



Annual Security and Fire Safety Report

Fall 2023

*A guide for current and prospective students and employees prepared in compliance with the
Jeanne Clery Disclosure of Campus Security Policy & Crime Statistics Act*

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Introduction Letter

Dear Davis & Elkins College Community,

Davis & Elkins College remains committed to providing a safe learning, working, and residential environment for students, faculty, staff and visitors. To that end and in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), we provide this report. This report also offers a good faith effort to comply with requirements of the Violence Against Women Reauthorization Act of 2014 (VAWA). VAWA has amended the Clery Act to require institutions to compile statistics, policies, procedures, and programs for incidents of domestic violence, dating violence, sexual assault and stalking.

Since the Spring of 2020, there have been tremendous and unprecedented changes in lifestyles, as well as the unique challenges in the academia and throughout the world. Our policies pertaining to COVID continued until recommendations and mandates from the Center for Disease Control and the State of West Virginia were removed. We respected those recommendations, requirements and restrictions that had become necessary, at times, in keeping our campus not only open, but safe. This is in large part due to the exceptional efforts put forth by our leadership, staff and students across campus. The entire campus has continued to pull together, and although our COVID policies have since been modified, they continue to be well thought out, implemented correctly, and adhered to precisely, when necessary.

We urge members of the campus community to use this report as a guide for safe practices on and off campus. This report is sent via email to current students and employees on an annual basis to notify them that the report is available for view. The email includes a brief summary of the contents of this report and the web address where the report can be found online at www.dewv.edu/consumer-information/health-and-safety/ . A copy of the report can also be obtained from:

Office of Public Safety
The Gatehouse
100 Campus Drive Elkins, WV 26241
(304) 704-9111

We encourage you to read this information and consider how it can help you and the D&E community to prevent and protect yourself against crime and COVID. Thank you for taking the time to review this information and for helping to continue to make Davis & Elkins College a safe community.

Sincerely,

Jamie D. Morgan, J.D.

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Clery Act and Violence Against Women Reauthorization 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, that requires colleges and universities across the United States to disclose information about crimes on and around their campuses. The Violence Against Women Reauthorization Action, or VAWA (2014), has amended the Clery Act to require institutions compile statistics, policies, procedures and programs for incidents of domestic violence, dating violence, sexual assault and stalking.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statics Act requires colleges and universities to:

1. Publish an annual report by October 1st that contains three years of campus crime and fire statistics and certain campus security policy statements.
2. Disclose crime statistics for the campus, public areas immediately adjacent to or running through the campus, and certain non-campus facilities and remote classrooms. The statistics must be gathered from campus security, local law enforcement, resident assistants (RA), resident directors (RD) and other Davis & Elkins faculty/staff that have “significant responsibility for student and campus activities.”
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 security department.”
5. Disclose in a fire log “that records by date reported all fires in on-campus student housing facilities.”

This Davis & Elkins College Annual Security and Fire Safety Report is published in compliance with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* (“Clery Act”), and *Violence Against Women Act* (VAWA). This report includes statistics for the previous three years concerning reported crimes that occurred on campus; in certain off-campus buildings or property owned or controlled by Davis & Elkins College; and on public property within, or immediately adjacent to and accessible from College property. The report also includes institutional policies on campus security policies concerning alcohol and drug use, crime prevention, the reporting of crimes and other matters.

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 and 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 Davis & Elkins Office of Public Safety, campus officials, RAs, RDs and local law enforcement agencies. The Annual Security and Safety Report is compiled and submitted by the Director of Public Safety. For more

information, contact the Office of Public Safety at 304-704-9111 or visit the Gatehouse Monday-Friday 8:00 am to 4:30 pm. A hard-copy is available upon request from this office.

Davis & Elkins College Mission, Vision, Values, Identity and History

The D&E Mission Statement

To prepare and inspire students for success and for thoughtful engagement in the world.

The D&E Vision Statement:

In a nurturing environment, students are challenged to:

- Communicate effectively.
- Think critically, creatively and independently.
- Prepare to live lives of perspective and meaning.
- Act responsibly as citizens of multiple communities.

The D&E Values Statement

We value the richness of place, the beauty of the natural world, and the importance of other countries, cultures and regions. D&E challenges students to participate in a vibrant and diverse campus while cultivating the intellectual, creative, ethical, physical and leadership skills the real world requires. As an affiliate of the Presbyterian Church (U.S.A.) and covenant partner with the Presbytery of West Virginia, the College affirms as special values: human dignity, social responsibility, participatory governance, and the unity of the intellectual, social and spiritual dimension of life.

The D&E Identity Statement

A private college of liberal arts and professional students, Davis & Elkins values curiosity and thoughtfulness while fostering social, emotional, spiritual and physical well-being. Toward those ends, the College provides a friendly and supportive environment for curious, engaged and freethinking students of diverse backgrounds. We emphasize “hands-on,” experiential learning through internships, practicums, service projects, field research, travel and study abroad programs, and Winter Term classes that explore experimental subjects in unexpected locales. Some of our finest students arrive without direction only to find their path at D&E, thanks to the opportunities for intellectual growth that abound on our campus. These opportunities extend beyond the classroom. As one of the East’s premier mountain colleges, D&E offers unparalleled access to winter sport centers and other forms of extracurricular recreation including camping, biking, canoeing, hiking, skiing and snowboarding. Safe and supportive, stimulating and friendly, Davis & Elkins College encourages students to approach their adventure in education as a journey of self-discovery.

D&E History:

Founded in 1904, Davis & Elkins College was established through the influence and efforts of Henry Gassaway Davis and Stephen Benton Elkins, two United States Senators who were responsible for building the first railroad into the area. In 1901, the Senators donated land and money to establish a college and academy associated with the Presbyterian Church. Their gift was matched by donations

from the citizens of Randolph County and the Presbyteries of Lexington and Winchester, Va. In 1902, the College's Board of Trustees met for the first time. The first classes were held on September 21, 1904.

The original campus was located in south Elkins on a plot donated by Senator Elkins. Later, a gift of property from Mrs. Hallie Davis Elkins, the daughter of Senator Davis and the widow of Senator Elkins, promoted the move of the College to its present location in 1926. This property included her home, Halliehurst, and the surrounding estate. In 1941, Senator Davis' original estate, which included Graceland and the lands adjacent to Halliehurst, was acquired for the College.

Since its move to the old "Halliehurst Farm," the physical plant of Davis & Elkins College has expanded to include 23 major buildings on a 172-acre campus that contains six landmarks on the National Register of Historic Places. From the beginning, Davis & Elkins College has sought to be of service to its students, and through them, to the state, the nation and the world — meeting the needs of each generation to the best of its ability.

Office of Public Safety

The mission of the Davis & Elkins Office of Public Safety is to provide a safe and secure learning, working and residential environment for students, staff and faculty. This office 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 is also committed to honesty, integrity and professionalism. They value and treat every person with respect and compassion. They work in tandem with the members of our community to make Davis & Elkins College a safe and secure place for all of us to work, learn and live.

Law Enforcement Relationships and Jurisdiction

Davis & Elkins College Office of Public Safety personnel are trained to receive, document and investigate all crimes reported; however, all Title IX related reports will be reported to the Title IX Coordinator. An officer will work with individuals reporting a crime to obtain information and evidence, identify potential witnesses and conduct a thorough investigation in an effort to identify the responsible party. When appropriate, crime suspects may be adjudicated through the student conduct system, Title IX process, or criminal justice system. The daily crime log is available to be viewed by the public at the Office of Public Safety, Gatehouse, 100 Campus Drive. The crime log contains information concerning reported crimes, case numbers, classification of the crime, date reported, date and time occurred, general location and disposition of the crime.

The Davis & Elkins College Office Public Safety maintains a working relationship with local, state and county police. The Davis & Elkins College Office of Public Safety staff are non-sworn private safety officers. They do not have arrest powers pursuant to the laws of the State of West Virginia. However, they are authorized to detain individuals suspected of crimes on campus pursuant to arrival of local law enforcement agencies.

The College's safety operations are designed to provide leadership to the community on safety issues. All Public Safety officers work closely with all members of the campus community, especially the Office of Student Life. Furthermore, Public Safety office staff has a good working relationship with local law enforcement, which can be helpful in many situations. The staff must be informed of emergency situations in order to assist local emergency service providers (police, fire, medical personnel) with a quick response.

The Office of Public Safety is located at the Gatehouse. Officers are available seven days a week, 24 hours a day. Please call 304-704-9111 for assistance.

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

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. Although the above listed policies and procedures include offenses that also violate local, state and federal laws, Davis & Elkins Office of Public Safety officers have no authority to enforce such laws and have no powers of arrest. Members of the Office of Public Safety team have an excellent working relationship with the local, county and state law enforcement offices.

Officers document all their activities and patrols in a Daily Patrol Log. Officers are also required to report any incidents on an Incident Report to be submitted to the Director of Public Safety. These incidents range from injury to vandalism, weather, traffic, lost and found items, criminal violations, policy violations, and other matters. Incident Reports are to be submitted before the end of the officer's shift, unless there are extenuating circumstances.

Access to Campus and Buildings

Access to campus buildings and grounds is a privilege extended to students, faculty, staff and authorized guests. D&E 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 a fob access control system. Individuals who wish to access buildings during non-business hours or for special events should contact the appropriate department head, D&E Office of Student Life or 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 during the academic year. 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 dorm room. There are Resident Assistants 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. Cameras are also utilized as part of the overall security system. Cameras in campus buildings are located in strategic areas. These are monitored by members of the Davis & Elkins Public Safety team.

National Management Resources, a third party vendor and sometimes referred to as Physical Plant, maintains the College's academic, administrative and residential buildings and the grounds with a concern for safety and security.

Roof Access

Students and non-authorized employees are strictly prohibited from going onto the roofs of residence halls or any other College building; objects (bikes, chairs, etc.) may not be put on roofs. Students who allow others to access the roof from their room will also be held accountable. The College assumes no financial or legal responsibility for injury due to this prohibited act.

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 may respond to student-related incidents that occur in close proximity to campus. As noted earlier, the Office of Public Safety enjoy a close working relationship with local law enforcement when violations of federal, state or local laws surface. This cooperative team approach addresses criminal situations as they arise, as well as future concerns.

Emergency Response and Evacuation

Reporting Emergencies

Any individual on the Davis & Elkins College campus who feels unsafe or threatened should immediately call **911**, which will link them directly to the Randolph County E-911 Center. If the situation allows, and danger is not imminent, individuals should call the Office of Public Safety at **304-704-9111**.

Emergency Notifications

Davis & Elkins College has always recognized 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, word of mouth, 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 designee), along with members of the Cabinet 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. Once a determination has been made, a notification 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 designee) and members of the Cabinet in accordance with the College's [Emergency Response and Safety Plan](#).

Nixle Mass Notification System

For the safety of the campus community, the College has a system that is capable of sending notifications instantly and simultaneously to all registered mobile devices and email address. Notifications are also posted on the College website and social media accounts. Messages will be urgent and of emergency nature only. For this notification system, the College has adopted an opt-out policy, which means that twice a year all current faculty, staff and student information necessary to receive emergency notifications will be uploaded to the system. Family members may register for Nixle by visiting <https://www.dewv.edu/student-life/campus-services/public-safety/> and complete the registration form.

Emergency Response and Safety Plan

The Clery Act requires the College to have and disclose emergency response and evacuation procedures in place in case of significant emergencies or dangerous situations involving an immediate threat to the health or safety of students, employees or visitors occurring on its campus. 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's 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. The Emergency Response and Safety Plan is disseminated via email annually and is located on the College's website. A physical copy can be obtained in the Office of Public Safety.

Environmental Security Inspections

Davis & Elkins College strives to maintain a safe and secure working and learning environment. Ongoing checks are made by Public Safety officers, as well as select employees from Student Life and National Resource Management, and other concerned areas to routinely examine select campus areas for safety and security issues.

Evacuations

Before an emergency, determine the nearest exit at your location, the safest route to follow, and alternate exits. Evacuation routes are posted in campus buildings. Leave the immediate area but remain available to emergency or security personnel. If time permits during an evacuation, secure your workplace and take personal items such as your keys, purse, medication and glasses. In case of a fire or other dangerous conditions, evacuate immediately leaving personal items behind.

When evacuating a building, remember the following general guidelines: walk, do not run; do not use elevators; when safety allows, seek out people with special needs and provide assistance; gather outside at designated building assembly areas; and wait for instructions from the Office of Public Safety, other campus officials or emergency personnel.

In the event of an immediate, life-threatening emergency during which the campus must be evacuated, the Office of Public Safety, in collaboration with local emergency personnel, will discuss information about the location and route with civil authorities. Once determined, emergency personnel will discuss information about the evacuation location and route. Campus and community communication systems will be used to provide information about this type of evacuation. Information about food, water, first aid and shelter and other needed information will be discussed in accordance with the Emergency Response Plan and additional information will be provided at evacuation sites.

Missing Students

Any student residing in a Davis & Elkins College residence hall who is determined to be missing must be reported immediately to one of the following:

1. Residence Life staff members
2. Office of Student Life (304-642-4284)
3. Davis & Elkins Office of Public Safety (304-704-9111)
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 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 within 24 hours 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 Office of Student Life 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 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, 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 ages 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.

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 state police website. Interested persons can access this information through the West Virginia State Police website at www.wvsp.gov and click the Sex Offender tab. Several national databases can also be searched using any internet search engine.

Reporting a Crime

By reporting alleged crimes and other suspicious circumstances, the alleged crime or suspicious circumstances will be included in the Office of Public Safety's daily logs, the daily report of crimes or suspicious incidents and, if appropriate, in the Annual Security and Fire Safety Report. Additionally, if necessary, the College will be able to issue timely and appropriate warnings alerting the campus community to dangerous situations.

Campus Security Authorities (defined below) 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 in daily crime logs and the Annual Security Report, but statistical information regarding Clery reportable crimes must be shared by Campus Security Authorities, including the date and location of the incident 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.

Accurate and Timely Reporting of Criminal Offenses

All students, employees and guests should immediately report any criminal incident/activity and any other emergency to the Randolph County E-911 Center. This office will dispatch the proper authorities to the scene whether it be the police, medical personnel or fire department. After contacting 911, the Davis & Elkins Office of Public Safety should also be notified, 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 may be issued by the College to the community.

Campus Security Authorities

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 activities or programs that include direct contact with students outside of the classroom (including faculty advisors to recognized student organizations)
- Campus Safety and Security personnel
- Any staff member whose primary job description includes providing academic advice to students
- Residence Hall staff
- Student Affairs 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 Campus Public Safety Office.

Exceptions to reporting crimes exist for licensed psychologists, members of the clergy and attorneys who serve the College in that capacity. Davis & Elkins College does not have a policy that addresses these professional counselors as it is covered under the umbrella of their license.

For non-emergencies and incidents that are not criminal in nature, students, employees and guests should contact the Davis & Elkins Public Safety Office at the above listed number. These non-emergency issues may also be reported in person to the Campus Safety and Security Office located in the Gate House, and to the Office of Student Life on the first floor of Liberal Arts Hall.

Assistance in Notifying Law Enforcement

If a student, employee or guest should need help in reporting a criminal incident/activity to the appropriate authorities, they may seek the assistance of the Office of Public Safety. A member of the Office of Public safety will relay the information provided to the Randolph County E-911 Center to dispatch the proper authorities to respond to the incident. The Office of Public Safety will report Title IX related offenses to the Title IX Coordinator.

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 the police, Public Safety, Title IX Coordinator, 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. Anonymous reports may be filed pursuant to one of the following methods:

- Call the Campus Conduct Hotline at 1-866-943-5787
- Leave a private anonymous voice message for the Director of Public Safety or a Campus Security Authority.
- Mail an anonymous letter to the Director of Public Safety or any Campus Security Authority.
100 Campus Drive
Gatehouse
Elkins, WV 26241
- File an incident report online at <https://www.dewv.edu/consumer-information/incident-reportform/>

This encouragement is done to maintain and enhance the safety and security of the entire Davis & Elkins 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 crime statistics for the institution.

Anonymous Reporting to Law Enforcement: Any member of the Davis & Elkins College community who has experienced or witnessed an incident of Discrimination, Harassment, or Title IX Sexual Harassment can 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. In addition, 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.

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 incidents of child abuse and neglect to the Office of Public Safety. Moreover, West Virginia law ([WV Code §49-2-803](#)) requires certain employees to report incidents of child abuse and neglect to West Virginia's Centralized Intake for Abuse and Neglect in. 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). At Davis & Elkins College, the following individuals have been designated as CSAs:

- Vice Presidents, Department Chairs, Directors and Coaches
- Assistant Vice Presidents
- 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)
- Public Safety personnel
- Any staff member whose primary job description includes providing academic advice to students
- Residence Hall staff
- Student Life staff

Each of these individuals are required to report incidents of a Clery crime occurring on campus or at a College sanctioned event to the Davis & Elkins College Office of Public Safety for inclusion in the College's Annual Security and Fire Report prepared for the U.S. Department of Education. Due to the law's reporting requirements, all positions at Davis & Elkins College determined to be a CSA are required to participate in a mandatory training session that explain their role and expectations so that the College can be in compliance with the Clery Act. These trainings consist of the duties, responsibilities and reporting requirements of campus CSAs. At Davis & Elkins College, the following individuals have been designated as CSAs:

- Vice Presidents, Department Chairs, Directors and Coaches
- Assistant Vice Presidents
- 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)
- Public Safety personnel

- Any staff member whose primary job description includes providing academic advice to students
- Residence Hall staff
- Student Life staff

Unfounded Crimes: An institution may withhold, or subsequently remove, a reported crime from its crime statistics in the rare situations where sworn or commissioned law enforcement personnel have fully investigated the reported crime and, based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore “unfounded.” Only sworn or commissioned law enforcement personnel may “unfound” a crime report for purposes of reporting under this section. Therefore, as a private agency, Davis & Elkins college does not disclose or report offenses that are unfounded, unless instructed to do so by a sworn agency. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution, and the failure to make an arrest do not “unfound” a crime report.

During the current reporting year, none of the previously reported crimes were unfounded.

Discrimination, Harassment, and Title IX Sexual Harassment Reporting

Under Title IX, the 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.

College employees with supervisory and leadership responsibilities on campus are considered “responsible employees.” This includes, but is not limited to, faculty, supervisors, academic staff, advisers, coaches, administrators, Resident Assistants and other employees with a responsibility for student welfare. The College requires that all responsible employees share a report of alleged sexual misconduct violations with the Title IX Coordinator so the College can respond appropriately to end the conduct, prevent its recurrence and remedy its affects. See Davis and Elkins College’s Policy and Procedures on Discrimination, Harassment, and Title IX Sexual Harassment. See link for reporting: <https://www.dewv.edu/consumer-information/title-ix-reporting-form/>

Officials with Authority are also required to report all incidents of Discrimination, Harassment, and Title IX Sexual Harassment to the Title IX Coordinator. An Official with Authority is an official of Davis & Elkins College with the authority to institute corrective action on behalf of the Davis & Elkins College and notice to whom causes Davis & Elkins College to respond to Title IX Sexual Harassment. Officials with Authority include the following: Title IX Coordinator, Title IX Deputy Coordinators, President, Vice Presidents, Cabinet Members, Directors, and Dean of Students.

Child Abuse and Neglect

As set forth in the College's Child Abuse and Neglect Policy, all employees at the College, as well as key students,¹ student employees over the age of 18, camp counselors and program leaders,² and College volunteers and third-party vendors who witness or suspect an incident of child abuse are obligated to make a report utilizing the following procedures:

1. Under West Virginia Law (WV Code §49-2-803), certain persons are required to directly report incidents or suspicions of child abuse or neglect to the West Virginia's Department of Health and Human Resources Centralized Intake for Abuse and Neglect (see contact information below) immediately and not more than 48 hours after suspecting the abuse or neglect. These persons include: any medical, dental or mental health professional, Christian Science practitioner, 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, humane officer, member of the clergy, circuit court judge, family court judge, employee of the division of the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee, coach or volunteer to an entity that provides organized activities for children, or commercial film or photographic print processor.
2. In any case where an employee, key students, student employees over the age of 18, camp counselors and program leaders, College volunteers or third-party vendors believes that a child has suffered serious physical abuse, sexual abuse or sexual assault, the individual must also immediately report (no more than 48 hours after suspecting the abuse or neglect) the incident to the State Police and City Police (Elkins).
3. In addition to the above, individuals covered by this policy are also expected to immediately report an incident of child abuse or neglect to the Office of Public Safety immediately at 304-704-9111.

West Virginia Department of Health and Human Resources Centralized Intake for Abuse and Neglect

1-800-352-6513

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 a.m. to 5:00 p.m. - Monday through Friday

¹ *Key Students*: those students who are in practicum involving protected persons or the medical field, student teachers, students working with protected persons and resident assistants.

² *Camp Counselors and Program Leaders*: 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 protected persons.

Timely Warnings

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, the Davis & Elkins College website, phone calls, text messaging, campus bulletin boards and/or the *Nixle* mass notification system.

The President, Dean of Student Affairs, and Director of Public Safety (or Designees) 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 reported to the College or local law enforcement:

1. Identified as a Clery Act crime. (Murder, manslaughter, sexual assault (to include rape, fondling, incest, statutory rape), Robbery, Aggravated Assault, Burglary, Motor Vehicle Theft, Arson, Hate Crimes (to include any of the above crimes plus larceny, simple assault, intimidation, destruction of property/vandalism that occurred because of a bias), Dating & Domestic Violence, Stalking, Weapons law violations, and drug and liquor law violations)
2. Does the crime 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.

Alcohol and Drug Use Policies

Pursuant to the Federal Drug-Free Schools and Communities Act Amendments of 1989, the 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 Office of Student Life in collaboration with Human Resources to determine effectiveness and to implement changes (if needed) to ensure that the College's disciplinary sanctions are consistently enforced. The College is subject to the laws of the State of West Virginia, those of Randolph County and the City of Elkins.

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 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 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, they will be expelled from the College.

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

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.

More information about Davis and Elkins College's drug and alcohol policies, disciplinary processes, and prevention programs be found in our Drug and Alcohol Abuse Prevention Program Biennial Review on our website at: www.dewv.edu/wp-content/uploads/2023/12/2023-DAAPP-Annual-Notification_FINAL.pdf.

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 illegal 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, hazing, or dating/domestic violence 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 drug abuse. Students may seek such assistance by contacting the Office of Student Life or the 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 numerous resources available on and off campus to provide drug education or assistance with drug use concerns:

1. The Office of Student Life, the campus nurse and counselors are valuable resources 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.

Student Health Services is available to assist individuals with situations involving drugs.

Collecting Crime Statistics

Each year the Davis & Elkins College 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 and Fire Safety report containing campus security policy disclosures and crime statistics for the previous three years. It is important to note that all crimes reported and documented include crimes that occur on campus including crimes that occur in residence halls.

Davis & Elkins College will report to the Department of Education in its Annual Security and Fire Safety Report the statistics for the total number of crime reports that were “unfounded” and subsequently withheld from the crime statistics reported in the Annual Security and Fire Safety Report. Unfounded reports are those that have been fully investigated by sworn law enforcement personnel and, based on the results of this full investigation and evidence, have made formal determination that the crime report is false or baseless. Recovery of stolen property, stolen property that is of low value, the refusal of a victim to cooperate with law enforcement or the failure to make an arrest do not justify classifying a report as “unfounded.”

Clery Crimes 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 attempt 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. (Motor vehicle theft is classified as all cases where automobiles are taken by persons not having lawful access including joyriding even though the vehicles are later abandoned.)

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, Methadone) 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-Forcible³

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 their temporary or permanent mental or physical incapacity or because of their 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 their youth or because of their temporary or permanent mental or physical incapacity.

³ Sex Offenses Definitions From the National Incident Based Reporting System Edition of the Uniform Crime Reporting Program.

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 their youth or because of their 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 their youth or because of their temporary or permanent mental incapacity.

Sex Offenses-Non-forcible

Unlawful, non-forcible sexual intercourse.

1. Incest - Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

2. Statutory Rape - Non-forcible sexual intercourse with a person who is under the statutory age of consent.

Davis and Elkins College Policy Definitions

Sexual Assault: any sexual act directed against another person, without the consent of the victim, including instances where the victim lacks the ability to Consent. Sexual assault can occur between individuals of the same or different sexes and/or genders. Sexual Assault includes the following:

Non-Consensual Penetration: Actual or attempted penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the affirmative consent of the victim. This includes penetration forcibly and/or against the person's will in instances where the victim is incapable of giving affirmative consent because of their youth or because of their temporary or permanent mental or physical incapacity.

Fondling: the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity;

Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or

Statutory Rape: sexual intercourse with a person who is under the statutory age of consent.

Sexual Exploitation: is an act or a failure to act that involved 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 person being exploited. Sexual advantage may include, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person; causing the prostitution of another person; recording, photographing or transmitting identifiable images of private sexual activity and/or the intimate parts of another person; allowing third parties to observe private sexual acts; disclosing, causing to be disclosed or threatening to disclose, with the intent to harass, intimidate, threaten, humiliate, embarrass, or coerce, an image of another which shows the intimate parts of the depicted

person or shows the depicted person engaged in sexually explicit conduct which was captured under circumstances where the person depicted had a reasonable expectation that the image would not be publicly disclosed; engaging in voyeurism, and intentionally exposing another to a sexually transmitted infection.

Domestic Violence: any felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the State of West Virginia and includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who—

- is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
- is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; shares a child in common with the victim; or
- commits acts against a minor or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction

Dating violence: an act of violence or threat of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship is determined based on a consideration of the (1) length of the relationship, (2) type of relationship, and (3) frequency of interaction between the persons involved in the relationship.

Stalking: Stalking means engaging in a Course of Conduct directed at a specific person that would cause a Reasonable Person to: fear for their safety or the safety of others; or suffer Substantial Emotional Distress.

- Course of Conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Substantial Emotional Distress for purposes of this definition, means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Retaliation: an adverse action or other form of negative treatment, including but not limited to intimidation, threats, coercion, discrimination or harassment, carried out in response to a good-faith reporting of or opposition Title IX Sexual Harassment or other forms of Prohibited Conduct; an individual's or group's participation, including testifying or assisting in the Davis & Elkins College Discrimination, Harassment, and Title IX Sexual Harassment Policy Procedures; an individual's or group's refusal to participate in the Davis & Elkins College Discrimination, Harassment, and Title IX Sexual Harassment Policy and Procedures; or other form of good faith opposition to what an individual reasonably believes to be Title IX Sexual Harassment or Prohibited Conduct under this Policy.

Individuals are also protected from retaliation for making good faith requests for accommodations on the basis of religion, pregnancy, or disability.

To be a Policy violation, the challenged actions or treatment must be sufficiently serious to discourage a reasonable person from reporting, participation, or opposing.

Individuals who feel they are experiencing retaliation should report to the Title IX Coordinator immediately. This may be done online, in person, or by email to the Title IX Coordinator.

Charging an individual with a Policy violation for making a materially false statement in bad faith in the course of the resolution of a Title IX Sexual Harassment or other Prohibited Conduct complaint does not constitute Retaliation. The exercise of rights protected under the First Amendment also does not constitute Retaliation.

West Virginia State Code Definitions

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. **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" or "domestic violence" is determined by local law enforcement authorities.**

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). 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.

Consent

§61-8B-2. Defines lack of consent as:

(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 incarceration, confinement or supervision by a state, county, or local government entity, when the actor is a person prohibited from having sexual intercourse or causing sexual intrusion or sexual contact pursuant to §61-8B-10 of this code.

Dating Violence

The West Virginia State Code does not define Dating Violence.

Domestic Violence

§48-27-202 defines Domestic Violence as: §48-27-202. "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.

Stalking

§61-2-9a. defines Stalking and Harassment as:

- (a) Stalking. — Any person who engages in a course of conduct directed at another person with the intent to cause the other person to fear for his or her personal safety, the safety of others, or suffer substantial emotional distress, or causes a third person to so act, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, confined in jail for not more than six months, or both fined and confined.
- (b) Harassment. — Any person who harasses, or repeatedly makes credible threats against another is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months, or fined not more than \$1,000, or both fined and confined.
- (1) "Bodily injury" means substantial physical pain, illness, or any impairment of physical condition;

(2) "Course of conduct" means a pattern of conduct composed of two or more acts in which a defendant directly, indirectly, or through a third party by any action, method, device, or means:

(A) Follows, monitors, observes, surveils, or threatens a specific person or persons;

(B) Engages in other nonconsensual contact and/or communications, including contact through electronic communication, with a specific person or persons; or

(C) Interferes with or damages a person's property or pet;

(3) "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;

(4) "Harasses" means a willful course of conduct directed at a specific person or persons which would cause a reasonable person mental injury or emotional distress and which serves no legitimate or lawful purpose;

(5) "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; and

(6) "Repeatedly" means on two or more occasions.

(i) Any person convicted under the provisions of this section who is granted probation or for whom execution or imposition of a sentence or incarceration is suspended, shall have as a condition of probation or suspension of sentence that he or she participate in counseling or medical treatment as directed by the court.

(j) Upon conviction, the court may issue an order restraining the defendant from any contact with the victim for a period not to exceed 10 years. The length of any restraining order shall be based upon the seriousness of the violation before the court, the probability of future violations, and the safety of the victim or his or her immediate family. The duration of the restraining order may be longer than five years only in cases when a longer duration is necessary to protect the safety of the victim or his or her immediate family.

(k) It is a condition of bond for any person accused of the offenses described in this section that the person is to have no contact, direct or indirect, verbal or physical, with the alleged victim.

(l) Nothing in this section may be construed to preclude a sentencing court from exercising its power to impose home confinement with electronic monitoring as an alternative sentence.

(m) The Governor's Committee on Crime, Delinquency, and Correction, after consultation with representatives of labor, licensed domestic violence programs, and rape crisis centers which meet the standards of the West Virginia Foundation for Rape Information and Services, is authorized to promulgate legislative rules and emergency rules pursuant to §29A-3-1 *et seq.* of this code, establishing appropriate standards for the enforcement of this section by state, county, and municipal law-enforcement officers and agencies.

Crime Statistics

The statistics in this report are published in accordance with the standards and guidelines used by the FBI Uniform Crime Reporting Handbook and relevant federal law. Davis & Elkins College submits the annual crime statistics published in this report to the Department of Education. The statistical information gathered by the Department of Education is available to the public through the Department of Education website.

In reading the crime statistics table, it is important to note the following:

- Crimes occurring on campus include crimes occurring in the residence halls.
- The College reports the number of persons who are charged with a violation of policy or law, not the number of persons who are found responsible for a violation of policy or law.

	ON-CAMPUS PROPERTY	STUDENT HOUSING FACILITIES	PUBLIC PROPERTY	NON-CAMPUS PROPERTY	TOTAL
MURDER/NON-NEGLIGENT MANSLAUGHTER					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
NEGLIGENT MANSLAUGHTER					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
FORCIBLE SEXUAL OFFENSES: RAPE					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	1	0	0	1
SEXUAL OFFENSE: FONDLING					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
SEXUAL OFFENSES, NON-FORCIBLE: INCEST					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
SEXUAL OFFENSES, NON-FORCIBLE: STATUTORY RAPE					
2020	0	0	0	0	0
2021	0	0	0	0	0

2022	0	0	0	0	0
ROBBERY					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
AGGRAVATED ASSAULT					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
BURGLARY/LARCENY					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	4	0	0	4
MOTOR VEHICLE THEFT					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	1	0	0	0	1
ARSON					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
ARRESTS (WEAPONS)					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
DISCIPLINARY REFERRALS: WEAPONS					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
ARRESTS: DRUG LAW VIOLATIONS					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
DISCIPLINARY REFERRALS: DRUG LAW VIOLATIONS					
2020	0	6	0	0	6
2021	0	7	0	0	7

2022	1	7	0	0	8
ARRESTS: LIQUOR LAW VIOLATIONS					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	0	0	0	0
DISCIPLINARY REFERRALS: LIQUOR LAW VIOLATIONS					
2020	0	10	0	0	10
2021	0	2	0	0	2
2022	0	3	0	0	3
DOMESTIC VIOLENCE					
2020	0	0	0	0	0
2021	2	0	0	0	2
2022	0	0	0	0	0
DATING VIOLENCE					
2020	0	0	0	0	0
2021	0	0	0	0	0
2022	0	3	0	0	3
STALKING					
2020	0	0	0	0	0
2021	2	0	0	0	2
2022	0	1	0	0	1

Hate Crimes

There were no reported hate crimes for the years 2020, 2021 or 2022.

Disclosures to Alleged Victims of Crimes of Violence or Non-forcible Sex Offenses

Davis & Elkins 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 a student or employee who is the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of the a crime of violence or non-forcible sex offense, Davis & Elkins College will provide the results of the disciplinary hearing to the victim's next of kin, if so requested.

Crime Prevention

Crime Prevention

Davis & Elkins College is dedicated to eliminating and/or minimizing criminal activities through the eyes and ears of the faculty, staff, students, friends and neighbors of the campus community. Crime

Prevention brochures and other printed materials are available at the Office of Public Safety, various locations on campus, 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 Office of Student Life, Title IX Coordinator, and the 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.

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 onto students, faculty and staff via email, text, the student newspaper and other means in the Office's continual effort to help keep the College community safe.

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 Policy and Procedures on Discrimination, Harassment, and Title IX Sexual Harassment, 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 employees as necessary and applicable.

Prevention And Educational Resources

Davis & Elkins College provides resources for education about and prevention of discrimination, harassment, and Title IX Sexual Harassment which includes Sexual Assault, Dating and Domestic Violence, and Stalking. On-campus prevention and awareness resources regarding Sexual and Gender-Based Misconduct are available online, across campus, and at the following offices:

Campus Safety and Security

304-704-9111

Title IX Coordinator, Amy Kittle

Liberal Arts Hall, Room 209

Deputy Title IX Coordinator, Kate Garlick

Liberal Arts Hall 102

Deputy Title IX Coordinator, Jane Corey

Liberal Arts Hall, Room 203

Deputy Title IX Coordinator, Rob Phillips

Liberal Arts Hall, Room 106

Deputy Title IX Coordinator, Nicole Rose

Hermanson Center, Natatorium

The Office of Student Life

Liberal Arts Hall, Room 102

Student Health Services
1st Floor of the Robert C Byrd Center
Student Ombudsperson, Chanda Collette
Halliehurst, Second Floor
Pastoral Counselor, Kimberly Morgan
Albert Hall, Room 110

Training

Primary prevention and awareness training, which includes training with respect to sexual assault offenses, dating and domestic violence, and stalking is required 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 and Officials with Authority annually;
- All investigators – annually;
- Title IX Coordinator and Deputy Coordinators – annually;
- All Campus Safety and Security Officers - annually.

Safety Tips

- Report all suspicious information to the Office of Public Safety immediately.
- Program the Office of Public Safety's number into your cell phone: 304-704-9111.
- Try to avoid walking alone at night, travel with friends, or use the escort services provided by the Office of Public Safety.
- Be aware of your surroundings. Watch the cars and people around you.
- Carry your keys and ID card on you at all times. Do not lend them to anyone.
- Keep your residence hall room door closed and locked when you are not there.
- Do not prop open doors to residence halls or other protected locations.
- Lock up bicycles and motorcycles. Lock car doors and close windows when leaving your car.
- Never leave valuables unattended or in your car.

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 violence, 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 Security or local law enforcement.

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, 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;
- Referring people to on- or off- campus resources listed in this document for support in health, counseling or with legal assistance.

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).

Immediate Assistance and Resources

It is the College’s goal to empower individuals who believe they have experienced an incident of violence, which includes dating and domestic violence, sexual assault, and stalking to seek help and access the resources most helpful to 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.

Get to a Safe Place: First and foremost, an individual who is the victim of violence or Sexual Assault (non-consensual sexual contact or 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 who are not in a safe place should contact Public Safety at 304-704-9111, 24 hours a day or Local Law Enforcement at 911 immediately (24 hours).

Individuals off campus should contact Local Law Enforcement at 911 immediately.

Seek Medical Care: Whether a member of the College community who has experienced an incident of violence, 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.

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, or wash clothes, sheets, blankets or other items. Anything of evidentiary value should be placed in a paper bag (plastic bags are discouraged). In addition, victims are urged to photograph visible injuries. Pictures of injuries should be taken in both close-up and wide-angle. A credit card, coin or dollar bill should be used in the pictures for reference of size. Digital photographs, relevant text or electronic message communications should be saved to include a time stamp of the photograph or communication if possible.

Discrimination, Harassment and Title IX Sexual Harassment Policy Statement

Davis & 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.

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. 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 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.

Davis & Elkins College's Title IX Coordinator is **Amy Kittle** and may be contacted by phone at **304-621-1316** or by email at kittleamy@dewv.edu. She may also be visited in person at her office, which is located in Liberal Arts Hall, room 209.

Davis & Elkins College's full policy and procedures regarding gender-based discrimination, harassment, dating and domestic violence, stalking and sexual misconduct is available in the Title IX Office (Liberal Arts Hall, Room 209) or online at www.dewv.edu/title-ix. This policy provides, in part, that the reported victim and the accused will each be allowed to choose one person to accompany them throughout the reporting and investigatory process. Both parties will be informed of their rights and the outcome of any institutional proceedings.

Davis & Elkins College encourages victims of sexual misconduct, dating and domestic violence, and stalking to talk to somebody about what happened so victims can get the support they need and so that D&E can respond appropriately. 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.

It is the goal of the College to provide a prompt, fair and impartial process that is consistent with the College's policies and procedures which are provided to both the Complainant and the Respondent.

Privacy and Confidentiality

Davis & Elkins College recognizes that privacy is important. Davis & Elkins College will attempt to protect parties' privacy to the extent reasonably possible. The Title IX Coordinator, investigators, advisors, facilitators of informal resolution, hearing officers, and any others participating in the process on behalf of Davis & Elkins College shall keep the information obtained through the process private and, to the extent possible, confidential. All other participants in the process (including the Complainant, Respondent, and witnesses) are encouraged to respect the privacy of the parties and the confidentiality of the proceedings and circumstances giving rise to the dispute and to discuss the matter only with those persons who have a genuine need to know.

While Davis & Elkins College is committed to respecting the confidentiality of all parties involved in the process, it cannot guarantee complete confidentiality. Examples of situations in which absolute confidentiality cannot be maintained include, but are not limited to, the following:

- When Davis & Elkins College is required by law to disclose information (such as in response to a subpoena or court order).
- When disclosure of information is determined by the Title IX Coordinator to be necessary for conducting an effective resolution or investigation of the allegations.
- When confidentiality concerns are outweighed by Davis & Elkins College interest in protecting the safety or rights of others.
- When a Formal Complaint is filed.

Advisors, whether Davis & Elkins College appointed or not, are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Davis and Elkins College. Advisors will be asked to sign

Non-Disclosure Agreements (NDAs). Davis & Elkins College may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by privacy expectations.

Intakes of Reports Of Prohibited Conduct, Which Includes Sexual Assault, Dating And Domestic Violence, And Stalking

Once a relevant report is received by the Title IX Coordinator, the Title IX Coordinator shall review the report to determine the appropriate next steps. After receiving a report of conduct that, if true, would constitute a violation of the College's Policy and Procedure on Discrimination, Harassment, and Title IX Sexual Harassment, the Title IX Coordinator will contact the Complainant, request to meet with Complainant to discuss the resources, rights, and options available and provide a copy of the College policy which:

- Explains the availability of Supportive Measures;
- Explains that Supportive Measures are available with or without filing a Formal Complaint with Davis & Elkins College or law enforcement;
- Informs the Complainant that even if they decide not to file a Formal Complaint, the Title IX Coordinator may do so by signing a Formal Complaint;
- Explains that they have the option to seek Supportive Measures regardless of whether they choose to participate in a Davis & Elkins College related proceeding or investigation;
- Explains the option to seek medical treatment and information on preserving potentially key forensic and other evidence;
- Explains the process for filing a Formal Complaint of Prohibited Conduct, including Title IX Sexual Harassment;
- Includes Davis & Elkins College's procedural options for Formal and Informal Resolutions;
- Explains the Complainant's right to and advisor of their choosing; and,
- Includes Davis & Elkins College's prohibition of Retaliation against the Complainant, Respondent, the witnesses, reporting parties, and that Davis & Elkins College will take prompt action when Retaliation is reported.

Supportive Measures

Supportive Measures are non-disciplinary, nonpunitive individualized services, accommodations, and other assistance that Davis & Elkins College offers and may put in place, without fee or charge, after receiving notice of Prohibited Conduct via a report to the Title IX Coordinator or an Official with Authority. Supportive Measures are designed to restore or preserve access to Davis & Elkins College's Education Program and Activity, environment, or to protect the safety of all parties and Davis & Elkins College's environment, or deter Prohibited Conduct, while not being punitive in nature or unreasonably burdening any party.

Supportive Measures are available regardless of whether the matter was reported to Davis & Elkins College for the purpose of initiating any formal resolution process and before, after, and regardless of whether a Formal Complaint is filed. A Complainant who requests Supportive Measures retains the right to file a Formal Complaint, either at the time the Supportive Measure is requested or at a later date. Any Complainant that requests Supportive Measures will be informed in writing of their right to simultaneously or subsequently file a Formal Complaint pursuant to the College's Policy.

The Title IX Coordinator will contact a Complainant after receiving a report of possible Prohibited Conduct (1) to discuss the availability of Supportive Measures and (2) to explain that Supportive Measures are available with or without the filing of a Formal Complaint of Title IX Sexual Harassment. The Title IX Coordinator will consider the Complainant's wishes with respect to implementation of Supportive Measures. Supportive Measures may also be requested by and made available to Respondents, witnesses, and other impacted members of the Davis & Elkins College community.

The Title IX Coordinator will ultimately serve as the point of contact for any individual requesting Supportive Measures. To determine the appropriate Supportive Measure(s) to be implemented, Davis & Elkins College will conduct an individualized assessment based on the unique facts and circumstances of a situation. The Title IX Coordinator may work with other administrators and offices when necessary to determine reasonable measures and accommodations. Whether a possible Supportive Measure would unreasonably burden the other party is a fact determination made by the Davis & Elkins College in its discretion that takes into account the specific nature of the education programs, activities, opportunities and benefits in which an individual is participating.

Examples of Supportive Measures include, but are not limited to, the following:

- Academic support services and accommodations, including the ability to reschedule classes, exams and assignments, transfer course sections, or withdraw from courses without penalty;
- Academic schedule modifications (typically to separate Complainant and Respondent);
- Work schedule or job assignment modifications (for Davis & Elkins College employment);
- Changes in work or housing location;
- An escort to ensure safe movement on campus;
- On-campus counseling services and/or assistance in connecting to community-based counseling services;
- Assistance in connecting to community-based medical services;
- No contact directives (to instruct individuals to stop all attempts at communication or other interactions with one another);
- Placing limitations on an individual's access to certain Davis & Elkins College facilities or activities;
- Work schedule or job assignment modifications, including suspending employment with or without pay consistent with any applicable written procedures (for Davis & Elkins College positions);
- Information about and/or assistance with obtaining personal protection orders;
- Leaves of absence;
- Increased monitoring and security of certain areas of the campus; or
- A combination of any of these measures.

Davis & Elkins College will maintain Supportive Measures provided to the Complainant or Respondent as confidential to the extent that maintaining such confidentiality would not impair the College's ability to provide the Supportive Measures.

Advisor of Choice

Throughout the resolution process for Title IX Sexual Harassment or other forms of Prohibited Conduct as defined in the College's policy, the Complainant and a Respondent may each have an advisor of their choice to provide support and guidance. An advisor may accompany the Complainant/Respondent to

any meeting with the Title IX Coordinator, the investigator, or to a hearing. An advisor of choice may be but is not required to be an attorney.

Bias and Conflict Of Interest

All Administrators participating in a resolution process must be impartial and free from bias or conflict of interest, including bias for or against a specific Complainant or Respondent or for or against complainants and respondents generally. If an acting Administrator has concerns that they cannot conduct a fair or unbiased process, they must report those concerns to the Title IX Coordinator.

A Complainant and/or Respondent may challenge the participation of a specific Title IX Administrator because of perceived conflict of interest, bias, or prejudice. Such challenge, including the rationale must be made in writing to the Title IX Coordinator as soon as possible or within 48 hours of notice of the name of the Title IX Administrator.

Preponderance of the Evidence Standard

A standard of proof used by Davis and Elkins College to determine whether or not the evidence provided indicates 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.

Formal Complaints of Title IX Sexual Harassment

Title IX Sexual Harassment means Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation as defined by D&E's policies and procedures and that occur in the Title IX Jurisdiction.

After a report has been received by the Title IX Coordinator, a Complainant has the option to file a Formal Complaint against a Respondent alleging Title IX Sexual Harassment and requesting that Davis & Elkins College investigate those allegations. In order to file a Formal Complaint, the Complainant should contact the Title IX Coordinator and sign Davis & Elkins College's Complaint form. This may be done online, in person, or by email to the Title IX Coordinator.

When a Complainant does not wish to File a Formal Complaint on their own behalf, the Title IX Coordinator may, in their discretion, file a Formal Complaint by signing the Formal Complaint form.

When deciding to File a Formal Complaint, the Title IX Coordinator will consider the risk that the Respondent might commit additional acts of Prohibited Conduct; whether or not there have been additional reports against the same Respondent for the same or similar conduct; whether or not the Prohibited Conduct was committed by multiple Respondents; the seriousness of the alleged misconduct; and, whether or not the Complainant is a minor.

When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a complainant or otherwise a party to the resolution process. While the Complainant may choose not to participate in the resolution process initiated by the Title IX Coordinator signing a Formal Complaint, the Complainant will still be treated as a party entitled to inspect and review evidence and to receive all notices, including the notice of allegations, the notice of hearing, and the notice of outcome.

For reports of Title IX Sexual Harassment, a Formal Complaint **must** be filed before Davis & Elkins College can commence the investigation or the Informal Resolution process.

Mandatory Dismissal of Formal Complaints of Title IX Sexual Harassment

When the Title IX Coordinator receives a Formal Complaint alleging conduct, which if true, would meet the definition of Title IX Sexual Harassment, the Title IX Coordinator will evaluate the allegations in the Formal Complaint to determine whether the allegations satisfy the following conditions:

- The Title IX Sexual Harassment conduct is alleged to have been perpetrated against a person in the United States;
- The Title IX Sexual Harassment conduct is alleged to have taken place within the College's programs and activities; and,
- At the time of the filing or signing of the Formal Complaint, the Complainant is participating in or attempting to participate in the Davis & Elkins College's programs or activities.

If the Title IX Coordinator determines that **all** of the above conditions are satisfied, Davis & Elkins College will address under these procedures for Formal Resolution of Reports of Title IX Sexual Harassment. If the Title IX Coordinator determines that the allegations in the Formal Complaint do not meet the definitions of Title IX Sexual Harassment or that not all of the conditions above are satisfied, the Title IX Coordinator will dismiss the Formal Complaint for Title IX purposes. However, if the Title IX Coordinator dismisses the Formal Complaint for Title IX purposes, it may resolve the Formal Complaint under this policy as Prohibited Conduct that is not Title IX Sexual Harassment or other Davis & Elkins College policy and procedures as appropriate.

Additionally, if the Title IX Coordinator initiates the investigative process as a Title IX Sexual Harassment matter based on the allegations in the Formal Complaint, but, during the course of the investigation, the Title IX Coordinator determines that all of the above conditions are no longer satisfied, The Title IX Coordinator will dismiss the Formal Complaint for Title IX purposes and instead pursue the matter under this policy as Prohibited Conduct that is not Sexual Harassment, other Davis & Elkins College policy and procedures as appropriate, or as appropriate and applicable, dismiss the Formal Complaint in its entirety.

If the Title IX Coordinator determines that Formal Complaint of Title IX Sexual Harassment will not be adjudicated under the Formal Resolution of Reports of Title IX Sexual Harassment for one or more of the reasons outlined above, either at the outset after reviewing the Formal Complaint or during the course of the investigation, the parties will receive written notice of the dismissal and the reasons for that dismissal. Complainants and Respondents may appeal the decision to dismiss a Formal Complaint as explained below in Section XX.

Discretionary Dismissals of Formal Complaints of Title IX Sexual Harassment

In addition, the reasons discussed above under Mandatory Dismissals, Davis & Elkins College may, in its discretion, choose to dismiss a Formal Complaint or any allegations therein, if at any time during the Formal Resolution of Title IX Sexual Harassment Report, if:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- The Respondent is no longer enrolled or employed by Davis & Elkins College; or
- Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

The Title IX Coordinator retains discretion on a case by case basis to determine if it will dismiss a Formal Complaint for Title IX purposes based on any of the above reasons. Just because one or all of the conditions above are satisfied, does not mean that the Title IX Coordinator will automatically dismiss the Formal Complaint; instead the Title IX Coordinator will determine is appropriate under the circumstances.

The parties will receive simultaneous written notice of the dismissal and the reasons for that dismissal. Complainants and Respondents may appeal the decision to dismiss a Formal Complaint as explained below in Sections XX.

Consolidation of Formal Complaints of Title IX Sexual Harassment

In their discretion, the Title IX Coordinator may consolidate multiple Formal Complaints for resolution under this Policy. Consolidation might involve a single Complainant or multiple Complainants, a single Respondent or multiple Respondents, and allegations of conduct that is temporally or logically connected (even where some of that alleged conduct is not Title IX Sexual Harassment or where the above conditions are not met with respect to some of the alleged conduct). The decision to consolidate Formal Complaints is not subject to appeal.

Counterclaims

Davis & Elkins College is obligated to ensure that the grievance process is not abused for retaliatory purposes, thus counterclaims made with retaliatory intent will not be permitted. Davis & Elkins College permits the filing of counterclaims but will assess to ensure that the allegations in the counterclaim are made in good faith.

Counterclaims may also be resolved through the same investigation as the underlying complaint or investigated separately, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

Notice of Allegations

If a Complainant files, or the Title IX Coordinator signs, a Formal Complaint of Title IX Sexual Harassment within the scope of this Policy, the Title IX Coordinator will simultaneously send both parties a written Notice of Allegations that contains the following:

- Notice that the Informal and Formal Resolution processes comply with the requirements of Title IX;
- Notice of the allegations potentially constituting Title IX Sexual Harassment, providing sufficient detail for a response to be prepared before any initial interview, including (1) identities of the parties, if known; (2) the conduct allegedly constituting Title IX Sexual Harassment; and (3) the date and location of the alleged incident, if known;

- A statement that the Respondent is presumed not responsible for the alleged Title IX Sexual Harassment and a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that each party may have an advisor of their choice who may be, but is not required to be, an attorney and who may inspect and review evidence;
- Information regarding the availability of support and assistance through College resources and the opportunity to meet with the Title IX Coordinator in person to discuss resources, rights, and options;
- Notice of the College's prohibition of Retaliation of the Complainant, the Respondent, and witnesses; that the College will take prompt action when Retaliation is reported; and how to report acts of Retaliation; and
- Notice that the Davis & Elkins College Policy Manual Volume VI: Student Life Policies 6.4.6 Code of Conduct prohibits knowingly making false statements and knowingly submitting false information during the grievance process.

If, during the course of an investigation, the Title IX Coordinator decides to investigate additional allegations about the Complainant or Respondent relating to the same facts or circumstances but not included in the earlier written notice, the Title IX Coordinator will provide an amended Notice of Allegations to the parties.

Investigation of Formal Complaints of Title IX Sexual Harassment

Once a Formal Complaint has been signed, and there is no Informal Resolution, an investigation will be conducted. An investigation affords Complainants and Respondents an opportunity to submit information and other evidence and to identify witnesses. Although the parties have the option to submit evidence and suggest witnesses to be interviewed, the burden of gathering information in the investigation is with Davis & Elkins College.

When the Formal Resolution process is initiated, the Title IX Coordinator will designate an investigator or an investigative team who will be responsible for gathering evidence directly related to the allegations raised in a Formal Complaint of Title IX Sexual Harassment.

A Notice of a Title IX Sexual Harassment Investigation

If there is no Informal Resolution, a Notice of Investigation will be issued simultaneously to Complainants and Respondents. That correspondence will include the following:

- An overview of the Investigation/Formal Resolution process;
- A reminder that Informal Resolution process is available until which time a finding of responsibility is rendered;
- Information about Complainants and Respondents Rights, which includes a right to an Advisor;
- A reminder that the burden of proof and burden of evidence gathering sufficient to reach a determination regarding responsibility rests on Davis & Elkins College and not on the parties;
- That Davis & Elkins College cannot access, consider, disclose, or otherwise use a Complainant's or Respondent's records that are made or maintained under legal privilege without voluntary written consent from the person who is protected by that privilege;

- That Complainants and Respondents will have equal opportunity to present witnesses, including fact and expert witnesses, and other evidence;
- Notice that while parties are expected to respect the private and serious nature of the Resolution Process and to refrain from engaging in behavior that could be seen as Retaliation, neither Complainants or Respondents are restricted from discussing the allegations or gathering or presenting evidence; and,
- The Investigator (s) name and contact information.

Notice of Allegations and Notice of Investigation may be combined as appropriate at the discretion of the Title IX Coordinator.

Investigation Timeframe for Formal Complaints of Title IX Sexual Harassment

The investigation of a Formal Complaint will be usually concluded within 90 days of the filing of the Formal Complaint. The parties will be provided with updates on the progress of the investigation, as needed, and will be alerted if the process will go beyond the 90-day timeframe.

Interviews and Gathering Evidence in a Title IX Sexual Harassment Investigation

Interviews. The Investigator(s) will interview the parties and relevant witnesses in order to review the disciplinary process and to hear an overview of each party's account of the incident. Before any interview, the individual being interviewed will be informed in writing of the date, time, location, participants, and purpose of the interview. Such notice will be provided with sufficient time for the individual to prepare for the interview. The Respondent will be informed in writing if, during the investigation, additional information is disclosed that may constitute additional Title IX Sexual Harassment under the Policy. Following the interview, each party will be provided with a draft summary of their statement so that they have the opportunity to comment on the summary and ensure its accuracy and completeness. The parties' feedback may be attached or otherwise incorporated into the final investigative report to the extent deemed relevant by the Investigator(s).

Evidence. During the interview, and while gathering evidence, Complainants and Respondents will be given the opportunity to identify witnesses and to provide other information, such as documents, communications, photographs, and other evidence. Although Davis & Elkins College has the burden of gathering evidence sufficient to reach a determination regarding responsibility, all parties are expected to share any relevant information and/or any information that is requested by the Investigator(s). Such information shared by the parties with the Investigator(s) may include both inculpatory and exculpatory evidence.

The Investigator(s) will review all information identified or provided by the parties, as well as any other evidence they obtain. Evidence obtained as part of the investigation that is directly related to the allegations in the Formal Complaint will be shared with the parties for their review and comment, as described more fully below.

All evidence must be provided to the investigator during the scope of the investigation.

Draft Investigation Report and Opportunity to Inspect and Review Evidence of Title IX Sexual Harassment

Both parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which Davis and Elkins College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained through a party or another source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

After all the evidence is gathered, and the Investigator has completed witness interviews, the Investigator will prepare a draft investigative report. The Investigator(s) will send each party, and the party's advisor, if any, the draft investigative report.

The Investigator(s) will also provide the parties, and their advisors, if any, with copies of all evidence directly related to the allegations of the Formal Complaint that was gathered during the investigation. Before doing so, the Investigator(s) may redact information in the evidence that is not directly related to the allegations of the Formal Complaint; information prohibited from disclosure pursuant to a recognized legal privilege; and/or a party's medical or mental health information/records unless the party consents in writing to the disclosure. The evidence may be provided in either an electronic format or a hard copy. Parties and their advisors may not disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process. Disseminating evidence in such a way could be considered Retaliation under this policy.

The parties will have ten (10) days to review the draft investigative report and evidence and to submit a written response. The parties' written responses must include any comments, feedback, additional documents, evidence, requests for additional investigation, names of additional witnesses, or any other information they deem relevant to the investigation. Any party providing new evidence in their written response should identify whether that evidence was previously available to them, and if so, why it was not previously provided. The parties' feedback will be attached to the final investigation report.

Generally, only information that is provided to, or otherwise obtained by, the Investigator(s) during the course of the investigation will be considered in the determination of whether a Policy violation occurred. Any and all information for consideration by the Hearing Panel must be provided to the Investigator(s) prior to the final investigation report and will not be allowed during the hearing unless it can be clearly demonstrated that such information was not reasonably available to the parties at the time of the investigation or that the evidence has significant relevance to a material fact at issue in the investigation. If, after the final investigation report is issued, a party provides or identifies evidence that they did not previously provide or identify despite that evidence being reasonably available to them during the investigation process, the Hearing Officer may, at their discretion, draw a negative inference from the party's delay in providing or identifying the evidence. At the Title IX Coordinator's discretion, new evidence submitted after the Draft Investigation Report is issued, may result in additional investigation.

The Investigator(s) will review the feedback to the report, interview additional relevant witnesses (as deemed appropriate).

Final Investigation Report

After the time has run for both parties to provide any written response to the draft investigative report and evidence, and after the Investigator(s) complete(s) any additional investigation, the Investigator(s) will complete a final investigative report. The Investigator(s) will submit the final investigative report of relevant information to the Title IX Coordinator. The Title IX Coordinator will review the report for completeness and relevance, and direct further investigation as necessary before the report is provided to the Complainant and Respondent.

The Investigator(s) and/or Title IX Coordinator, as appropriate, may exclude and/or redact information or evidence from the final investigative report as follows:

- Information that is not relevant to the allegations raised in the Formal Complaint;
- Information about a Complainant's prior or subsequent sexual activity, unless such information about the Complainant's prior sexual behavior is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent; and
- Medical or mental health information, treatment and/or diagnosis, unless the party voluntarily consents.

After the Title IX Coordinator reviews the report and any further investigation, if necessary, is completed, the final report will be shared with the Complainant, Respondent, and their advisors. The parties will have ten (10) business days to respond in writing to the final investigative report. The Complainant and Respondent must also submit in writing by that time the names of any witnesses the Complainant/Respondent wishes to testify and a summary of information each witness would provide through their testimony. Names of witnesses provided by the Complainant/Respondent will be shared with the other party.

After the ten-business-day deadline, the Complainant and Respondent may not provide any additional written information for the hearing, unless that information was not reasonably available prior to the closing of the ten-business-day window. The Hearing Officer determines whether to grant exceptions to this ten-business-day deadline.

The Title IX Coordinator will determine what, if any, final changes or additions are made to the final investigative report based upon its review of the report and feedback as described above from the Complainant and Respondent. The matter will then be referred to a Hearing Officer

Hearing on Title IX Sexual Harassment

Hearings that occur for the purpose of formally resolving Formal Complaints of Title IX Sexual Harassment will be live and occur in real time. Complainants, Respondents, and Witnesses will answer questions posed by the Hearing Officer and Advisors in front of the Hearing Panel. Questions regarding Prohibited Conduct that does not constitute Title IX Sexual Harassment but is also being heard by the Hearing during the same hearing will be handled at the discretion of the Hearing Officer.

Hearing Panel

The Hearing Officer Panel will be formed by the Title IX Deputy Coordinators minus the Deputy Coordinator who is designated as the Appeal Officer. See Section XX on Appeals for more information.

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

Kate Garlick

Deputy Title IX Coordinator
Dean of Students
Liberal Arts Hall, 1st Floor
(304) 637-1241 | garlickk@dewv.edu

Jane Corey

Deputy Title IX Coordinator
Director of Human Resources
Liberal Arts Hall, Room 203
(304) 637-1344 | coreym@dewv.edu

Robert Phillips

Deputy Title IX Coordinator
Provost, Vice President for Academic Affairs
Liberal Arts Hall, Room 106
(304) 637-1292 | phillipsr@dewv.edu

Nicole Rose

Deputy Title IX Coordinator
Senior Women's Administrator
Myles Center for the Arts
(304) 637-1202 | rosen@dewv.edu

The Chair will be determined by the following:

- If the Respondent is a student: The Chair will be the Vice President for Student Affairs.
- If the Respondent is an employee: The Chair will be the Director of Human Resources.
- If the Respondent is a member of Faculty: The Chair will be the Provost & Vice President for Academic Affairs.

The Deputy Coordinator that will serve the designated appellate decision-maker will not participate in the hearing.

Notice of Title IX Sexual Harassment Hearing

Both the Complainant and the Respondent will be notified in writing of the date and time of the hearing and the name of the Hearing Officer at least five business days in advance of the hearing, with the hearing to occur no fewer than ten days after the parties are provided with the final investigative report.

Pre-hearing Procedures and Ground Rules for Title IX Sexual Harassment Hearing

The Hearing Officer and/or the Title IX Coordinator may establish pre-hearing procedures relating to issues such as scheduling, hearing structure and process, witness and advisor participation and identification, and advance determination of the relevance of certain topics. The Hearing Officer will communicate with the parties prior to the hearing with respect to these issues and establish reasonable, equitable deadlines for party participation/input.

The Hearing Officer also has wide discretion over matters of decorum at the hearing, including the authority to excuse from the hearing process participants who are unwilling to observe rules of decorum

Participation of Advisors in a Title IX Sexual Harassment Hearing

Both parties must be accompanied by an advisor to the hearing. If a party does not have an advisor for the hearing, the Davis & Elkins College will provide an advisor of Davis & Elkins College's choice for that party. Each party's advisor must conduct any cross-examination of the other party and any witnesses. Apart from conducting cross-examination, the parties' advisors do not have a speaking role at the hearing; an advisors' participation is limited to conferring with the party at intervals set by the Hearing Officer.

Participation of Parties and Witnesses in a Title IX Sexual Harassment Hearing

A party or witness who elects to participate in the process is expected, although not compelled, to participate in all aspects of the process (e.g., a witness who chooses to participate in the investigation is expected to make themselves available for a hearing if requested to do so).

If a party does not appear for the hearing, their advisor may still appear for the purpose of asking questions of the other party and witnesses. If a non-participating party's advisor also does not appear for the hearing, Davis & Elkins College will appoint an advisor to participate in the hearing for the purpose of asking questions of the other party on behalf of the nonparticipating party.

Parties are reminded that, consistent with the prohibition on Retaliation, intimidation, threats of violence, and other conduct intended to cause a party or witness to not appear for a hearing are expressly prohibited.

The Hearing Officer may, at their discretion, exclude witnesses or witness testimony the Hearing Officer considers irrelevant or duplicative. The Hearing Officer will explain any decision to exclude a witness or testimony as not relevant.

Recording the Title IX Sexual Harassment Hearing

A Respondent, Complainant, advisor, and/or witness may not bring electronic devices that capture or facilitate communication (e.g., computer, cell phone, audio/video recorder, etc.) into a hearing room, unless authorized by the Hearing Officer.

The Title IX Coordinator will arrange for there to be an audio recording, or audiovisual recording, or transcript (or combination) of the hearing, which will be made available to the parties for review and kept on file by Davis & Elkins College for seven years.

Reasonable care will be taken to create a quality recording or transcript and if making recording minimize technical problems, however, technical problems that result in no recording or an inaudible recording are not a valid basis for appeal.

Hearing Location and Use of Technology in a Title IX Sexual Harassment Hearing

The hearing will be live, with all questioning conducted in real time. Upon request, the parties may be located in separate rooms (or at separate locations) with technology enabling the Hearing Officer and the parties to simultaneously see and hear the party or witness answering questions. A hearing may be conducted entirely virtually through the use of remote technology so long as the parties and Hearing Officer are able to hear and see one another in real time.

Title IX Sexual Harassment Hearing Structure

The Hearing Officer has general authority and wide discretion over the conduct of the hearing. Although the Hearing Officer has discretion to modify the hearing structure, the general course of procedure for a hearing is as follows:

- Introductions;
- Respondent's statement accepting or denying responsibility;
- Opening Statement from the Complainant (optional);
- Opening Statement from the Respondent (optional);
- Questioning of the Complainant by the Hearing Officer;
- Cross-examination of the Complainant by the Respondent's advisor;
- Questioning of the Respondent by the Hearing Officer;
- Cross-examination of the Respondent by the Complainant's advisor;
- Hearing Officer questioning of other witnesses (if applicable);
- Cross-examination of other witnesses by the parties' advisors;
- Additional question of the Complainant and Respondent by the Hearing Officer at their discretion;
- Closing comments from the Complainant (optional); and,
- Closing comments from the Respondent (optional).

A Complainant or Respondent may not question each other or other witnesses directly; they must conduct the cross-examination through their advisors. Before a party or witness answers a cross-examination or other question, the Hearing Officer will first determine whether the question is relevant. The Hearing Officer may exclude irrelevant information and/or questions. The Hearing Officer will explain any decision to exclude a question or information as not relevant.

The evidence collected as part of the investigative process will be made available at the hearing to give each party an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove someone other than the respondent committed the alleged conduct, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege are not admissible, unless the person holding the privilege has waived the privilege.

Determination Following a Title IX Sexual Harassment Hearing

Following the Hearing, the Hearing Panel, by way of a majority vote will consider all relevant evidence and make a determination, by Preponderance of Evidence standard, whether the Respondent has violated the Policy. While the Title IX Coordinator will be present, they are not a decision-maker.

Written Notice Regarding an Outcome of a Title IX Sexual Harassment Hearing

After a determination regarding responsibility and, if applicable, a determination regarding appropriate remedies and/or sanction has been made, Complainants and Respondents will receive a simultaneous written notification including the decision regarding responsibility and, as applicable, remedies and sanctions. The written notification will include the following:

- Identification of the allegations potentially constituting Title IX Sexual Harassment;
- A description of the procedural steps taken from the receipt of the Formal Complaint of Title IX Sexual Harassment, with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings supporting the determination using a preponderance of the evidence standard;
- Conclusions regarding the application of Davis & Elkins College code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Davis & Elkins College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College's Education Program or Activity will be provided by Davis & Elkins College to the Complainant; and
- Davis & Elkins College's permissible basis for the Complainants and Respondents to appeal, and instructions on how to do so. The written notification of outcome becomes final seven days after it is sent to the Parties, unless an appeal is filed on or before that day.

Formal Resolution of Reports of Prohibited Conduct that is not Title IX Sexual Harassment, To Include Reports of Dating and Domestic Violence, Sexual Assault, Stalking, and Retaliation

Once a report of Prohibited Conduct has been received by the Title IX Coordinator, a Complainant has the option to file a Formal Complaint against a Respondent alleging Prohibited Conduct and requesting that Davis & Elkins College resolve those allegations through an investigation. To file a Formal Complaint, the Complainant may do so online, in person, or by email to the Title IX Coordinator.

If the Complainant does not wish to File a Formal Complaint on their own behalf, the Title IX Coordinator may, in their discretion, file a Formal Complaint by signing the Formal Complaint Form.

When deciding to File a Formal Complaint, the Title IX Coordinator will consider the risk that the Respondent might commit additional acts of Prohibited Conduct; whether or not there have been additional reports against the same Respondent for the same or similar conduct; whether or not the Prohibited Conduct was committed by multiple Respondents; the seriousness of the alleged misconduct; and, whether or not the Complainant is a minor.

When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party to the resolution process. When the Complainant may choose not to participate in the resolution initiated by the Title IX Coordinator, the Complainant will still be treated as a party entitled to inspect and review evidence and to receive all notices, including the notice of allegations, the notice of hearing, and the notice of outcome. At no time, will Davis & Elkins College retaliate against a Complainant to participate in the grievance process.

Dismissal

If a complainant files a Formal Complaint, Davis & Elkins College may, in its discretion, choose to dismiss a Formal Complaint of Prohibited Conduct or any allegations therein, if at anytime during the Resolution Process:

- A Complainant notifies the Title IX Coordinator in writing that they Complainant would like to withdraw the Formal Complaint;
- The Respondent is no longer enrolled or employed by Davis & Elkins College; or,
- Specific circumstances prevent the recipient from gathering the evidence sufficient to reach a determination as the Formal Complaintant.

Consolidation of Formal Complaints of Prohibited Conduct

In their discretion, the Title IX Coordinator may consolidate multiple Formal Complaints for resolution under this Policy. Consolidation might involve a single Complainant or multiple Complainants, a single Respondent or multiple Respondents, and allegations of conduct that is temporally or logically connected (even where some of that alleged conduct is not Prohibited Conduct). The decision to consolidate Formal Complaints is not subject to appeal.

Counterclaims of Prohibited Conduct

Davis & Elkins College is obligated to ensure that the grievance process is not abused for retaliatory purposes, thus counterclaims made with retaliatory intent will not be permitted. Davis & Elkins College permits the filing of counterclaims but will assess to ensure that the allegations in the counterclaim are made in good faith.

Counterclaims may also be resolved through the same investigation as the underlying complaint or investigated separately, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

Notice of Allegations of Prohibited Conduct

If a Complainant files, or the Title IX Coordinator signs, a Formal Complaint of Prohibited Conduct within the scope of this Policy, the Title IX Coordinator will simultaneously send both parties a written Notice of Allegations that contains the following:

- Notice of the allegations potentially constituting Prohibited Conduct providing sufficient detail for a response to be prepared before any initial interview, including (1) identities of the parties, if known; (2) the conduct allegedly constituting Prohibited Conduct; and (3) the date and location of the alleged incident, if known;
- A statement that the Respondent is presumed not responsible for the alleged Prohibited Conduct and a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that each party may have an advisor of their choice who may be, but is not required to be, an attorney and who may review and inspect evidence;
- Information regarding the availability of support and assistance through Davis & Elkins College resources and the opportunity to meet with the Title IX Coordinator in person to discuss resources, rights, and options; and,
- Notice of Davis & Elkins College's prohibition of Retaliation of the Complainant, the Respondent, and witnesses; that Davis & Elkins College will take prompt action when Retaliation is reported; and how to report acts of Retaliation.

If, during the course of an investigation, the Title IX Coordinator decides to investigate additional allegations about the Complainant or Respondent relating to the same facts or circumstances but not included in the earlier written notice, the Title IX Coordinator will provide an amended Notice of Allegations to the parties.

Investigation of Prohibited Conduct

Once a Formal Complaint has been signed, and there is no Informal Resolution, an investigation will be conducted. An investigation affords Complainants and Respondents an opportunity to submit information and other evidence and to identify witnesses. Although the parties have the option to submit evidence and suggest witnesses to be interviewed, the burden of gathering information in the investigation is with Davis & Elkins College.

When the Formal Resolution process is initiated, the Title IX Coordinator will designate an Investigator or an investigative team who will be responsible for gathering evidence directly related to the allegations raised in a Formal Complaint of Prohibited Conduct.

Investigation Timeframe

The investigation of a Formal Complaint will be usually concluded within 90 days of the filing of the Formal Complaint. The parties will be provided with updates on the progress of the investigation, as needed, and will be alerted if the process will go beyond the 90-day timeframe.

Interviews and Gathering Evidence

Interviews. The Investigator(s) will interview the parties and relevant witnesses in order to review the disciplinary process and to hear an overview of each party's account of the incident.

Before any interview, the individual being interviewed will be informed in writing of the date, time, location, participants, and purpose of the interview. Such notice will be provided with sufficient time for the individual to prepare for the interview. The Respondent will be informed in writing if, during the investigation, additional information is disclosed that may constitute additional Title IX Sexual Harassment under the Policy. Following the interview, each party will be provided with a draft summary of their statement so that they have the opportunity to comment on the summary and ensure its accuracy and completeness. The parties' feedback may be attached or otherwise incorporated into the final investigative report to the extent deemed relevant by the Investigator(s).

Evidence. During the interview, and while gathering evidence, parties will be given the opportunity to identify witnesses and to provide other information, such as documents, communications, photographs, and other evidence. Although Davis & Elkins College has the burden of gathering evidence sufficient to reach a determination regarding responsibility, all parties are expected to share any relevant information and/or any information that is requested by the Investigator(s). Such information shared by the parties with the Investigator(s) may include both inculpatory and exculpatory evidence.

The Investigator(s) will review all information identified or provided by the parties, as well as any other evidence they obtain. Evidence obtained as part of the investigation that is directly related to the allegations in the Formal Complaint will be shared with the parties for their review and comment, as described below.

All evidence must be provided to the investigator during the scope of the investigation.

Draft Investigation Report and Opportunity to Inspect and Review Evidence

After all the evidence is gathered, and the investigator has completed witness interviews, the investigator will prepare a draft investigative report. The Investigator(s) will send each party, and the party's advisor, if any, the draft investigative report.

The Investigator(s) will also provide the parties, and their advisors, if any, with copies or descriptions of all evidence directly related to the allegations of the Formal Complaint that was gathered during the investigation. Before doing so, the Investigator(s) may redact information in the evidence that is not directly related to the allegations of the Formal Complaint; information prohibited from disclosure pursuant to a recognized legal privilege; and/or a party's medical or mental health information/records unless the party consents in writing to the disclosure. The evidence may be provided in either an electronic format or a hard copy. Complainants, Respondents, and their advisors may not disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the formal resolution process as described in this policy. Disseminating evidence in such a way could be considered Retaliation under this policy.

The parties will have ten (10) days to review the draft investigative report and evidence and to submit a written response. The parties' written responses must include any comments, feedback, additional documents, evidence, requests for additional investigation, names of additional witnesses, or any other information they deem relevant to the investigation. Any party providing new evidence in their written

response should identify whether that evidence was previously available to them, and if so, why it was not previously provided. The parties' feedback will be attached to the final investigation report.

After the ten (10) day window has closed and all feedback is received, the investigator will prepare a final investigation report.

Generally, only information that is provided to, or otherwise obtained by, the Investigator(s) during the course of the investigation will be considered in the determination of whether a Policy violation occurred. Any and all information for consideration by the Hearing Panel must be provided to the Investigator(s) prior to the final investigation report and will not be allowed during the hearing unless it can be clearly demonstrated that such information was not reasonably available to the parties at the time of the investigation or that the evidence has significant relevance to a material fact at issue in the investigation.

At the Title IX Coordinator's discretion, new evidence submitted after the Draft Investigation Report is issued, may result in additional investigation.

Administrative Hearing of Prohibited Conduct

After the time has run for both parties to provide any written response to the draft investigative report and evidence, and after the Investigator(s) complete(s) any additional investigation, the Investigator(s) will complete a final investigative report. The Investigator(s) will submit the final investigative report of relevant information to the Title IX Coordinator. The Title IX Coordinator will review the report for completeness and relevance, and direct further investigation as necessary before the report is provided to the Administrative Hearing Panel.

After the Title IX Coordinator reviews the report and any further investigation, if necessary, is completed, the final report will be provided to the Administrative Hearing Panel which is comprised of the Deputy Coordinators (minus the Deputy Coordinator who will serve as the Appeal Officer). The lead investigator will present the report to the Title IX Coordinator and Hearing Panel. While Complainants and Respondents will be notified in advance of the Administrative Hearing, they will not be present.

The Hearing Panel, by way of a majority vote will consider all relevant evidence and make a determination, by preponderance of evidence standard, whether the Respondent has violated the Policy. The Title IX Coordinator is not a decision-maker in the Administrative Hearing.

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.

Written Notice Regarding an Outcome of Prohibited Conduct

After a determination regarding responsibility and, if applicable, a determination regarding appropriate remedies and/or sanction has been made, Complainants and Respondents will receive a simultaneous written notification including the decision regarding responsibility and, as applicable, remedies and sanctions. The written notification will include the following:

- Identification of the allegations potentially constituting Prohibited Conduct;

- A description of the procedural steps taken from the receipt of the Formal Complaint of Prohibited Conduct, with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings supporting the determination using a preponderance of the evidence standard;
- Conclusions regarding the application of this Policy to the evidence;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Davis & Elkins College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to Davis & Elkins College's Education Program or Activity will be provided by Davis & Elkins College to the Complainant; and
- Davis & Elkins College's procedures and permissible bases for the Complainants and Respondents to appeal. The written notification of outcome becomes final five days after it is sent to the Complainants and Respondents, unless an appeal is filed on or before that day.

Sanctions and Remedies

In the event the Hearing Panel finds the Respondent responsible for a violation of Davis & Elkins College's policies, appropriate remedies and sanctions will be determined by the Deputy Title IX Coordinator as listed below in conjunction the Title IX Coordinator. Remedies are designed to restore or preserve equal access to the College's Education Program or Activity and may be disciplinary or punitive.

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 Title IX Coordinator will determine an appropriate sanction in conjunction with the Deputy Title IX Coordinator as indicated below.

- If the Respondent is a student: The sanction will be administered by the Dean of Students.
- If the Respondent is and 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 Provost & Vice President for Academic Affairs.

Upon a finding of responsibility, the Complainant will be provided with remedies designed to restore access to the College's educational and employment programs and activities.

Sanctions for a finding of responsibility for Student Respondents include, but are not limited to, any of the sanctions outlined in the Davis and Elkins College Policy Manual Volume VI: Student Life Policies, education, growth plans, community service, referral to counseling, warnings, probation, suspension, suspension from participation in activities or privileges, suspension from the College or the residence halls, or expulsion. In determining (a) sanction(s), the designated Deputy Coordinator will consider whether the nature of the conduct at issue warrants removal from the College, either permanent (expulsion) or temporary (suspension).

Sanctions for findings of responsibility for Employee and Faculty Respondents include, but are not limited to, 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.

Other factors pertinent to the determination of what sanction applies include, but are not limited to, the nature of the conduct at issue, prior disciplinary history of the Respondent, previous Davis & Elkins College response to similar conduct, and Davis & Elkins College interests (e.g., in providing a safe environment for all).

Third parties, such as visitors, contractors, consultants, vendors providing services to Davis & Elkins College may be subject to appropriate corrective action, including, but not limited to, issuance of a no trespass order or cancellation of relationship with the Davis & Elkins College.

Annual Training Of Title IX Administrators

All Title IX Administrators will be trained on definitions of Title IX Sexual Harassment and other forms of Prohibited Conduct, scope of Davis & Elkins College's Education Program and Activities and Title IX Jurisdiction, the investigation process; Hearing process and procedures, Appeals, Informal Resolution; and how to serve impartially to avoid Bias and Conflicts of Interest. Additionally, Title IX Administrators will receive training on issues related dating and domestic violence, sexual assault, stalking, and how to conduct a resolution process (to include hearings and investigations) that protect the safety of the victim and promotes accountability.

All Hearing Officers receive annual training on the following: how to conduct a hearing; issues of relevance, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant; how to serve impartially by, among other things, avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and other relevant issues.

Hearing Officers will also be trained on any technology that might be used during a hearing.

Investigator(s) will be trained annually on (1) issues of relevance; (2) the definitions in the Policy; (3) the scope of the College's Education Program or Activity; (4) how to conduct an investigation; and (4) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Fire Safety Report

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 within on-campus housing. Future improvements to fire safety are currently underway and being evaluated. 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.

The Davis & Elkins Office of Public Safety is responsible for this **Annual Security and Fire Safety Report**, Timely Warnings and the Crime and Fire Logs. The Annual Security and 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 Davis & Elkins Office of Public Safety, campus officials, RAs, RDs, and local law enforcement agencies. The Annual Security Report is compiled and submitted by the Director of Public Safety. For more information, contact the Office of Student Life at 304-637-1211, or the Director of Public Safety/Davis & Elkins Office of Public Safety at 304-704-9111.

Crime and Fire Log

The Office of Public Safety maintains a combined Crime and Fire Log of all incidents reported to the office, which is available for inspection during normal business hours. This includes all crimes reported to the office, 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.

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 Manual. 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. In addition, tampering with or falsely activating a fire alarm is a violation of College policy and state law.

Campus Fire Safety Policies

All residence halls are equipped with fire extinguishers, smoke detectors, alarms and pull stations. Smoking is not permitted in any form in the residence halls or College buildings. This includes the use of electronic cigarettes. Also not allowed is anything with an open flame, such as candles, incense, candle warmers, hot plates, space heaters, toasters, toaster ovens, Crock-Pots, electric skillets, rice steamers, woks, deep fryers, grills, flammable liquids (e.g. bottles of propane gas, lighter fluid and dangerous chemicals), and explosives (including fireworks) and/or any other such item that can produce heat. To meet all fire safety codes, students and employees are required to use only electrical cords that are surge protector types and approved power strips instead of conventional extension cords or grounded in-wall adapters. 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, also performs

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 onto the individual student or employee.

Fire Safety Instruction

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 resident hall rooms have an exit diagram posted on the inside of the door. In addition, each College building has a posted exit diagram. Failure to exit the building at the sound of a fire alarm or warning is a violation of the College's administrative rules, as well as a violation of state law. In addition, tampering with or falsely activating a fire alarm is a violation of College rules and state law.

Fire safety training is given each year to the Resident Assistants, Resident Directors, Security Officers and other members of the Office of Student Life and/or College community. From this training, the RAs and RDs educate all the 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 Davis & Elkins Office of Public Safety at 304-704-9111. It is 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. All stairwell doors must be closed at all times. Do not place any combustible material on these doors, absolutely no paneling, burlap, draperies, parachute netting, Styrofoam, nor any type of wood can be installed in the exit corridors or stairwells. Building fire equipment such as sprinkler heads, smoke detectors, fire hoses, extinguishers, standpipes 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.

Fire Safety Training

Resident Directors and Resident Assistants, along with Public Safety officers, receive fire safety training from the Elkins Fire Department on an annual basis. In addition, procedures that should be followed in the case of a fire are set forth in the College's Emergency Response Plan, which is available to all students, faculty and staff on the intranet homepage. At the beginning of each academic year, the Office of Public Safety sends students, faculty and staff an email reminding them to review the Emergency Response Plan.

Campus Fire Statistics

The following are 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 Davis & Elkins College student housing facility
2. The number of deaths related to the fire in a Davis & Elkins College student housing facility
3. The number of injuries related to the fire in a Davis & Elkins College student housing facility that resulted in treatment at a medical facility

4. The value of property damage related to the fire at a Davis & Elkins College student housing facility

Residential Facilities	Sprinkler Systems	Smoke Detection	Fire Extinguisher Devices	Evacuation Plans/Placards	Evacuation (Fire) Drills Each Calendar Year
Darby	None	√	√	√	2+
Booth	None	√	√	√	2+
Gribble	None	√	√	√	2+
Moyer	None	√	√	√	2+
Presidential	None	√	√	√	2+

Residential Facilities	Total Fires	Date	Time	Cause of Fire	Number of Injuries	Number of Deaths	Property Damage
Darby	0	N/A	N/A	N/A	0	0	0
Booth	0	N/A	N/A	N/A	0	0	0
Gribble	0	N/A	N/A	N/A	0	0	0
Moyer	0	N/A	N/A	N/A	0	0	0
Presidential	0	N/A	N/A	N/A	0	0	0