at the time of repair and/or when he/she moves out.
 8. The Office of Student Life has the ability to relocate the owner and approved animal as necessary according to current contractual agreements.
 9. The owner agrees to continue to abide by all other residential policies. Reasonable accommodation which may constitute an exception to a policy that otherwise would prohibit having an animal does not constitute an exception to any other policy.
 10. Any violation of the above responsibilities may result in immediate removal of the animal from the College and may be reviewed through the College judicial process.
 11. Should the approved animal be removed from the premises for any reason, the owner is expected to fulfill his/her housing obligations for the remainder of the housing contract, unless a waiver is granted. Alternative accommodations and support will be discussed with the student as appropriate.

IV. Service and Support Animal Owner's Responsibilities

1. Service and Support Animals must be licensed in accordance with county and state laws.
2. Service and Support Animals must be house broken prior to coming onto campus and/or staying in residence halls. Support Animals must be spayed or neutered.
3. All shots and vaccinations must be kept current. Rabies vaccination tags must be displayed at all times.
4. Service and Support Animals must be under the owner's control at all times. The animal must be under the owner's direct physical control with a harness, leash, or other tether, unless either the owner is unable because of a disability to use these, or the use of one of these would interfere with the service animal's safe, effective performance of work or tasks. If so, the service animal must be otherwise under the owner's control (e.g., voice control, signals, or other effective means).
5. When on campus grounds and in other campus buildings, Service Animals must be on a leash, harness, or other type of control device unless the owner is prevented from this due to the nature of the disability. Support Animals must be kept in the owner's residence hall rooms and are not allowed in public areas of the residence hall except to enter or exit the building and are not allowed in other campus buildings. When entering or exiting the building, the Support Animal must be on a leash, harness, or other type of control device.
6. The Service or Support Animal is expected to display reasonable behavior and not be disruptive. If disruptive behavior occurs, owners are expected to utilize appropriate

techniques to deal with the behavior. Disruptive behavior can be grounds for removal of the service or support animal from campus.

7. Service and Support Animals are expected to be in good health. Owners must take steps to address any health issues that occur in a reasonable time frame.
8. Owners are expected to maintain at their expense the animal's hygiene and keep the animal clean and well groomed. Flea/tick treatments are essential and preventative methods should be given on a routine basis. If the College facilities are used to bathe the animal, the owner or a designee will clean the area when done. The College is not responsible for this task.
9. A Service animal must wear some type of commonly recognized service animal identification symbol when in public.
10. The care of the animal is solely the responsibility of its owner. The animal must be housebroken. The owner shall always carry equipment sufficient to clean up the animal's waste and immediately remove and dispose of the waste in the proper manner. Members of the College community who are not physically able to pick up and dispose of animal waste are responsible for making all necessary arrangements for assistance. The College is not responsible for this task.

V. Complaints and Exclusion of a Service or Support Animal

The College may remove a Service or Support Animal from campus for the following reasons:

1. The animal is not under the direct physical control of the owner;
2. The animal's behavior is disruptive to its surroundings or other members of the College community;
3. The animal poses a direct threat to the health and safety of others;
4. The animal's presence fundamentally alters the nature of a program or activity;
5. The owner fails to comply with any of her/his responsibilities under this policy.

Any member of the College may submit a complaint about a service or support animal, identifying one or more concerns in the areas listed above. Persons with concerns are to contact a member of the Office of Student Life, Human Resources, and/or the Office of Public Safety. An investigation will be commenced by the appropriate department and a determination will be made with respect to any alleged violations of this policy. The determination will be provided to the owner and the individual submitting the complaint. If the investigation determines that any provision of this policy has been violated by a student, the matter will be referred to Office of Student Life for proceedings consistent with the provisions of the Student Discipline Process. If the investigation determines that any provision of this policy has been violated by an employee, the matter will be referred to Human Resources for further investigation. In addition to the warnings and sanctions outlined in the Student Discipline Process, a finding substantiating the violation of this policy may also lead to the exclusion of the animal. Individuals may file disability related grievances with the ADA Section 504 Coordinator pursuant to the procedures set forth in the College Discrimination and Harassment Policy.

2.2.1.6 Sharps (Needles and Syringes) Waste Disposal

People who use “sharps” (syringes with needles and lancets for finger sticks) and have a need for on-campus disposal of used sharps are to dispose of them in a labeled, approved container designed for this purpose. Sharps or sharps containers are not to be placed in regular trash.

2.2.1.7 Smoking and Tobacco Use

Davis & Elkins College has adopted a smoke-free and tobacco-free campus policy to provide a safe and healthy working and learning environment for our students, faculty, and staff. This policy prohibits both smoking and the use of smokeless tobacco products on campus property, in all college-owned facilities, and in all college-owned or leased vehicles. The promotion, sale and/or distribution of smoking and tobacco products on campus or at any College-sponsored events is also prohibited.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking or vaping device which creates an aerosol or vapor, in any manner or in any form.

“Smokeless tobacco products” means any substance containing tobacco that is not smoked per the definition above including but not limited to chewing tobacco, snuff, snus, dipping tobacco, smokeless tobacco pouches, and dissolvable tobacco such as lozenges.

The College wants to support all individuals who wish to discontinue their smoking and tobacco use. There are a number of resources available to help with any smoking cessation questions or concerns.

1. Counseling and Wellness Services is available to address individual concerns, provide assessments and referrals for counseling treatment on and off campus, and provide information and education about smoking and tobacco use and cessation.
2. Student Health Services is available to assist individuals with questions or concerns and/or provide education regarding the physical effects of smoking and tobacco use.
3. The WV Tobacco Quitline can provides free or low-cost tobacco cessation services to residents of West Virginia including educational materials, coaching calls, and nicotine replacement therapy such as nicotine patches, lozenges, gum and/or medication. To contact the WV Tobacco Quitline call 1-800-QUIT-NOW or 1-877-966-8784. Individuals can also enroll in this program online at <https://wvtobaccoquitline.com/enroll>.

In addition, employees who are diagnosed as chemically dependent will be treated in the same manner as employees with other types of illnesses with the coverage being limited by the insurance coverage provided by the group health insurance plan. On the basis of proper medical certification of chemical dependency, they will qualify for the same employee benefits and group insurance coverage which are provided for other medically certified illnesses covered in employee benefit plans, except as may be limited by the specific benefit plans concerned. While treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan, the

ultimate financial responsibility for recommended treatment belongs to the employee. The College's employee group medical insurance coverage for inpatient and outpatient treatment is detailed in the College's health plan documents.

In addition, employees may utilize the College's Employee Assistance Program:

Online: www.MagellanHealth.com/member

International access: 1-800-662-4504 / Toll-Free: 1-800-588-8412 / TTY users: 1-800-456-4006

Individuals that violate this policy will be sanctioned with a \$50.00 fine and/or other appropriate campus disciplinary procedures.

2.2.2 Environmental Safety and Risk Management

2.2.2.1 Environmental Safety

Davis & Elkins College is committed to maintaining a safe environment for faculty, staff, students, and visitors that does not adversely affect their health. Faculty, staff, and students have an obligation to take all reasonable precautions to prevent foreseeable injury to themselves and others within the facilities of Davis & Elkins College, and to make the safety of colleagues a priority. It is incumbent upon the Davis & Elkins College community to avoid unsafe conditions or acts while on campus or at other affiliated facilities or sites, and to avoid conditions resulting in environmental hazards.

In an effort to maintain a safe environment, Davis & Elkins College has developed a comprehensive set of policies, programs, handbooks, and environmental safety practices outlined in the [Emergency Response and Safety Plan](#). These policies and procedures are made available in hard copy in the Office of Public Safety as well the College [website](#).

2.2.2.2 Enterprise Risk Management Program

Enterprise risk management ("ERM") at Davis & Elkins College is a coordinated approach to assessing, managing and monitoring risks that may adversely impact the attainment of the College's mission and strategic goals and objectives.

At Davis & Elkins College, risk is categorized as follows:

1. Operational – Affects ongoing management processes and procedures
2. Financial – Affects assets, technology, financial reporting and auditing
3. Compliance – Affects compliance with federal, state and local laws, rules and regulations
4. Strategic – Affects achievement of strategic goals and objectives
5. Reputational – Affects public perception and reputation
6. Research – Affects the success and efficacy of programs

Operational Risk Areas: Davis & Elkins College's Enterprise Risk Management activities primarily focus on the following operational risk areas:

- Facilities

- Finance and Investment
- Human Resources
- Campus Health, Security and Safety
- Student Affairs
- Academic Affairs and Research
- Information Technology
- External Relations
- Government and Regulation Compliance
- Accreditation Compliance

Enterprise Risk Management Committee: The Enterprise Risk Management Committee has primary operational responsibility for the Davis & Elkins College ERM program. The President appoints committee members, which include campus leaders broadly representative of the institution, its operational and mission areas, and faculty and staff communities. The ERM Committee is specifically charged with establishing campus-wide methodologies for identifying, prioritizing and managing risks across the entire organization. In this role, the Committee routinely collaborates with representatives of the College family and other standing committees to identify, assess, prioritize and respond to risks, as well as ensure that approved strategies are implemented effectively. It also reviews and makes recommendations to the Cabinet on priority risks and risk mitigation programs, including the recommendation of policies and procedures to help ensure that the institution responds to risks as intended. In addition, the ERM Committee makes recommendations to the President and Cabinet for appropriate changes to enhance and improve the ERM program, and report on any concerns on an ongoing basis. Finally, the Committee educates the College community on the benefits of managing risk and the opportunities that risk presents and oversees appropriate training programs.

2.3 Campus Safety

2.3.1 Clery Act Compliance

The [Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 USC 1092\(f\)](#), is the landmark federal law, originally known as the Campus Security Act, requiring colleges and universities across the United States to disclose information about crimes on and around their campuses.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statics Act requires colleges and universities to:

1. Publish an [annual report](#) every year by October 1 that contains three years of campus crime and fire statistics and campus security policy statements.
2. Disclose crime statistics for the campus, public areas immediately adjacent to or running through the campus, and non-campus facilities and remote classrooms. The statistics must be gathered from campus security, local law enforcement, and Campus Security Authorities.
3. Provide Timely Warning Notices of crimes that have occurred on campus or in the local community and pose an ongoing threat to students and employees.

4. Disclose in a public crime log any crime that occurred on campus or within the jurisdiction of campus security department and is reported to the Office of Public Safety.
5. Disclose in a fire log that records by date reported all fires in on-campus student housing facilities.

The Davis & Elkins Office of Public Safety is responsible for the Annual Security and Fire Safety Report, Timely Warnings, and the Crime and Fire Logs. [The Annual Campus Security/Fire Safety Report](#) is prepared in cooperation with local law enforcement agencies in Randolph County and the Office of Student Life. Campus crime, arrest and referral statistics include those reported to the Office of Public Safety and all Campus Security Authorities. The Annual Security Report is compiled and submitted by the Director of the Office of Public Safety. For more information, contact the Office of Student Life at (304) 637-1211, Director of the Office of Public Safety (304) 704-9111.

2.3.2 Campus Safety and Security

2.3.2.1 The Office of Public Safety

Davis & Elkins College operates its own Office of Public Safety to provide a safe and secure environment for members of the College community. The Office of Public Safety is located in the Gatehouse. Officers are available seven days a week, 24 hours a day. Please call (304) 704-9111 for assistance.

The Office of Public Safety is dedicated to enhancing the quality of life for our community through policy enforcement, education, and a team approach to creative problem solving. The Office of Public Safety is committed to honesty, integrity, and professionalism. They value and treat each and every person with respect and compassion. They work in tandem with the members of our community to make the College a safe and secure place for all of us to work, learn, and live.

The College's security operation is designed to provide leadership to the community on safety issues. The Office of Public Safety's staff has a good working relationship with local law enforcement and can be helpful in many situations. The staff must be informed of emergency situations that arise and can assist local emergency service providers (police, fire, medical personnel) with quick response.

Public Safety Officer Responsibilities:

- Monitoring and securing all campus-owned buildings, parking areas, and walkways
- Compiling information from daily incident logs, residence hall reports, and police data for annual fall reporting of crime statistics
- Working with local police in crime prevention efforts, referral for crime investigation, and general safety escort service when requested
- Education
- Campus crime deterrence through regular patrols of College property
- Enforcement of College policies

- Investigation and documentation of policy violation
- Cooperation with Residence Life Staff in promoting a safe and secure environment
- Traffic regulation

2.3.2.2 Campus Security Enforcement

Public Safety Officers are required to physically and diligently patrol the campus 365 days per year. During patrols of the campus grounds, officers are required to secure all buildings, gates and other structures to prevent theft, loss and vandalism. Officers enforce all College policies and rules. Although these policies and rules include offenses that also violate local, state and federal laws, Public Safety officers have no authority to enforce such laws and have no powers of arrest. Members of the Public Safety team have an excellent working relationship with the local, county and state law enforcement offices. Whenever needed on campus, local law enforcement officers have been quick to respond and have handled situations in a professional and understanding manner.

Officers document all their activities and patrols in a Daily Patrol Log. Officers are also required to submit Incident Reports to the Director of the Office of Public Safety. Incidents include injury, vandalism, weather, traffic, lost and found items, criminal violations, and other matters. Incident Reports are to be submitted before the end of the officer's shift, unless there are extenuating circumstances.

All Public Safety officers work closely with all members of the campus community, especially the Office of Student Life. All officers have a good working relationship with the College counselors and have interaction with them frequently.

2.3.2.3 Criminal Activity Off Campus

When a Davis & Elkins College student is involved in an off-campus offense, Public Safety officers may assist with the investigation in cooperation with local, state, or federal law enforcement. Local law enforcement routinely work and communicate with Public Safety on any serious incidents occurring on campus or in the immediate neighborhood and business areas surrounding campus. While the College does not operate off campus housing or off campus student organization facilities, some students live in the neighborhoods surrounding the campus. While law enforcement agencies have primary jurisdiction in all areas off campus, Public Safety officers can and do respond to student-related incidents that occur in close proximity to campus. As noted earlier, the Office of Public Safety enjoys a close working relationship with local law enforcement when violations of federal, state, or local laws surface. This cooperative team approach promptly addresses criminal situations as they arise.

2.3.2.4 Accurate and Timely Reporting of Criminal Offenses

All students, employees, and guests should immediately report any criminal incidents/activity and any other emergencies to the Randolph County E-911 services by dialing 911. This office will dispatch the proper authorities (police, rescue or fire) to the scene. After calling 911, please contact the Office of Public Safety at (304) 704-9111. When a potentially dangerous threat to

the College community arises involving a serious crime as defined by the Clery Act, a Timely Warning Notice will be issued by the College to the community.

Individuals on campus may also report crimes to a designated campus security authority (CSA). At Davis & Elkins College, the following individuals are designated as Campus Security Authorities:

- Vice Presidents, Department/Division Chairs, Directors and Coaches;
- Any employee in a supervisory or management role;
- Any faculty member responsible for supervising any activities or programs that include direct contact with students outside of classroom (including faculty advisers to recognized student organizations);
- The Office of Public Safety personnel;
- Any staff member whose primary job description includes providing academic advice to students;
- Residence Hall staff; and
- Student Life Office staff.

These designated individuals have significant responsibility for student and campus activities, and as such are trained by Davis & Elkins College to report crimes to the Office of Public Safety.

There are exceptions to reporting crimes that exist for licensed psychologists, members of the clergy, and attorneys. Davis & Elkins College does not have a policy outside of the [Gender-based Discrimination, Harassment, and Sexual Misconduct Policy](#) that addresses these professional counselors as they are covered under the umbrella of their license.

For non-emergencies and incidents that are not criminal in nature, please contact the Office of Public Safety at (304) 704-9111. These non-emergency issues may also be reported in person to Office of Public Safety located at the Gatehouse, or the Office of Student Life on the first floor of Liberal Arts Hall.

Davis & Elkins College is equipped with five Blue Light Emergency phones, located across campus. These phones, upon activation, contact the Randolph County E-911 Office automatically. The caller can then communicate details about the emergency and the proper authorities can be sent.

In cases where reports concern allegations that also constitute violation of College policy, such reports will also be forwarded to the office of the Vice President for Student Affairs or the Director of Human Resources for appropriate action. Moreover, all reports involving sexual misconduct, discrimination, or harassment will be forwarded to the College Title IX/Section 504 Coordinator or Deputy Coordinators for investigation.

2.3.2.5 Voluntary, Anonymous Reporting

Davis & Elkins College encourages anyone who is the victim of a crime or witnesses any crime to promptly report the incident to local law enforcement, the Office of Public Safety or a Campus Security Authority (“CSA”) (see Mandatory Crime Reports Policy).

Individuals, however, may anonymously report crimes and/or violations of the College's administrative policies, procedures, or rules. Students are often encouraged to use this when reporting minor violations about other students. Confidentiality will be maintained. Anonymous reports may be filed with any of the following methods:

- File an anonymous complaint on the form on the College website (<https://www.dewv.edu/form/csa-incident-report-form>);
- Leave a private anonymous voice message for the Director of the Office of Public Safety;
- Mail an anonymous letter to the Director of the Office of Public Safety.

This encouragement is done to maintain and enhance the safety and security of the College campus and the surrounding community. With such information, the 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. With the exception of reports made to College counselors and pastors, reports filed in this manner are counted and disclosed in the annual crimes statistics for the institution.

2.3.2.6 Mandatory Crime Reporters

There are two federal laws that establish responsibilities for employees of colleges and universities to report certain types of crimes and incidents: The Clery Act and Title IX. Pursuant to these laws, certain employees at Davis & Elkins College are required to report applicable criminal incidents to the Office of Public Safety and/or the College Title IX Coordinator or Deputy Coordinator. In addition, College policy mandates that all employees, College volunteers and third party vendors report incident of child abuse and neglect to the Office of Public Safety. Moreover, West Virginia law requires certain employees to report incidents of Child Abuse and Neglect to Child Protective Services. The guidelines below identify which employees are obligated to make a mandatory report to the appropriate College authority (and law enforcement, if applicable) and what types of crimes or incidents must be reported.

Clery Crime Reporting

The Clery Act requires colleges and universities receiving federal funds to report statistics concerning the occurrence of certain criminal offenses reported to the Office of Public Safety or any official of the institution who is defined as a Campus Security Authority (CSA). For a list of CSA's see the list above.

Each of these individuals are required to report incidents of a Clery crime occurring on campus or at a College sanctioned event to the Office of Public Safety for inclusion in the [College's Annual Security and Fire Report](#) prepared for the U.S. Department of Education. A detailed listing of the Clery Crimes that must be reported is set forth in the College's Crime and Fire Statistics Policy. Due to the law's complex reporting requirements, all positions at Davis & Elkins College determined to be a CSA are required to participate in a mandatory training session that explains their role and expectations so that the College can be in compliance with the Clery Act.

Title IX Reporting

All College community members are strongly encouraged to report information regarding any incident of gender-based discrimination, harassment, or sexual misconduct directly to the Title IX/Section 504 Coordinator or Deputy Title IX Coordinators. The College cannot take appropriate action unless incidents are reported to a Responsible employee of the College. In general, most College employees do not have legally protected confidentiality. Under Title IX, a College is required to take immediate and corrective action if a Responsible employee knew or, in the exercise of reasonable care, should have known about sexual or gender-based harassment that creates a hostile environment.

A Responsible employee is someone with the authority to take action to redress the harassment, someone whose job it is to report other types of misconduct, and/or someone a student could reasonably believe has this responsibility.

See the [Davis & Elkins College Gender-based Discrimination, Harassment, and Sexual Misconduct Policy](#) for additional information.

Child Abuse and Neglect

The College's Child Abuse and Neglect Policy in [Volume VI](#) of the Davis & Elkins College Policy Manual provides a complete description of the College's policies and procedures.

2.3.2.7 Access to Campus and Buildings

Campus and Building Access

Access to campus buildings and grounds is a privilege extended to students, faculty, staff, and authorized guests. Davis & Elkins College encourages an open environment with limited constraints to ensure a reasonable flow with the local community. Except for residence halls, most campus facilities are open during weekday business hours during the school year. Access to some areas within the campus facilities and after-hours access to many of the academic and administrative facilities is by key and/or an access control system. Individuals who wish to access buildings during non-business hours or for special events should contact the appropriate department head, the Office of Student Life, or the Office of Public Safety.

Davis & Elkins College residence halls are designed to promote a safe and secure living environment for all residents. Residence halls are secured on a full-time basis and all exterior doors are kept in a locked position. Resident students are issued an exterior door key and/or another access control device. These are issued individually and are all uniquely numbered. Each resident is also issued an individual door key to their specific dormitory room. There are Resident Assistants (RA) on every floor of all the residence halls. Resident Assistants are a valuable and energetic part of our residence hall supervision and security. Resident Assistants patrol the halls and at least one RA is on duty every night. Security cameras are also utilized as part of the overall security system. Cameras are located at every entrance and exit within the residence halls. These are monitored by members of the Office of Public Safety.

Roof Access

Students and non-authorized employees are strictly prohibited from going onto the roof of any College building. Objects (bikes, chairs, etc.) may not be stored – temporarily or permanently - on roofs. Students or employees who allow others to access a roof from their room or office will also

be held accountable. The College assumes no financial or legal responsibility for injuries resulting from this prohibited act.

2.3.2.8 No Trespass Policy

Purpose

The purpose of this policy is to establish guidelines for Davis & Elkins College's issuance of a no-trespass order to a person who has been or is present on College property and who has engaged, or is reasonably likely to engage, in criminal activity, a violation of College policy, or conduct that is or may reasonably be deemed to be threatening, disruptive, or violent. A no-trespass order constitutes an official prohibition against entering College property. Any person who violates a no-trespass order will be arrested and charged with criminal trespass.

Policy

Davis & Elkins College has substantial and meaningful ties to the surrounding communities and, indeed, the rest of the world. For this reason, even though the entire campus is private property, most outdoor areas and some buildings on campus are, in a general sense and during normal business hours, "open to the public." At the same time, the College is committed to safeguarding the people who learn, live, work and visit here, ensuring the safe operation of College activities, and to protecting College assets. The College thus can, and does, restrict access to buildings and some outdoor areas during non-business hours.

Additionally, from time to time, the College exercises its right to deny access to some or all of College property after a reasoned and documented determination has been made that a person has engaged, or is reasonably likely to engage, in criminal activity, a violation of College policy, or conduct that is or may reasonably be deemed to be threatening, disruptive, or violent. A no-trespass order remains in effect as notified or withdrawn in writing by an authorized College official. Regardless of whether a no-trespass order has been issued, any person who is deemed to have committed a crime may be arrested by law enforcement and referred for prosecution. For purposes of this policy, "College property" includes all indoor and outdoor spaces owned or leased by or from the College.

Review

A person who has received a no-trespass order may make a written petition for the review of the issuance of or the need for the order to the Vice President for Business and Administration or his or her designee. The petition must include the reasons for the review request, a complete and candid explanation for the conduct that precipitated the no-trespass order, the basis for the desire to be on College property, and any other information the person wishes to be considered. Normally, a substantive determination of the petition will be made and communicated in writing within thirty days of receipt. The no-trespass order will remain in effect during and after the review process, unless the order is modified or withdrawn.

Davis & Elkins College has the authority as a private campus, exercised in its reasoned judgment, to ban any individuals, including employees and students, from campus using the existing processes. For example, under the College's disciplinary systems, any student who is found to have engaged in misconduct and is suspended or expelled may be automatically banned from College property and prohibited from using all College resources. Likewise, the College may ban an employee, or a former employee, on an interim basis if he or she is deemed to pose an imminent threat to College property or operations, to the safety or wellbeing of others, or otherwise has engaged in unacceptable or disruptive conduct.

Process

Persons who have engaged, or are reasonably likely to engage, in criminal activity, a violation of College policy, or conduct that is or may reasonably be deemed to be threatening, disruptive, or violent may be issued a no-trespass order. The order may be given orally or in writing at the time of the concerning conduct and later via a written notification sent to the banned person via a read receipt email and/or certified mail from the Office of Public Safety.

Generally, a written no trespass order will contain the following:

- that the individual is barred from all College property or parts of College property;
- the duration of the ban;
- the reason for the ban;
- how to request a review of the ban;
- notice that if the individual returns to College property (or the designated portion) he/she will be subject to arrest for criminal trespass; and,
- the signature of the Assistant Director or the Director of the Office of Public Safety and the Vice President of Business and Administration or the Vice President of Academic Affairs.

No-trespass orders are effective immediately. Officials within the following College administrative units are authorized to issue a no-trespass order: Director of Public Safety, Title IX Coordinator, Director of Human Resources, and Vice President for Student Affairs. Other College community members who experience a situation with a group or individual that might warrant a no-trespass order must report the incident to the Office of Public Safety who will investigate the threat to the safety and security of campus and issue a no-trespass order as appropriate.

2.3.2.9 Missing Students

Any student residing in a Davis & Elkins College residence hall, who is determined to be missing for more than 24 hours, must be reported immediately to one of the following:

1. Residence Life Staff;
2. Office of Student Life (304) 637-1211;

3. Office of Public Safety (304) 704-9111; and/or,
4. Any other designated Campus Security Authority.

Reports made to Residence Life Staff or the Office of Student Life will be forwarded to the Office of Public Safety. A determination will be made at that time by the Office of Public Safety if the student is indeed missing and, if so, an investigation will immediately begin to attempt to ascertain the whereabouts of the individual. Moreover, the appropriate law enforcement agency will be contacted and a cooperative effort will be made to find the student.

In addition to registering a general emergency contact, missing person contact information is collected by the Student Life Office on an annual basis at the time the resident students move into the residence halls. The contact information will be kept confidential and will be disclosed only to authorized campus officials and law enforcement in furtherance of a missing person investigation or other appropriate purpose. The confidential contact person will also be notified within 24 hours if the student is determined to be missing. If a student is under the age of 18, Davis & Elkins College is required to notify a custodial parent or guardian within 24 hours of when the student is determined to be missing. In situations in which the student has failed to designate a contact for missing student notification, the Office of Public Safety will continue to investigate utilizing established police investigative procedures, to include College resources and records. Family members, including those not formally identified by the student, may be contacted during the course of the investigation to resolve a report of a missing student.

Issuance of Amber Alert

Suzanne's Law requires law enforcement to notify the National Crime Information Center (NCIC) when someone between the age of 18 and 21 is reported missing as part of the national "Amber Alert" bill.

Resolution of Missing Student Status

Missing student contacts will be advised of the resolution of a student's missing status. These contacts will further be advised of law enforcement options in cases where the student is not contacted by the College.

2.3.2.10 Emergency Response and Evacuation

Reporting Emergencies

Any individual on the Davis & Elkins College campus that feels unsafe, threatened, afraid, or stalked at any time, should call the Office of Public Safety at (304) 704-9111. If a response is not forthcoming, the Randolph County E-911 service should be contacted. Please note the location of the Blue Light Emergency phones around campus. Pushing the emergency button on one of these towers will activate the integrated telephone, which will immediately connect the individual with the Randolph County E-911 Center.

Emergency Notifications

Davis & Elkins College recognizes the need to be prepared for critical incidents and emergency situations. These situations can come in many forms ranging from weather emergencies to

epidemics and acts of violence. The College works continuously to strengthen its capacity to prevent, prepare for, respond to and recover from emergency type situations.

Notifications are made through a variety of different means including, but not limited to: phone, email, text messaging, word of mouth, loudspeakers, mass notification system, the College website, social media, and regional media outlets. The College's mass notification system is through Nixle and all students and employees are automatically enrolled in this service.

The President (or his designee) along with the Director of the Office of Public Safety and the Vice President for Student Affairs will determine how, when and whether an emergency notification needs to be made. A determination will also be made as to whom the notification will be sent. These notifications, when deemed appropriate, will be sent without delay.

Any major evacuation plan that would involve moving large groups of the campus community around on campus (or, if necessary, off campus) would be a decision made by the President (or his designee) and Cabinet members in accordance with the College's [Emergency Response and Safety Plan](#).

Nixle Mass Notification System

Davis & Elkins College has a state-of-the-art notification system that is capable of sending notification instantly and simultaneously to all registered mobile devices and email addresses. Notifications are also posted on the College's website. The notification system will only be used in an urgent or emergency situation. To enroll visit www.dewv.edu/campus-life/safety-security. Individuals may contact the Office of Public Safety for more information.

Emergency Response and Safety Plan

The Clery Act requires the College to have and disclose emergency response and evacuation procedures in response to a significant emergency or dangerous situations involving an immediate threat to the health or safety of students, employees or visitors occurring on its campuses. The College's [Emergency Response and Safety Plan](#) provides important information in the event of an emergency or the occurrence of a natural disaster within the general area of the College campus that impacts academic or other operations. The basic emergency procedures contained in the Emergency Response and Safety Plan are designed to protect lives and property through effective use of College and community resources.

Annually, the Office of Public Safety sends students, faculty and staff an email reminding them to review the Emergency Response and Safety Plan. In addition, the College conducts numerous emergency response exercises each year, such as tabletop exercises and field exercises. These tests are designed to assess and evaluate the emergency plans and capabilities of the institution.

2.3.2.11 Security Awareness Programs

The Davis & Elkins College security strategy rests on a multilayered foundation of proactive patrols of the campus, education and ongoing training. This approach relies on dual concepts of eliminating or minimizing criminal opportunities and encouraging campus members to take responsibility for their own and others' actions.

An escort service is provided by Public Safety officers for the safety of anyone walking or needing a ride. By calling (304) 704-9111, an escort can be summoned to a particular location and

transportation furnished anywhere on campus. This service can also be utilized for medical reasons.

2.3.2.12 Environmental Security Inspections

Davis & Elkins College strives to maintain a safe and secure working and learning environment. Ongoing checks are made by the Office of Public Safety, the Office of Student Life and Physical Plant Office to routinely examine select campus areas for security issues such as landscaping, locks, alarms, lighting, and communications.

2.3.3 Communication About Campus Crimes

2.3.3.1 Timely Warning Notices

When Davis & Elkins College becomes aware of a phenomenon that in the judgment of the College constitutes an ongoing or possible criminal threat to the College community, a Timely Warning Notice will be issued. Depending on the particular circumstances the warning will be disseminated by using one, or a combination of, the following: email, posting on the College website, phone calls, text messaging, posting on campus bulletin boards, and/or activation of the Mass Notification System.

The President (or his designee), Vice President for Student Affairs and the Director of Public Safety will analyze and evaluate relevant information and make a determination as to the issuance of a Timely Warning Notice. A two-prong test will be applied to determine on a case-by-case basis if a Timely Warning will be issued: Was the incident that was reported to the College or local law enforcement:

1. Identified as a Clery Act crime (see Crime Definitions section below); and
2. Is the crime considered to pose a serious or continuing threat to students, faculty, staff, or visitors?

Timely Warning Notices typically contain in the subject line the phrase “timely notification” or “crime alert” depending on the nature and severity of the threat. The body of each timely notice will include information regarding the Clery Act requirement; a short description of the crime or incident giving the time and date, location, reported offense, suspect description, weapon used (if any), suspect vehicle (if any) and method of operation used to facilitate the crime. The notice will also include personal safety information to aid members of the College community in protecting themselves from becoming victims of a similar crime and to promote overall safety for the College community.

2.3.3.2 Annual Security and Fire Safety Report

The Office of Public Safety posts an Annual Security and Fire Safety Report to the Davis & Elkins College website on or before October 1st so that it is reasonably accessible to enrolled students and current employees. Included in the report is a summary of the College’s security and fire safety policies, as well as campus crime and fire statistics. Davis & Elkins College will notify the campus community when the Annual Security and Fire Safety Report is posted to the website. The following information will be included in the notice:

1. A statement of the report's availability;
2. A list and brief description of the information contained in the report;
3. The exact address (URL) of the website at which the report is posted; and
4. A statement that Davis & Elkins College will provide a paper copy upon request free of charge.

In addition, Davis & Elkins College will also make the Annual Security and Fire Safety Report available to prospective students and employees. Such notice, which includes the exact URL where the report is posted or where the report may be obtained, a brief description of the report, and a statement that Davis & Elkins College will provide a paper copy of the report upon request, is typically provided with other pertinent information Davis & Elkins College routinely provides to these constituents.

2.3.3.3 Reporting of Crime Statistics

Each year the Office of Public Safety collects crime reports for the crimes listed below from Campus Security Authorities within the institution, as well as from local law enforcement. The College then discloses these crime statistics annually to the United States Department of Education. In addition, the College publishes an annual security report containing campus security policy disclosures and crime statistics for the previous three years.

Clery Act Crime Definitions

Arson

Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

Criminal Homicide-Manslaughter by Negligence

The killing of another person through gross negligence.

Criminal Homicide-Murder and Non-Negligent Manslaughter

The willful (non-negligent) killing of one human being by another.

Robbery

The taking or attempting to take anything of value from the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Aggravated Assault

An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)

Burglary

The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and

entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

Dating Violence

Violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

Domestic Violence

Asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

Stalking

A course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others safety, or to suffer substantial emotional distress.

Motor Vehicle Theft

The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned including joyriding.)

Weapon Law Violations

The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned.

Drug Abuse Violations

Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (demerol, methadones); and dangerous nonnarcotic drugs (barbiturates, benzedrine).

Liquor Law Violations

The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

Hate Crimes

Hate crimes include offenses and crimes involving bodily injury reported to local police agencies or to a Campus Security Authority that manifest evidence that the victim was intentionally selected because of the perpetrator's bias or because the perpetrator perceived

the person to be in one of the protected group categories. The protected group categories include: race, gender, religion, sexual orientation, ethnicity, disability, national origin, and gender identity. For Clery purposes, hate crime offenses and crimes also include any of the following offenses that are motivated by bias: Murder and Non-negligent manslaughter; Forcible sex offenses; Non-forcible sex offenses; Robbery; Aggravated Assault; Burglary; Motor Vehicle Theft; Arson; Larceny-theft; Simple Assault; Intimidation; Destruction/Damage/Vandalism of Property; Domestic Violence, Dating Violence and Stalking.

Sex Offenses-Forcible

The following definitions are taken from the National Incident Based Reporting System Edition of the Uniform Crime Reporting Act.

Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.

1. Forcible Rape - The carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).
2. Forcible Sodomy - Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
3. Sexual Assault With An Object - The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
4. Forcible Fondling - The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.

Sex Offenses-Nonforcible

Unlawful, nonforcible sexual intercourse.

1. Incest - Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
2. Statutory Rape - Nonforcible sexual intercourse with a person who is under the statutory age of consent.

2.3.3.4 Crime and Fire Log

The Office of Public Safety maintains a combined Crime and Fire Log of all incidents reported, which is available for inspection during normal business hours. This includes all crimes reported to the department, as well as all fires in on campus student housing facilities.

The Crime and Fire Log includes the incident type, date incident is reported, date and time of occurrence, and general location of each reported incident type, as well as the disposition of the incident, if this information is known. The Office of Public Safety posts specific incidents in the Crime and Fire Log within two business days of receiving the report.

2.3.3.5 Crime Prevention Programs

Davis & Elkins College is dedicated to eliminating and/or minimizing criminal activities through the eyes and ears of the faculty, staff, students, visitors and neighbors of the campus community. Crime Prevention brochures and other printed materials are available at the Office of Public Safety and in every residence hall. Crime Prevention items are discussed with parents and students during orientation sessions. Resident Assistants and Resident Directors are given training by the Student Life Office/Office of Public Safety on numerous security and crime prevention topics. These topics include, but are not limited to, sexual assault, date rape, drugs, alcohol, personal protection, fire safety, and theft. In addition, all employees receive annual training on issues pertaining to sexual misconduct, including sexual criminal assaults.

The Davis & Elkins College Office of Public Safety assigns one of its officers to be in charge of its Crime Prevention program. This officer stays in tune with growing trends on college campuses nationwide and criminal trends in the community. Updates are passed on via email, text, student newspaper, and other means in the office's continual effort to help keep the College community safe.

In addition to the above, the Office of Public Safety regularly disseminates safety and crime prevention policies and procedures to students and employees through the [Annual Security & Fire Safety Report](#). When time is of the essence, information is released to the College community through timely warnings (see Timely Warning Notice Policy) and emergency notifications (see Emergency Notification Policy).

2.3.3.6 Disclosures to Alleged Victims

The College will, upon written request, disclose to the alleged victim of a crime of violence, or a non-forcible sex offense, the results of any due process hearing conducted by the College against the student or employee who is the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of the crime or offense, the College will provide the results of the disciplinary hearing to the victim's next of kin, if so requested.

2.3.4 Sexual Offenses

2.3.4.1 Sexual Offense Policy and Procedures

See the College's Gender-based Discrimination, Harassment, and Sexual Misconduct Policy.

2.3.4.2 Registered Sex Offenders

The State of West Virginia requires all persons convicted of a sexual offense to register with the West Virginia State Police. This information is made available to the public through the WV State Police website at: <http://www.wvsp.gov> (click the *Sex Offender* tab). Several national databases can also be searched using any Internet search engine.

2.3.5 Fire Safety

The Higher Education Opportunity Act (Public Law 110-315) requires all U.S. academic institutions to produce an annual fire safety report outlining fire safety practices, standards and all fire related statistics pertaining to campus residence buildings. Pursuant to this act, the following details the College's fire safety practices and standards.

2.3.5.1 Campus-Wide Fire Safety Practices

Fires result in serious injuries, deaths and property loss. All members of the College community must take precautions at all times to prevent a tragedy due to fire and smoke.

In the event of smoke or fire, calmly exit the building using the nearest exit. If the building's alarm system is not sounding, pull the fire alarm when exiting the building. All College buildings have posted exit diagrams and all building occupants should know the exit routes and be familiar with College fire evacuation procedures set forth in the [Emergency Response and Safety Plan](#). Failure to exit the building at the sound of a fire alarm or warning is a violation of College policy, as well as a violation of state law. Tampering with or falsely activating a fire alarm is a violation of College policy and state law.

2.3.5.2 Campus Fire Safety Policies

Smoking is not permitted in any form in the residence halls or College buildings. This includes the use of 'electronic cigarettes.' Anything with an open flame or heating element is also not allowed, e.g., candles, incense, candle warmers, hot plates, etc.

To meet all fire safety codes, students and employees are required to use only electrical cords with built-in surge protectors and approved power strips; conventional extension cords and/or grounded in-wall adapters are not allowed.

Flammables, combustibles, and/or any toxic materials are not permitted in or around any College building.

The College is subject to scheduled and regular inspections by the WV State Fire Marshal's Office. The State Fire Marshal's Office, as well as the local fire department, perform unannounced spot checks on campus as part of their job duties. Violations discovered will be subject to fines, the cost of which will be passed on to the individual student or employee.

Fire safety training is given each year to the Resident Assistants (RA), Resident Directors (RD), the Office of Public Safety Officers, and other members of the Student Life Office and/or College community. From this training, the RAs and RDs educate all resident students on the proper fire evacuation procedures. All fire and smoke alarms along with emergency lighting is checked on a monthly basis. Fire extinguishers are also checked on a regular basis and areas in the kitchen are

checked in accordance with National Fire Prevention Association guidelines. Fire drills, both announced and unannounced, are performed during each semester.

In case of an actual fire individuals should call 911. For any type of alarm, or smoke, please contact the Office of Public Safety at (304) 704-9111.

It is absolutely essential for the corridor separations and stairwell doors to be closed at all times. Fire doors retard the travel of smoke, heat, toxic gases and fire. Do not place any combustible material on the doors, exit corridors or stairwells: no paneling, burlap, draperies, parachute netting, Styrofoam, or any type of wood. Building fire equipment such as sprinkler heads, smoke detectors, fire hoses, extinguishers, stand pipes, and alarm boxes must remain in good working condition and must not be obstructed. Unauthorized use or tampering with this equipment will result in disciplinary and/or legal action.

2.3.5.3 Employee Fire Safety Training

Resident Directors, Resident Assistants, and Public Safety Officers receive fire safety training from the Elkins Fire Department on an annual basis. Procedures that should be followed in the case of a fire are set forth in the College's Emergency Response and Safety Plan, which is available to all students, faculty and staff on the College website. Annually, the Director of Public Safety sends students, faculty and staff an email reminding them to review the Emergency Response and Safety Plan.

2.3.5.4 Campus Fire Statistics

The Director of the Office of Public Safety is responsible for collecting the following fire statistics for each on campus student housing facility at Davis & Elkins College:

1. The number of fires and the cause of each fire in a College student housing facility;
2. The number of deaths related to the fire in a College student housing facility;
3. The number of injuries related to the fire in a College student housing facility that resulted in treatment at a medical facility;
4. The value of property damage related to the fire at a College student housing facility.

These statistics are published in the Annual Security and Fire Safety Report and on the College website. A fire, for the purposes of this policy, is defined as any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner.

2.3.6 Other Campus Safety Policies

2.3.6.1 Bicycles, Skateboards, Roller Skates/Blades

Every person riding a bicycle within the campus has all the rights and is subject to all the duties of a driver of an automobile. Bicycles must be operated in a safe manner and may not be ridden in campus buildings. Bicycles can be stored in offices or locked appropriately outside of buildings.

In addition to the above, the following regulations have been established for the safety of the Davis & Elkins College community:

1. Riding bicycles, roller skates/blades, skateboards, or other conveyances in rooms, hallways, courtyards, lounges, and lobbies, as well on all steps and stairways is prohibited;
2. Skateboards, roller skates/blades, and bicycles may not be ridden on sidewalks or walkways where there is a likelihood that such operation will duly interfere with pedestrian traffic; caution is to be exercised at all times and the right of way yielded to pedestrians;
3. Unauthorized motorized vehicles, other than wheelchairs, may not be operated on sidewalks;
4. Bicycles, roller skates/blades, skateboards, and other conveyances may not be ridden on any artificial or specially prepared surface (i.e., running tracks and basketball courts);
5. All persons operating bicycles, roller skates/blades, skateboards, or other conveyances on campus are expected to comply with and are subject to state and local ordinances, including adhering to all posted warning, caution, or speed limit signs.

In the absence of posted speed limits, operators are expected to act in a responsible manner and in respect of local conditions.

2.3.6.2 Demonstrations

Demonstrations by members of College community must be registered and approved in writing 72 hours in advance by the President or his or her designee, which will then notify the Office of Public safety of the approval.

For purposes of the policy, “Demonstrations” includes the presence of one or more persons on the Davis & Elkins College campus with the intent to express a particular point of view in a manner that attracts attention, as in protests, rallies, sit-ins, vigils, or similar forms of expression.

All approved demonstrations (and expression of any form) at Davis & Elkins College must be peaceful and orderly and confined to campus. Demonstrations may be organized and led only by members of the Davis & Elkins College community. Demonstrations or other forms of expression may not compromise the rights of other members of the College community, nor interfere materially with the general operation of Davis & Elkins College. Free speech is a cherished foundation of academia. Forms of expression, however, may not be contrary to the College mission or demean or degrade individuals on the basis of a protected class as set forth in the College’s Equal Opportunity and Non-Discrimination Statement.

In the event or threat of a non-approved demonstration or an approved demonstration that is not peaceful or orderly or otherwise violates this policy, the emergency demonstration procedures set forth in the Davis & Elkins College Emergency Response and Safety Plan will be implemented.

2.3.6.3 Security Cameras

Security cameras have come into increasing use on college and university campuses, principally as part of crime prevention strategy, to aid in the protection of public safety and personal property. Because Davis & Elkins College respects the privacy of all of the members of the community, this policy has been developed to govern the use of College authorized security cameras on campus, to ensure that such cameras are used judiciously.

Responsibility for determining the appropriateness of installing Davis & Elkins College authorized security cameras on campus that will be used for non-instructional purposes, and for disseminating and implementing this policy is delegated to the Office of Public Safety.

Appropriate Use of Security Cameras on Campus

Security camera use on campus for non-instructional purposes is considered appropriate when it enhances:

1. The protection of individuals, equipment and facilities;
2. The monitoring of public areas;
3. The monitoring of building entrances and exits;
4. The investigation of criminal activity.

Security camera use on campus is considered inappropriate when it entails:

1. Infringement on a person's reasonable expectations of privacy; and
2. Filming as a means of surreptitiously evaluating employee performance.

Principles Regarding the Use of Security Cameras for Non-Instructional Purposes

1. All recording or monitoring of the activities of individuals or groups by Davis & Elkins College authorized security cameras will be conducted in a manner consistent with existing College policies, and will never be based on the subjects' personal characteristics, including basis of race, color, sex, religion, ancestry, national origin, age, sexual orientation, disability, veteran status, gender identification, or genetic information or any other characteristic protected by federal, state or local law.
2. All recording or monitoring of video records will be conducted in a professional, ethical, and legal manner. The Office of Public Safety, as well as any other staff assigned to monitor video records as determined by the Vice President for Student Affairs, will receive training in the effective, legal and ethical use of the monitoring equipment.
3. All recording or monitoring of public areas for security and safety purposes by Davis & Elkins College authorized security cameras is limited exclusively to practices that will not violate the standard of a reasonable expectation of privacy as defined by law.
4. Recorded images made by Davis & Elkins College authorized security cameras will be archived for the College in a secure location for a specific predetermined period of time by the Office of Public Safety, and will be accessible to authorized personnel on an as needed basis only. Upon expiration of the predetermined time period for storage, all recorded images will be destroyed except if they are being used as part of an ongoing investigation of criminal or disciplinary activity. The alteration of previously recorded images is strictly prohibited.
5. Recorded materials are available only to duly authorized officials of Davis & Elkins College and appropriate law enforcement agencies, as provided in this policy. These materials may be used only in connection with:
 - a. Disciplinary proceedings involving a student(s) or Davis & Elkins College employees or agents;

- b. Actual or potential litigation involving Davis & Elkins College, in the event the material may be relevant to the issues involved in such litigation;
 - c. Any other action taken by Davis & Elkins College in which the material may be relevant to the action; or made available for use by a law enforcement agency in connection with criminal proceedings in the event the material may be relevant to the issues involved in such proceedings;
 - d. Such other lawful and legitimate purposes as determined by the President or his or her designee.
6. In public areas, signage giving notice of monitoring by security camera will be posted as deemed appropriate by the President.
 7. To maintain an informed campus community, the Office of Public Safety will make available a list of the locations of all authorized security cameras used for the recording and monitoring of public areas.
 8. An audit of the location, use, and effectiveness of all security cameras used for the recording and monitoring of public areas for non-instructional purposes will be conducted by Davis & Elkins College under the guidance of the Office of Public Safety on a regular basis.
 9. Security cameras installed by authorized financial institutions to monitor ATM machine usage on campus are exempt from this policy.
 10. Any persons who tamper with or destroy video security equipment will be subject to criminal proceedings and/or campus disciplinary action.

2.3.6.4 Violence on Campus

Davis & Elkins College prohibits violence on its campus and in connection with College programs. Acts or threats of physical violence against members of the Davis & Elkins College community will not be tolerated. Appropriate disciplinary action will be administered up to and including dismissal or termination pursuant to Davis & Elkins College's disciplinary systems as applicable.

Conduct prohibited by this policy includes, but is not limited to:

1. Intentionally injuring or attempting to injure another person physically;
2. Engaging in verbal or physical behavior and/or communications (including by electronic means) that creates a reasonable fear of injury to an identifiable person or persons; threatening by any means to injure another person or persons;
3. Committing injurious or threatening acts related to sexual assault, stalking, dating or domestic violence or sexual or other prohibited harassment;
4. Brandishing a firearm or other weapon;
5. Retaliating against any individual who, in good faith, reports a violation of this policy, seeks help in addressing concerns about conduct that falls within the scope of this policy, or participates in a related investigation;
6. Conspiring to inflict physical harm upon any person; or

7. Taking any reckless, but not accidental, action that results in physical harm.

All students, faculty and staff should be committed to ensuring the safety and security of the campus and workplace environment. As such, anyone who believes that an individual has committed or may commit an act of violence, is engaging in behavior or making statements that generate concern about the potential for violence, or otherwise may pose an imminent threat to the health or safety of any member of the Davis & Elkins College community should call the Office of Public Safety at (304) 704-9111 immediately or local law enforcement by dialing 911.

2.3.6.5 Weapons and other Dangerous Instruments

The possession or use of firearms, fireworks of any description, explosive devices, or any dangerous weapon is prohibited on College premises or at any College-sponsored function. Dangerous weapons shall include but not be limited to: firearms of any description, paintball guns carbon dioxide and spring propelled guns, swords, dirks, knives, brass knuckles, blackjacks, bow and arrows or crossbows or other devices designed or intended to propel a missile of any kind, stun guns, stun batons, tasers or other electronic or electric weapons or other implement for the infliction of serious bodily injury, or any other instrument deemed to be a weapon. (Note: Paintball gun use is permitted in the paintball course. Paintball guns must be stored with the Office of Public Safety.) This list is not intended to include all possible weapons; final determination is at the discretion of the College.

No students, staff, or faculty members and no contract workers, interns, volunteers or guests are allowed to bring a firearm to College-owned or leased property or keep a firearm locked inside their vehicle in any College-owned or leased parking lot. Exceptions to this policy are active sworn law enforcement officers.

There may be theatrical productions, displays, props used in plays, props used in class presentations or educational workshops that may appear to violate the letter of this policy, but that is not the intent of this policy. In such cases, written approval granting permissible use of the props from the Director of Public Safety is required before the activity may take place. Those responsible for the activity must remove the props from the College property at the end of the term of the permission. The Director of the Office of Public Safety will decide to notify the campus community that a weapon will be allowed on campus for the purpose and duration of the permission granted.

Other Weapons: The possession or personal use of fireworks of any description, explosive devices, or any dangerous weapon is prohibited on Davis & Elkins College premises or at any College-sponsored function unless permission is granted in advance by the Director of the Office of Public Safety and/or the President or his or her designee. Vehicles and Parking

2.3.7 Vehicles and Parking

2.3.7.1 College Motor Vehicle Use

This policy will help the College maintain safety for students and staff while traveling as well as ensure that only qualified drivers are allowed to operate College vehicles.

- Each driver will be required to go through a registration process that determines eligibility before being allowed to drive for the College. Employees will have to renew their registration every three years.
- Students are not permitted to drive College vehicles with the exception of the College golf carts. Students may drive golf carts when specified by their supervisors (College faculty or staff) and upon the successful completion of the Cart Operator Safety Training. Students have to renew their eligibility every academic year.
- Registered drivers will be listed in a Driver Database by the Business Office, and drivers must be checked against database information before each trip. Changes in status and eligibility will be listed in the database, as will restriction information.
- Vehicle inspections are to be done before and after each trip.
- Fleet Coordinators in Admission, Athletics, Physical Plant, and the Business Office will maintain this information regarding the status of the vehicles and assist with registration and reporting.

For training on use of the Driver Data base, Alertdriver.com or any questions about forms or the vehicle policy, please contact the Business Office.

2.3.7.2 Driver Selection and Training

The following guidelines have been established to help control the operation of the Davis & Elkins College vehicle fleet to provide safer, more effective transportation.

Driver Selection and Evaluation

As part of the eligibility determination and registration, every driver will have to complete evaluation and training. This information is to be recorded on the Driver Eligibility Form. Training is currently available online at Alertdriver.com. Evaluation/training will need to be repeated at each registration/renewal.

1. All drivers must have a current driver's license.
2. Davis & Elkins College will allow only drivers with three points or less to operate institution vehicles. (This rule may be temporarily over-ridden by specific authorization of the President or his/her designee). The driver's reports may be verified against Division of Motor Vehicles records on a random basis.
3. Any student whose duties may require him/her to operate a College golf cart will meet the same criteria as an employee driver, plus renew eligibility each academic year.

Driver Training

1. As part of training, all drivers shall receive a fact sheet detailing procedures and guidelines that must be followed. All drivers will be required to read and sign their agreement to follow these procedures and guidelines.
2. Training may include individual instruction and audio-visual methods as appropriate. The need for training may be determined through the use of the road test, online evaluation, or

written test. In addition, the training may include an in-vehicle evaluation by an instructor licensed by the state.

3. Employees who operate institutional vehicles will complete safe driving instruction every three years. This training will be coordinated through the Fleet Coordinator or Human Resources.
4. All student drivers should receive safe driving instruction each academic year, which must be completed prior to their first use of the vehicle that year.
5. All training shall be documented on the Driver Eligibility Form, including driving history and licensing information.
6. Drivers are responsible for reporting any changes to their driving history, including accidents, moving violations or changes in licensing. Failure to do so may result in revocation of driver eligibility.

2.3.7.3 Rules Governing the Use of College Owned or Leased Vehicles

The rules governing the use of College owned vehicles are:

1. Only designated College employees, students and guests are permitted as passengers in these vehicles;
2. Drivers must obey all driving laws at all times and drive with a valid driver's license with the proper class rating in their possession;
3. The use of alcohol, drugs, or any other substances, prescribed or otherwise, that could impair normal functions are prohibited;
4. All accidents must be reported to the Office of Public Safety;
5. The use of cell phones while driving is prohibited;
6. Drivers will be responsible for paying all traffic citations for moving and parking violations;
7. When transporting any heavy equipment or chemicals, drivers are to ensure that items are packed properly for safe transporting and are within the maximum weight capacity of the vehicle;
8. Drivers are to lock the vehicle every time they leave it and take the keys with them;
9. Report any vehicle which requires repair to the Director of the Physical Plant;
10. All College vehicle keys and gas credit cards must be returned to the Fleet Manager immediately after completion of vehicle use.

Note: Employees using personal vehicles for College business use must follow applicable rules listed above.

2.3.7.4 Rules Governing the Use of College Golf Carts

The rules governing the use of College golf carts are:

1. **Student operators of these carts must be a minimum of 18 years old and possess a valid driver's license.** Department and division heads are responsible for ensuring student workers possess a valid driver's license.
2. **Never leave the keys in the ignition when unattended.** When the cart is not in use the operator must place the cart control lever in the park or neutral position, remove and secure the key and set the parking brake. Cart operators are responsible for ignition keys for the period of time in which they are using the vehicle.
3. Use common sense while using carts – they are not toys. No horsing around is permitted. Anyone found violating safe and proper use of carts will be prohibited from using them until further notice and re-training has been completed.
4. On campus, the pedestrian has the right-of-way at all times. Operators of carts will permit this right-of-way. If the cart is being operated on a sidewalk, the operator will pull off of the sidewalk to pass the pedestrians or stop the unit when approaching pedestrians until they pass.
5. When traveling from one end of the campus to the other, use the black asphalt roads to avoid pedestrian traffic on the campus pathways.
6. A cart should be operated on campus at a speed equivalent to a well-paced walk and no faster than 10 mph. This maximum speed may be subject to the terrain over which it is being driven, the weather conditions, and the total weight of the golf cart and passengers and any equipment being carried.
7. Carts are not to be operated with more passengers than seating is provided.
8. All occupants in the cart shall keep hands, arms, legs and feet within the confines of the cart at all times when the cart is in motion. Where seatbelts are available, the operator and all passengers must be restrained.
9. When using the cart to carry packages or merchandise, be sure to not overload the cart. It is recommended that loads not extend more than one foot from either side or front of the cart.
10. If workers must ride in the back of the cart when the seat is folded down to stabilize equipment, workers must be seated with backs against the cab/seat of the cart.
11. Never back up without making sure there is no person or obstruction behind the cart.
12. Never shift gears while the vehicle is in motion.
13. Avoid operating a cart on lawns.
14. Keep the cart on the pavement – avoid cutting corners.
15. Reduce speed to compensate for inclines, pedestrians, and weather conditions.
16. Maintain adequate distance between vehicles and pedestrians.
17. Approach sharp or blind corners with caution and reduce speed.
18. Use extreme care at building entrances and upon entering/exiting enclosed areas.
19. Carts shall not block exits, entrances, stairs, sidewalks, fire hydrants, fire lanes, or handicap ramps.

20. Use of cell phones, pagers, and radios are prohibited while driving a cart. Operators must pull over and stop to make or receive calls or messages.

Additional guidelines may be implemented by individual departments.

Equipment and Safety Checklist: Before operating the cart, the operator will check the following items:

1. Proper tire condition and inflation;
2. Proper operation of brakes;
3. Indication of battery fluid leaks such as wet spots under the unit;

If the cart is in need of repair or maintenance, it should not be driven. Contact a supervisor who will arrange for servicing.

Training: Methods of training may include any combination of hands-on training, email distribution, and video/online. Training will be coordinated by the Compliance & Ethics Office or the Business Office.

1. **Student Workers** – upon implementation of this policy, all student workers must receive training. Thereafter, returning student workers will be required to review the policy and sign an acknowledgement sheet. All sheets will be maintained by the department owing the cart.
2. **Faculty and Staff** – affected departments shall be provided a copy of the policy via email upon implementation of this policy. In departments and divisions where carts are used on a regular basis, additional training may be implemented.

2.3.7.5 Parking

All vehicles on campus must display a parking permit, which can be obtained after completing the proper application form at the Office of Public Safety. To obtain a parking pass, you must have your vehicle license plate number and VIN number. A student auto registration fee is listed in Tuition and Fees and can be added to the student's account. Please do not park in designated handicapped spaces (unless you have a state-issued permit), fire lanes, in the green space areas, or in the visitor parking in front of Halliehurst or the guest parking at Graceland. Tickets, resulting in fines, will be issued for violations. Parking on campus is by zone: color-coded signs designate if the parking is for residential students, commuter students, faculty, staff, or visitors. Also, please note that the possession of the required parking permit and/or state-issued handicapped permit does not guarantee a parking space.

Residential Parking

Residents of Darby, Booth, and Gribble Halls will have a Color Coded Parking Permit Sticker (on the driver's side of the rear window) valid for:

- Lower Graceland lot
- Darby Hall back lot
- Behind and front of Roxanna Booth Hall lots
- McDonnell Center lot

Residents of Moyer and Presidential Halls will have a Colored Coded Parking Permit Sticker (on the driver's side of the rear window) valid for:

- Moyer Hall lot
- Presidential Center lot
- McDonnell Center lot

Commuter Parking

Commuters will have a **Color-Coded Parking Permit Sticker** (on the driver's side of the rear window) valid for:

- Boiler House Theatre lot
- Myles Center for the Arts lot
- McDonnell Center lot
- Memorial Gymnasium lot

Employee Parking

Faculty, Staff, Administrators, and Coaches will have a Color-Coded hang tag on rear view mirror valid for:

- Memorial Gymnasium lot
- McDonnell Center lot
- Myles Center for the Arts lot
- Boiler House Theatre lot
- Parallel parking on one side of the Booth Library access road
- Slant hill parking across from Liberal Arts Hall and Albert Hall as well as front and side of Halliehurst

Visitor Parking

Visitors will have a Yellow hang tag valid for:

- Graceland lot
- Four Admission/Guest parking spots in front of Halliehurst

Special Notes:

- Parking is an ongoing challenge. The College does have enough parking spaces for everyone – the spaces may not be available when and where one wants.
- There is one reserved parking space on campus: for the Campus Postman, which is located in the Madden Student Center employee parking lot. There is a sign posted on this space. Violators will be ticketed.

- There is a two-hour parking limit and no overnight parking in the Madden Student Center parking lot.
- If parked illegally, warning tickets will be given until drop/add day, after which a minimum fine of \$10.00 per incident will be levied. Note: Warning tickets will not be given to individuals parking in handicap designated areas.

The College suggests that residential students leave their vehicles parked in the designated parking area for their residence hall and walk to class and/or the Madden Student Center (post office, dining hall, bookstore) and that commuter students give themselves sufficient time to locate a parking space prior to the start of their classes. Please keep in mind the large number of parking spaces located behind Myles Center for the Arts and The McDonnell Center for Health, Physical Education, and Athletics. To enter that parking area, bypass the main entrance to the College, follow Harpertown Road, and make the 4th left – there will be signs for the Athletic Fields and drive up behind Myles Center. Then just walk through Myles Center for the Arts and onto the Claude King Davis Memorial Plaza to access the main campus area.

Vehicular Accidents on Campus:

In the event of a vehicular accident occurring on the Davis & Elkins College campus, contact the Office of Public Safety at (304) 704-9111, or report the accident directly to any Public Safety Officer. If emergency services are required, contact 911.

Stay at the scene until Public Safety arrives. Provide a statement describing how the accident happened and other data including make/model/year of vehicle, names of witnesses, and license, registration, insurance information, etc.

Routinely, the Elkins Police Department will not be summoned unless there is a personal injury. If either party desires the Elkins Police Department to respond, the Office of Public Safety will make such a request.

The Office of Public Safety will prepare a report of the accident and principals may obtain a copy from the Office of Public Safety within 72 hours after the accident.

2.3.7.6 Vehicle Unlock and Jumpstart Policy

The Davis & Elkins College Office of Public Safety will attempt to assist any College student, employee, guest of a student located on campus property with the possible opening of their vehicle should it accidentally have the keys locked inside. A Waiver of Liability Form will be filled out prior to receiving assistance from Davis & Elkins College Public Safety Officers. The form releases Davis & Elkins College as a whole, as well as Public Safety officers, from liability for services rendered should the unlikely event of damage occur. If the vehicle owner is not prepared to fill out the Waiver of Liability Form, Public Safety officers will attempt to assist individuals in making arrangements for off campus services. Please note that any service provided by individual vendors from off campus is the sole responsibility of the vehicle owner.

Another service offered by the Davis & Elkins College Office of Public Safety is the jumpstarting of vehicles. The Waiver of Liability Form will also be utilized for this service. In the event a College student or employee have issues with their vehicle's battery, Public Safety Officers will respond and attempt to assist. Again, the individual owner must fill out the Waiver of Liability

Form for services to be rendered. In the event that jumpstarting the vehicle fails, Public Safety officers will attempt to assist with making arrangements for off campus services. Please note that any service provided by individual vendors from off campus is the sole responsibility of the vehicle owner.

2.3.8 Key Control Policy

Purpose

The purpose of the key control policy is to protect the property and privacy of Davis & Elkins College and campus community members, by limiting access to facilities to those as assigned. National Management Resources, Inc. (National) has responsibility for the maintenance and care of all spaces and shall be granted access as such. National has the responsibility to effectively manage and control distribution of keys on campus; although, College keys are the property of Davis & Elkins College and may be recovered at any time.

Scope

This policy applies to all Davis & Elkins College employees, visiting faculty, students, and contractors working for the College. It applies to all facilities owned, leased, or otherwise controlled by Davis & Elkins College.

Issuing Keys

Keys to the appropriate work and access spaces will be requested by the hiring supervisor and approved by the corresponding senior staff member. Once the appropriate keys have been identified and approved, the employee must sign the Key Form upon receipt of the key(s). Each key issued to College employees, contractors, or students shall be consistently documented by National. Keys issued to National employees must be approved by the Director of the Physical Plant and the Vice President for Business & Administration. No key shall be transferred from one person to another without the appropriate approval and receipt signature. The individual to whom the keys are issued is responsible for the use and care of those keys until returned to National at the Physical Plant.

Building Master keys will only be issued to an individual when National shop receives written authorization from the Department Supervisor, corresponding Cabinet member, and the Vice President for Business & Administration.

Grand Master Keys will only be issued to an individual when National receives written authorization from the Vice President for Business & Administration and the President of the College.

Key Retrieval

Upon termination of employment all keys must be immediately returned to National either through Human Resources, corresponding supervisor, or the individual. Keys that are returned will be documented on the originating key request form. Failure to return keys upon separation may result in the responsible individual being charged for the cost to re-key a lock. Failure to return issued keys will result in a minimum of \$100 fee per key.

Lost or Stolen Keys

Lost or stolen keys should be reported immediately to the Office of Public Safety and the appropriate supervisor. An incident report will be generated documenting the circumstances of the loss. Replacement keys may be requested under the same requirements that all keys are issued. If an area must be re-cored to protect access, the responsible individual may be charged \$100.00.

Contractors

Keys required by contractors to access areas on campus to conduct their work by be authorized by National and the Vice President for Business & Administration. Upon approval, these keys will be stored at the Gatehouse under the care of the Office of Public Safety. Only pre-approved individuals will be authorized to receive the keys. The keys must be signed out and returned each day; keys may not be kept overnight. Record of who issued, received, and returned the keys will be kept in the Office of Public Safety.

Students

Students should not be issued keys other than those to their on-campus living spaces. However, in some cases, where a student works for a department and access is required, they may be issued by request of the supervisor and approved with by the corresponding senior staff member. These keys may only be issued for one semester at a time. All keys must be returned at the end of the academic year and re-issued at the beginning of the next. Keys that cannot be accounted for may result in an administrative hold on the student's records until the matter is resolved and/or a fine of \$100 billed to the student's account. Duplicate requests for unaccounted for keys may not be issued.

Residence Halls

Keys issued to students for access to residence halls and dorm rooms are under control of the Office of Student Life. These keys are issued and returned to the Office of Student life as part of the housing registration process. Lost and stolen keys need to be reported to the Office of Student Life as soon as possible. New keys will be issued by National upon a written request from the Coordinator of Residence Life and Vice President for Student Affairs. To protect the safety of our students and the residence halls; each lock will be "re-cored" when lost and stolen keys are reported. Students will be charged \$100.00 for lost or stolen keys and keys not returned during the check-out procedures at the end of each academic year. Administrative holds on the student's records or direct bills to the student's account may be automatically implemented.

To promote the greatest degree of safety under our current key system, the cores of each lock in the residence halls will be rotated during the summer to a different building. The documentation of the core rotation and the corresponding keys will be the joint responsibility between National and the Office of Student Life.

Enforcement

This policy implementation is the responsibility of National and is enforced by the Vice President for Business & Administration. All College faculty, staff, and administrators shall ensure that keys are not issued to individuals which would provide access to areas other than those two which the person issued the key would ROUTINELY need access. National shall have the responsibility to ensure that key requests and all appropriate authorizations have been obtained prior to issuing or

transferring keys or re-keying an area. National shall have the responsibility to ensure that key requests procedures are followed to ensure that all keys issued are accounted for.

Duplication of a key, possession of a duplicate key, or the misuse of an authorized key will result in a referral to the corresponding senior staff and the Office of Human Resources for possible discipline sanctions. Individuals found to be in possession of unauthorized keys will have the keys in question confiscated, and the individual may be removed from campus and/or be formally separated from the Campus Community.

2.4 Technology Resources

2.4.1 *Acceptable Use of College Information Technology Resources*

Users of the Davis & Elkins College network and computer resources have a responsibility to properly use and protect those information technology resources and to respect the rights of others. Use of Davis & Elkins College computing, information technologies, and network resources is a privilege that assumes the appropriate use of those resources. Users who violate the law or College policy regarding the use of computing resources, information technologies, and networks are subject to loss of access to those resources as well as to Davis & Elkins College disciplinary and/or legal action as outlined in this policy.

2.4.1.1 Applicability

This policy applies to all Davis & Elkins College employees, student employees, students, faculty, contractors, entities, third party hosting contractors, volunteers and all others who (a) use computing resources, information technologies, networks, voice messaging equipment, computer software, or data networking systems, including remote and wireless and electronically stored institutional data and messages (“information technology resources”) owned or managed by Davis & Elkins College or any third parties contracting with Davis & Elkins College for the provision of hosting, network or other technology services; or (b) are given electronic access to Davis & Elkins College’s institutional data (hereinafter “users”).

All such users, by virtue of their use of Davis & Elkins College computer resources, information technologies, and networks, accept the responsibility for using these resources only for appropriate activities consistent with the Davis & Elkins College mission. Users are responsible for reading, understanding, and behaving in a manner consistent with this policy and other related policies such as the Davis & Elkins College administrative data security policy (if applicable) and the Davis & Elkins College copyright policy.

User accounts, which provide access to College computing resources, information technologies, and networks, will be terminated in accordance with account timelines established by the College.

2.4.1.2 Ownership

Davis & Elkins College information technology resources are not owned by any individual, division or department at Davis & Elkins College. Any Davis & Elkins College information resource that is leased, licensed, or purchased under research contracts or grants must be

administered under the terms of this policy and the Davis & Elkins College Information Resource Security Plan for as long as they remain within the lawful possession, custody, and/or control of Davis & Elkins College. In addition, users must use Davis & Elkins College information technology resources in a manner consistent with U.S. copyright law.

Note: Information technology resources developed and patented by a Davis & Elkins College employee in accordance with the College's Intellectual Property Policy are exempt from this policy provision.

2.4.1.3 Disclaimer and Limitation of Liability

Davis & Elkins College makes no representations as to the performance, accuracy, or reliability of the College information technology resources. Davis & Elkins College disclaims all warranties of any kind, expressed or implied, to the fullest extent permissible pursuant to applicable law, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose.

By using Davis & Elkins College information technology resources, users agree that Davis & Elkins College, its Trustees, or employees shall have no liability whatsoever for damages in any form under any theory of liability or indemnity in connection with a user's use of Davis & Elkins College information technology resources, even if Davis & College has been advised of the possibility of such damages. Users further recognize that Davis & Elkins College has no control over the content of information servers on external electronic systems or the Internet. Davis & Elkins College, therefore, disclaims any responsibility and/or warranties for information and materials residing on non-College information servers on external electronic systems or the Internet. Such materials do not necessarily reflect the attitudes, opinions, or values of Davis & Elkins College.

2.4.1.4 Appropriate Use

Davis & Elkins College information technology resources may be used for legitimate College purposes only. While Davis & Elkins College makes information technology resources available primarily to achieve its goals of education and research, and for administrative activities, it recognizes—given the ubiquity of computing—that employees may use College computers for incidental personal purposes. Thus, it is reasonable to allow the use of information services resources for email, document preparation, personal or course web page publication, or other activity that can facilitate convenience or enhance productivity, to the extent that the activity is within the limits prescribed by this policy.

Appropriate uses of Davis & Elkins College information services resources include:

1. Use by students related to completion of Davis & Elkins College class assignments or their education at Davis & Elkins College;
2. Use by faculty, administrators, staff, and contractors directly related to instruction, research, and scholarly, professional, and administrative endeavors on behalf of Davis & Elkins College or within the scope of Davis & Elkins College employment;

3. Appropriate use of resources (e.g. any such work is completed outside of College time and does not utilize shared resources such as CPU cycles or network bandwidth to a degree that adversely impacts academic or research activities);
4. Appropriate use of licenses (e.g. do not use software procured with academic use licenses for commercial applications or development, unless the license explicitly permits such use).

If a user is not clear on what constitutes an appropriate use, the user should contact the Chief Information Officer to determine whether a particular activity is permissible

2.4.1.5 Inappropriate Uses and Content

Davis & Elkins College information technology resources shall not be used for:

1. Violating intellectual property laws, including:
 - a. Violating copyright law pursuant to the Davis & Elkins College Copyright Policy;
 - b. Copying of software in violation of a license or when copying is not authorized;
 - c. Violating trademark or patent law;
 - d. Violations of any local, state or federal laws relating to intellectual property rights, such as the distribution of copyright-protected materials (e.g. the distribution of commercial software, music or films in electronic format without appropriate permissions by the owner, even if the user distributing the materials notifies others of their copyright status).
2. Any prohibited uses, including:
 - a. Supporting, establishing, or conducting any private business operation or commercial activity;
 - b. Conducting personal activities unrelated to any Davis & Elkins College or student educational purpose unless otherwise allowed by this policy. Using any College information technology resources, including a computer system, hardware (such as printers, monitors, etc) or networks without proper authorization or exceeding authorized use;
 - c. Concealing one's personal identity, or assuming the identity of another (e.g., by sending forged electronic mail). Keeping one's personal identity private either by not setting an identity in one's browser or by using a web-anonymizer in order to protect oneself from being put onto mailing lists is not a violation of this policy;
 - d. Unauthorized sharing of a user's password or account;
 - e. Unauthorized use of Davis & Elkins College information technology resources or another person's computer account, user ID, files, or data;
 - f. Intentionally damaging, destroying or disrupting the electronic networks or information systems or the integrity of electronic information or intentionally wasting of human or electronic resources as they relate to Davis & Elkins College information technology;
 - g. Negligence leading to the damage of electronic information, computing/networking equipment, and resources;

- h. Unauthorized use of a wireless router or other routing or electronic device that has not been authorized for use on a Davis & Elkins College network or in conjunction with other Davis & Elkins College information technology resources;
- i. Deleting or tampering with another user's files or with information stored by another user on any information-bearing medium. Even if the user's files are unprotected, with the exception of files obviously intended for public reading, such as web pages, it is improper for another user to read them unless the owner has given permission (e.g. in an announcement in class or on a computer bulletin board);
- j. Attempting to circumvent system security;
- k. Releasing programs such as viruses, trojan horses, worms, etc., that disrupt other users, damage any Davis & Elkins College information technology resources, including software or hardware, disrupt network performance, or replicate themselves for malicious purpose;
- l. Sending mass mailings or commercial solicitations (i.e. spamming) to individuals, or to newsgroups or mailing lists where such advertising is not part of the purpose of the group or list or for the purpose of Davis & Elkins College business (see Use of College Email Systems section for additional information);
- m. Bullying or otherwise intimidating another person (such as by repeatedly sending unwanted mail or broadcasting unsolicited mail);
- n. Tampering with, willful destruction of or theft of any Davis & Elkins College information technology, including computer equipment, whether it belongs to the College or to an individual;
- o. Any conduct that is likely to result in retaliation against the College's network or website, or the College's employees, officers or other agents, including engaging in behavior that results in any server being the target of a denial of service attack (DoS);
- p. Violating Davis & Elkins College's policy of prohibiting discrimination and harassment (cyber harassment) against individuals on the basis of race, color, sex, religion, ancestry, national origin, age, sexual orientation, disability, veteran status, gender identification, or genetic information or any other characteristic protected by federal, state or local law;
- q. Intentionally disseminating, accessing, or providing a hyperlink to obscenity, as that term is defined by the law, unless such activities are directly related to a user's legitimate research or scholarship purpose or completion of an academic requirement;
- r. Using Davis & Elkins College information technology resources with the purpose of intentionally interfering with another user's use of Davis & Elkins College information technology resources;
- s. Using Davis & Elkins College information technology resources to solicit or proselytize for political activities (supporting the nomination of any person for political office or attempting to influence the vote in any election or referendum);
- t. Unauthorized access to, interception, alteration, possession, copying or reading of electronic mail or other electronic documents or websites;

- u. Compromising the privacy of users of Davis & Elkins College information technology; and
 - v. Violation of any federal, state or local law.
3. Any prohibited content, including:
- a. Using Davis & Elkins College information technology resources in a fashion that a reasonable person might perceive offensive by other persons;
 - b. Sending or distributing sexually explicit messages, cartoons, or jokes; unwelcome propositions of a sexual nature; ethnic or racial slurs; or any other message that can be construed to be harassment or disparagement of others based on their race, color, sex, religion, ancestry, national origin, age, sexual orientation, disability, veteran status, gender identification, or genetic information or any other characteristic protected by federal, state or local law;
 - c. Downloading non-academic or non-College business related data or programs, including but not limited to freeware and shareware, unless explicitly authorized by the College such as:
 - i) Software that allows external access to any Davis & Elkins College hardware;
 - ii) Peer-To-Peer (P2P) or similar software that enables content sharing;
 - iii) Software that tracks user Internet or online activities or habits;
 - iv) Software that sends information outside Davis & Elkins College, unless expressly approved;
 - v) Software that sends automatic updates from the Internet to hardware on the Davis & Elkins College network;
 - vi) Application programs (which may contain embedded viruses and/or may interfere with the functioning of standard applications); and
 - vii) Downloading of music, video or any other material, in violation of copyright laws.

2.4.1.6 No Expectation of Privacy

Although Davis & Elkins College does not routinely inspect or monitor use of computing and networking resources, Davis & Elkins College does not guarantee the security and privacy of any user's electronic mail and/or electronic files or a user's use of any Davis & Elkins College information technology resources. Davis & Elkins College information technology resources are the property of Davis & Elkins College and have been installed by Davis & Elkins College to facilitate the legitimate purposes of Davis & Elkins College. Although Davis & Elkins College students, employees, and others may have direct or password encoded access to Davis & Elkins College information service resources, they belong to Davis & Elkins College and the contents of all communications and stored messages are accessible at all times by Davis & Elkins College for legitimate purposes.

A user's documents, files and electronic mail stored on Davis & Elkins College information technology resources are normally accessible only by that user. However, system managers or

third parties contracting with Davis & Elkins College to host or manage Davis & Elkins College information service resources have the ability to monitor traffic and directly view any file as it moves across the network, and they must occasionally do so to manage campus network resources. By way of example, files may be monitored without notice in the ordinary course of business to ensure the smooth operation of the network.

More specifically, by using Davis & Elkins College information technology resources (including electronic mail, files and documents), whether accessed on site or via remote locations, users consent to Davis & Elkins College's monitoring, accessing, searching, blocking, copying, deleting, reviewing and disclosing, both in real time, and after the fact, any documents or messages which they create, send, store or receive on, as well as websites visited via Davis & Elkins College information technology resources.

All staff, faculty, third party hosting providers and others working with Davis & Elkins College information technology resources are obligated to follow the Davis & Elkins College Information Resources Security Plan, the Davis & Elkins College Educational Records Policy (if applicable), the Davis & Elkins College Information Security and Identity Theft Prevention Program (if applicable), and subsequent information technology resources related policies and laws duly enacted. Such policies create a framework for the physical, technical and administrative management, storage and transmission of data. These policies have clear guidelines that prohibit violations of privacy and confidentiality. Users should be aware that authorized personnel can and will take appropriate steps to investigate when there is a suspicion of inappropriate use of campus computing or networking resources. This may include monitoring network traffic, its contents, and examining files on any computer system which is connected to the network.

The maintenance, storage, access and transmission to such back-up files and data is operated in accordance with the Davis & Elkins College Information Resources Security Plan and the Davis & Elkins College Information Security and Identity Theft Prevention Program and/or agreements created pursuant to those policies that require the same level of physical, technical and administrative care, and subsequent policies and laws duly enacted.

In addition, Davis & Elkins College may access such electronic mail or files for a number of reasons, including but not limited to the following:

1. **Spam Blocking.** Davis & Elkins College protects email as a viable communication and business medium by supporting measures to reduce the amount of unsolicited email spam that invades its networks, while ensuring that legitimate email reaches its destination. To accomplish this task, spam filtering software is utilized to quickly identify and separate spam from legitimate email.
2. **Requests for Public Disclosure.** The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) expands the authority of local, state and federal law enforcement to gain access to stored electronic data and communications. The USA PATRIOT Act is applicable to all users.
3. **Retention of Electronic Mail.** Electronic mail is backed up and retained in accordance with Davis & Elkins College data security policies. Even after erasing an electronic message from a hard drive, such materials continue to exist and may be subject to disclosure at a future time.

4. **Access for Davis & Elkins College Business.** Faculty, staff and other approved users will only access a user's electronic files or email in accordance with the Davis & Elkins College Educational Records Policy and Davis & Elkins College Information Security and Identity Theft Prevention Program. Any such access will be for a legitimate business purpose only and shall be limited to that purpose.
5. **Monitoring of Accounts.** An account may be inspected or monitored when:
 - a. Activity from an account prevents access to Davis & Elkins College information technology, such as computing or networking resources by others;
 - b. General usage patterns indicate that an account is responsible for illegal activity;
 - c. There are reports of violations of Davis & Elkins College policy or any local, state or federal law;
 - d. It is necessary, in the judgment of Davis & Elkins College administration, to do so to protect Davis & Elkins College from liability or undue harm;
 - e. Davis & Elkins College receives a public records request or a valid subpoena; or
 - f. It is required by, and consistent with, any other law.

2.4.1.7 User's Responsibility for Maintaining Privacy

Users are responsible for maintaining appropriate access restrictions for their files, as well as protecting their passwords. Any user who knowingly allows another person to use one's username or password may be found responsible for any inappropriate use on the part of that person.

2.4.1.8 College Email Systems

A campus email account is the official means of communication between the College and the student or employee. Users are expected to read email on a regular basis and manage their accounts appropriately, as well as to use their accounts in accordance with the acceptable use guidelines outlined above.

Record Retention

Emails are subject to the same retention policy as paper records, as outlined in the College's Record Retention Policy. Users who receive a notice of a legal hold are responsible for keeping copies of all relevant documents, including email.

System Backups

The College's email systems are backed up for disaster recovery and business continuity purposes only pursuant to a schedule established by Information Services. Due to the nature of the backup system and its purpose for disaster recovery, not mailbox maintenance, it is generally not possible to restore from the backups individual emails that may have been accidentally deleted by a user.

2.4.1.9 Enforcement

Inappropriate behavior in the use of Davis & Elkins College information technology resources is punishable under the general College policies regarding faculty, students and staff. The offenses

mentioned in this policy range from relatively minor to extremely serious, though even a minor offense may be treated severely if it is repeated or malicious. Certain offenses may also be subject to prosecution under federal, state or local laws.

Appropriate disciplinary action depends not only on the nature of the offense, but also on the intent and previous history of the offender. The range of possible penalties includes reprimands, loss of computing privileges, course failures for students, disciplinary probation, suspension or dismissal from the College and/or criminal prosecution.

Offenses that are minor or appear to be accidental in nature are often handled in a very informal manner such as through electronic mail. More serious offenses may involve formal procedures pursued through the processes in the *Student Life Policies*, the *Faculty Handbook* and the *Personnel Handbook* as applicable.

Any user who suspects a violation of the Davis & Elkins College Acceptable Use Policy or any other Davis & Elkins College policy or regulation related to data security or who has knowledge of potential vulnerabilities or security loopholes in a system or network at Davis & Elkins College should immediately notify the Chief Information Officer or the Compliance Officer.

Restrictions of Privileges During Investigations: During the course of an investigation of alleged inappropriate or unauthorized use, it may be necessary to temporarily suspend a user's network or computing privileges, but only after determining there is at least a prima facie case against the individual, as well as a risk to Davis & Elkins College information technology resources if privileges are not revoked. In these cases, it is important to recognize that the restriction of network or computing privileges is intended to protect the system rather than to punish the individual. For example, if a computer account has been used to launch an attack on another system, then that account will be rendered inactive until the investigation is complete. This is a necessary action taken to prevent further misuse and does not presume that the account holder initiated the misuse. Unsubstantiated reports of abuse will not result in the suspension of a user's account or network access unless sufficient evidence is provided to show that inappropriate activity occurred. For example, if someone reports that their computer was "attacked" by an account, the burden will be upon the complainant to provide sufficient data logs or other evidence to show that the incident did, indeed, at least appear to be an attack.

Adverse Impact on Shared Systems: Davis & Elkins College reserves the right to discontinue communication with external systems that are known to harbor spammers or account crackers, despite the fact that this may restrict certain acceptable communications. When deemed necessary, this action will be taken to protect the security and safety of Davis & Elkins College systems. Similarly, there may be cases where a particular service or activity on a given Davis & Elkins College system will, by the very nature of its legitimate operation, tend to generate attacks from other Internet sites. If these attacks are frequent and severe enough to cause service interruptions for larger parts of the campus community, it may be necessary to remove these systems from the campus network temporarily or permanently. In cases where such an action is deemed necessary, Information Services will work with the maintainers of the system to identify alternative methods of network access. In cases where Davis & Elkins College restricts access to external sites or removes network access for internal sites, the purpose of the action is to maintain the security and reliability of the computer systems and networks rather than to punish an individual or a site, or to restrict the free expression of ideas.

Questions concerning this policy or its intent should be directed to the Chief Information Officer.

2.4.2 Cloud Computing

Davis & Elkins College has adopted the following Cloud Computing Policy to protect Confidential and Private Information placed into a cloud environment that is not directly controlled by Davis & Elkins College.

Definitions

Cloud computing encompasses utilizing any external computing, software services, or hosting environment that is not directly controlled by Davis & Elkins College.

Confidential and Private Information includes:

- Credit card information;
- Tax identification numbers;
- Payroll information;
- Cafeteria plan check requests and associated paperwork;
- Student, parent, and employee tuition and loan accounts information;
- Student educational records as defined by FERPA;
- Photographic images (especially of face or other identifying characteristic), fingerprints, handwriting, or other biometric data (e.g., retina scan, voice signature, facial geometry);
- Medical or financial information for any employee, temporary worker, or student;
- Other personal information to include date of birth, addresses, phone numbers, maiden name, customer numbers, Social Security number;
- College contracts;
- College research data;
- Alumni and donor records;
- Personnel records;
- College financial data;
- Computer passwords;
- College proprietary information/data; and
- Any other information for which access, use, or disclosure is not authorized by: a) federal, state, or local law; or b) College policy or operations.

Encrypted data refers to information that has been converted through software into a non-human readable form typically via a password or phrase (which is also used to decrypt the file when the information is to be accessed). All encryption referred to within this Policy must conform to prevailing industry standards.

Policy

Confidential and Private Information entrusted to the College shall not reside within any cloud computing environment unless Davis & Elkins College has entered into a legally binding agreement with the service provider to ensure that the data is protected and managed in accordance with standards and procedures required by law and acceptable to the College.

Davis & Elkins College is responsible for ensuring the integrity and security of Confidential and Private Information maintained by it in the regular course of business, regardless of the form or location of such data. The obligation to maintain the privacy of this data is not only governed by College policies, but also by various federal, state and local laws and regulations. The College takes steps to limit access to this information on a need to know basis. In accordance with established College policies, access to Confidential and Private Information is granted only to those individuals who have undergone proper training in the handling of such data and who have acknowledged the confidentiality of the data. Anyone viewing, updating, or releasing data of this type for any reason other than officially authorized College business may be held personally liable and subject to criminal and civil penalties.

Any College data residing within a cloud computing environment must be retrievable by the institution and not solely by the individual who placed the data in the cloud environment, and must conform to the College Record Retention Policy and Schedule.

Confidential and Private Information placed into a cloud environment must be encrypted in transit and encrypted at rest. Moreover, the cloud service provider's contract must indicate that they conform to all relevant federal, state and local laws and regulations.

2.4.3 Computer Lab Use

The College provides access for students to the departmental and College computer labs and network for academic, research, or study purposes only. The labs and network are a valuable but limited resource which must be shared with others. It is the user's responsibility to use the facilities in an efficient, ethical, legal, and responsible manner in accordance with the Davis & Elkins College Acceptable Use Policy. Improper behavior may be grounds for termination of access to the labs or may subject the offender to other penalties and/or restrictions, which could include disciplinary actions. Individuals must carry a College ID at all times while using the labs. Information Services staff have the right to deny access to the labs to anyone without proper identification.

Laboratory Etiquette:

1. Guidelines for food and drink vary between computer labs. Each computer lab will have signage to clarify the rules for that space.
2. Avoid excessive noise and/or loud or obscene language.
3. Be considerate of others who are waiting for stations.
4. Be courteous to staff and fellow users.

2.4.4 Hardware and Software Disposal

In the event a College department or division possesses technology hardware or software that is no longer required due to excess of useful life, lack of continued need, inability to upgrade required hardware or software, damage; excessive maintenance cost, or incompatibility with new hardware, all such equipment must be sent to Information Services for evaluation.

Based on the assessment of the equipment by Information Services, the following process will be followed, irrespective of what budget originally purchased the item:

1. **Redistributed:** If a computer meets current minimum standard requirements, it may be redistributed to a location within the College. Recommendations from the originating department or division will be considered when redistributing the technology, but the final location will be based on the overall needs of the College as determined by the Chief Information Officer;
2. **Donated:** Any hardware considered no longer in service to the College can be donated. Information Services will ensure the hardware is cleared of all software licensed to the College and any data left by the previous user;
3. **Salvaged:** Any hardware that can no longer be used, but has useful parts, will be salvaged for its parts. Those parts could be used by Information Services or sold; or
4. **Disposed:** Computer hardware and peripherals, which cannot meet the above categories, will be disposed. This equipment will be picked up by a reputable environmentally certified recycling company in compliance with all laws.

Any capitalized equipment, which is donated, parted, or disposed, will have a completed disposal record form with description, serial number, date discarded, method of disposal, and purchase value, if any.

2.4.5 Information Services Change Control

The dependence on Information Services to support Davis & Elkins College's constantly changing business and academic environment necessitates that technology operations be properly protected and controlled. Any changes to the Davis & Elkins College network infrastructure hardware, system software, operating systems, and security policies will be controlled and managed by this Change Control Policy. Once approval is acquired, all related purchase requests (including hardware and software related purchases) must adhere to current Davis & Elkins College purchasing procedures.

2.4.5.1 Annual Technology Resources Review

For general-purpose technology resources, it is the responsibility of the Chief Information Officer to review on an annual basis the status of technology resources and make recommendations directly to the Cabinet Team. The recommendations for replacement/upgrade of hardware resources are based on the following:

1. Age of the equipment;
2. Its maintainability; and
3. Ability to meet changed / new user requirements.

There are certain software products for which maintenance charges are paid annually. New releases are made available to the College as and, when they are available, with the final installation schedule to be determined by Information Services in consultation with the Cabinet.

2.4.5.2 Change Control Process

In addition to the annual review undertaken by the Chief Information Officer, Davis & Elkins College constantly assesses its technology resources and will consider changes as necessary. Steps leading up to and involving the change control process include the following:

1. Request for change (i.e., new version of software, bug fix, hardware purchases, etc.) triggers the change control process;
2. Steps required to make the change are identified;
3. Initial risk and impact on Davis & Elkins College is determined and documented;
4. Test plan is created;
5. Date of implementation is estimated based on who is affected and how long it will take to complete the change;
6. Appropriate approval is obtained (see below).

Requests for additional reviews of technology resources should be submitted to the Chief Information Officer.

2.4.5.3 Approval and Schedule

Low and Medium Impact Changes: Low and medium impact changes include installation of new systems or reconfiguration of existing systems where the procedure impacts only a minimal amount of Davis & Elkins College departments/divisions and can be reversed easily and quickly with minimum downtime. Low and medium impact changes must be approved by the Chief Information Officer to ensure that the proposed change to Davis & Elkins College's system, equipment and/or software will function properly with the College's network configuration and that there is no duplication in equipment or services. Once approval is obtained, all technology resource related purchase requests (including hardware and software related purchases) must adhere to current Davis & Elkins College purchasing procedures. Changes can be made as soon as the change control request is approved.

High Impact Changes: High impact changes include installation of new systems or reconfiguration of existing systems that affect the entire College. The changes may also require significant down time. The Chief Information Officer must initially approve the change request to ensure that the proposed change to the system, equipment and/or software will function properly with Davis & Elkins College's network configuration and that there is no duplication in equipment or services. The request then must be presented to the Cabinet Team and then the President for final approval. Once final approval from the President is obtained, all technology resource related purchase requests (including hardware and software related purchases) must adhere to current Davis & Elkins College procurement procedures. Changes can be made on the agreed upon date after approval as described above, proper notification, and testing.

2.4.5.4 Emergency Changes

There are situations where in order to support the continuity of Davis & Elkins College operations an emergency production change will be required. An "Emergency" includes any change, which

if not implemented, would greatly impede College productivity or cause unacceptable additional costs. The President or his or her designee will be identified as expeditiously as possible in the event of any and all emergency changes.

Notification Requirements

Upon approval, notification of changes is required as part of the change control process. The individuals notified will depend on several things including: department/divisions affected by the change, the level of risk involved, and the amount of downtime needed to make the change. Outside of emergency changes, the timing of notifications must be reasonable to allow for a response and any alternate plans that need to be made by those affected by the changes.

2.4.6 Information Resource Maintenance

Information Services conducts regular network/systems maintenance. This schedule allows for maintenance work to be performed and the campus to be appropriately notified. Communication to the campus goes out prior the scheduled maintenance indicating what systems will be affected by the maintenance window. The maintenance window may be adjusted on the basis of institutional needs.

2.4.7 Information Resource Security Plan

The College has appointed the Chief Information Officer as the Information Security Plan Coordinator (“ISO”) to conduct a risk assessment of likely information technology security risks; institute a training program for all employees who have access to Confidential and Private Information on the College’s information technology systems; oversee service providers and contracts; and evaluate and adjust the Information Resource Security Plan periodically. The ISO works closely with the Cabinet Team and Information Services staff, as well as all relevant academic and administrative departments and divisions throughout the College.

Note: The College’s Information Resource Security Plan should be considered a subset of the College’s various policies regarding information security, which include but are not limited to the College’s Educational Records (FERPA), Information Security and Identity Theft Prevention Program, Employee Confidentiality, and HIPAA policies.

2.4.7.1 Definitions

For purposes of this policy, “Confidential and Private Information” includes, but is not limited to:

- Credit card information;
- Tax identification numbers;
- Payroll information;
- Cafeteria plan check requests and associated paperwork;
- Student, parent, and employee tuition and loan accounts information;
- Student educational records as defined by FERPA;
- Photographic images (especially of face or other identifying characteristic), fingerprints, handwriting, or other biometric data (e.g., retina scan, voice signature, facial geometry);
- Medical or financial information for any employee, temporary worker, or student;

- Other personal information to include date of birth, addresses, phone numbers, maiden names, customer numbers, Social Security number;
- College contracts;
- College research data;
- Alumni and donor records;
- Personnel records;
- College financial data;
- Computer passwords;
- College proprietary information/data; and
- Any other information for which access, use, or disclosure is not authorized by: a) federal, state, or local law; or b) College policy or operations.

2.4.7.2 Risk Assessment and Safeguards

The ISO, in collaboration with the Cabinet, works with all relevant areas of the College to identify potential and actual risks to the security of the College's information technology systems. Each department or division head, or a designee, will conduct an annual security review, with guidance from the ISO and the Cabinet. In addition, Information Resource staff will conduct an annual review of procedures, incidents of actual or attempted attacks to unlawfully obtain access to Confidential and Private Information via the College's information resource systems, and responses.

In order to protect the security and integrity of the College's network and its data, Information Services staff maintains a registry of all computers attached to the College network. Information Services staff will ensure that all electronic Confidential and Private Information is encrypted in transit and that the central databases are strongly protected from security risks. In addition, Information Services staff utilizes event logs that are built into the system to monitor any actual or attempted attacks. Information Services also provides network security and user account security that prevents actual or attempted unauthorized access to Confidential and Private Information. Finally, the ISO will periodically review the College's Information Resource Security Plan and present corresponding recommendations, as applicable, to the Cabinet.

2.4.7.3 Securing Information

2.4.7.3.1 General Safeguarding Practices

General safeguarding practices followed by the College include:

1. Maintaining physical security by locking rooms and windows;
2. Maintaining adequate key/access card control and limiting physical access to sensitive areas;
3. Securing the personal work area to discourage casual viewing of Confidential and Private Information by unauthorized individuals;
4. Using and frequently changing passwords to access automated systems that process sensitive information;

5. Protecting the confidentiality of personal passwords by not sharing or posting such personal passwords;
6. Using firewalls and encrypting information when feasible;
7. Protecting the confidentiality of electronic Confidential and Private Information that might be accessed remotely either from home or in travel status. Under no circumstances shall safeguarded information be “viewable” by unauthorized individuals;
8. Encouraging employees to report suspicious activity to supervisors;
9. Ensuring that agreements with third-party contractors contain safeguarding provisions and monitoring those agreements to oversee compliance.

In addition to these general guidelines, the College has also developed detailed procedures addressing the security of its information resource system platforms and desktops/laptops.

2.4.7.3.2 Security of Information Services System Platforms

Information Services system platforms are managed and operated by the Information Services Office.

Physical Security: The following standards of physical security of the College’s Information Services platforms must be met:

1. Premises must be physically strong and free from unacceptable risk from flooding, vibration, dust, etc.
2. Air temperature and humidity must be controlled to within acceptable limits.
3. Platforms must be electrically powered to provide the following:
 - Minimum of 15 minutes operation in the event of a power blackout;
 - Adequate protection from power surges and electrical brown outs;
 - Trigger an orderly system shutdown when deemed necessary.

Physical Access:

1. External doors remain locked in accordance with campus policies and local city fire codes.
2. Security screens are installed on all external windows where applicable.

User Access:

New Users: New account I.D.s will be handled as follows:

Employees: Employee user accounts, including email accounts, are created upon employment in accordance with internal College procedure.

Contractors and Volunteers: Request for email and other user accounts for contractors and volunteers will be addressed on a case-by-case basis by Information Services and the applicable Cabinet member.

Students: A student email account is created for an incoming student when that student submits a deposit.

The new user ID and password will be given electronically to the applicant. The new user's password will expire upon initial login. The applicant will be required to create a new password.

See also the College's Authentication and Authorization Policy.

Account Expiration: The de-activation process for email and other user accounts differs depending on the user's role at the College as set forth below. If an employee leaves the College for cause, email and other user privileges will be immediately terminated without notice. In such cases, Human Resources will notify Information Services.

Full-time Faculty— Faculty who leave before retirement will have their email and other user accounts deactivated on their last payday. Full-time faculty who retire in good standing with Davis & Elkins College will maintain email privileges for a minimum of one year unless other arrangements are made with the Office of Academic Affairs.

Part-time and Special Status Faculty – Part-time and Special Status faculty will maintain email privileges on a case-by-case basis as determined by the Vice President for Academic Affairs. All other accounts will be terminated on the last payday.

Staff, Contractors and Volunteers – Staff members, contractors and volunteers who terminate their relationship with the College will have their email and other account privileges removed effective on their last work day.

Students who leave before graduation – Students who withdraw from the College will have email privileges removed on the official date of withdrawal. Students who take a leave of absence will retain their email privileges until they graduate or withdraw from the College.

Students who are dismissed - If a student is dismissed from the College, email privileges will be terminated immediately upon notification to Information Services by the Student Life Office or Registrar as applicable.

Fire Detection and Control:

There are smoke detectors on the premises where applicable, following local fire code and regulations.

Data Integrity:

1. Backups of data systems will be performed based on the system backup procedures.
2. The backup procedures:
 - a. Enable recovery to the start of business on any weekday of a failure.
 - b. Provide at least one more level of backup to a previous time, to cover the case of the failure of the primary backup media.
 - c. There is offsite storage of security backup media to enable a full data system recovery.

Password Aging:

If the operating system provides the facility, automatic Password Aging will be enforced. The life of a password should be no less than 30 days and no more than 90 days.

2.4.7.3.3 *Security Standards for Desktop Computers, Laptop Computers, and Other Mobile Devices*

Hardware Security:

1. Lock offices. Office keys are registered and monitored to ensure they are returned when the employee or student leaves the College. Office and access keys are facilitated by the Physical Plant.
2. Secure Desktop/Laptops and other mobile devices in public areas. Do not leave mobile devices unattended in public locations (e.g. airport lounges, meeting rooms, restaurants, etc.).
3. Locate computers and mobile devices away from environmental hazards.

Access Security:

1. Utilize password facilities to ensure that only authorized users can access the system. Auto lockout should be enabled on all mobile devices. The password should block all access to the device until a valid password is entered. The password used must be as strong a password as the device will support.
2. Users will be assigned accounts on the appropriate domains.
3. Users will be assigned to personal single event login rights. In order to maintain trusted login no users will be given more than one login except in the event of documented business needs. If additional logins are granted to a user, the Chief Information Officer will inventory and monitor logs.
4. Do not circumvent security features or otherwise “jailbreak” a College-owned mobile device.
5. Personally-owned laptops or mobile devices must be configured with proper accounts, passwords, screensaver locks, and re-authentication when waking from hibernation to discourage unauthorized use. See the College Use of Mobile Devices Policy.

Data and Software Security:

1. Request immediate assistance from Information Services staff if you believe you have software problems or suspect data loss or corruption.

Confidential Information:

1. Encrypt Confidential and Private Information where appropriate.
2. Monitor printers used to produce Confidential and Private Information.
3. Enable a “remote wipe” feature if available. This also includes features that delete data stored on a desktop, laptop, or mobile device if a password is not entered correctly after a certain number of tries.

Software: Software is protected by copyright law. Unauthorized copying is a violation of the College Copyright Policy. Anyone who uses software should understand and comply with the license requirements of the software.

Viruses: Computer viruses are self-propagating programs that infect other programs. Viruses and worms may destroy programs, corrupt data or deplete the computer's memory and processing power. Viruses, worms, and Trojan horses are of particular concern in networked and shared resource environments because the possible damage they can cause is greatly increased. Some of these cause damage by exploiting holes in system software. Fixes to infected software must be made as soon as a problem is found.

To decrease the risk of viruses and limit their spread:

1. Periodically run anti-virus software scans.
2. Do not block or cancel automatic updates to the virus scan files.

In addition to the above, do not circumvent security features or otherwise “jailbreak” a College-owned mobile device.

Networked Computers: Networked computers may require more stringent security than stand-alone computers because they are connected to the College’s primary computer network(s). While Information Services is directly accountable for setting up and maintaining appropriate security procedures on the network, each individual is responsible for operating their own computer with ethical regard for others in the shared environment.

The following considerations and procedures must be emphasized in a network environment:

1. Check all files downloaded from the Internet.
2. With the support of Information Services, software should be thoroughly tested before it is installed to ensure it does not contain a virus/worm that could have serious consequences for other personal computers and servers on the College network.
3. Choose passwords with great care to prevent unauthorized use of files on networks or other personal computers and change them at least every 30 days and no more than every 90 days.
4. Use (where appropriate) encrypting/decrypting and authentication services to send confidential information over a College network.

Wireless Connections

Remote access to the College’s non-public-facing systems will be protected via secure or encrypted protocols. Only those employees and contractors whose job duties require this level of access will be granted remote access.

2.4.7.4 Evaluation and Revision of Information Security Plan

The Information Security Plan is subject to periodic review and adjustment by the ISO after consultation with and the approval of the Cabinet Team. The plan itself will be re-evaluated periodically in order to ensure ongoing compliance with best practices and applicable, existing laws and regulations.

2.4.8 Information Services Security Incident Response Plan

The Davis & Elkins College Information Technology Security Incident Response Plan (the “plan”) defines standard methods for identifying, documenting and responding to data security incidents.

Identification of Incident: Any user, individual or organization not affiliated with the College may refer a data security incident to the College's designated Information Security Plan Coordinator ("ISO"). The ISO and designated personnel can identify a data security incident through proactive monitoring of the College's network and information system activities.

Establishment of Incident Response Team: The ISO shall assemble, manage, maintain, train, and lead the incident response team.

Containing Damage and Preserving Evidence: Following a data security breach the incident response team will:

1. Review the circumstances and the actions taken;
2. Assign roles;
3. Create a plan of action to contain damage and gather evidence; and
4. Ensure that wherever possible, a forensic copy of the effected computer hard drive or server database is created.

The incident response team will work with the appropriate staff to take whatever actions are necessary to ensure that no additional institutional data is lost or taken and/or that no additional information technology is further exploited.

Incident Response Report: The incident response team will ensure that data security incidents are appropriately logged and archived. To that end, following any data security incident, the incident response team will produce an incident response report (henceforth referred to simply as a "report") as outlined herein. The incident response team will be responsible for communicating the incident to appropriate College personnel and maintaining contact, for the purpose of update and instruction, for the duration of the incident.

Each report must include at a minimum the following:

1. A description of the data security incident;
2. Type of institutional data or other information exposed and/or potentially at risk of exposure from the data security incident;
3. Type of College information technology damaged or potentially at risk of damage or loss due to the data security incident;
4. Steps taken for containment of the data security incident;
5. Steps taken for remediation of the data security incident;
6. Logging of all internal and external communications issued, including all emails and phone calls regarding the data security incident;
7. Interactions with law enforcement and disciplinary authorities regarding the data security incident; and
8. The College's legal obligations and any actions taken to satisfy those legal obligations regarding the data security incident.

Additional Obligations of the Incident Response Team: Simultaneous with the creation of the report and containment of the data security incident, the incident response team must:

1. Determine how the data security incident occurred and take immediate remedial action to prevent it from occurring again;
2. Collaborate with legal counsel to determine and then perform the College's obligations to affected persons and parties;
3. Collaborate with the President and his or her designee(s) and the College spokesperson to manage public relations communications effectively regarding the data security incident; and
4. Rebuild all compromised College information technology and closely monitor the rebuilt systems.

Incident Prevention: Wherever possible and in conjunction with the application of other College policies relating to information security, the College will prevent data security incidents by monitoring and scanning its own network for anomalies, and developing clear protection procedures for the configuration of its information technology and other related resources.

Plan Modifications and Adjustments: This plan and its procedures will be reviewed periodically to adjust processes, identify new risks and remediations.

Use of Personal Devices: Any personally-owned mobile or electronic devices (i.e., laptop/notebook/tablet computers, mobile/cellular phones, smartphones, Personal Digital Assistant (PDA); home or personal computers used to access institutional resources, any mobile device capable of storing College data and connecting to an unmanaged network) which have been used to store institutional data and are determined to have contributed to a data security incident, may be subject to seizure and retention by College authorities until the data security incident has been remediated, unless the custody of these devices is required as evidence for a court case. By using these devices within the College network for business or academic purposes, individuals are subject to the College's Conditions of Use and Acceptable Use policies, as well as the Davis & Elkins College Use of Mobile Electronic Devices policies.

2.4.9 Network Access Authorization and Authentication

Identification, authentication, and authorization are controls that facilitate access to and protect the College's information technology resources (i.e., hardware, software, wireless access, network bandwidth, mobile devices, electronic Information Services, printers) and data. Access to non-public College Information Services at Davis & Elkins College is achieved by unique network identifiers (user account ID) and will require authentication.

Davis & Elkins College will assign a unique network identifier (user account ID) and user credentials (i.e., usernames, passwords, tokens, smartcards, biometric data, or digital certificates) for identification and authentication purposes to each individual that has a business or educational need to access the College's technology resources.

Authorization for College technology resources is dependent on the individual's relationship, or relationships, to Davis & Elkins College and the requirements associated with that relationship. In all cases, only the minimum privileges necessary to complete required tasks are assigned to that individual. Privileges assigned to each individual will be reviewed on a periodic basis and

modified or revoked upon a change in status with the College.

Encrypted Authentication. All Davis & Elkins College information technology resources must use only encrypted authentication and authorization mechanisms unless otherwise authorized by Information Services. All requests to encrypt hard drives, files, databases or any other information technology resource must be submitted and approved by Information Services. In addition, all College and departmental websites collecting personal information require the use of SSL certificates. SSL certificates are assigned and implemented by Information Services.

Compliance: Violations of this policy may result in the revocation or limitation of information technology resource privileges, as well as other disciplinary actions, or may be referred to appropriate external authorities.

2.4.10 Peer-to-Peer File Sharing

In accordance with the Higher Education Opportunity Act (HEOA), Davis & Elkins College must make an annual disclosure informing students that illegal distribution of copyrighted materials may lead to civil and/or criminal penalties. Also, the HEOA requires colleges and universities to take steps to detect and punish users who illegally distribute copyrighted materials. In an effort to comply with these requirements, the College prohibits the installation and use of peer-to-peer file-sharing programs on computers and mobile devices using the College's network(s). Moreover, the installation or operation of any program or service that assists others in the use of peer-to-peer file sharing programs is likewise prohibited. Users will be considered in violation of this policy if their Internet traffic is identifiable as using peer-to-peer programs or protocols. The College reserves the right to suspend or terminate network access to any campus user if the violation is deemed severe, as well as institute appropriate disciplinary action. Likewise, network access will be suspended if any use is impacting the operations of the network. Repeat or severe violations are also subject to appropriate corrective action and may be reported to appropriate authorities for criminal or civil prosecution.

2.4.11 Use of Mobile Electronic Devices

The purpose of this policy is to set out the permitted manner of use of mobile devices on the Davis & Elkins College network(s) by its employees, students, guests and contractors, and the use of College-issued mobile devices in any environment in order to maintain the security and integrity of the College's network and data infrastructure, and maintain the confidentiality of College data which may be accessed or placed on mobile devices. This policy applies, but is not limited to, all devices and accompanying media that fit the following device classifications:

- Laptop/notebook/tablet computers
- Smartphones
- Personal Digital Assistant (PDA)
- Any mobile device capable of storing College data and connecting to an unmanaged network

College Policies Pertaining to the Use of Mobile Devices on the College's Network

The following policies govern the use of any mobile devices on the College's network(s), regardless of whether or not the device was purchased with College funds or is a personally owned device:

1. Each user of a mobile device must adhere to the College's Conditions of Use and Acceptable Use of Information Services policies;
2. Storing information on a mobile device in ways that may violate laws and regulations regarding Confidential and Private Information is prohibited and must be accessed via a secure and encrypted means if the mobile device is not directly connected to a College network. For purposes of this Policy, Confidential and Private Information includes:
 - Credit card information;
 - Tax identification numbers;
 - Payroll information;
 - Cafeteria plan check requests and associated paperwork;
 - Student, parent, and employee tuition and loan accounts information;
 - Student educational records as defined by FERPA;
 - Photographic images (especially of face or other identifying characteristic), fingerprints, handwriting, or other biometric data (e.g., retina scan, voice signature, facial geometry);
 - Medical or financial information for any employee, temporary worker, or student;
 - Other personal information to include date of birth, addresses, phone numbers, maiden name, customer numbers, Social Security number;
 - College contracts;
 - College research data;
 - Alumni and donor records;
 - Personnel records;
 - College financial data;
 - Computer passwords;
 - College proprietary information/data; and
 - Any other information for which access, use, or disclosure is not authorized by: a) federal, state, or local law; or b) College policy or operations.
3. Unauthorized access to Confidential and Private Information utilizing a mobile device is prohibited;
4. Users are prohibited from using mobile devices utilizing the College's network(s) to violate copyrights including, but not limited to, copyrighted music, movies, software and publications;
5. Photographing or videoing individuals with any mobile device that has photographic or video capturing capabilities in areas such as bathrooms, locker rooms, or other areas where there is a reasonable expectation of privacy, and/or taking photographs or video of an individual against his or her will is prohibited. Electronic transmission of photographs or video of any person without the subject's express permission is also prohibited.

5. Mobile devices may not be used to record conversations unless all parties to the conversation give their consent.

Security Requirements

The following security requirements govern the use of any mobile device that is used on the College's network(s), regardless of whether or not the device was purchased with College funds:

1. Remote access to the College's non-public-facing systems will be protected via secure or encrypted protocols. Only those employees and contractors whose job duties require this level of access will be granted remote access.
2. All mobile devices accessing the College's network(s) must be updated to the latest device operating system with the latest security patches;
3. All applications must be updated with the latest security patches;
4. All devices must be configured with a PIN, pattern, or password-enabled lock screen configured to activate at no more than five minutes of inactivity;
5. All devices with built-in encryption capability must have the device's onboard encryption enabled;
6. All devices must have "remote wipe" enabled through a third party application or the manufacturer's website;
7. All devices that have been used to store, access and/or process Confidential and Private Information will be wiped to remove such data before they are transferred to someone else through sale or gifting. Moreover, a device may be remotely wiped if 1) the device is lost, or 2) Information Services detects a data or policy breach, a virus or similar threat to the security of Confidential and Private Information and/or the College's technology infrastructure;
8. In the event that a device which has been used to store, access and/or process sensitive information becomes lost, stolen or compromised, the owner must contact Information Services;
9. Rooted (Android) or jailbroken (iOS) devices are strictly forbidden from accessing the College's network(s).

Use of Personal Mobile Devices

College employees, including student employees, may use their personal mobile devices to access the College's network and network services as needed to perform the College's business and for other College-approved tasks. In addition to complying with the general use and security provisions set forth in this policy, each user accessing the College's network is responsible for ensuring that the mobile device is used only in compliance with the College's Acceptable Use policies and the College Information Resource Security Plan.

In accessing the College's network(s) with a personal mobile device, the user understands and agrees that Davis & Elkins College will not reimburse or otherwise compensate the user for any costs associated with accessing the Davis & Elkins College network with a personal mobile device. Such costs may include, but are not limited to, monthly call and data plans, long distance calling charges, additional data or roaming fees, charges for excess minutes or usage, equipment,

surcharges and any applicable fees or taxes. The user also understands that he/she may be held liable for any criminal and/or civil penalties that may result from loss, theft or misuse of the confidential information accessed and/or stored on the personal device. Users also acknowledge that Davis & Elkins College does not provide support for personally-owned devices. Configuration of any personally owned device is the user's responsibility.

Upon termination of affiliation with Davis & Elkins College, users agree:

- To immediately delete all institutional data stored on the device; and
- To remove the Davis & Elkins College email account and Wi-Fi settings from the device.

Failure to comply with the above may result in the device being auto-wiped by Information Services.

Use of College-Issued Mobile Devices

College-issued mobile devices may use the College's network and network services as needed to perform the College's business and for other College-approved tasks. Users of College-issued mobile devices may use the device for normal personal use like email, social networking and web browsing, subject to limitations contained in this and other College policies. Excessive personal use or careless actions that lead to the compromise of the device may result in revocation of use privileges and/or disciplinary actions.

In addition to complying with the policies set forth in this policy, each user is responsible for ensuring that the College-issued mobile device is used only in compliance with the College's Acceptable Use policies and the College Information Resource Security Plan. The user is responsible for ensuring that personal use does not expose a College-issued mobile device to malware, malicious websites, or other security risks.

Each user is responsible for the physical security of the College-issued device assigned to them and must immediately report any theft, loss, damage, or vandalism of the unit to Information Services. See the Security section above. Immediate notice concerning a lost or stolen mobile device is critical so that unauthorized and/or inappropriate access can be minimized. The assigned user is responsible for any unauthorized and/or inappropriate access to College information that occurs from the misuse, loss or theft of mobile devices.

Employees with College-issued devices should consult with Information Services prior to downloading, installing and using any application not installed by Information Services.

The College may, at its discretion, change the method by which a device connects to the network and change the configuration of the device without the user's consent or knowledge in order to prevent unauthorized use or access to College data. These configuration changes include, but are not limited to, upgrading to the device's operating system and software, locking the device to prevent use, changing the device's access code, and deleting of all data/files on the device.

The use of any College-issued mobile device other than a hands-free cell phone is prohibited while the user is operating a motor vehicle, whether or not on College business. Drivers must use their judgment regarding the urgency of the situation and the necessity to use a cell phone while driving,

but should generally make every effort to move to a safe place off the road before using a cell phone.

The College uses technologies such as encryption, identity management, anti-malware, anti-virus, and remote administration to protect all of the mobile device's data whether that data is at rest, in use, in transit or being destroyed.

Student Use of Mobile Devices in the Classroom: Cellular phones, PDAs, computers, tablets and other electronic devices must not be used in a manner that causes disruption in the classroom or library. Moreover, Davis & Elkins College does not allow the use of such devices to photograph or video any classes without instructor permission. Abuse of devices with photographic or video capabilities, including cameras, recorders, cell phones and tablets, for purposes of violating the College's Academic Integrity Policies represents a violation of those policies.

Device Support

1. Connectivity issues are supported by Information Services.
2. Owners of personal devices not issued by the College should contact the device manufacturer or their carrier for operating system or hardware-related issues.
3. College-issued devices will be configured by Information Services.

Risks/Liabilities/Disclaimers

1. While Information Services will take every precaution to prevent the user's personal data from being lost in the event it must remote wipe a device, it is the user's responsibility to take additional precautions, such as backing up notes, documents, application data, etc.
2. The College reserves the right to disconnect devices or disable services without notification.
3. The user is personally liable for all costs (beyond a base, College-approved stipend) associated with a non-College issued device.
4. The user assumes full liability for risks including, but not limited to, the partial or complete loss of College and personal data due to an operating system crash, errors, bugs, viruses, malware, and/or other software or hardware failures, or programming errors that render the device unusable.
5. The College reserves the right to take appropriate disciplinary action for noncompliance with this policy.

2.4.12 Wireless Access

The purpose of this policy is to provide guidelines for wireless connections to the Davis & Elkins College network. It applies to approved Davis & Elkins College employees, students, contractors, consultants, guests, and other workers.

The goal of this policy is to protect Davis & Elkins College's technology-based resources from unauthorized use and/or malicious attack that could result in loss of information, damage to critical applications, or damage to the College's public image. All users employing wireless methods of accessing College technology resources must adhere to the College's defined processes for doing

so by using Davis & Elkins College approved access points. Unauthorized access to the wireless network is not allowed.

Wireless networks are not a replacement for a wired network as the College's wireless network is an extension to the existing wired network. Wireless access should not be used for work sessions that require the transfer of large amounts of data (e.g., backups or file downloads) or for access to sensitive organizational data (except where access is secure).

In order to provide wireless access to authorized users, Information Services installs "access points" in and around the campus. These access points are generally small, antenna-equipped boxes that connect directly to the local area network (LAN), converting the LAN's digital signals into radio signals. The radio signals are sent to the network interface card (NIC) of the mobile device (e.g. PDA, laptop, etc.), which then converts the radio signal back to a digital format the mobile device can use.

"Rogue" access points are antennas that are installed without the knowledge or permission of Davis & Elkins College and used by individuals to gain unauthorized access to the College's network.

Policy and Appropriate Use of Wireless Network

1. All wireless access points within the College's firewall must be approved and centrally managed by Information Services. The addition of new wireless access points within campus facilities will be managed at the sole discretion of Information Services. Non-sanctioned installations of wireless equipment (i.e., rogue access points) or use of unauthorized equipment on campus premises are strictly forbidden.
2. Information Services will periodically conduct sweeps of the wireless network to ensure there are no rogue access points present.
3. Information Services reserves the right to turn off without notice any access point connected to the network that it feels puts the College's systems, data, and users at risk.
4. All wireless clients and devices shall be required to be fully patched and have installed the College's supplied anti-virus software. The user shall update these applications as required, and will not reconfigure them in any way.
5. Access point broadcast frequencies and channels shall be set and maintained by Information Services. Any device or equipment found to be interfering with access point signals may be subject to relocation or removal, including cordless phones, microwave ovens, cameras, light ballasts, etc.
6. All computer equipment and devices used to connect to the College's network must display reasonable physical security measures. Users are expected to secure their College-connected devices when they are physically at their machines as well as when they step away.
7. Wireless access users agree to immediately report to Information Services any incident or suspected incidents of unauthorized access point installation.
8. Use of the wireless network is subject to the same guidelines as the College's Acceptable Use Policy.

Failure to comply with the Wireless Access Policy may result in the suspension of wireless access privileges and possible disciplinary action.

2.5 Facilities Management

2.5.1 Facilities Management Department

Maintenance, Grounds and Housekeeping are responsible for the maintenance of campus buildings, facilities and grounds. The overall responsibilities of these departments include:

1. **Custodial and Related Services:** Routine cleaning (vacuuming, dusting, emptying trash containers and outside ashtrays, dusting, mopping, restroom cleaning, stripping, waxing and spray buffing); supplying items such as toilet tissue, paper towels, hand soap, trash can liners, door matting and runners, light bulbs and tubes; cleaning of elevator interiors and minor cleaning of vents in the ventilating system; interior window washing; floor cleaning; removal of non-hazardous waste and recyclable materials; etc.
2. **Building Maintenance and Repair:** Minor repairs and maintenance to buildings, both interior and exterior.
3. **Minor Renovations and Alterations:** Minor renovations and alterations (i.e., painting; changes in facilities configuration; fabrication, modification, removal, or installation of hardware and equipment; signs; erection, relocation, or removal of partitions, doors, and windows; etc.) to any facility on campus.
4. **Maintenance of Mechanical and Electrical Systems:** Maintenance and repair of ventilation, air conditioning and refrigeration systems; maintenance and repair of plumbing systems; installation of plumbing involved with minor repairs, alterations, and renovations; electrical repair and maintenance within the buildings; maintenance of secondary electrical systems which include switchgear, interior circuitry, panels, etc.; installation of interior electrical wiring; maintenance of emergency generators; oversees the operation of all campus elevators; maintenance of exterior lighting connected to and adjacent to Davis & Elkins College buildings; maintenance and repair of bells and clocks; maintenance and repair of fire alarm systems; installation, testing and maintenance of equipment and new installations; etc.
5. **Campus Lighting:** Includes repairs to existing lighting, as well as the routine and preventative maintenance and lighting of Davis & Elkins College buildings, as well as the installation or the addition of special lighting.
6. **Landscape Maintenance:** Routine campus clean-up, including: trash and garbage removal from dumpsters, outside trash receptacles, and grounds; maintenance and repair to steps, walks, etc.; cleaning, grading and repairs to roads, sidewalks, parking lots, ditches, and campus street sweeping; maintenance of athletic fields; planting of shrubs, trees and plants around buildings; pest management (i.e. spraying, fertilization of shrubs, trees, ground covers and lawns); mowing of campus lawns, removal of leaves, limbs and other debris from campus; sign installation and hanging of banners.

Note: The installation and maintenance of data and television cables within the building walls and telephone repairs and line checks for noise or other problems is the responsibility of Information Services.

2.5.1.1 Reporting Maintenance and Repair Service

Situations observed which appear to require immediate maintenance or repair attention must be reported to either the Housekeeping Supervisor or Director of the Physical Plant. Issues may be reported by calling the department, emailing the appropriate staff member, or submitting a work order form in person depending upon the nature of the request and general instructions provided by each department.

Emergencies must be reported to the Office of Public Safety and will be addressed pursuant to the Davis & Elkins College [Emergency Response and Safety Plan](#).

The maintenance of data and television cables within the building walls and telephone repairs and line checks for noise or other problems must be reported to Information Services.

2.5.2 Cooling and Heating Systems

Most academic and administrative building thermostats that control cooling and heating systems are secured in a manner so that only Physical Plant personnel can set or adjust them. In buildings that are thermostatically controlled, Davis & Elkins College employees must not attempt to adjust thermostats without the express permission of Physical Plant personnel. Requests for an adjustment by Physical Plant staff should be made if there is evidence that the thermostats have malfunctioned. If this is the case, a repair request must be submitted, so that Physical Plant personnel may correct the problem.

2.5.3 Environmental Conservation

Davis & Elkins College is committed to conservation and protecting the environment. The Davis & Elkins College community is encouraged to:

1. Recycle: Paper, plastic, aluminum, and cardboard;
2. Conserve Energy:
 - a. Carefully use electricity; turn off lights and appliances when not in use;
 - b. Responsibly use heat in the winter;
 - c. Save water;
 - d. Minimize hot water use;
 - e. Minimize waste of water in daily living;
 - f. Refrain from dumping toxic products down the drain;
 - g. Maintain good indoor air quality.
3. Abide by the Davis & Elkins College Smoking and Tobacco Use Policy;
4. Allow for proper ventilation;
5. Avoid the use of toxic products (i.e., use laundry products that are non-toxic).

2.5.4 Facilities Use and Rentals

2.5.4.1 General Reservations and Conditions of Use

Davis & Elkins College facilities are held and made available for internal College use as the first priority. Academic space is assigned by the Office of the Registrar, athletic space is assigned by the Athletic Department, and Hospitality Services is responsible for assigning all other space on campus. Requests to reserve space from individuals not affiliated with the College will be considered and, when appropriate, efforts will be made to accommodate requests as received. Hospitality Services is the primary point of contact for space requests and reservations for outside groups and organizations. The College reserves the right to accommodate or deny availability at its sole discretion.

Individuals who are not affiliated with the College and outside groups and organizations must complete a Facility Use Agreement and abide by all terms included in the agreement. These terms may include, but are not limited to, requirement for background checks, sexual abuse awareness training, waivers of liability reservation deposits, and certificates of insurance. Terms of the agreement also include restrictions on use of food and beverage products on campus as well as eligibility criteria for deposit refunds. In addition to or in conformity with the Facility Use Agreement, the following conditions also apply:

General Conditions of Use: College and campus policies, rules, and regulations must be respected and followed by all users of facilities. These include, but are not limited to, the following:

1. Users may not engage in activity that interferes with the College mission, programs, and freedom of movement by the campus community;
2. The College logo, insignia, trade, and service marks may not be used in conjunction with events that are not sponsored or co-sponsored by the College;
3. The College reserves the right to dismiss any event if deemed necessary;
4. The College reserves the right to impose additional or special restrictions on facility usage as needed;
5. Organizations are responsible for leaving all facilities used in neat and orderly condition. Failure to do so may result in a service charge to the organization for cleaning or re-setting the facility;
6. Only those facilities assigned on the dates and times specified may be used;
7. The number of participants must not exceed the authorized room capacity;
8. The sponsoring organization must be responsible for the conduct of its members;
9. Requests to move special properties, decoration, or scenery, etc. into the College or onto the grounds prior to or on the date of the event must be approved in writing by the department authorizing use of the facility.
10. Signage may be provided by the sponsoring organization to direct participants to the event, but must be removed immediately after the event;

11. Furniture may not be relocated during the event. Furniture setups will be handled by the department authorizing use of the facility with the assistance of Maintenance and Grounds, as needed, if advance notification is given;
12. Parking is restricted to designated areas only.

Alcohol Service: Prior to any event where alcohol will be served, the sponsoring individual or entity must secure and present any necessary permits and/or insurance to the approving authority. The College will cancel the event if such licensure and/or insurance is not obtained. Moreover, the sponsoring entity must agree to comply with the College's Serving Alcohol on Campus Policy.

Promotional Disclaimer: External users may not state or imply Davis & Elkins College sponsorship or endorsement of their activities without the College's consent. Promotional material and advertising for non-College sponsored activities must include a disclaimer that the event is not a College program.

Use Fees: The use of Davis & Elkins College facilities by non-College related groups may be subject to a fee to cover utilities, maintenance, security (if necessary), parking, and other costs. If the use requires special services or equipment from the College, additional charges may be made for these services. Fees are determined and approved by the Vice President for Business and Finance.

2.5.4.2 Use of Davis & Elkins College Facilities by Candidates for Political Office

In service to its local community, its students and its employees, Davis & Elkins College may offer declared candidates for local, regional, state and national office the opportunity to utilize its facilities during a campaign to engage and educate supporters, opponents and undecided voters, including the campus community. However, such events must conform to the requirements stated below:

1. The appearance of a candidate for public office on the Davis & Elkins College campus must be for an educational or informational forum or talk to the Davis & Elkins College community (as opposed to campaign rallies or events) and must be sponsored by a registered student, faculty, or staff organization. Appearances must be coordinated with the President of the College, who will ensure that opportunities to appear on campus are extended to all legally qualified viable candidates running for the particular public office and that none of the candidates are favored in relation to the appearance activity. The moderator also will make it clear that the institution does not support or oppose the candidate(s) appearing. Moreover, campaign fundraising at the event will not be permitted.
2. Inviting candidates to appear in a non-candidate capacity is permitted at Davis & Elkins College, provided that the individual is chosen to speak solely for reasons other than the candidacy, the individual speaks only in his or her non-candidate capacity, and no reference to the election is made. Such appearances must be sponsored by a registered student, faculty, or staff organization and coordinated with the President's Office, which will ensure that a nonpartisan atmosphere is maintained during the event and that campaigning will be prohibited. The moderator of the event must also make it clear the capacity in which the

candidate is appearing and shall not mention the candidacy or the upcoming election in any communications announcing the candidate's attendance.

3. All events held on the Davis & Elkins College campus featuring candidates for public office will be open to the general College community. An "open" event is defined as one for which no fewer than one-half the available seats or spaces are available to the general College community based on a non-biased distribution of tickets (such as first-come, first-served).
4. Davis & Elkins College will consider all requests for facility use by campaigns to be rental requests. Though Davis & Elkins College may waive all regular rental fees for approved campaign appearances, a candidate/campaign will be responsible for any costs related to their proposed events (including staging, security, catering, etc.).
5. Davis & Elkins College buildings and grounds are not permitted to be rented or used for political fundraising. For example, a meeting on campus with an organizer for a specific candidate that is focused on recruiting campaign workers from the student population would be a violation of these guidelines. On the other hand, a Davis & Elkins College graduate now working for a particular candidate speaking on campus to a group of students about what it has been like to be in the political arena, and what the candidate's particular experience has been, would be allowable.

2.5.5 Occupant Responsibilities

Divisions/Departments occupying Davis & Elkins College buildings are responsible for turning off lights, locking doors, and securing the buildings in general at the end of the working day. When leaving classrooms, faculty members are responsible for turning off lights.

2.5.6 Postings on Campus

Davis & Elkins College recognizes the rights of all individuals including freedom of expression. This policy establishes procedures for the posting of advertisements and all other types of printed materials on campus.

1. All printed materials must be reviewed by the Office of Student Life for approval prior to being posted.
2. All printed materials must be posted on community bulletin boards.
3. No printed material may be posted on departmental bulletin boards without departmental permission.
4. The organization sponsoring the event will clear all community bulletin boards following the date of the program or activity.
5. No posters, flyers or printed materials of any type may be posted on walls (interior or exterior), windows, doors or stairwells of any campus buildings. Community bulletin boards are the only locations for the posting of materials in campus buildings. All improperly posted materials will be immediately removed and destroyed.

6. No posting of any type of printed materials is permitted on trees, utility poles, signs, building exteriors, or any structure on the campus. Any materials posted in such areas will be immediately removed and destroyed. Those groups may also be penalized.
7. All postings are subject to a standard of “not socially offensive” (such as no personal attacks or obscenity) and consistency with the College mission.
8. Postings may not depict characterization of alcohol or other drugs or otherwise violate Davis & Elkins College policy or local laws.
9. The name of the sponsoring organization(s) must appear on the posted material.
10. All pertinent information regarding the activity (who, what, when, where) must appear on the posted material.
11. Individuals who post materials are responsible for removing these materials by the expiration date stamped on the flyer. Davis & Elkins College will remove electronic postings in a timely manner.
12. Courtesy dictates that organizations may not cover or remove any other approved poster(s) if the expiration date has not passed.

2.5.7 Third Party Advertising on Campus

Outside establishments wishing to solicit products or services or advertise on campus property (other than the athletic facilities) must have all flyers, announcements and advertisements approved by the Office of Student Life.

Outside establishments that are approved to advertise on campus will be charged a fee for each piece of advertising. This fee must be paid at the time of approval by the appropriate office, and the advertisement will then be sent to the Office of Student Life for posting. The fee amount is subject to change without notice.

All advertising must conform to the practices currently in place with regard to alcohol and propriety: no alcoholic beverages may be mentioned; no drink specials or drinking games such as “sink or swim” may be included; and all advertising must have appropriate images and language.

All outside announcements, flyers or advertisements allowed on campus must follow and adhere to the College Posting on Campus Policy.

Any outside establishment failing to follow the procedures outlined in this policy statement will be given one letter of warning. If subsequent violations occur, the establishment will be invoiced for the unauthorized advertising and all other advertising for which the establishment may have contracted, e.g. *Forward* magazine and The Senator newspaper, will be suspended until the charges associated with the unauthorized advertising have been paid. The establishment listed on the advertising is responsible for any advertisement bearing its name.

Note: Advertising in the College’s athletic facilities must be approved by the Director of Athletics in accordance with established Athletic Department advertising procedures.

2.6 Marketing and Public Relations

2.6.1 College Advertising

Davis & Elkins College's Advertising Policy ensures a consistent public image for the College that reflects its mission and promotes its key marketing messages and maximizes the impact of the College's advertising resources.

Davis & Elkins College places all advertising through the Office of Communications & Marketing. All advertising desired by, departments, offices and sanctioned organizations of the College must be coordinated through this office. This includes all forms of paid and free advertising, including print (newspaper, magazine, etc.), broadcast (radio and television), online, billboards and signage. Moreover, no advertising commitment may be executed on the College's behalf without consulting one of these individuals or entities.

For campus event and academic program advertising that has assigned funding, the Vice President for Institutional Advancement must be contacted. To begin the ad planning process, members of the College community will need to provide: a clear statement of the advertising objectives, information on the size of the budget and applicable account number, the specific details of the event, and any graphics or photography needed for the advertisement. Based on this information, an advertising schedule can be developed, an appropriate size can be selected, and creative can begin. It is important to allow adequate time for advertising planning, creation and placement. Please contact the Vice President for Institutional Advancement as soon as possible to discuss any advertising.

Employment advertising placed by the Office of Human Resources and Office of Academic Affairs is exempt from this policy. However, advertisements must comply with the Davis & Elkins College Communications Standard Manual. Posters, signs, notices, flyers and banners intended exclusively for on campus audiences also are excluded from this policy.

2.6.2 College Publications

All publications prepared or supervised by the College faculty or staff members, financed through the expenditure of College funds (to include agency funds), and bearing the College seal and/or name are considered to be College publications. Accordingly, they must be prepared under the direction of a designated member of the College faculty or staff, and all such publications shall be the direct responsibility of a designated office, department or division as follows:

Student Recruitment Materials

Recruitment of students is the responsibility of the Office of Enrollment Management. Based on data provided by the Office of Institutional Research, the Office of Enrollment Management annually reviews published student recruitment materials to ensure that Davis & Elkins College publications and electronic postings accurately reflect the College's programs and admissions standards and that all student related data made public by the College is otherwise accurate and complete, including student achievement of learning and student persistence, retention, and completion data.

Specifically, the Office of Enrollment Management reviews all printed and electronically published student recruitment content with the Office of Institutional Research, the appropriate

academic department and then the Vice President for Academic Affairs for accuracy when appropriate. This review process ensures that printed recruitment materials accurately represent Davis & Elkins College and its policies, practices and programs. All official Davis & Elkins College printed and electronically posted student recruitment materials prepared for external distribution must meet certain standards regarding editorial and graphic style, and consistency with the College's image as defined and directed by the Davis & Elkins College Communications Standards Manual. This final review is conducted by the Vice President for Enrollment Management.

In addition to printed recruitment materials, the Office of Academic Affairs is responsible for preparing the College's Catalog, which is revised each year to accurately represent Davis & Elkins College admission practices, policies and program offerings. Current and prospective students, as well as the general public, can access the catalog on the College's website to obtain information regarding: (a) educational programs and degrees, (b) enrollment and financial aid and (c) student services. A printed copy of the catalog is also available upon request.

The Davis & Elkins College website (www.dewv.edu) is also utilized in the recruitment of prospective students and it represents the most current and comprehensive source of information about the College, including but not limited to student achievement of learning and student persistence, retention, and completion data. Admission content on the website is subject to review and approval by the Office of Enrollment Management to ensure the accurate representation of institutional policies and procedures. Once approved for accuracy, the material is posted to the website pursuant to the Davis & Elkins College website policy.

Social media is also used by the College to recruit prospective students. Similar to the processes note above, all social media postings related to student recruitment are approved by the admissions office to ensure accuracy. Once approved, the Office of Enrollment Management confers with the Online Communications Coordinator for final approval prior to posting.

Finally, the Office of Enrollment Management makes periodic visits to high schools, junior colleges, and other sites to present information about Davis & Elkins College and its academic programs. These staff members participate in training programs that familiarize them with the College's policies, programs, and facilities, and they accurately and ethically portray these aspects of Davis & Elkins College in their presentations.

Other College Publications

All other non-student recruitment related publications prepared or supervised by the College faculty or staff members, financed through the expenditure of College funds (to include agency funds), and bearing the College logo and/or name must be prepared and approved under the direction of the Office of Communications & Marketing.

College publications are prepared and distributed for the purpose of accomplishing specific administrative and/or educational goals. College publications will be governed by the College's Communication Standards Manual and otherwise be consistent with the Davis & Elkins College mission and objectives. Final authority as to the nature of the material to be published and the distribution of the publications is reserved to the appropriate area Vice President as needed.

The assignment of direct responsibility to the Office of Communications & Marketing does not preclude the selection of a faculty or staff adviser assigned to another office or department. In such cases, the original office does not relinquish the basic responsibility for the preparation and distribution of the publication.

Budget allocations are provided in the approved budgets for the office, department or division directly responsible for the publication.

Any College publication that is intended for external distribution must be approved by the Vice President for Institutional Advancement prior to contracting for the printing process. This directive is designed to ensure that all publications intended for external audiences are consistent with College policies and publication standards. Any publication printed without this approval will not be funded with College resources.

If such publications are to be supported or sponsored by advertisements from local merchants, the solicitation for such support must be approved in advance by the Office of Institutional Advancement. Defraying the cost of publication by advertisements does not negate the requirement for approval by the Vice President for Institutional Advancement.

2.6.3 Campus Event Flyers

Davis & Elkins College campus community members are strongly encouraged to produce and post flyers or posters to promote a College-approved event.

Please contact the Office of Communications & Marketing on how to proceed with the production of promotional materials.

Flyers must be approved by the Office of Student Life before posting on campus unless produced by the Office of Communications & Marketing. Contact the Office of Student Life for information on approvals and the quantity of flyers recommended for posting.

2.6.4 Davis & Elkins College Website

www.dewv.edu is the official website of Davis & Elkins College. It is designed to communicate the College's message to key audiences around the world. It is a highly visible marketing tool as well as a portal to the online services for the campus community.

The Davis & Elkins College website is maintained by the College's Online Communications Coordinator, who is charged with working with the content management system to post new content and also is responsible for keeping photography up to date. Many College offices and departments provide content to the Office of Communications & Marketing. The Online Communications Coordinator works with stakeholders and the Vice President for Institutional Advancement to decide on the links and menu options on pages for each area of the College. In addition, the Online Communications Coordinator makes sure that the site operates correctly, and monitors the programming that controls the user experience. The Online Communications Coordinator is the key contact for adding or changing functionality to the site and consults with others for assistance and approval prior to making changes. In this regard, all "official" Davis & Elkins College web page revisions and additions must receive final approval from the appropriate Cabinet member prior to submission to the Online Communications Coordinator for posting. The Vice President for Institutional Advancement will confirm the proposed postings are consistent

with Davis & Elkins College policies and guidelines, including but not limited to the Davis & Elkins College Communications Standard Manual, as well as local, state, and federal law. Before Davis & Elkins College policies are posted to the official College website, such policies must have been vetted and approved through the policy approval process outlined in [Volume I](#) of the *Davis & Elkins College Policy Manual*.

Department, Division and Office Pages:

Websites and social media sites that have been developed in direct support of and sponsored by Davis & Elkins College offices, departments, divisions and programs are considered official Davis & Elkins College web media and are subject to review and approval by the Davis & Elkins College Office of Communications & Marketing.

Page designs, graphics (including logos), text and photography created for Davis & Elkins College's websites or other promotional material are intellectual property reserved for Davis & Elkins College and may not be reused, copied or duplicated in whole or in part without permission from the Office of Communications & Marketing.

New websites and online pages should not be created without the involvement and approval of the Office of Communications & Marketing, as well as the President or his or her designee. Approved biographies and official sites may be linked to the College's websites by the Office of Communications & Marketing.

2.6.5 College Use of Social Media

Social media sites that have been developed in direct support of and sponsored by Davis & Elkins College offices, departments, divisions and programs are considered official Davis & Elkins College web media and are subject to review and approval by the Davis & Elkins College Office of Communications & Marketing.

Page designs, graphics (including logos), text and photography created for Davis & Elkins College promotional material are intellectual property reserved for Davis & Elkins College and may not be reused, copied, or duplicated in whole or in part without permission from the Office of Communications & Marketing.

Social media accounts should not be created without the involvement and approval of the Office of Communications & Marketing, (as well as the College President.) Approved biographies and official sites may be linked to the College's websites by the Office of Communications & Marketing.

These guidelines are intended to guide and enable faculty, staff, students and alumni who create and administer social networking pages on behalf of Davis & Elkins College. They do not pertain to, nor do they constrain, scholarly, academic or pedagogical use of social media.

Usage by Campus Offices, Student Organizations and Alumni Organizations

Davis & Elkins College recognizes that campus offices, student organizations and alumni organizations may use various online media to communicate, promote and inform others about programs, services and activities. The guidelines herein apply to all Davis & Elkins College-affiliated online information. Groups choosing to use online services need to be aware that they

are using the College's name and that this can impact the image and reputation of specific individuals, the group, and the College.

Purposes of College Social Networking Sites

For the College as a whole:

- To support and enable recruiting, retention and alumni relations
- To develop virtual Davis & Elkins College communities
- To foster interactivity
- To share information

For academic departments and divisions:

- To maintain connections to alumni and help foster connections among alumni and donors
- To assist with assessment
- To find opportunities (internships, job leads) for current students
- To engage current students in special projects and opportunities

For admission:

- To create community among admitted and prospective students
- To assist in the enrollment process

For student groups (ex. GreenWorks!):

- To communicate with members (events, announcements, photos)
- To recruit members

For alumni affinity groups, such as reunion classes:

- To share information, foster attendance, reconnect

Main Davis & Elkins College social media sites (Facebook, Twitter, LinkedIn, etc.):

- To push news, keep Davis & Elkins College top of mind, stay connected
- Friend-raising

In addition to the above, the following criteria will be considered when there is a request to establish an official College presence on social media site or to participate in social media on behalf of Davis & Elkins College:

1. Whether or not Davis & Elkins College's involvement can be carried out in such a manner that positively supports the institution's values, missions and goals;

2. Whether or not the engagement with the audience adds value to both Davis & Elkins College and the audience;
3. Whether or not the approach is as effective or efficient as other approaches that might be used (i.e. would an existing Davis & Elkins College social media initiative or the Davis & Elkins College website accomplish the same goals);
4. Whether or not the use of social media enables the College to offer services it might not otherwise be able to offer; and
5. Whether or not sufficient resources exist to appropriately manage the interactions.

At least one College employee will be designated to monitor the medium, identify problems that emerge, take action when necessary, and ensure timeliness and accuracy of content.

Approval Process: A request for College presence or participation on social media sites on behalf of Davis & Elkins College must be approved by the department or division head responsible for the area seeking to use the medium.

Once departmental or division approval is obtained, the request will be forwarded to the Office of Communications & Marketing for approval.

The level of editorial control for Davis & Elkins College presence or participation on social media sites will be identified and agreed upon with the Office of Communications & Marketing during the approval process.

Updating and Monitoring Accounts: Social media should be updated on an ongoing basis to enable rapid response to any problems that may arise and to ensure an engaging, interesting environment for visitors. To be effective, pages must be dynamic and require consistent updating.

Employee use of approved social media on behalf of the College should be consistent with College policy, including but not limited to Davis & Elkins College's guidelines and acceptable use, copyright and student record policies, the Communications Standards Manual and Social Media Guidelines. The Office of Communications & Marketing is charged with the responsibility to monitor Davis & Elkins College's social media initiatives, counsel those who represent Davis & Elkins College online regarding College policy, and take action to restrict or remove an employee's ability to "publish" should efforts to correct the situation fail.

2.6.6 Photography and Filming on Campus

2.6.6.1 Photo Coverage

Photo coverage of College events or to accompany College press releases can be provided through the Office of Communications & Marketing. The Office of Communications & Marketing also can arrange a pre-event photo opportunity, as well as post-event photo coverage for use on the College website or in media relations. The Office of Communications & Marketing can either take photos or work with provided quality images. Photo needs should be discussed with the Office of Communications & Marketing as soon as event planning begins.

Providing Photos: Individuals planning on providing their own photos must be sure that they are digital files with a resolution of at least 300 dpi. In addition, image size should be set for at least 4" x 6". Larger images are even better.

Using Existing Davis & Elkins College Photography: Individuals who would like to use photography that the College already has on file should not download photos from the website. The website photos are set to load fast, thus, the files are small and they will not reproduce well in print. In most cases, a high resolution file of images is on online through the D&E Flickr account or through the Office of Communications & Marketing. Individuals who would like to use an image for a project should contact the Online Communications Coordinator to discuss photo needs.

Usage Rights: Photography that is taken by a Davis & Elkins College employee in their professional capacity is the property of the College. Photography taken by a hired professional may have restricted usage rights, depending on the terms of the College's contract with that photographer. The Office of Communications & Marketing keeps a copy of all contracts on file and can advise what rights the College owns for all photos.

Release Forms: It is strongly recommended that all people in photos used for College publicity sign release forms. In addition, they should be informed as to how the photos may be used. A release form gives the College the right to use that person's image and it states the intended uses for the image. It is a short form and may be obtained from the Office of Communications & Marketing.

2.6.6.2 Professional Photography on the Davis & Elkins College Campus

Professional photographers or videographers, organizations, and companies, including representatives from the media, wishing to engage in still photography, videotaping, or filming on the Davis & Elkins College campus must first contact the Office of Communications & Marketing with requests.

Upon approval, such individuals may photograph, videotape or film only in those areas and during the time frames authorized by the Office of Communications & Marketing. In addition, such individuals must obtain the permission of the subjects of their photography, videotaping or filming. Finally, such activities must be conducted in a non-disruptive manner and in compliance with Davis & Elkins College policies.

Note: Photography at events coordinated via the College's Hospitality Services do not require approval from the Office of Communications & Marketing.

2.6.7 Forward Magazine

The Forward magazine is the College's primary means of communicating with key constituents, including alumni, donors, parents, the Presbyterian Church, other colleges and institutions and the media. The publication has a circulation of approximately 10,000 and is mailed to individuals two times each year.

The content of the magazine is selected and approved by the President, the Vice President for Institutional Advancement and the Communications & Marketing team. Individuals who would like to submit a story should contact the Office of Communications & Marketing.

The publication has an eight-week planning cycle. As such, individuals with story ideas should contact the Office of Communications & Marketing in advance so that the needed interviews and photography can take place.

2.6.8 Public Relations

2.6.8.1 Appearances Before Accreditation and Government Agencies

Subject to specific control by the Board of Trustees, all official dealings on behalf of Davis & Elkins College with government or accreditation offices, boards and agencies are subject to the direction of the President or an authorized designee. Individuals seeking to make an appearance on behalf of Davis & Elkins College before such offices, boards and agencies must obtain permission from the President's Office.

2.6.8.2 Media Relations and Press Releases

The Office of Communications & Marketing develops and maintains relationships with the news media and is responsible for final editing and review of material prepared for release to the news media from all areas of the College.

Davis & Elkins College public relations services include:

- News writing and editing;
- Distribution to media;
- Planning and follow-up with editors and reporters;
- Hometown press releases for individual students;
- Radio or television interviews;
- Coverage in college publications;
- Photo coverage; and
- Website coverage.

To get news out, please start by contacting the Media Relations Coordinator as early as possible when beginning to plan an event or story idea. It is essential that adequate lead-time be given to receive publicity for the event, accomplishment or idea.

It is extremely helpful for individuals to provide something in writing, preferably an email or other computer-generated document that does not have to be retyped and that serves as both a reminder and the basis for a story. If a photo is available, it should be included with the submitted materials. If a digital file is not available, a print may be sent for scanning.

Please be advised that the amount or timeliness of media coverage will depend on the amount of competing news items and projects going on. Again, please allow adequate planning time – not only for colleagues, but also for the editors and reporters. A one-week notice may result in a story not running, even if it is released.

How to Check on a Release

Campus community members who want to know if a requested story has been released are urged to check the Davis & Elkins College website. College stories are posted on the home page on the day of release. Then they are moved to the News Room Headlines section and archive, where the release date is verified. Digital photos are also included with the releases online.

2.6.8.3 Authorized College Spokespersons

In instances of crisis, the President or his or her designee is the only authorized spokesperson for the College. In the event another member of the College community would be a more appropriate spokesperson on specific campus matters, the President or his or her designee will designate other administrators or staff to speak to the media on a case-by-case basis. Additional information can be found in the [Emergency Response and Safety Plan](#).

2.6.8.4 Media Communications

Members of the faculty, administration, and staff are free to respond to requests from the media regarding their research, scholarship, teaching or professional expertise. However, the Office of Communications & Marketing should be notified as soon as possible regarding the contact. This is important to ensure a coordinated, consistent response if needed. Media inquiries which involve issues with College-wide significance and/or are of a controversial or sensitive nature must always be referred to the Vice President of Institutional Advancement who will then inform the Media Relations Coordinator.

Guidelines for communicating with the media include the following:

1. Media inquiries should originate with the Office of Communications & Marketing. However, when that does not occur, obtain the name of the person calling, the media organization and, if available, the anticipated time of release of information in print or broadcast. This information should be included when the notification is made to the Media Relations Coordinator;
2. Be prompt, helpful and honest with the media member;
3. When interviewed by a member of the media, understand each question before answering. If uncomfortable providing a response, inform the media member that the Media Relations Coordinator will follow up on the matter. The Media Relations Coordinator can also assist and be present for the interview if desired. Standard interview protocol for the Office of Communications & Marketing is that either the Media Relations Coordinator is on hand for video interviews.
4. Do not offer speculations or gossip;
5. Issues that should not be discussed with reporters are legal issues, personnel issues, questions that involve College integrity, such as ethics or issues that may result in harm to others, or a campus crisis or emergency. In addition, media inquiries that involve information about specific students or employees should be directed to the President's Office.

2.6.9 Davis & Elkins Communication Standards

2.6.9.1 The College Colors

The official colors of Davis & Elkins College are red and white.

Davis & Elkins College red is specified as PMS 186 and should be used as the dominant color or as a strong accent on all materials designed to promote and identify Davis & Elkins College. An approximate match of this color should be selected for non-paper items, such as apparel, banners, cups, or other promotional items.

Matching the Color Standard

A PMS 186 sample is included with the Communications Standards Manual. That is the official color standard that should be referenced for purchasing any College item that features the school color.

Printed materials should be an exact match, including four-color pieces.

Apparel and other pre-manufactured, imprinted items (such as pens) should match as closely as possible. Color samples should be reviewed and approved prior to purchase to ensure that the selection approximates PMS 186.

A color standard provided by the Office of Marketing and Communications should be given to all suppliers of items that need to match PMS 186.

PMS 186

PMS 186 is a standard color developed by the Pantone Company, which is dedicated to creating standardized, reproducible colors for use in branding programs. PMS 186 is not a “custom” color. It is a “matched” color that printers and designers around the world can mix. PMS stands for the Pantone® Matching System.

Controlling Color in Fabric and Other Media

The College’s printed standard is an approved ink drawdown of PMS 186 that can be given to suppliers as a reference. The standard shows acceptable levels of minimum and maximum ink coverage as well as the accepted hue for PMS 186. Printed jobs that do not meet the standard must be rejected.

2.6.9.2 Use of the College Seal

The Davis & Elkins College seal must be used sparingly and reserved for official College uses, preferably for events and materials associated with the academic program and to authenticate official College documents. Usage of the College seal must be approved by the President.

2.6.9.3 Use of the Davis & Elkins College Logo

The Davis & Elkins College logo is the foundation of the College’s visual identity and is to be used on all communications materials. Using it consistently will enhance recognition of the College.

The logo can be used in three formats: stacked, linear, and circle.

Colors

In its complete, two-color form, the logo features black and Davis & Elkins College red (PMS 186) type and a gray ampersand created with a 50% screen of black. The logo also may be produced in one color, with a 50% screen of the single color being used for the ampersand.

Usage Guidelines

The Davis & Elkins College logo serves as the branded trademark for Davis & Elkins College. It must appear on all College advertising and promotional literature, particularly as part of the signature block.

There are no restrictions on how large or small the logo must be use. It should be used according to principles of good design: prominent, easy-to-read and sized for pleasing proportions relative to adjacent typography. It does not have to be the dominant graphic on a page; however, it must be treated as an important graphic element, surrounded by sufficient white space, and marked by the trademark symbol.

The logo is not meant to serve as a headline. If the name of the College is used within a headline or as text, the logo must not be used. The logo must only be used as a “stand-alone” design element that brands the College.

Usage of the College logo must be reviewed and approved by the Office of Communications & Marketing.

To obtain graphics files of the College logo contact the Office of Communications & Marketing.

The official Davis & Elkins College logo may be used alone or within the approved circle design that features the words “Founded 1904.”

The Davis & Elkins College logo is not a substitute for the College’s official seal, but it may be used as a primary graphic on College pieces. On printed or narrative pieces, the official logo must be used.

The Davis & Elkins College logo may be used in the color combinations set forth in the Davis & Elkins College Communications Standards Manual.

2.6.9.4 Use of the Davis & Elkins College Senators Logos

The Davis & Elkins College Senators logos are for use in direct association with Athletics only. The Senators logos are not to be substituted for the College logo for institutional or academic purposes.

Use of the Athletics logos must be approved by the Director of Athletics and may only be used to promote Davis & Elkins College Intercollegiate Athletics.

2.6.9.5 Use of the Davis & Elkins College Stationery System

The Davis & Elkins College letterhead features the College logo and is to be used by all persons or departments. The stationery is available in a standard size logo letterhead with matching #10 envelopes or an Executive size letterhead with matching executive envelope.

Matching business cards are also available.

Stationery may be purchased in minimum quantities of 250 for business cards and 500 for letterhead and envelopes through Office Services.

2.6.9.6 Use of College Identity System Advice and Approvals

All materials that feature components of the Davis & Elkins College identity system must be approved by the Office of Communications & Marketing.

2.7 Institutional Advancement

2.7.1 Office of Institutional Advancement

The Office of Institutional Advancement is responsible for overseeing all institutional fundraising for Davis & Elkins College.

1. The D&E Fund, which supports institutional and departmental operating budgets, is the primary vehicle through which funds are raised. All other fundraising activities are secondary.
2. Units of the College are encouraged to help raise funds through The D&E Fund by engaging in fundraising to help underwrite their budgets.
3. On occasion, certain units of the College, or volunteers who seek to support that unit, may engage in fundraising activities to help supplement the unit's budgets.
4. To avoid confusion among constituencies and/or unintended and possibly undesired overlap among units of the College (e.g., Augusta Heritage Center, Athletics, academic centers, student organizations, alumni groups raising money for the benefit of a College unit, etc.), all solicitations must be approved by the Vice President for Institutional Advancement prior to their launching. See the College Coordination and Approval of College Fundraising Solicitations Policy for additional information.
5. The Director of each unit engaging in fundraising, or a person designated by the Director, will serve as liaison to the Office of Institutional Advancement and will provide ongoing communication concerning the results of the solicitation and coordination of recording and acknowledgment of all gifts received.
6. Any proposed contracts with external agencies or vendors must be reviewed and approved by the supervising member of the Cabinet and the Vice President for Business and Administration with copies to the Executive Assistant to the President.

2.7.1.1 Types of Gifts and Fundraising Revenue Activities

1. Unrestricted gifts to The Davis & Elkins College Fund are the College's first priority. All such gifts are tax deductible.
2. "Designated" gifts (tax deductible) may also be encouraged within The D&E Fund to help underwrite departmental and programmatic budgets (salaries, scholarships, and the expense budget for each unit) as well as budgeted equipment and facilities enhancement. These are solicited as part of The D&E Fund by the Advancement staff with encouragement to donors by faculty, staff and volunteers.
3. "Restricted" gifts (tax deductible) for capital purposes are not included within the operating budget. These are solicited by the Advancement staff in collaboration with faculty and staff in individual units. Recent examples are the Allen Athletic Fields, Seybolt Indoor Golf Academy, and Myles Center for the Arts.

4. “Memberships” (tax deductible for whatever value is not represented by goods or services provided to the donor) Senator Nation or other “booster” organizations. Invitations to membership are handled by the programmatic unit in coordination with and approval of the Advancement. Funds from memberships provide funding over and above departmental budgets and are managed at the discretion of the Director of the unit and Vice President for Business and Administration.
5. Group- or Team-based Appeals (tax deductible) may be conducted by individual groups with approval by the Office of Institutional Advancement. Appeals will be approved if they represent Davis & Elkins College in a professional manner and do not compete directly with other College-sponsored appeals (i.e., they approach constituents who do not normally receive College appeals, or are timed to avoid other College appeals).
6. Fundraisers include a charitable gift component (may be partially tax deductible) sponsored by various teams or groups (fundraising events such as a golf tournament or sales of items at a cost substantially above fair market value). These generally are to fund projects/expenses over and above the College or unit operating budgets. These are the responsibility of the various groups but must be carefully coordinated with the Office of Institutional Advancement to ensure proper recording and acknowledgment of the charitable gift portion of the transaction.
7. “Ads” appearing on the website, in printed programs and schedules (not tax deductible). These are the responsibility of the Director of the unit in coordination with the Office of Communications & Marketing.
8. Fundraisers with no solicitation for gifts (not tax deductible) may also be sponsored by various teams or groups (bar-b-ques, car parking, car washes, etc., in which participants purchase goods or services at a fair market value). These generally are to fund projects/expenses over and above the College or unit operating budgets. These are the responsibility of the various groups, coordinated to the extent appropriate with the Office of Communications & Marketing.
9. Gifts collected by external agencies do not qualify for a charitable tax deduction through Davis & Elkins College. However, the College can issue “soft” (i.e., recognition) credit to donors if provided with information about the gifts.

2.7.2 Coordination and Approval of College Fundraising Solicitations

2.7.2.1 Coordination and Approval of College Fundraising Solicitations

The purpose of the College’s Coordination and Approval of College Fundraising Solicitations Policy is:

1. To maximize gift income to the College through coordination of all fundraising appeals on behalf of the College or any unit of the College;
2. To provide a mechanism for establishing fundraising priorities and approving solicitations;
3. To promote goodwill among donors and prospective donors by assuring that all solicitations and communications with donors and prospective donors from the College are consistent with

College standards and free of unnecessary or inappropriate duplication, overlap, or confusion about the intended use of gifts.

Policy Statement

The Office of Institutional Advancement is responsible for planning and carrying out all institutional fundraising for Davis & Elkins College, including The D&E Fund, which supports institutional and departmental operating budgets. Units of the College may engage in fundraising to supplement their budgets or to engage in College-sanctioned activities not covered in their budgets. To avoid confusion among constituencies and/or unintended and possibly undesired competition among units of the College (e.g., Augusta Heritage Center, Athletic Department, academic centers, student organizations, and alumni groups using the name of the College in fundraising campaigns), all solicitations must be approved by the Vice President for Institutional Advancement prior to their launching.

Implementation/Procedures

1. The Institutional Advancement staff will provide guidelines for fundraising initiatives and assist units of the College in preparing solicitations insofar as staff time permits.
2. Constituency lists will be reviewed by the Office of Institutional Advancement to assure that communications are directed to appropriate constituencies.
3. All monetary contributions must be submitted to the Office of Institutional Advancement so that proper gift credit may be issued and a gift receipt and acknowledgment letter sent.
4. Any College employee who receives an in-kind contribution in support of a unit, department or division of the College shall submit information concerning the gift to the Office of Institutional Advancement so that proper gift credit may be issued.
 - a. The Office of Institutional Advancement is then required to remit all in-kind contributions to the Business Office along with information regarding the contribution and restrictions placed upon the use of the funds by the donor.
 - b. The Business Office is responsible for recording all cash transactions, maintaining permanent records, reviewing all expenditures, issuing checks, and generating the College's financial reports.
5. When fundraising involves applying for grants, all grant applications must be submitted to and approved by the appropriate Vice President who in turn will inform the Vice President for Institutional Advancement in cases that potentially affect the College's overall fundraising efforts.
6. Any proposed contracts with external agencies or vendors must be reviewed and approved by the supervising member of the Cabinet and the Vice President for Business and Finance, with copies to the Executive Assistant to the President. Please Note: Gifts collected by external agencies may not be qualified for a charitable tax deduction. Davis & Elkins College can issue "soft" (i.e., recognition) credit to donors if provided with information about the gifts.
7. Detailed guidelines concerning athletic fundraising may be found in the Athletic Fundraising Policy.

2.7.3 Management and Reporting of Gifts

Davis & Elkins College reserves the right to treat each gift on an individual basis, and thereby reserves the right to accept, reject or modify any agreement and/or gift. In general, Davis & Elkins College will not accept gifts that (a) would result in the College violating its corporate charter, (b) would result in College losing its status as a § 501(c)(3) not-for-profit organization, (c) are too difficult or too expensive to administer in relation to their value, (d) would result in any unacceptable consequences for the College, or (e) are for purposes outside the College's mission. Moreover, the College's management and reporting of gifts will be guided by the standards of accounting and reporting established by the Internal Revenue Service (IRS), the Council for Advancement and Support of Education (CASE) and the National Association of College and University Business Officers (NACUBO).

The College accepts gifts in a number of forms as outlined below. Outright gifts of cash and marketable securities are preferable to less liquid assets. Other assets may be accepted with appropriate consideration. For some donors, substantial gifts are best made by bequest, through a life-income arrangement, retained life estate, or other planned gift.

2.7.3.1 Gift Acceptance

As a general rule, a solicitation for a gift or bequest stresses the advantages of an unrestricted gift in the form of cash or liquid securities. Other forms of giving, such as planned gifts, are acceptable and may offer qualified donors an attractive alternative. Such gifts may enable donors to significantly increase the level of their gifts while taking advantage of some meaningful commemorative or named gift opportunities.

Tax and Legal Advisers:

1. Donors: Individuals should consult their tax advisers concerning the treatment of these specialized gift techniques for their individual circumstances. The College advises all donors to seek their own tax and legal counsel and does not render tax, legal or financial advice.
2. College: Davis & Elkins College will seek the advice of a tax and/or legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:
 - a. Gifts of securities that are subject to restrictions or buy-sell agreements;
 - b. Documents naming the College as trustee or requiring the College to act in any fiduciary capacity;
 - c. Gifts requiring the College to assume financial or other obligations;
 - d. Transactions with potential conflicts of interest;
 - e. Gifts of property which may be subject to environmental or other regulatory restrictions.

Gift Valuation: Gifts are valued on the date the donor relinquishes control of the assets in favor of Davis & Elkins College. The College adheres to the rules of gift acceptance required by the IRS:

1. Mail: the postmark date;
2. Hand delivery: the date of physical receipt;
3. Wire/electronic transfer: the date received in the brokerage account of the College;

4. Journal entry: the date of transfer into the College's account;
5. Charitable remainder trusts, charitable lead trusts and charitable gift annuities are created on the date they are funded according to the above rules. No payments may be made to an income beneficiary until that date.

Miscellaneous Provisions:

1. When a gift is given to Davis & Elkins College, it is not considered legally consummated until Davis & Elkins College agrees to the conditions and notifies the donor of acceptance of the gift. If a gift or bequest is received without disclaimer by Davis & Elkins College, the College assumes the legal obligation to administer the gift or bequest in a manner consistent with the terms specified by the donor.
2. Prior to acceptance, a restricted gift must be appraised to assure it does not place unreasonable constraints on Davis & Elkins College.
3. Scholarship gifts may not be accepted by Davis & Elkins College if they are offered on the condition, or with the understanding, that the award will be made to a student of the donor's choice.
4. As a condition of gift acceptance, Davis & Elkins College pays no fees to any person in consideration of directing a gift or for the completion of a gift instrument to Davis & Elkins College.

2.7.3.2 Outright Contributions

Davis & Elkins College will generally accept outright gifts for current operations (unrestricted or restricted for a particular department, athletics or other purposes); capital purposes (buildings, improvements to facilities and equipment), and endowment funding (unrestricted or restricted).

Outright gifts may be given as follows:

Cash – Gifts in the form of cash and pledges are recorded in the amount of the actual gift.

- Any amount is welcomed.
- Unrestricted contributions are encouraged. A donor has the option to restrict some or all of a gift to a specific program or department.
- The donor is credited with the full amount of the cash gift. In cases where the donor receives something of value in return for the donation, the donor is made aware of the cost of the benefit received. In these cases, the gift processor deducts the cost of the benefit received against the donation.
- Gifts of cash may be made in the form of currency, personal check, credit card charge, cashier's check or money order. All checks are made payable to Davis & Elkins College and not to an employee, agent, or volunteer for the credit of the College. Checks are deposited in the ordinary course of business and no employee or agent of the College is permitted to delay deposit of such.
- Donors may make gifts to Davis & Elkins College through donor-advised funds or charitable checking accounts. Receipts are not generated for gifts from donor-advised

funds or charitable checking accounts, however, acknowledgment letters are completed as requested by the organizations or charities administering the accounts.

- Donors whose gifts are matched by a company receive soft credit for the matching amount. The donor is recognized for the combined total of the donation and the matching gift in any donor listing. A tax receipt is sent to the matching gift company.

Marketable, Publicly Traded Securities – Stocks, bonds and other negotiable securities that are regularly traded on a public stock exchange.

- Marketable, publicly-traded securities are receipted at the average of the high and low market value on the date the donor relinquishes control of the assets in favor of Davis & Elkins College or other valuation techniques approved by the IRS.
- Stock certificates mailed to Davis & Elkins College are recorded according to the postmark date.
- Stock certificates sent to Davis & Elkins College via a third party provider, such as UPS or Federal Express, are considered to be legal gifts as of the date of receipt by the College.
- Stock shares transferred electronically are considered legal gifts as of the date the stock is credited to the account of the College.
- Davis & Elkins College's policy is to immediately liquidate any gifts of publicly-traded securities unless retention of the specific security is consistent with the College's investment practices.
- If a donor is an officer or director of the issuing corporation, the College inquires as to whether any Securities and Exchange Commission (SEC) Rule 144 restrictions apply that limit the College's ability to sell the donated securities.
- Davis & Elkins College does not receive or process proposed transfers of stock that have no current market value (i.e., "worthless stock") at the time a transfer to the College is proposed.
- Securities controlled under SEC Rule 144 are held until the restriction on the sale expires and then they are immediately sold in the manner indicated above.
- If the fair market value of gifted securities is greater than \$500, the donor must complete Section A of Form 8283 and attach such to the donor's current tax return.

Closely-Held Stocks – A gift of stock of a private or family-held corporation, which includes not only debt and equity positions in non-publicly traded companies, but also interests in limited partnerships and limited liability companies or other ownership funds.

- Any amount is welcomed, provided the stock may be readily sold or is likely to be redeemed.
- The donor is credited with the appraised fair market value of the stock, or an estimated value if an appraisal is not available in accordance with IRS regulations.

- All such gifts of closely-held stock will be held until liquidated, at which time the funds are used consistent with the gift intentions of the donor and the established policies of the College.

Gifts of Real Estate – Gifts of real estate pose special legal and financial considerations and, therefore, may be accepted only with the approval of the Vice President for Business and Finance and the President of Davis & Elkins College, in consultation with the Vice President for Institutional Advancement. Whenever feasible, a prospective donor will be encouraged to sell the real estate in contemplation for donation to the College.

Prior to approval, the following items must be completed to the satisfaction of the Vice President for Business and Administration and Vice President for Institutional Advancement:

- Phase I Environmental Audit;
- Certified appraisal to establish the value of the property within sixty (60) days of the date of gift;
- Legal description of the property;
- Photographs of the property and/or a site visit;
- Title Insurance binder for the property within thirty (30) days of the date of the gift naming the College as the insured, at standard rates, subject to a legal opinion as to exceptions from coverage.
- The above should be provided at the donor's expense. The donor is ultimately responsible for substantiating the value of any charitable deduction. The College reserves the right to cover certain expenses if the value of the gift is a substantial amount.

Bargain Sales – A donor may elect to sell a piece of real estate to Davis & Elkins College at a price less than fair market value. The IRS considers the difference between the fair market value and the selling price to be a gift and therefore produces an income tax deduction for the donor. Davis & Elkins College benefits by acquiring property or by selling the property to a third party at market value.

Bargain sales are receipted, reported and recognized at fair market value (less any encumbrances) at the time the asset is transferred to Davis & Elkins College. The fair market value of real estate gifted through a bargain is determined by an independent, qualified appraiser in the employ of the donor.

Gifts of mortgaged real estate are treated as bargain sales are accepted only on prior approval of the President, Vice President for Business and Finance, and the Vice President for Institutional Advancement. Generally, the College does not accept a gift of mortgaged real estate unless:

- There is an assurance that the stated property can be sold within a reasonable period of time.
- There is substantial equity in the property that will be realized at the time of sale.

Gifts of Tangible Personal Property (gifts-in-kind) – All gifts of tangible personal property must further the College's mission or be readily marketable. The final determination of need rests with

the Vice President for Business and Finance and the Vice President for Institutional Advancement in consultation with the appropriate department and the President. In addition, the following guidelines must be met:

- The donor is responsible for establishing and documenting the value of such gifts for tax purposes.
- Davis & Elkins College provides donors with copies of the appropriate IRS forms and instructions and advises the donor to seek competent tax advice before claiming a charitable deduction.
- No gift value will be assigned on the College's records without the requisite documentation.
- The donor is responsible for packing, insuring, and transporting the gift to the College.
- The College will not accept gifts with the sole purpose of selling them unless that is clearly the donor's intent and the donor is informed of the potential tax consequences of such sales.

Books: Books that add significant value to the College's collection may be accepted with the approval of the Director of Booth Library or his/her designee. The Assistant Director of Booth Library will carefully consider the cost of cataloguing, repairing, preserving, and storing the proposed books before accepting such items. Whenever possible, the Assistant Director of Booth Library will obtain from the donor prior to acceptance:

- A description of the book (author, title, date of publication, condition);
- An estimate or appraisal of the value of the gift.

Fine Art: Gifts of fine art may be accepted with the approval of the Vice President for Business and Administration and Vice President for Institutional Advancement, and the President. The following items will be needed for evaluation purposes by the donor:

- Description of the work and photograph;
- Resume of the artist, if appropriate;
- Appraisal or estimate of value;
- Any special arrangements or prescriptions requested by the donor.

Furniture and other Decorative Arts: Gifts of furniture and other decorative arts may be accepted with the approval of the Vice President for Business and Administration, Vice President for Institutional Advancement and the President. Whenever possible, a description, photograph, and estimate of the item's value should be sent prior to consideration. The College will carefully consider the costs of cataloguing, repairing, preserving, and storing the proposed gifts before accepting them.

Computers and Other Technology: Gifts of computers and other technology may be accepted with the approval of the Chief Information Officer.

Gifts of Equipment (gifts-in-kind) – Gifts of equipment may be accepted by the College. However, when such equipment requires additional and/or ongoing maintenance that is not

yet budgeted, prior approval must be received from the Vice President for Business and Finance and Vice President for Institutional Advancement. All gifts of equipment are governed by the policies and procedures applicable to the acceptance of Gifts of Tangible Property as outlined above.

Challenge Gifts or Pledges – Challenge gifts, grants or pledges requiring matching funds by the College are accepted and acted upon only through collaboration with the College’s President and the Vice President for Institutional Advancement and, where appropriate, other College administrators.

2.7.3.3 Pledges

1. **Written Pledges** – A donor may stipulate the amount, purpose and payment period in a written pledge form to the College. A letter of intent from Davis & Elkins College to the donor may outline the same details based on a conversation held with the donor. The pledge form or letter of intent requires the signature of the donor. Copies of the signed pledge form or letter of intent are provided for the donor’s and the College’s records.
2. **Oral Pledges** – Oral pledges may be made through an authorized telephone solicitation program. These pledges are counted and reported in annual Davis & Elkins College fund totals. A confirmation notice that includes a thank you and a pledge amount is mailed to the donor immediately following the solicitation.
3. **Pledge Write-offs** – The Vice President for Institutional Advancement, in consultation with the President and the Vice President for Business and Administration, makes the final determination regarding write-offs of pledges greater than \$5,000.
4. **Capital and Endowment** – Once a year the Office of Institutional Advancement reviews all “old” pledges, including:
 - a. Partially paid pledges dated two or more years prior to the end of the last fiscal year and for which payments should have been, but were not, received.
 - b. Pledges for which no payments at all have been received.
 - c. The Vice President for Institutional Advancement determines whether these pledges should remain open or be written off.
5. **Annual Fund Pledges** – The purpose of the annual fund is to generate operating support to the institution for the current fiscal year.
 - a. A review of annual pledges of more than \$1,000 is conducted by the Vice President for Institutional Advancement or his or her designee.
 - b. Within 30 days after the close of the fiscal year, all open pledges of less than \$1,000 are automatically written off.

2.7.3.4 Planned Gifts

Deferred gifts, also called “planned gifts” or “future commitments,” are different from outright gifts, as Davis & Elkins College does not realize an asset until some point in the future. It is for

this reason – the uncertainty of timing of realization – that the College records deferred gifts separately from outright gifts. The College reports the planned gift's face value and present value.

Planned gifts may be made through the following:

Bequest by Will or Living Trust – A donor may name Davis & Elkins College as beneficiary in his/her will or trust directing that Davis & Elkins College receive an outright distribution or annual payments from the donor's estate.

Gifts of Retirement Plan Assets – A donor may contribute retirement plan assets to Davis & Elkins College by means of testamentary bequests and transfers to charitable remainder trusts.

Charitable Trusts (irrevocable) – Trusts are legal documents and are not the property of the College.

Charitable Remainder Unitrust – This trust pays a set percentage of the trust's principal, as calculated annually, to the income beneficiary for life or a set term of years (i.e., the amount of the annual payments fluctuate). Additional gifts may be made to the trust at any time. When the income beneficiary dies or the term of years expires, the principal goes to the College and perhaps additional charitable beneficiaries. Trust assets must be managed separately for each trust. Proposed charitable remainder annuity trusts for which Davis & Elkins College is trustee and/or administrator are funded initially with assets of at least \$100,000.

Charitable Remainder Annuity Trust – This trust differs from the unitrust in that the annual income payment is a set dollar amount determined when the trust is established. No additions to the trust are allowed after the trust is established. Trust investments are managed separately for each trust.

- Proposed charitable remainder annuity trusts for which Davis & Elkins College is trustee and/or administrator shall be funded initially with assets of at least \$100,000.
- Davis & Elkins College recommends that trusts be limited to one or two income beneficiaries.
- Donors are encouraged to name a trust company, the trust office of their bank, or their community foundation as trustee.
- Charitable remainder annuity trust funds for which Davis & Elkins College is named as trustee are managed by professional investment managers selected and advised by the board of trustees (or a committee thereof).

Charitable Lead Trust – This trust pays to Davis & Elkins College (and perhaps another charitable organization) a stream of payments for a specified period of years, at the end of which time the assets of the trust are distributed to non-charitable designees (e.g., the donor's children or grandchildren). The assets of this trust must also be managed separately.

- Proposed charitable lead trusts shall normally be funded initially with assets of at least \$200,000.
- Income received by Davis & Elkins College as the result of a charitable lead trust is used and/or invested by the College for the purposes specified in the trust agreement.

In those cases where the trust agreement indicates no specific purpose, income received is treated as an unrestricted asset of the College.

- **Charitable Gift Annuities** (irrevocable) – Annuities are owned by the College and are managed by professional investment managers selected and advised by the Board of Trustees (or a committee thereof). Proposed charitable gift annuities are funded initially with assets the fair market value of which is at least \$10,000.
- **Immediate Payment of Gift Annuity** – In exchange for a gift, the donor/annuitant is guaranteed a fixed annual income during each annuitant's life. Upon the death of the annuitant(s), the funds are directed to the College as designated by the donor. The annuity ends with the death of the last income beneficiary.
- Annuity payments are made at the donor's choice: quarterly, semi-annually or annually. In order to control the cost of annuity administration, the College prefers to make payments annually and by direct deposit.
- **Deferred Payment Gift Annuity** – A deferred payment gift annuity is governed by the same rules described in the preceding paragraph, with the exception that the first annuity payment to the annuitants is delayed for one or more years following the effective date of the agreement. The interest earned in the interim is credited to the contract, which increases the amount of the annuity.

Retained Life Estates in Real Property – In such an arrangement the donor gives a remainder interest in a personal residence, second home or farm. The property is gifted to Davis & Elkins College but the donor retains the right to occupy the property until death, at which time all rights to the property pass to Davis & Elkins College. The donor usually pays all expenses related to the property during his/her lifetime, but various alternative arrangements may be negotiated by the College President and the Vice President for Institutional Advancement.

Gift of Life Insurance: Davis & Elkins College accepts gifts of new and existing whole life insurance (no term or non-dividend policies). The donor or insured designates the College as the sole owner and irrevocable beneficiary. Davis & Elkins College will not accept gifts of life insurance policies that have a loan against the value without the consent of the President. All policies will provide for waiver of premiums in case of disability. There will be no automatic loan provisions. If the donor does not respond to a premium bill by the due date, the College will cash it in for the surrender value. At all times, Davis & Elkins College reserves the right to cash in the policy or retain it as an investment. The policy's fair market value (approximate cash value) is available to the donor as a charitable contribution deduction.

2.7.3.5 Naming Opportunities

Davis & Elkins College welcomes the opportunity to honor those who have rendered extraordinary service or support to the College. Facilities, spaces, endowments, or programs may be named for individuals or entities whose accomplishments or generosity advance the academic mission of the College, further the capacity of Davis & Elkins College to meet its teaching and scholarly objectives and to serve its community, and enhance the growth and reputation of the institution. A decision to construct or renovate a building, establish a chair or create a program is to be taken on the basis of established academic and other operational criteria and approved in keeping with

Davis & Elkins College's established practices and mission. In all instances, naming will be independent of all appointment, admission, and curriculum decisions. To ensure the appropriateness of the honor, Davis & Elkins College will follow the guidelines listed in this policy as it makes decisions on a case-by-case basis with regard to naming facilities, spaces, endowments, or programs.

Criteria for Selection of Honorees

Naming a facility, space, endowment or program for an individual, organization, or corporation is one of the highest honors that Davis & Elkins College can bestow. This recognition is a lasting and powerful affirmation of the honoree's connection to Davis & Elkins College's mission. As such, honorees must have exemplary character, an unqualified reputation for honesty, personal integrity, and the highest standards of personal and professional ethics.

Extraordinary Service

Honorees who have been employed by Davis & Elkins College must have given extraordinary service to the institution in a teaching, research, service, or administrative field with such exceptional distinction that their contributions are widely recognized by their peers, both at Davis & Elkins College and elsewhere. The recognition afforded the honoree may also include private financial contributions related to the naming opportunity. Honorees may not be in active service at Davis & Elkins College or hold elected office at the time of the naming, unless the circumstances are exceptional and approved by the Board of Trustees.

Private Financial Support

Individuals who have not been Davis & Elkins College employees, corporations, and other organizations may be considered for naming recognition if they have made significant financial contributions to the College related to the naming opportunity. Decisions regarding such recognition are made on a case-by-case basis in accordance with the guidelines below and also take into consideration the total cost of the project, the availability of other funds, and the level of financial contribution.

In order for a facility, space, endowment, or program to be named based upon a contribution, the following conditions will normally be met:

1. The gift must be in irrevocable form, e.g., trust, contract for will (with present value being used for all deferred commitments), or to be paid over a period of no longer than five years based upon a signed commitment. A deferred gift is not normally acceptable for a facility where construction is dependent upon the gift;
2. A bequest or legacy gift from a donor who is still alive will not normally be considered for a naming opportunity;
3. The person for whom the name is assigned has some reasonable connection to the facility, space, endowment, or program being so designated;
4. Unless the gift is required to construct or equip the facility to be named, the gift normally must be used to establish a program endowment restricted to an appropriate department or program closely associated with the facility;

5. If a school, college, department or program is to be named, a restricted endowment supporting that school, college, department or program normally will be established.

In special circumstances, the Board of Trustees may make exceptions to the above guidelines.

Levels of Financial Support: The following guidelines must be taken into consideration in determining a significant level of financial support in a given situation:

1. New Facilities: a minimum of fifty percent (50%) of construction costs.
2. Renovation of Facilities: a minimum of seventy-five percent (75%) of the cost of renovating a facility.
3. Existing Facilities without Renovation: a minimum of seventy-five percent (75%) of the fair market value of the facility.
4. Collections: donation of the collection or at least fifty percent (50%) of the value of the collection.
5. Tribute Markers: fifty percent (50%) of the cost or value of associated items (e.g. trees, gardens).
6. Endowed Chairs and Professorships: full funding of the endowment.
7. Endowed Scholarships, Fellowships Awards, and Grants-in-Aid: full funding of the endowment.
8. Programmatic Entities: determined on a case-by-case basis.

Request for Approval

Since naming facilities, spaces, endowments, and programs has a long-term impact on Davis & Elkins College, the approval process is designed to ensure such action is in the best interest of the College.

1. The Vice President for Institutional Advancement will review all naming requests. In the best interest of Davis & Elkins College and prospective honorees, information relating to any naming request or plan will remain confidential until appropriate approvals have been obtained.
2. The Vice President for Institutional Advancement will discuss the potential naming with the President and other appropriate Cabinet Officers and administrative staff.
3. Upon receiving general approval from the President, the Board of Trustees will be notified for initial clearance.
4. Upon commitment by the donor, the Board of Trustees as a whole will be asked to approve the naming.

Duration of Name

Naming of facilities, spaces, endowments and programs in honor of individuals is generally expected to last the lifetime of the facility, space, endowment or program. Naming of facilities, spaces, endowments, and programs in honor of corporations or other organizations will have a set number of years attached to the naming which will be determined on a case-by-case basis and

listed in the signed gift agreement. Naming associated with a particular facility, space, endowment, or program will not preclude further naming within the facility, space, endowment, or program.

If at any time following the approval of a naming circumstances change substantially so that the continued use of that name may compromise the public trust, the President will consult with the Board of Trustees regarding future action. Davis & Elkins College reserves the right to remove any name that would not reflect positively on the College or would conflict with the purpose or mission of Davis & Elkins College.

2.7.3.6 Gift Acknowledgment

The Vice President for Institutional Advancement is responsible for the processing, recording, acknowledging, and maintenance of records and files and related correspondence and documents for all gifts of cash, securities, gifts-in-kind, pledges, and grants from private sources including individuals, corporations and private foundations. Any employee reviewing such a gift or grant will promptly forward it and all pertinent correspondence to the Vice President for Institutional Advancement for deposit, accounting, and acknowledgment. Only the Vice President for Business and Administration, after consulting with the Vice President for Institutional Advancement, may issue the official tax receipt for a monetary gift to Davis & Elkins College. All acknowledgements letters must include language thanking the donor.

After the recording of such gifts, securities and original documents (such as wills, trusts, deeds, annuity agreements, contracts and correspondence) establishing restrictions on such gifts will be deposited into the custody of the Treasurer of the Board of Trustees.

All personal gift records identifying a donor will be treated with professional discretion and will be subject to the normal listings and uses of the College. Gift records of donors requesting confidentiality or anonymity will be accorded such. However, the Vice President for Institutional Advancement may disclose such information or documentation as authorized by such a donor or as may be required by law.

2.7.4 Athletic Fundraising

In addition to the College budget, the Athletic Program is funded in five ways:

1. “Designated” gifts (tax deductible) within The D&E Fund to help underwrite the departmental and specific sports’ budgets (coaches’ salaries, student-athlete scholarships and the expense budget for each sport) as well as budgeted equipment and facilities enhancement. These are solicited as part of The D&E Fund by Institutional Advancement staff with encouragement to donors by the coaches and volunteers.
2. “Restricted” gifts (tax deductible) for capital purposes not included within the operating budget. These are solicited by the Institutional Advancement staff in collaboration with the coaching staff. Examples are tennis court improvements, playing fields regrading, Memorial Gymnasium renovation, and the Golf Academy.
3. “Memberships” (tax deductible) in Senator Nation. Invitations to membership handled by the Athletic department in coordination with and approval of the Office of Institutional Advancement Office. Funds from Senator Nation memberships provide funding over and

above Athletic Department budgets and are managed at the discretion of the Director of Athletics.

4. “Ads” on the athletic website, in printed sports programs and schedules (not tax deductible). These are the responsibility of the Athletic Department in coordination with the Office of Communications & Marketing.
5. “Fundraisers” (not tax deductible and with no solicitations for gifts) sponsored by the various teams (bar-b-ques, car parking, car washes, etc.) These generally are to fund projects/expenses over and above the College or team operating budgets. These are the responsibility of the various athletic teams, coordinated to the extent appropriate with the Office of Communications & Marketing.
6. Team-based Appeals (tax deductible) may be conducted by the coaches of individual teams with approval by the Office of Institutional Advancement. Appeals will be approved if they represent Davis & Elkins College in a professional manner and do not compete directly with other College-sponsored appeals (i.e., they approach constituents who do not normally receive College appeals, or are timed to avoid other College appeals).
7. Any proposed contracts with external agencies or vendors must be reviewed and approved by the Athletic Director, supervising member of the Cabinet and the Vice President for Business and Finance, with copies to the Executive Assistant to the President. Please note: Gifts collected by external agencies may not be qualified for a charitable tax deduction. Davis & Elkins College can issue “soft” (i.e., recognition) credit to donors if provided with information about the gifts.

2.8 Copyright and Intellectual Property

2.8.1 Copyright Protected Material

The copyright policy of Davis & Elkins College affirms its commitment to comply with United States law relating to copyright; to respect the property rights of authors and their assignees; to educate members of the campus community about copyright law; and to exercise vigorously the rights and responsibilities granted under this law.

The policy adheres to the long-standing academic tradition that creators of works own the copyrights in works resulting from their scholarly, pedagogical, and creative activities. This principle is the foundation of this policy on copyright. This principle also underlies the commitment of the College to fostering an environment of respect for and responsible use of the intellectual property of others. The College is committed to helping members of the community comply with copyright laws by providing resources to help individuals make informed, careful, and situation-sensitive decisions about the lawful and fair use of work created by others.

2.8.1.1 Application

This policy applies to all College employees, students, adjunct faculty, contractors, and volunteers and all others who use computing resources, information technologies, networks, voice messaging equipment, computer software, data networking systems, including remote and wireless and electronically stored institutional data and messages owned or managed by the College or any third

parties contracting with the College for the provision of hosting, network or other technology services (hereinafter “users”). Any person that has agreed to follow the Davis & Elkins College Acceptable Use Policy has, in effect, agreed to this copyright policy.

It is the policy of the College that all users must comply with U.S. Copyright Law. Copyrighted materials may be copied freely by the owner of the copyright on the materials. In addition, copyright holders such as scholarly publishers, may explicitly release their published materials from strict observance of copyright laws for stated classroom or research purposes.

2.8.1.2 Fair Use

Davis & Elkins College expects users to make a reasonable effort in good faith to comply with copyright laws in their use of copyrighted materials. The College encourages users to take full advantage of the “fair use” exception to the exclusive rights of copyright owners. Before relying on the fair use exception, users should educate themselves regarding the limits of fair use and should, in each instance, perform a careful, good faith fair use analysis based on the factors identified in Section 107 of the federal Copyright Act.

Faculty and staff are permitted to use and duplicate copyrighted materials of other parties for educational and classroom uses, provided such activities are within the fair use standard, 17 U. S. C. sect. 107. The fair use standard requires consideration and balancing by users of the following factors to determine if duplication or use by a third party constitutes a fair use:

Fair Use Factors

1. *The Purpose and Character of the Use Including Whether the Use is of a Commercial Nature or is for Nonprofit Educational Purposes:* A nonprofit or noncommercial use weighs in favor of a fair use. Non-profit educational purposes, such as duplication for classroom purposes rather than commercial purposes, generally tend to support a finding of fair use.
2. *Nature of the Copyrighted Work:* Works fall into categories such as published or unpublished, fact or fiction. Published factual works, such as form books, dictionaries or other factual works, by their nature more readily support a finding of fair use than do unpublished works or non-factual, fictional, creative works.
3. *Amount and Substantiality of the Portion Used in Relation to the Copyrighted Work as a Whole:* If the portion of the work copied or used in relation to the entire work is quantitatively and qualitatively insignificant, that supports a finding of fair use. No specific number of words or percentage copied of the work is set as being permissible. However, see the “safe harbor” guidelines discussed. Copying of a minor portion of a work may be found to be other than a fair use if the portion constitutes the essence or critical part of the copied or used work. Users should post links to articles and materials whenever possible rather than duplicating complete works.
4. *The Effect of the Use Upon the Potential Market for or Value of the Copyrighted Work:* This factor is considered the most important element to be considered under the fair use analysis. Duplication or use of a copyrighted work that is not detrimental to and does not diminish the potential market for the work will support a finding of fair use.

Examples of Acts That Do Not Constitute Fair Use:

1. Duplication of materials for profit.
2. Duplication of material from published textbooks.
3. Duplication of unpublished materials.
4. Duplication of computer software for multiple use.
5. Duplication of the same materials for classroom use term after term.

2.8.1.3 File Sharing And Peer-to-Peer Software Programs

Current technology easily allows personal computers to duplicate and distribute copyrighted video images, audio recordings and other digital materials. Unfortunately, this makes it is easy to violate College policy and US copyright law. For this reason, the use of popular and freely distributed file sharing programs to download copyrighted music and video material, in almost every case, creates a violation of Davis & Elkins College policy and U.S. law.

Most of these programs by default allow Internet users to copy files from a computer. Most programs do not provide alerts in advance or even ask the user's permission before turning a computer into an Internet file server. Some of these programs also install hidden components that allow file sharing to run in the background on a computer. As a result, whenever a computer is turned on, the file sharing application is also enabled, even if the application is not opened or actively used. Such an application places a user at a high risk of violating College policy and copyright law by becoming an unlawful distributor of copyrighted material.

Davis & Elkins College does not monitor computer use on the College network to look for copyright violations; however, in the process of investigating network congestion or troubleshooting technical problems, the College may become aware of policy violations. In such cases immediate action may be taken by the College, including disconnection of network access.

Enforcement agencies, the Recording Industry Association of America (RIAA), and other copyright holders of digital media are actively monitoring the Internet for users who are actively distributing copyrighted material. The recording, film and software industries have recently become very aggressive in their active pursuit of copyright infringement. Millions of dollars have been spent to develop and maintain software which is able to search the Internet and identify unauthorized distribution of their protected titles. This active monitoring is specifically designed to search for distribution of materials using the most commonly used software packages.

2.8.1.4 Software Generally Protected By Copyright Law

The vast majority of all computer software is protected by copyright law. The exceptions to this rule are so few that users should assume that all software on the College's computer system, on third party systems, or available through the Internet is protected by copyright, unless there is a clear indication to the contrary.

Simply stated, copyright laws allow a user of software to use the software, load it onto the hard drive of a computer, and retain the original disk as an archive copy. Users are not allowed to modify the software, make more copies of it, simultaneously use a single copy on both a home and a campus computer, or distribute the software through the Internet, unless the license agreement explicitly permits those activities.

Possessing software for which an individual does not own a license is a violation of the Copyright Act, and may subject both the College and individual users to sanctions as set forth in the Copyright Act. For all practical purposes, the fair use exception does not apply to operating system and application software.

In addition to application software and operating systems, federal copyright protection also extends to the data files (content) created for use with or by applications and operating systems (e.g., spreadsheets, databases, QuickTime video files, and scanned images). Unauthorized creation, copying and distribution of these materials are violations of the federal copyright statute, unless they can be construed as fair use.

2.8.1.5 Violation of Copyright Laws

Upon obtaining knowledge that material residing on its systems or networks is infringing or that its systems or networks are being used for infringing activities (or upon becoming aware of circumstances from which infringing activity is apparent), the College will act expeditiously to remove or disable access to the infringing materials and may deny the users responsible further access to its systems or networks. In addition, users who willfully disregard or violate copyright law may be subject to disciplinary action in accordance with applicable disciplinary policies and procedures.

The Davis & Elkins College Acceptable Use and Copyright policies state that the receipt of, possession of, or distribution of copyrighted material without the permission of the copyright holder is prohibited. Such acts are a violation of the laws of the United States (Title 17, U.S. Code). Violators of copyright law could be subject to felony charges in state or federal court, and may also be sued by the copyright holder in civil court. Such civil suits could subject the violator to liability for infringement with damages up to \$100,000 per work.

2.8.1.6 TEACH Act

The Technology, Education and Copyright Harmonization Act (TEACH Act) (Section 110(2) of the U.S. copyright law) is a copyright exemption that addresses teaching conducted through digital transmission.

Under the TEACH Act, instructors may use the following copyrighted materials when teaching a class through a digital transmission:

1. Performances of non-dramatic literary works;
2. Performances of non-dramatic musical works;
3. Performances of any other work, including dramatic works and audiovisual works, but only in “reasonable and limited portions”; and,
4. Displays of any work “in an amount comparable to that which is typically displayed in the course of a live classroom session.”

When using the copyrighted materials listed above in a digital transmission, the instructor has the following obligations under the TEACH Act:

1. The performance or display is made by or under the supervision of an instructor;

2. The use is limited to performances and displays. The TEACH Act does not apply to materials that are for students' independent use and retention, such as textbooks or other readings;
3. The work is part of systematic mediated instructional activities;
4. The transmission must be made solely for and limited to students officially enrolled in the course;
5. Only lawfully acquired material may be used;
6. The instructor should use reasonable efforts to prevent copying and retention of the work (e.g., streaming for video; thumbnails, watermarks and disabling right click copy function for images);
7. The materials to be used should not include those primarily marketed for the purposes of distance education (i.e. an electronic textbook or a multimedia tutorial);
8. A digital copy may be made from an analog copy when no digital version is available or when the digital version is technologically protected; and
9. The work must carry a notice to students that the work is copyrighted.

2.8.1.7 Digital Millennium Copyright Act

The purpose of this policy statement is to set forth Davis & Elkins College's procedures pertaining to the receipt and response to reports of alleged copyright infringement utilizing the Davis & Elkins College network in accordance with the Digital Millennium Copyright Act (P.L. 105-304).

The Digital Millennium Copyright Act (DMCA) provides an opportunity for college and universities such as Davis & Elkins College to shield themselves from liability for the actions of users that infringe on the copyrights of others. Any use of the Davis & Elkins College network, computers, technology equipment, email system, or websites to illegally transfer copyrighted material including, but not limited to, software, text, images, audio and video is strictly prohibited and will lead to serious consequences, including disciplinary action, suspension, and possible lawsuits resulting in substantial financial penalties.

In accordance with the DMCA, Davis & Elkins College has designated the following individual to receive and respond to reports of alleged copyright infringement:

Coordinator of Information Services

Booth Library
(304) 637-1273
mattinglya@dewv.edu

This designation will be listed in the Davis & Elkins College website.

The Digital Millennium Copyright Act specifies that all infringement claims must be in writing (either on paper or electronic mail) and must include the following elements:

1. A physical or electronic signature;
2. Description of the work claimed to be infringed;

3. Description of the allegedly infringing work and the location on the Davis & Elkins College website;
4. Contact information for the complaining party;
5. A statement that the complaining party has a good faith belief that the use of the material in the manner complained of is not authorized by the copyright owner or law;
6. A statement that the information contained in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the copyright owner.

For more information on United States Copyright Laws, see: The US Copyright Office.

2.8.2 Intellectual Property Rights

I. Introduction

Davis & Elkins College is committed to providing an environment that supports the learning, teaching, scholarship, and creative activity of its faculty, staff, and students. Guided by this commitment, the College's Intellectual Property Rights Policy is intended to serve the following purposes:

- To encourage excellence and innovation in teaching, scholarship, and creative activities by identifying and protecting the intellectual property rights of faculty, staff, and students of the College;
- To encourage the concept that creative and scholarly works produced at Davis & Elkins College should advance the state of knowledge and contribute to the public good;
- To acknowledge and protect the traditional property rights of scholars with respect to products of their intellectual endeavors;
- To guide policy and process for commercial uses of employee or student created intellectual property other than traditional products of scholarly work.

II. Coverage

This policy applies to all full-time and part-time Davis & Elkins College faculty, staff, and administrators and students, working with or without monetary compensation, on any project under the direction and control of the College; and anyone using College facilities or conducting activities under the supervision of College personnel. Contracts and subcontracts will generally include language that determines the ownership of intellectual property that is developed by those working under the terms of the contract or subcontract. This is also true for those hired as independent contractors.

The policy covers all intellectual property including but not limited to anything that is patentable, copyrightable, or otherwise marketable. This includes, but is not limited to, inventions, books, articles, study guides, syllabi, workbooks or manuals, bibliographies, instructional packages, tests, video or audio recordings, films, slides, transparencies, charts, other graphic materials, photographic or similar visual materials, film strips, multi-media materials, three-dimensional materials, exhibits, courses delivered using course management systems, and computer software.

III. Exclusions

If any portion of this policy conflicts with any agreement signed by the College, the provisions of the agreement will prevail. If any portion of this policy conflicts with a signed agreement between the College and a creator (or a person who assists in the creation of intellectual property) or between the College and an external funding agency, the terms of the signed agreement will prevail.

IV. Policy

A. Works by Employees

The College owns the rights to all works, discoveries, inventions, findings, innovations, writings, and other intellectual contributions and products created by employees whose creation involves substantial use of College equipment, services, or resources or whose creation involves funds attracted by the College. Historically the College has not and does not now assert claim or ownership interest in traditional scholarly or academic works. Such works include but are not limited to books, articles, manuscripts, plays, writings, musical scores, and works of art. Ownership of such categories of faculty endeavor is waived by the College in favor of the faculty member, and these are exempt from the provisions of this policy.

For the purposes of this Policy, “substantial use” refers to use of resources other than those ordinarily available to most or all faculty and/or staff. At the present time, such ordinarily available resources include, for example, office space and personal office equipment, office computer workstations, library and other general use information services, and the means of network access to such resources.

When employee-created intellectual property results from third-party grants, contracts, or awards made to the College, the intellectual property is owned by the College unless written agreement involving the College, the employee, and the sponsor establishes an alternative ownership arrangement. Sabbatical leave support will not be covered by the preceding provision unless funding in addition to the sabbatical salary is provided.

All projects funded by Appalachian College Association grants will conform to the ACA Intellectual Property Policy, namely, “to encourage proposals and practices that promise to yield products for a broad public use and to discourage those that involve or promote proprietary interest except to the extent that a charitable end may also be served.” All products developed with ACA funds shall remain the property of Davis & Elkins College or if other colleges are involved in the project, ACA shall retain ownership.

The College wishes to encourage excellence and innovation in teaching, scholarship, and creative activities and to support the concept that works produced at Davis & Elkins College should be used for the greatest possible public benefit. Guided by these aims, the College endorses the legitimate expectation of employee authors/creators to share in any net revenues produced by licensing or other development of intellectual property.

Likewise, given the College’s substantial cost involved in supporting scholarship and research, the College is entitled to share in any such royalties. Accordingly, for any work in which the College asserts ownership interest under this Policy, the College and the author/creator(s) will share any annual net revenue (i.e., revenues less recovery of all legal and other costs involved in protecting the intellectual property rights of the work, licensing costs, and other directly related administrative

costs) in the following percentages, unless different contractual agreements have been reached in relation to particular works:

Net Revenue	Author/Creator	Davis & Elkins College
<\$5000	100%	0%
\$5,000-25,000	75%	25%
\$25,001-\$100,000	60%	40%
>\$100,000	50%	50%

If a work involves more than one employee as author/creator, the authors/creators will divide their share equally unless they provide the College with an alternative revenue distribution arrangement agreed upon by them. Use of net revenues received by the College under this Policy shall be restricted to the support of scholarly, research, or creative activity on the part of the faculty and staff.

Recognizing that the issue of intellectual property rights is complex and rapidly evolving, Davis & Elkins College remains open to the possibility of arriving at special agreements as the need may arise in relation to particular projects.

B. Works by Independent Contractors

Works by independent contractors are considered works for hire and are owned by the College in accordance with the contract under which the work was created. The College will endeavor to ensure that there is a written contract for work by an independent contractor specifying College ownership.

C. Works by Students

"Student works" are papers, computer programs, theses, artistic and musical works, and other creative works made by students. Ownership of the copyright to these works belongs to the student unless the work falls within one of the exceptions described below:

- a. Sponsored or Externally Contracted Works:** Ownership shall be in accordance with the section of this policy on sponsored or externally contracted works made by faculty or other employees.
- b. Works for Hire:** Student works created by students in the course of their employment with the College shall be considered to fall within the scope of Work for Hire in accordance with the section of this policy on works for hire made by staff.

For any student work in which the College asserts ownership interest under this Policy, the College and the student author/creator(s) will share any annual net revenue (i.e., revenues less recovery of all legal and other costs involved in protecting the intellectual property rights of the work, licensing costs, and other directly related administrative costs) in the accordance with the percentages outlined in Section IVA above unless different contractual agreements have been reached in relation to particular works.

V. Reporting a Discovery or Invention

When any person makes a discovery or invention to which this policy applies, a report of the invention must be made promptly to the Vice President for Academic Affairs. If ownership of the

invention or discovery resides with the College, the inventor(s) will be requested to assign all intellectual property rights to the invention to the College upon the College's request.

The College, through the President or his or her designee, shall have the sole right to determine the disposition of inventions in which the College has a proprietary interest. A decision to exercise this right shall be transmitted in writing to the inventor within 60 days of the date of disclosure of the invention. If the College decides to pursue a patent, it may recommend that the College alone, or with the assistance of an external organization, such as a technology transfer company, make applications for letters of patent. Title to all such patent applications and resulting patents shall be held by the Board of Trustees of the College.

If the College decides not to patent an invention, or not to commercialize a patented invention, the College will release to the inventor its interest in the invention.

VI. Dispute Resolution

In the event of any dispute regarding a decision of the College under this policy, including, without limitation, the ownership of an invention or the allocation of the inventor's share of net revenues, the President shall have the final decision concerning the College's position in the matter.

VII. Policy Review and Revision

This policy shall be reviewed and revised as deemed necessary by the Faculty Assembly of the College and is subject to final approval by the President and Board of Trustees.

Appendix 1: Volunteer Forms

Appendix 1A: I Volunteer Registration Form

VOLUNTEER REGISTRATION FORM

This portion of the form to be filled out by the Volunteer:

Social Security No.: _____	Last Name: _____
First Name: _____	Middle Name: _____
Preferred First Name: _____	Date of Birth: _____
Gender: <input type="radio"/> Female <input type="radio"/> Male	

Permanent Address: _____
City: _____ State: _____ Zip Code: _____
Telephone #: _____

Do you have health insurance? Yes ___ No ___

Medical Insurance Carrier:
(Optional) _____

EMERGENCY CONTACT INFORMATION:	
Contact	
Last Name: _____	First: _____ Middle: _____
Relationship: _____	
Address	
Street: _____	City: _____ State: _____
Zip: _____	
Phone: (_____) _____	Ext: _____

I have carefully read the Davis & Elkins College Volunteer Policy and information above and understand their contents. The above information provided by me is accurate.

Volunteer's Signature Date

This portion of the form is to be filled out by the Department Supervisor:

Department Head	Title	Email Address
Unit	Telephone Number	Begin and End Dates

Description of Volunteer Duties:

Department Head Signature

Date

Please submit this form to Human Resources.

Appendix 1B: Volunteer Release and Waiver of Liability Form

Davis & Elkins College VOLUNTEER RELEASE AND WAIVER OF LIABILITY

Please read this document carefully before signing

I, _____, desire to voluntarily participate without compensation in the Department of _____ at Davis & Elkins College (Davis & Elkins College). Therefore, I hereby covenant with Davis & Elkins College that I shall not sue or bring any legal action or proceeding against Davis & Elkins College or its Board of Trustees, employees, agents, officers, faculty, students, or representatives on account of any injury or damage, including death, that I may sustain by virtue or arising out of my work as a volunteer and/or use of the equipment of Davis & Elkins College.

I acknowledge that my work as a volunteer and/or use of the equipment of Davis & Elkins College shall be at my sole risk and that Davis & Elkins College, its Board of Trustees, employees, agents, officers, faculty, students, or representatives shall not have any responsibility whatsoever with respect thereto.

I acknowledge that I have read this document carefully and that I fully understand and accept all provisions of the waiver.

I certify I am at least eighteen years of age and voluntarily sign this waiver.

Signature _____ Date _____

Witness _____ Date _____