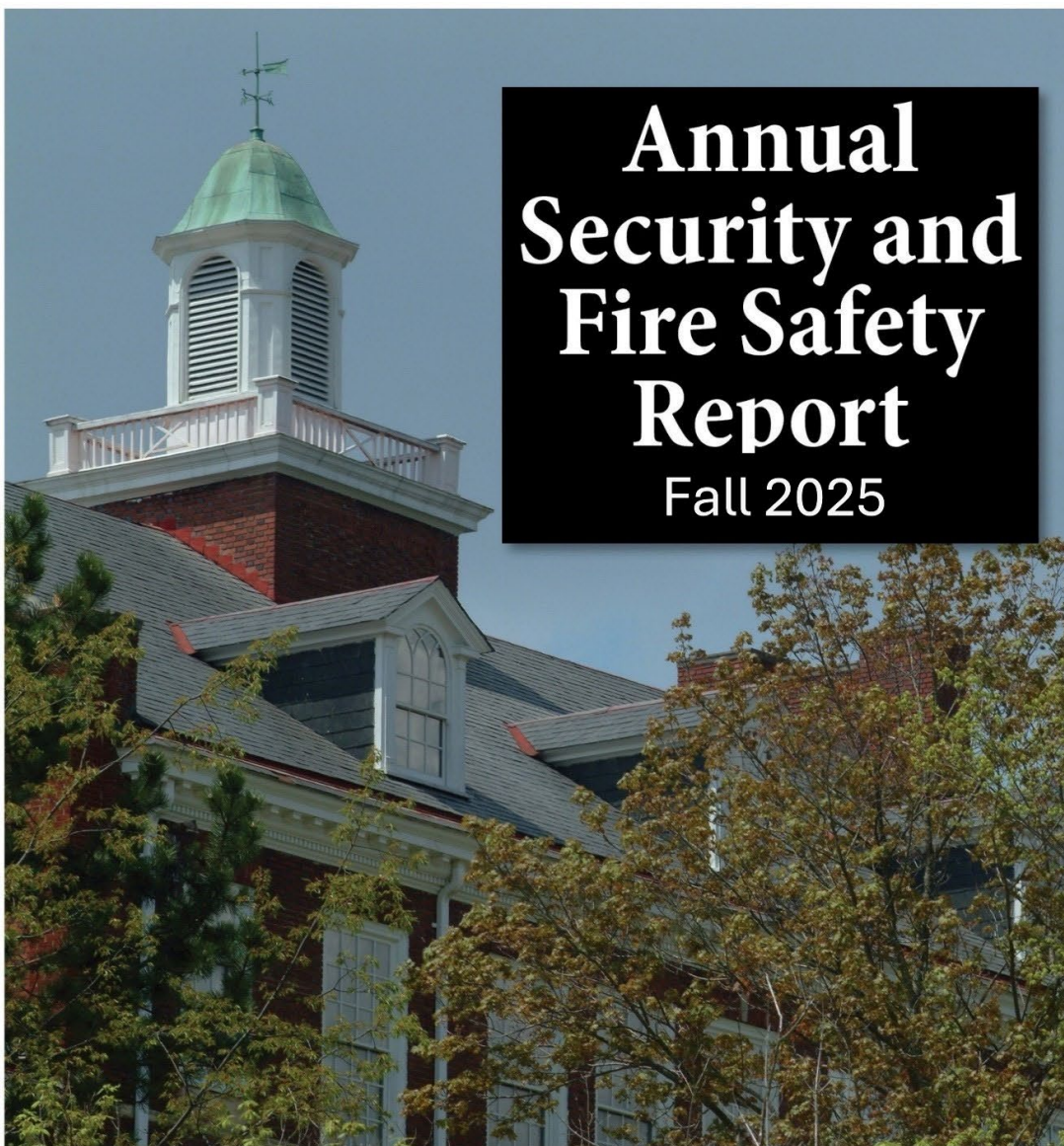




A guide for current and prospective students and employees prepared in compliance with the Jeanne Clery Disclosure of Campus Security Policy & Crime Statistics Act

Contents

Clery Act and Violence Against Women Reauthorization Act Compliance.....	5
Davis & Elkins College Mission, Vision, Values, Identity and History.....	7
The D&E Mission Statement	7
The D&E Vision Statement:.....	7
The D&E Values Statement	7
The D&E Identity Statement	7
Office of Public Safety	8
Law Enforcement Relationships and Jurisdiction	8
Access to Campus and Buildings.....	9
Roof Access	10
Criminal Activity Off Campus	10
Emergency Response and Evacuation	10
Reporting Emergencies	10
Emergency Notifications	10
RAVE Mass Notification System	11
Emergency Response and Safety Plan	11
Environmental Security Inspections	11
Evacuations	11
Missing Students	14
Registered Sex Offenders.....	15
Reporting a Crime.....	15
Accurate and Timely Reporting of Criminal Offenses.....	15
Campus Security Authorities.....	15
Assistance in Notifying Law Enforcement.....	16
Voluntary, Anonymous Reporting.....	16
Mandatory Crime Reporters	17
Confidential Reporting.....	17
Clery Crime Reporting.....	18
Federal Statistical Reporting Obligations.....	19
Discrimination, Harassment, and Title IX Sexual Harassment, to Include Dating Violence, Domestic Violence, Sexual Assault, and Stalking Reporting	19
Child Abuse and Neglect	20

Timely Warnings	21
Alcohol and Drug Use Policies	22
Amnesty Policy.....	23
Educational Resources and Treatment Options	23
Collecting Crime Statistics	24
Clery Definitions.....	24
Davis and Elkins College Policy Definitions	26
West Virginia State Code Definitions.....	28
Crime Statistics	32
Disclosures to Alleged Victims of Crimes of Violence or Non-forcible Sex Offenses	35
Crime Prevention	36
Crime Prevention	36
Prevention and Awareness Programs.....	36
Immediate Assistance and Resources	39
Discrimination, Harassment and Title IX Sexual Harassment Policy Statement	40
Privacy and Confidentiality	41
Intakes of Reports of Prohibited Conduct, which Includes Sexual Assault, Dating and Domestic Violence, and Stalking.....	42
Supportive Measures.....	43
Advisor of Choice	44
Bias and Conflict of Interest.....	45
Preponderance of the Evidence Standard	45
Timelines	45
Informal Resolutions	46
Formal Complaints of Title IX Sexual Harassment To Include Reports of Dating and Domestic Violence, Sexual Assault, Stalking, and Retaliation.....	48
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	58
Appeals.....	63
Remedies and Sanctions	64
Hazing	65
Fire Safety Report	71
Fire Safety Policies, Fire Statistics and Fire Log	71
Crime and Fire Log	72

Campus Fire Statistics 73

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 Campus Safety 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.

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. Thank you for taking the time to review this information and for helping to continue to make Davis & Elkins College a safe community.

Sincerely,

Kate Garlick

Dean of Students
Davis & Elkins College
garlickk@dewv.edu
304-637-1241

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

Although there is no formal agreement or memorandum of understanding in place, 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 keep the campus community as safe as possible. 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. Public Safety 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 Resource, 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. They:

- Make required repairs to faulty equipment as reported
- Work with a Fire Protection company in the testing and replacement of faulty equipment
- Conduct monthly routine fire suppression safety checks

- Work with contractors in the repair and/or replacement of campus infrastructure

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. Public Safety officers are willing to work and communicate with local law enforcement 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 student housing or off-campus or non-campus student organization facilities, some students live in the private neighborhoods surrounding the campus. The College does however, operate off-campus property for institutional purposes and as such, is subjected to local law enforcement oversight. Reported violations of law from and adjacent to this property are requested by the Director of Public Safety to the agency/s in direct jurisdiction of, to report in our institution's Annual Security & Fire Safety Report. Law enforcement agencies have primary jurisdiction in all areas off campus, Public Safety officers may also 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.

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 *RAVE Mobile Alert* and all students and employees are automatically enrolled in this service.

In consultation with the Director of Public Safety or other first responders, information gathered will be shared with the President (or designee) or other members of the Cabinet to confirm the emergency and the response needed. Then the President (or designee), along with members of the Cabinet will

determine how, when and whether an emergency notification needs to be made. Once a segment of the campus community is identified to be at risk, at least two of the following using professional judgment: President, Dean of Students, and Director of Public Safety (or designees) will determine how, when, and whether an emergency notification or timely warning needs to be made. When deemed appropriate, these notifications will be sent without delay. Each emergency notification will be based on a standard template, with modifications made to the body of the message to include information required under the Clery Act, such as a short description of the crime or incident—including 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—as well as personal safety information to help protect the College community and prevent similar incidents. Depending on the emergency and urgency of communication, notifications may be sent using **RAVE Mobile Alert**, email, loud speakers, social media, local media outlets, or any other mode available and appropriate to the circumstances.

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 & Safety Plan](#).

RAVE 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 addresses. Notifications may also be posted on the College website and social media accounts. Messages will be urgent and of emergency nature only.

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 & 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 & 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 security 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.

Building evacuations will occur when an alarm sounds and/or upon notification by the Emergency Alert system, Office of Public Safety or the Building Coordinator. When building evacuation is required during an emergency or disaster, employees and students leave following instructions or by the nearest marked exit and alert others to do the same. These exits are clearly marked. **DO NOT USE THE ELEVATORS IN CASES OF FIRE AND/OR EARTHQUAKE.** Keep streets, fire lanes, hydrant areas and walkways clear for emergency vehicles and personnel.

- Each building and campus area has a designated area outside the building (Assembly Point) where employees or students should plan to meet during the evacuation referred to as an assembly point.
- Once at the assembly point the Building Emergency Coordinator and/or faculty member must account for all employees or students. If any employees or students are missing, the Building Coordinator and/or faculty member is responsible for informing the Office of Public Safety. Building Coordinators and faculty members should coordinate with each other to avoid duplicative and confusing communication to the Office of Public Safety.
- **DO NOT** return to an evacuated building unless told to do so by Office of Public Safety, a College administrator, fire department personnel or the emergency alert communication system.

If a disaster were to occur in which the whole campus needed to be evacuated, an Emergency Alert will instruct individuals to either gather at the Elkins City Park or the College athletic fields. 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.

Evacuation Individuals with Special Needs and/or Disabilities

“Buddy System” – Evacuation Assistant: Individuals with a disability should privately solicit at least one classmate, instructor, supervisor, or co-worker to assist them in the event of an emergency. This “buddy” should be someone who is willing to make this commitment and capable of providing assistance. The “buddy” should be provided with the nature of the assistance that would be needed in the event of an emergency. A separate ‘buddy’ may be necessary for each classroom or building that the individual will be in during the course of the day. If the “buddy” is unable to escort the individual out of the building in an emergency, they should notify emergency personnel of the individual’s location and disability.

Evacuation Planning: Planning and preparation by both persons with special needs and persons without disabilities is key to reducing the impact of emergencies. When developing a plan, safety needs should be determined on a case-by-case basis because they vary with each individual and building. Persons with disabilities utilizing the College’s campus are asked to take responsibility in developing their personal emergency evacuation plans.

Mobility Impaired (Wheelchair): Individuals using wheelchairs should proceed with evacuation if possible to the outside ground level or an unaffected area of the building. If evacuation is not feasible, individuals should stay in place or move to an area of rescue with an evacuation assistant (“buddy”) if present. Once the individual is in place, the evacuation assistant should proceed to the appropriate evacuation assembly point and notify the Building Coordinator and/or the Office of Public Safety of the individual’s location. A building stairwell may serve as a safe location until rescue personnel arrive to assist. If the individual with the disability is alone, they should follow the Shelter in Place procedures.

Mobility Impaired (Non-wheelchair): Individuals with mobility impairments who are able to walk independently may be able to take stairs with minor assistance. If danger is imminent, the individual should wait until heavy traffic has cleared before attempting the stairs. A building stairwell can serve as a safe location until rescue personnel arrive to assist if someone is able to notify rescue personnel of the individual’s location. If there is no immediate danger (i.e. detectable smoke, fire, unusual odor), the individual may decide to shelter in place or move to an area of rescue until emergency personnel arrive.

Visually Impaired: Most individuals with a visual impairment will most likely be familiar with their immediate surroundings and frequently traveled routes. Since the emergency evacuation route is likely different from a commonly traveled route, persons with a visual impairment may need assistance in evacuating. An evacuation assistant should offer their elbow to the impaired individual and guide him/her through the evacuation route.

Hearing Impaired: Individuals with a hearing impairment may not hear emergency alarms and may not be in a position to see alarm strobe lights. Emergency instructions can be given by writing short explicit evacuations instructions.

In other situations, involving an individual with special needs contact Public Safety for further guidance

Emergency Drills and Testing Protocols

All campus-operated residential facilities conduct two unannounced fire evacuation drills each semester in coordination with the Office of Residence Life and the Campus Safety Department. These drills include:

- Activation of building fire alarm systems
- Full evacuation of all occupants
- Timing and monitoring of evacuation efficiency
- Staff observations and post-drill reviews with Resident Assistants (RAs) and Hall Directors

Students receive instructions in advance about evacuation routes, assembly areas, and what to do during a fire alarm. Participation is mandatory for all residents.

Davis & Elkins College annually tests its **mass notification system**, which is used to alert students and employees of emergencies through:

- Text

- Email
- Phone

At least **once per year**, a system-wide test is conducted to assess speed, reach, and clarity of messages. Students are encouraged to verify and update their emergency contact preferences in the student portal.

The Director of Public Safety meets with Building Coordinators at least **once per year** to ensure they understand their emergency response responsibilities and the location of identified assembly points.

Additionally, members of the Clery Committee (Director of Public Safety, Dean and Associate Dean of Students, and Title IX Coordinator, as well as members of Cabinet, who serve as Administrators on Duty on a rotating basis as part of the College's Emergency Response protocols, participate in table top exercises at least **once per year**.

Missing Students

Any student residing in a Davis & Elkins College residence hall who is determined to be missing for 24 hours must be reported immediately to one of the following:

1. Residence Life staff
2. Office of Student Life (304) 637-1211
3. Davis & Elkins Office of Public Safety (304) 704-9111
4. Any other designated Campus Security Authority

Reports made to Residence Life staff, the Office of Student Life, or any other designated Campus Security Authority will be immediately forwarded to the Office of Public Safety via phone at (304) 704-9111. A determination will be made at that time by the Director of Public Safety if the student is indeed missing, 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.

General emergency contact and missing person contact information are updated via the student self-service portal on an annual basis at the start of each academic year. The contact information will be kept confidential and will be disclosed only to authorized campus officials and law enforcement in furtherance of a missing person investigation or other appropriate purpose. The confidential contact person will also be notified within 24 hours if the student is determined to be missing. If a student is under the age of 18 or otherwise not emancipated, Davis & Elkins College will 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 age of 18 and 21 is reported missing, as part of the national "Amber Alert" bill.

Resolution of Missing Student Status

Missing student contacts will be advised of the resolution of a student's missing status. These contacts will further be advised of law enforcement options in cases where the student is not contacted by the College.

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 <https://apps.wv.gov/StatePolice/SexOffender/Disclaimer?continueToUrl=http%3A%2F%2Fapps.wv.gov%2FStatePolice%2FSexOffender%2F>. 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 304-704-9111. 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 is unable to or needs 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. In some circumstance, a student, employee, or guest may decline to notify law enforcement.

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://dewv.guardianconduct.com/conduct-incidents>.

Reporting helps maintain and enhances 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 policy violations and criminal incidents to the Office of Public Safety and/or the College Title IX 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 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.

Confidential Reporting

Some Employees or offices are available to provide individuals with assistance, support, and additional information without reporting to the Title IX Coordinator. Although not required to report to the Title IX Coordinator, all confidential employees will provide information about the Title IX Coordinator and how to make a report of Prohibited Conduct to Complainants. Confidential Employees are generally prohibited from disclosing confidential information unless:

- they given permission by the person who disclosed the information;
- there is an imminent threat of harm to self or others;
- the conduct involves suspected abuse of a minor under the age of 18; or,
- as otherwise required or permitted by law or court order.

The following Davis & Elkins College resources can provide counseling, information, and support in a confidential setting:

College Chaplain: Tanner Capps
Liberal Arts Hall, Room 210: (304) 637-1222
Email: cappstf@dewv.edu

Student Ombudsperson, Chanda Collette
Campus Location: Halliehurst (304) 637-1429
Email: collettec@dewv.edu

**Community Care of West Virginia
School Based Health Center**
Campus Location: Robert C. Byrd Center
(304) 473-5626

The providers at Community Care of West Virginia can provide treatment for injuries and for potential exposure to sexually transmitted diseases. They also provide emergency contraception and other health services. They can assist in preserving evidence or documenting any injuries, including by helping find a Sexual Assault Nurse Examiner, who is specifically trained to collect evidence. Taking these steps promptly after an incident of sexual assault can be very helpful in later criminal proceedings and/or in seeking a protective order. Professionals at Community Care West Virginia are obligated to maintain confidentiality and not report an individual's identity to the College. Under West Virginia law, a medical provider may be required to notify law enforcement of a reported sexual assault involving minors and/or weapons. The individual, however, may decline to speak with a law enforcement officer or participate in a criminal prosecution

Some Confidential Resources may be required to report non-identifying information to the Director of Public Safety for Clery Act crime reporting purposes and may be required to release certain information under legal action or a court order. Please clarify the scope of confidentiality with the Confidential Employee before disclosing information to them.

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).

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. 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.

Federal Statistical Reporting Obligations

The Clery Act requires that certain institutional officials have a duty to report the following for federal statistical reporting purposes and inclusion in our daily crime logs and Annual Security and Fire Safety Report.

- All “primary crimes” which includes criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidate, or destruction/damage/vandalism to property
- Violence Against Women Act crimes which include sexual assault, domestic violence, dating violence, and stalking
- Arrests and referrals for disciplinary action for weapon law violations, liquor law violations, and drug violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on or off campus or surrounding area) will be included.

Discrimination, Harassment, and Title IX Sexual Harassment, to Include Dating Violence, Domestic Violence, Sexual Assault, and Stalking Reporting

Under Title IX and other Civil Rights laws, 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 biased 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

Discrimination, Harassment, and Title IX Sexual Harassment, to Include Dating Violence, Domestic Violence, Sexual Assault, and Stalking Reporting 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://dewv.guardianconduct.com/conduct-incidents>.

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 Policy on the Protection of Minors, 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 §§49-2-801-814](#)) 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 West Virginia State Police Crimes Against Children Unit at 304-293-6400 or the Randolph County Detachment at 304-637-0203.
3. In addition to the above, individuals covered by this policy are also expected to immediately report an incident of child abuse or neglect that occur or are disclosed during on campus or during a College Sponsored Program or Activity to the Title IX Coordinator at 304-621-1316.

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

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.

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

Timely Warnings

When the Office of Public Safety becomes aware of an incident that in the judgment of the College constitutes an ongoing or possible criminal threat to the College community and is a designated Clery Crime, a Timely Warning Notice will be issued. The Public Safety Officers on duty will notify the Director of Public Safety and the Administrator on Duty.

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 *Rave* mass notification system.

At least two of the following: The President, Dean of Students, 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, Drug and Liquor Law Violations, and Hazing.
2. Does the crime pose a **serious** or **continuing threat** to students, faculty, staff or visitors?

The Timely Warning Notice will be issued by either the President, Dean of Student Affairs, and Director of Public Safety (or designees). Timely Warnings typically contain in the subject line the phrase “timely warning” depending on the nature and severity of the threat. The body of each timely warning 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, College policy, 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 can be found in our Drug and Alcohol Abuse Prevention Program Biennial Review on our website at: <https://www.dewv.edu/student-life/campus-services/public-safety/>.

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

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

1. The Office of Student Life, including the Resident Directors and Resident Assistants, are a valuable resource and provide much of the alcohol education programming on campus.
2. Counseling services are available to address individual concerns, provide assessments and referrals for treatment on and off campus, and provide information and education about alcohol use (<https://www.dewv.edu/student-life/campus-services/counseling-wellness/>).

3. Student Health Services is available to assist individuals with situations involving alcohol that affect the physical well-being of a student (<https://www.dewv.edu/student-life/campus-services/counseling-wellness/>).

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 Definitions

Aggravated Assault: An unlawful attack by one person for the purposes of inflicting severe or aggravated bodily injury.

Arson: 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.

Burglary: The unlawful entry of a structure to commit a felony or theft

Criminal Homicide:

Murder and non-negligent manslaughter: The willful killing of one human being by another

Manslaughter by Negligence: The killing of another through gross negligence

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim

Domestic Violence: A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; or by a person with whom the victim shares a child in common; or by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; or by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or by any other person against an adult or youth

victim who is protected from the person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence has occurred

Motor Vehicle Theft: The theft or attempted theft of a motor vehicle

Robbery: The taking or attempting to take anything of value from the care, custody, or control of a person by force or threat of force or violence and/or by putting the victim in fear

Sexual Assault: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Any incident that meets the definition of rape, fondling, incest, or statutory rape is considered a sexual assault or sex offense under the Clery Act

Rape: The 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 consent of the victim

Fondling: The touching the private body parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity

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

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

Hate Crimes: Any of the above-mentioned offenses and any incidents of larceny-theft, simple assault, intimidation, or destruction/damage/vandalism of property that were motivated by the biases of disability, ethnicity, gender, gender identity, national origin, race, religion, and sexual orientation.

Referrals for Disciplinary Action: This is the referral of any person to any campus official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction.

Arrests for Disciplinary Action: This is the referral of any person to any campus official who initiates a criminal action of which a record is kept and which may result in the imposition of a sanction

Weapons Law Violations: The violations of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

Drug Abuse Violations: The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacturing, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrest for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs.

Liquor Law Violations: The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence or drunkenness.

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 their age or because of 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				
2022	0	0	0	0	0
2023	0	0	0	0	0
2024	0	0	0	0	0
	NEGLIGENT MANSLAUGHTER				

2022	0	0	0	0	0
2023	0	0	0	0	0
2024	0	0	0	0	0
	RAPE				
2022	1	1	0	0	1
2023	3	3	0	0	3
2024	2	2	0	0	2
	FONDLING				
2022	0	0	0	0	0
2023	0	0	0	0	0
2024	0	0	0	0	0
	INCEST				
2022	0	0	0	0	0
2023	0	0	0	0	0
2024	0	0	0	0	0
	STATUTORY RAPE				
2022	0	0	0	0	0
2023	0	0	0	0	0
2024	0	0	0	0	0
	ROBBERY				
2022	0	0	0	0	0
2023	0	0	0	0	0
2024	0	0	0	0	0

	ON-CAMPUS PROPERTY	STUDENT HOUSING FACILITIES	PUBLIC PROPERTY	NON-CAMPUS PROPERTY	TOTAL
	AGGRAVATED ASSAULT				
2022	0	0	0	0	0
2023	0	0	0	0	0
2024	0	0	0	0	0
	BURGLARY				
2022	4	4	0	0	4

2023	1	1	0	0	1
2024	0	0	0	0	0
	MOTOR VEHICLE THEFT				
2022	0	0	0	0	0
2023	1	0	0	0	1
2024	0	0	0	0	0
	ARSON				
2022	0	0	0	0	0
2023	0	0	0	0	0
2024	0	0	0	0	0
	ARRESTS (WEAPONS)				
2022	0	0	0	0	0
2023	0	0	0	0	0
2024	0	0	0	0	0
	DISCIPLINARY REFERRALS: WEAPONS				
2022	0	0	0	0	0
2023	0	0	0	0	0
2024	0	0	0	0	0
	ARRESTS: DRUG LAW VIOLATIONS				
2022	0	0	0	0	0
2023	0	0	0	0	0
2024	0	0	0	0	0
	DISCIPLINARY REFERRALS: DRUG LAW VIOLATIONS				
2022	8	7	0	0	9
2023	3	3	0	0	3
2024	19	17	0	0	21
	ON-CAMPUS PROPERTY	STUDENT HOUSING FACILITIES	PUBLIC PROPERTY	NON-CAMPUS PROPERTY	TOTAL
	ARRESTS: LIQUOR LAW VIOLATIONS				
2022	0	0	0	0	0
2023	0	0	0	0	0
2024	0	0	0	0	0
	DISCIPLINARY REFERRALS: LIQUOR LAW VIOLATIONS				
2022	3	3	0	0	3
2023	10	10	0	0	10

2024	23	23	0	0	23
DOMESTIC VIOLENCE					
2022	0	0	0	0	0
2023	0	0	0	0	0
2024	2	2	0	0	2
DATING VIOLENCE					
2022	3	3	0	0	3
2023	0	0	0	0	0
2024	1	1	0	0	1
STALKING					
2022	1	1	0	0	1
2023	1	0	0	0	1
2024	0	0	0	0	0

Hate Crimes:

There were no reported hate crimes for any of the requisite Clery Geographies for the years 2022, 2023 or 2024.

Unfounded Crimes:

There were no unfounded crimes for any of the reported crimes in any of the requisite Clery Geographies for the years 2022, 2023 or 2024.

Local Law Enforcement Statistics:

County, City, and State law enforcement agencies who maintain jurisdiction over institutionally operated property and property adjacent to, were notified and asked to provide relevant Clery Crime data for our institutions geographic area. Out of three requests, one request was returned. At the State level, it was provided that no reported crimes of Clery had occurred for the 2024 year.

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 process 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 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.

Davis & Elkins College is committed to creating a safe and respectful campus environment by implementing comprehensive prevention programs that address sexual assault, domestic violence, dating violence, and stalking. In accordance with the Jeanne Cleary Act requirements, the College provides ongoing education and awareness initiatives for all students, faculty, and staff, including bystander intervention training with the goal of promoting healthy relationships and a safe campus environment that empowers individuals to report incidents promptly.

All Title IX Administrators which includes Decision Makers, Hearing Chairs, Investigators, and Appeal Officers and individuals who are responsible for the implementation, modification, or termination of Supportive Measures will be trained on the following on an annual basis:

- definitions of Prohibited Conduct;
- how to apply those definitions consistently and impartially;
- issues related to Prohibited Conduct;
- scope of Davis & Elkins College's Education Program and Activities;
- Jurisdiction of this Policy;
- Reporting, confidentiality, and privacy requirements;
- Supportive Measures and Reasonable Modifications;
- Informal Resolutions;

- the Investigation process and how to conduct an investigation process that protects the safety of Complainants;
- how to assess credibility;
- Administrative Hearings;
- Remedies and Sanctions;
- Appeals;
- Relevance and Permissibility of Evidence;
- Record Keeping requirements related to this Policy; and,
- how to serve equitability and impartially to avoid Bias and Conflicts of Interest.

If needed, Decision Makers will also be trained on any technology that might be used during an Administrative Hearing.

All Confidential Employees will be trained on the following on an annual basis:

- to provide the Title IX Coordinator's contact information when a student or employee discloses information that may involve Prohibited Conduct; and,
- how to provide and document any Supportive Measures or off campus resources that are offered or provided.

At a minimum, all employees will be trained on the following on an annual basis:

- Davis & Elkins College obligation to address Discrimination and Harassment in its Education Program or Activity;
- That Dating & Domestic Violence, Sexual Assault, and Stalking are prohibited under College policy;
- definitions of Prohibited Conduct under College policy;
- Hazing;
- scope of Davis & Elkins College's Education Program and Activities;
- how to report instances of Prohibited Conduct to the Title IX Coordinator; and,
- to provide the Title IX Coordinator's information to an individual who discloses pregnancy.

At a minimum, all students are trained on the following during their time as a student at Davis & Elkins College³:

- That Dating & Domestic Violence, Sexual Assault, and Stalking are prohibited under College policy
- Definitions of Prohibited Conduct under College policy
- Title IX Sexual Harassment and related issues specific to Dating & Domestic Violence, Sexual Misconduct, Stalking;
- Consent;
- Hazing;
- Bystander Intervention;
- Alcohol & Other Drugs; and,

³ While students are assigned trainings on an annual basis, not all topics are assigned to each student each year.

- Active Shooter.

All training materials are available upon request and do not rely on sex stereotypes.

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. Bystander Intervention is included in D&E's annual prevention and awareness programs (both through Safe Colleges and in person trainings).

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.
- Be an active bystander.
 - Notice the Event

- Interpret the Event as a Problem
 - Assume Personal Responsibility
 - Learn How to Help o And Step Up by utilizing the “3 Ds” – Direct, Distract, and Delegate
- 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).
 - Obtain Affirmative Consent from your partner for all sexual activity.
 - Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law.
 - Affirmative Consent means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity.
 - Affirmative Consent can be withdrawn or revoked at any time.
 - Affirmative Consent to sexual activity in the past does not mean consent in future – there must be voluntary consent for all sexual activity.
 - Lack of protest, resistance, or mere silence does not equal Affirmative Consent.
 - Sexual activity with a minor (under 18 years old) is never consensual because a minor is considered incapable of giving legal consent due to age.
 - Do not engage in sexual activity if your partner is incapacitated.
 - A person who is incapacitated by alcohol or drugs cannot give Affirmative Consent.
 - A person who is unconscious or asleep cannot give Affirmative Consent. o A person’s own intoxication or incapacitation does not diminish their responsibility to obtain Affirmative Consent from their partner.

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 an individual seek a legal protection order or 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.

The College provides a prompt, fair and impartial process from the initial report to the final result 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.

Davis and Elkins College will maintain our daily crime logs and other possible publicly available record keeping in such a way that does not include personally identifying information about the victim.

Intakes of Reports of Prohibited Conduct, which Includes Sexual Assault, Dating and Domestic Violence, and Stalking

Once a report of Prohibited Conduct 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 this Policy, 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 this Policy and (when relevant) Davis & Elkins College's VAWA brochure via email which:

- explains the availability of Supportive Measures and on campus resources that provide support;
- provides information about off campus resources that provide mental health support, victim advocacy, and legal assistance;
- 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 filing 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 that may be helpful in obtaining an order of protection or in other legal processes;
- explains the process for filing a Formal Complaint of and the Resolution Processes for Prohibited Conduct;
- includes Davis & Elkins College's procedural options for Formal and Informal Resolutions;
- explains the 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.

If the allegations reported, if true, would **not** constitute Prohibited Conduct as defined in this Policy, the Title IX Coordinator will not proceed under this Policy. Instead, if the allegations reported, if true, would

not constitute Prohibited Conduct as defined in this Policy, the Title IX Coordinator may take one of the following actions: implement a remedy that is not punitive to the Respondent, an Informal Resolution (contingent upon the voluntary agreement of both Parties to participate), refer the matter to the appropriate office for discussion, education, or resolution under a different policy or process, or if the reported conduct would not constitute a violation of any Davis & Elkins College Policy, take no further action. The Title IX Coordinator will notify the Complainant of any referral.

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. Supportive Measures are designed to restore or preserve access to Davis & Elkins College's Education Program and Activity, environment, to protect the safety of all Parties and Davis & Elkins College's environment, and/or to 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 of Title IX Sexual Harassment, either at the time a Supportive Measure is requested or at a later date.

The Title IX Coordinator will contact a Complainant after receiving a report of possible Prohibited Conduct to discuss the availability of Supportive Measures and to explain that Supportive Measures are available with or without the filing of a Formal Complaint of Prohibited Conduct. 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 and implement Supportive Measures. 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 or transportation to ensure safe movement on campus;
- Safety Planning;
- On-campus counseling services and/or assistance in connecting to community-based counseling services;

- Assistance in connecting to community-based medical services;
- Student Financial Aid Counseling;
- VISA and immigration assistance;
- 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.

Davis & Elkins College is committed to providing reasonable accommodations and support to qualified individuals. Anyone needing such accommodations or support should contact the Title IX Coordinator, who will work with the Director of Disability Services and/or the Director of Human Resources and in consultation with the person requesting the accommodation, determine what accommodations are reasonable and appropriate for full participation under procedures in this Policy.

Advisor of Choice

Throughout the Resolution Processes for Prohibited Conduct as defined in this Policy, the Complainant and a Respondent may each have an Advisor of their choice, who may be, but is not required to be an attorney, to provide support and guidance. An advisor may accompany the Complainant/Respondent to any meeting with the Title IX Coordinator, the Investigator, or Decision Makers.

With the exception of the Live Hearing, a Party's advisor has an exclusively non-speaking role, and may not otherwise present evidence, argue, or assert any right on behalf of the Party. An Advisor may not be called as a witness for the purposes of sharing information that their advisee has told them while serving in the role as an Advisor unless the Party consents in writing to that information being shared.

During the Live Hearing as described in section XVII, an advisor's role is limited to quietly conferring with the Complainant/Respondent through written correspondence or whisper. An advisor may not speak for the party they are supporting or address any other participant or the Hearing Officer except as necessary to conduct cross-examination as explained in the Resolution of Title IX Sexual Harassment Reports. Advisors must conduct the cross-examination of all witnesses directly, orally, and in real time at the hearing. Neither party may conduct cross-examinations personally.

If a Party does not have an advisor, the College will, upon request, appoint an Advisor who will be selected from a group of trained employees. Advisors appointed by the institution cannot be Confidential Employees as defined by this Policy. Advisors should not disclose details of their interactions with their advisees to institutional officials or Decision Makers absent an emergency or a health and safety concern.

Davis & Elkins College, which includes any official acting on behalf of Davis & Elkins College, has the right at all times to determine what constitutes appropriate behavior on the part of an advisor. Advisors who are disruptive, disrespectful, or refuse to follow this Policy will be removed. Davis & Elkins College has the right to take appropriate steps to ensure compliance with the Policy including by placing limitations on the advisor's ability to participate in future meetings and proceedings.

Advisors, whether Davis & Elkins College appointed or not, are expected to maintain the privacy of the records shared with them and will be required to execute a non-disclosure agreement. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Davis & Elkins College. Unauthorized Disclosures is a violation of this Policy and may also be considered Retaliation. 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.

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.

Timelines

Davis & Elkins College will make a good faith effort to complete the resolution of reports of Prohibited Conduct as promptly and thoroughly as circumstances permit and will communicate regularly with the Parties to update them on progress and timing of the process to ensure a fair process.

Davis & Elkins College anticipates the following timelines for different steps of the process and procedures.

Initial Evaluation: The Initial Evaluation typically takes five (5) to ten (10) Days.

Supportive Measures: Supportive Measures are available when Prohibited Conduct is reported and whether or not a Formal Complaint is filed. Supportive Measures are available throughout the entire Resolution Process, and in some cases after a Resolution Process; however, Supportive Measures are first offered during the Initial Evaluation which typically takes five (5) to ten (10) Days. See Section XV for more information about Supportive Measures.

Informal Resolution: Informal Resolutions can occur at any time prior to a Decision Outcome, and typically take anywhere from five (5) to twenty (20) Days to complete after the request to pursue an Informal Resolution has been made. See Section XVI for more information about Informal Resolutions.

Formal Resolution: The overall Formal Resolution Process takes between sixty (60) and ninety (90) Days depending on how long each step from Report to Formal Complaint to Decision Outcome takes. See Section XVII and XVIII for more information about Formal Resolutions.

Investigation: Investigations typically take approximately sixty (60) Days to complete.

Live Hearing: The Live Hearing, which includes, a ten (10) day review period of the evidence and another ten (10) day review period of the final investigation report, typically takes twenty (20) to forty (40) Days to complete.

Administrative Hearing: The Administrative Hearing, which includes, the final review and questioning process, take twenty to (20) to thirty (30) Days to complete.

Decision Outcome: Once an Administrative or Live Hearing has concluded, it takes approximately five (5) Days for a Decision to be rendered and communicated to the Parties in writing.

Appeals: Appeals are possible at several stages in the Resolution Process: each time a Dismissal is made and after a Decision Outcome has been made. Each appeal window is five (5) Days and may take longer in instances where Appeals are challenged. See Section XX for more information about Appeals.

Davis & Elkins College will make a good faith effort to complete the procedures outlined in this Policy within in sixty (60) to ninety (90) Days, including any appeals, which can be extended as necessary. The Title IX Coordinator has authority to extend such timelines for good cause. Good cause may include, but is not limited to, considerations such as the absence of a Party, a Party's advisor, or a witness; concurrent law enforcement activity; health conditions of a Party or Title IX Administrator, or the need for language assistance or accommodation of disability. The Parties will receive regular updates on the progress of the Resolution Process to explain any extension or delays and next steps in the process.

Davis & Elkins College's action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Informal Resolutions

Informal Resolution is an alternative Resolution Process that does not include an Investigation or Hearing. Informal Resolution is typically a spectrum of facilitated, or structured, and adaptable processes between the Complainant, the Respondent, and/or other affected community members that seeks to identify and meet the needs of the Complainant while providing an opportunity for the Respondent to acknowledge harm and seek to repair the harm (to the extent possible) experienced by the Complainant and/or the Davis & Elkins College community. Informal Resolutions can include, but are not limited to, Education, Mediation (including shuttled mediation), Restorative Practice, Supportive Resolution, and instances when a Respondent accepts responsibility for Prohibited Conduct.

Informal Resolution may be administered by the Title IX Coordinator or their designee.

Admission of responsibility for a policy violation is not required for participation in Informal Resolution Processes, but Parties must agree to end the behavior, prevent its recurrence, and address its effects through Informal Resolution.

Informal Resolution may be available, under appropriate circumstances, at any time prior to reaching a determination regarding responsibility through a Formal Resolution Process. It is not necessary to pursue an Informal Resolution prior to an Investigation or Formal Resolution Process.

When the reported allegations are of Title IX Sexual Harassment, Informal Resolution process may not begin unless and until a Formal Complaint of Title IX Sexual Harassment is filed and Informal Resolution is not available in cases involving a Student-Complainant and Employee-Respondent.

The Title IX Coordinator reserves the right to determine whether Informal Resolution is appropriate in a specific case. The Title IX Coordinator may consider the following factors to assess whether or not an Informal Resolution is appropriate:

- the likelihood of potential resolution;
- power dynamics between the Parties;
- the nature and severity of the misconduct;
- Respondent's disciplinary history;
- whether an emergency removal or other interim actions are needed;
- the skill of the Informal Resolution facilitator with the type of Complaint;
- the Formal Complaint complexity; and,
- goals of the Parties.

Before the Title IX Coordinator begins the Informal Resolution Process, both Parties must provide informed consent in writing. In addition, where both Parties and the College determine that Informal Resolution is worth exploring, the College will provide the Parties with a written notice disclosing:

- the allegations;
- the requirements of the Informal Resolution Process;
- any consequences resulting from participating or withdrawing from the process; and,
- information about the records relating to an Informal Resolution that may be maintained by the College.

At any time prior to reaching a resolution, either Party may withdraw from the Informal Resolution Process and proceed with the appropriate Formal Resolution Process. The Complainant may also request that a Complaint be dismissed.

Once an Informal Resolution is agreed to by all Parties, the resolution is binding, and the Parties generally are precluded from resuming or starting the applicable formal grievance process related to specific misconduct that was alleged. Any breach of the terms of an Informal Resolution agreement may result in disciplinary action.

The Title IX Administrator facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision Maker, or an Appeal Officer in the same case. In instances when a Title IX Administrator has a conflict of interest or bias, the Informal Resolution will be facilitated by the Associate Dean of Students.

Formal Complaints of Title IX Sexual Harassment To Include Reports of Dating and Domestic Violence, Sexual Assault, Stalking, and Retaliation

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 must notify the Title IX Coordinator in writing of the allegations and request that Davis & Elkins College investigate or otherwise resolve those allegations in accordance with this Policy and Procedures. 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.

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.

In instances in which there is no Formal Complaint, Davis & Elkins College may still be obligated to stop, remedy, or prevent any concerns or possible hostile or discriminatory environments. However, individual discipline may not be issued unless the Investigation and Hearing have occurred.

Dismissal

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 not 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 the allegations in the Formal Complaint 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. Davis & Elkins College may permit 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 Formal 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 Student Handbook 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 Title IX Sexual Harassment Allegations

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.

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.

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, Complainants and Respondents 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 Party 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 (or other Prohibited Conduct if the Formal Complaint has been consolidated) 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

After all the evidence is gathered, and the Investigator has completed witness interviews, the Investigator will prepare a draft investigative report. Each party, and the party's Advisor, if any, will receive 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; information about the Complainant's sexual predisposition or prior sexual behavior (unless such evidence about the Complainant's prior sexual behavior are offered to prove someone other than the Respondent committed the alleged conduct, or if the evidence concerns specific incidents of the Complainant's prior sexual behavior with respond to the Respondent and are offered to prove consent), 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 the alleged Prohibited Conduct occurred and 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) and create an updated Draft Investigative Report. If there is new evidence, the Parties will be permitted to review the updated Draft Investigation Report following the procedures above.

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 Final Investigative Report for completeness and relevance, and direct further investigation as necessary before the Final Investigative 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 prohibited from disclosure pursuant to a recognized legal privilege;
- Information about a Complainant's prior or subsequent sexual activity, unless such information about the Complainant's prior sexual behavior unless it 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.

Live Hearings on Title IX Sexual Harassment Allegations

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 Panel 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

Mike Mattison

Deputy Title IX Coordinator
Provost, Vice President for Academic Affairs

Liberal Arts Hall, Room 106
(304) 637-1292 | mattisonm@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 Dean of Students.
- 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 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 any 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, duplicative, or prohibited (such as prior sexual history or privileged information). 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.) to a hearing, 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 upon request 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. At the discretion of the Title IX Coordinator, a Live 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;

- 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).

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 allegations of Prohibited Conduct occurred and, if so, whether 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 Policy 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.

The written notification of outcome becomes final five (5) Days after it is sent to the Complainants and Respondents, 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, and when Informal Resolution is not elected or is unsuccessful, 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 Complaint, the Complainant may do so orally, in writing, 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 if they determine that Davis & Elkins College is on notice that it would be legally required to respond.

When deciding to File a Complaint, the Title IX Coordinator will consider the following:

- the College's legal obligations to provide a safe, non-discriminatory educational or work environment;
- 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;
- the scope of the alleged Prohibited Conduct, including possible patterns, possible ongoing discrimination or harassment, and/or whether or not the alleged Prohibited Conduct impacts multiple individuals;
- whether or not the Prohibited Conduct was committed by multiple Respondents;
- the seriousness of the alleged misconduct;
- The age and relationship of the Parties, including whether or not the Respondent is a Davis & Elkins College employee;
- the Complainant's request not to proceed;
- the Complainant's reasonable safety concerns about initiating a Complaint; and,
- the availability of evidence to assist a Decision-Maker reaching a determination.

When the Title IX Coordinator files a 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 may 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 force participation in the grievance process.

If a Party chooses not to participate in the Resolution Process or becomes unresponsive, the Recipient reserves the right to continue without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process. Employee witnesses may be compelled to participate.

In instances in which there is no Complaint, Davis & Elkins College may still be obligated to stop, remedy, or prevent any concerns or possible hostile or discriminatory environments.

Dismissal of Complaints Of Prohibited Conduct That Is Not Title IX Sexual Harassment

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

- Davis & Elkins College is unable to identify the Respondent after taking reasonable steps to do so;
- the Respondent is no longer enrolled or employed by Davis & Elkins College;
- specific circumstances prevent the recipient from gathering the evidence sufficient to reach a determination in regards to the allegations in the Complaint; and/or,
- Davis & Elkins College determines the conduct alleged would not constitute a policy violation, if proven.

Dismissal decisions are appealable by the Parties.

Consolidation of Complaints of Prohibited Conduct That Is Not Title IX Sexual Harassment

In their discretion, the Title IX Coordinator may consolidate multiple 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 are logically connected (even where some of that alleged conduct is not Prohibited Conduct). The decision to consolidate Complaints is not subject to appeal and at the discretion of the Title IX Coordinator.

Counterclaims of Prohibited Conduct That Is Not Title IX Sexual Harassment

Davis & Elkins College is obligated to ensure that the grievance process is not abused for retaliatory purposes. 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 Formal 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 That Is Not Title IX Sexual Harassment

If a Complainant or the Title IX Coordinator files 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:

- sufficient detail for a person to be prepared before any initial interview, including identities of the Parties, if known; the conduct allegedly constituting Prohibited Conduct; the date and location of the alleged incident, if known;
- the specific policies and offenses implicated;
- 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;
- a statement that the Parties are entitled to an equal opportunity to assess the relevant and not otherwise impermissible evidence;
- a statement the Parties are entitled to an Advisor of their choosing who may accompany them throughout all steps of the Formal Resolution Process;
- instructions to preserve any evidence that is directly related to the allegations;
- notice that Davis & Elkins College prohibits knowingly making false statements, including submitting false information during the Formal Resolution Process;
- information about the confidentiality of the process, including the expectations of the Parties and their Advisors regarding information learned through the process;
- 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.

In instances institutional discrimination, disparate policies, or in which climate or culture Investigations are required and that do not have an identifiable Respondent, the Notice of Allegations will be provided to the Cabinet Member that oversees the area being investigated.

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 Complaints Of Prohibited Conduct That Is Not Title IX Sexual Harassment

Once a Formal Complaint has been filed, 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, one of whom may be the Title IX Coordinator, who will be responsible for

gathering evidence directly related to the allegations raised in a Formal Complaint of Prohibited Conduct.

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. Following the interview, each Party will be provided with a draft summary of their statement and provided an 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).

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 relevant 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 and Pose Additional Questions

After all the evidence is gathered, and the Investigator has completed witness interviews, the Investigator will prepare a draft investigative report. The primary Decision Makers will receive a copy of the draft investigative report.

- If the Respondent is a student: The primary Decision Maker will be the Dean of Students.
- If the Respondent is an employee: The primary Decision Maker will be the Director of Human Resources.
- If the Respondent is a member of Faculty: The primary Decision Maker will be the Vice President for Academic Affairs.

The Parties, and their Advisors, if any, at a minimum will be provided with 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 relevant to the allegations of the Complaint; information prohibited from disclosure pursuant to a recognized legal privilege or other statutory or regulatory prohibition; and/or a Party's medical or mental health information/records unless the Party consents in writing to the disclosure.

Complainants, Respondents, and Decision Makers may not disseminate, in whole or in part, any part of the draft investigative report or descriptions of evidence 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 five (5) Days to review the draft investigative report or descriptions of the 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, additional questions to be asked, or any other information they deem relevant to the Investigation. The Parties will submit their written responses, including additional questions to be asked, to the primary Decision Maker and Title IX Coordinator.

The Decision Maker will have five (5) Days to review the draft report, descriptions of the evidence, and the written responses and additional questions the Parties requested to be asked. After assessing the requests for permissibility and relevance, the Decision Maker may direct the Investigators to conduct follow up interviews if necessary.

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 so that the primary Decision Maker can determine relevance. The Parties' feedback will be attached to the final Investigation report. Only information provided prior to the final Investigation report will be considered in a determination of whether a policy violation occurred. Any and all information for consideration by Decision Makers must be provided prior to the final Investigation report.

Once the review and request period are complete, the Investigator will incorporate the information into the final investigative report which will be provided to the Title IX Coordinator for review.

Administrative Hearing

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 Decision Makers.

After the Title IX Coordinator reviews the report and any further Investigation, if necessary, is completed, the final report will be provided to the Decision Makers 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 Decision Makers, by way of a simple vote will consider all relevant evidence and make a determination, by preponderance of evidence standard, whether the Respondent has violated the Policy or if institutional discrimination or disparate policies are substantiated. While present, 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

As soon as possible, but within in five (5) Days after an Administrative Hearing and after a determination regarding responsibility and, if applicable, a determination regarding appropriate remedies and/or sanction has been made, the Parties 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;
- Information about the policies and procedures used to evaluate the allegations.
- 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 imposed on the Respondent that Davis & Elkins College is permitted to share pursuant to state or federal law;
- Whether or not remedies will be provided; and,
- Davis & Elkins College's procedures and permissible bases for the Complainants and Respondents to appeal.

The written notification of outcome becomes final five (5) Days after it is sent to the Complainants and Respondents, unless an appeal is filed on or before that day.

Appeals

A Complainant and Respondent both have the right to appeal the following:

- Title IX Coordinator's decision to dismiss a Formal Complaint of Prohibited Conduct;
- Emergency Removal decisions; and,
- decisions regarding responsibility for policy violation or outcome.

Appeals may only be made by Complainants and Respondents and not Advisors or other third Parties.

A Party wishing to appeal the Title IX Coordinator's decision to dismiss a Formal Complaint of Prohibited Conduct must file a written appeal statement within five (5) business Days of the date the decision to dismiss is communicated to the Parties.

A Party wishing to appeal a decision regarding responsibility or outcome must file a written appeal statement within five (5) business Days of the date the written decision is sent to the Parties.

The written appeal statement must identify the ground(s) upon which the appeal is being made. The only grounds for appeal are:

- new information not reasonably available at the time of the decision that could affect the outcome of the matter;

- the Title IX Coordinator or other Title IX Administrator had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent specifically that affected the outcome of the matter;
- the Sanction is excessively severe considering the cumulative conduct/disciplinary record of the Respondent; and/or,
- procedural error(s) that affected the outcome of the matter. An appeal is not a re-hearing of the case.

Davis & Elkins College may deny an appeal if it is not based on one of the grounds for appeal outlined above.

Appeal Officer

- If the Respondent is a student: The written appeal shall be submitted to the Vice President for Academic Affairs.
- If the Respondent is an employee: The written appeal shall be submitted to the Dean of Students for Student Affairs.
- If the Respondent is a faculty member: The written appeal shall be submitted to the Director of Human Resources.

The Appeal Officer's role is limited to reviewing the underlying record of the Investigation and hearing, the appealing Party's ("Appellant") written appeal statement, any response to that statement by the non-appealing Party.

Response to Appeal

The Appeal Officer will provide written notice to the non-appealing Party that an appeal has been submitted and will give the non-appealing party an opportunity to review the appeal statement. The non-appealing Party may submit a written response to the appeal. The written response is due two (2) Days from the date Davis & Elkins College provides written notice of the appeal to the non-appealing Party. Davis & Elkins College will provide the Appellant an opportunity to review non-Appealing Party's response, but no further submissions are permitted.

Written Decision

The Appeal Officer will provide written notification of the final decision to the Appellant and non-appealing Party simultaneously. The Appeal Officer will typically notify the Parties of its decision regarding an appeal in writing within five (5) business Days from receipt of the appeal statement. If the decision will take longer, the Parties will be informed. The decision of the Appeal Officer will be final, and no subsequent appeals are permitted.

Remedies and Sanctions

In the event the Decision Makers find 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.

- If the Respondent is a student: The sanction will be administered by the Dean of Students.

- If the Respondent is an employee: The sanction will be administered by the Director of Human Resources.
- If the Respondent is a member of Faculty: The sanction will be administered by the Vice President for Academic Affairs.

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 any of the sanctions outlined in the Davis & Elkins College Student Handbook, 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 the finding of responsibility for student groups and organizations include any of the sanctions outlined in the Davis & Elkins College Student Handbook, warnings, probation, suspension, termination of the group, expulsion, loss of privileges, or other actions determined to be appropriate.

Sanctions for findings of responsibility for Employee and Faculty Respondents include 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.

Hazing

Davis & Elkins College seeks to promote and provide a safe environment where students may participate in activities and organizations without compromising their emotional or physical health, safety, or welfare. Each organization, as well as each individual, must uphold the basic community values of being just, civil, and respectful of the rights of others. Respect for College policies, procedures, and community expectations is also critical to the health and well-being of our community.

Davis & Elkins College is committed to fostering a safe, respectful, and inclusive campus environment through a comprehensive hazing prevention program. The College provides ongoing education and awareness initiatives for all students, faculty, and staff to promote understanding, encourage accountability, and empower individuals to report incidents promptly and responsibly.

At a minimum, all students receive dedicated training on hazing during their time at Davis & Elkins College, ensuring they are equipped with the knowledge and resources necessary to recognize, prevent, and address hazing-related behaviors.

An act of hazing or organization misconduct covered under this policy may also intersect with other institutional policies, including, but not limited to the Student Code of Conduct or Policy and Procedures on Discrimination, Harassment, and Title IX Sexual Harassment. The College reserves the right to refer reported incidents of Hazing or Organization Misconduct for adjudication under other policies or procedures where applicable.

Hazing will not be tolerated at Davis & Elkins College. All Davis & Elkins College student organizations and individual students are prohibited from hazing. The impact of hazing activities can result in irrevocable harm to its victims, their families, and the College community, undermining the value of these experiences for many individuals. Prevention of hazing is the responsibility of every member of the College community.

Hazing: any action or situation created by a member of the College community against another member of the College community for the purpose of initiation, affiliation, or membership with a group or organization that:

- a) Is negligent, reckless, or humiliating in nature;
- b) Recklessly or intentionally endangers or adversely affects the mental or physical health or safety of an individual or individuals;
- c) Causes another individual or individuals to destroy or remove public or private property; or
- d) Unreasonably interferes with scholastic or employment activities

Hazing may occur regardless of the individual's willingness to participate. It is not a defense to a charge of hazing that the express or implied consent of the individual was obtained, the conduct or activity was not part of an official organizational event or was not otherwise sanctioned or approved by the organization, or the conduct or activity was not a condition of membership or affiliation with the organization. Hazing is prohibited in any form both on campus and off campus.

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

- Humiliating, intimidating, or demeaning treatment;
- The destruction or removal of public or private property;
- Behavior involving the coercive consumption of alcohol, other drugs, or other substances;
- Rituals or systems that encourage the violation of any College policies or procedures or local laws and statutes.

Any acts of hazing, as defined in the [West Virginia Anti-Hazing Law \(https://code.wvlegislature.gov/18-16-3/\)](https://code.wvlegislature.gov/18-16-3/), will also constitute hazing per this policy. A violation of this policy may also amount to a violation

of state law, which considers hazing a misdemeanor subject to penalties of jail time, a fine up to \$1000, or both.

Alcohol Consumption and Hazing: Any consumption of alcohol, other drugs, or other substances that is “an explicit or implicit condition for initiation to, admission into, affiliation with, or continued membership in a group or organization” is also considered hazing and subject to discipline under this policy.

Reporting

Expectations of Reporting

Any faculty, staff, student, or volunteer of Davis & Elkins College, with knowledge or suspicion of hazing or other organizational misconduct, is expected to report the activity to appropriate officials as indicated below or complete the Hazing and Organization Misconduct Report Form.

How to Report

Complaints or reports of activities believed to be hazing or organizational misconduct should be reported to the Dean of Students, Public Safety, or by completing the Hazing and Organization Misconduct Report Form.

Rights of Those Who Report

Individuals who are victims of hazing or organizational misconduct and who truthfully report the activities shall not be individually charged with a violation of this regulation.

Individuals who have knowledge of a hazing or organization misconduct incident, but who did not participate, and who truthfully report the activities, shall not be individually charged with a violation of this regulation in relation to that particular incident.

An organization that seeks assistance in preventing hazing or organizational misconduct from occurring within the organization, even if past behaviors have included hazing or other organizational misconduct, shall not be charged with a past violation of this regulation.

Any organization that self-reports a hazing or organizational misconduct behavior to an appropriate College official shall be given the opportunity to change those behaviors without immediate threat of being charged with a violation of this regulation. An organization that self-reports shall identify those individuals responsible for the hazing or organizational misconduct behaviors. If evidence is presented in subsequent semesters that hazing or organization misconduct behaviors have continued within the organization, that organization may be held responsible for past behaviors.

Policy and Disciplinary Oversight of Reported Incidents

The Hazing and Organization Misconduct Committee will oversee the investigation of reports concerning alleged hazing or organization misconduct activities. The Hazing and Organization Misconduct Committee will consist of the following: Dean of Students (Chair), Title IX Coordinator, Associate Dean of Students, Director of Athletics, and one faculty member. In instances when the alleged incident occurs in an organization advised/administered by a member of the Hazing and Organization Misconduct Committee, that member will be recused from the process. Although the Hazing and Organization Misconduct Committee may call on the advisor/administrator to provide additional information to be

determined on a case-by-case basis. If a member of the Hazing and Organization Misconduct Committee is recused, the committee will proceed with the remaining members, and no additional individuals will be added.

Upon receiving a report of alleged hazing or organization misconduct, the Dean of Students or designee will notify the Hazing and Organization Misconduct Committee. The Committee will review the report of the alleged incident and conduct a preliminary inquiry to determine if a formal investigation should commence. During the preliminary inquiry, the Committee will consider any organizational processes that have occurred, as well as organizational sanctions that may have already been imposed. Additionally, the Hazing and Organization Misconduct Committee may, at its discretion, assign interim actions. The Committee may refer reported incidents of Hazing or Organization Misconduct for adjudication under other policies or procedures, where applicable, for example, under the Davis & Elkins College Policy and Procedure on Discrimination, Harassment, and Title IX Sexual Harassment.

If the preliminary inquiry results in the Hazing and Organization Misconduct Committee launching a formal investigation, the Committee will then assign the case to an independent investigator. The investigator will be appointed by the Hazing and Organization Misconduct Committee and will not be a member of the committee. The use of an internal or external investigator will be determined at the discretion of the Hazing and Organization Misconduct Committee.

As part of the investigation, the College will:

1. Notify the organization leadership.
2. Make contact (if possible) with the individual(s) bringing forward the allegations;
3. Make contact with the individual(s) alleged to have perpetrated the incident.
4. Conduct interviews with all parties, including victims, the accused student(s), and any witnesses. The investigator may, at their discretion, provide updates to the Hazing and Organization Misconduct Committee and/or recommend interim actions to the Committee at any point during the investigation. All members of the campus community shall cooperate in an investigation of hazing or organization misconduct.
5. The investigator may, at their discretion, require students, or a select group of students (i.e. all new members of an organization) to participate in an investigatory meeting at a pre-determined time and location and may exercise discretion regarding the communication of students during the investigation process.
6. The investigator will provide a written investigative report to the Hazing and Organization Misconduct Committee. Upon receipt of this report, the Hazing and Organization Misconduct Committee will determine if a violation of policy has occurred.
7. The Hazing and Organization Misconduct Committee will, on a case-by-case basis, determine whether any policy violations are individual or organizational in nature and whether, as a result, sanctions are warranted on an individual or organizational level. In

determining whether a violation is organizational or individual in nature, the Committee will consider the following:

- How many members were present when the alleged violation occurred or had specific knowledge of the alleged violation?
 - What knowledge did the appropriate organizational leadership have of the alleged violation?
 - What action did the appropriate organizational leadership take in addressing/preventing the alleged violation?
 - Were members acting in concert, or did the individual's membership in the organization serve as an impetus for the alleged violation?
 - Did the violation arise out of a organization sponsored, financed or endorsed event?
 - Is there a pattern of individual violations that have occurred without proper action by the organization?
8. If after completing the procedures outlined herein and finding that individual sanctions are warranted, the Hazing and Organization Misconduct Committee will refer the case to the Student Conduct Hearing Officer, who will determine and implement appropriate sanctions on the individual student(s). For more information about possible individual sanctions, review the Student Code of Conduct in the Student Handbook. If, after completing the procedures outlined herein and finding that individual sanctions against an employee of the College are warranted, the Hazing and Organization Misconduct Committee will refer the case to Human Resources, who will determine and implement appropriate sanctions on the individual employee. For more information about possible individual sanctions, please contact the Director of Human Resources.
9. Sanctions for violations of this regulation by a group or organization shall be administered by the Hazing and Organization Misconduct Committee. The Committee will request, if available, additional information for sanctioning purposes from individuals outside of the Committee structure, including, but not limited to, previous records of group misconduct, current organization standing, organization processes that have occurred, organizational-specific sanctioning that may have already been imposed. etc.

Sanctions

Organization sanctions may include, but are not limited to:

Warning: A Warning is given to notify a student organization that the behavior and conduct has been inconsistent with the expectations of the College. A warning has no immediate effect upon a student organization's status at the College and may be specified for a period of time. However, once given a warning, a student organization should expect different outcomes or sanctions to result from any subsequent violations, especially while on a current warning status when/if similar behaviors occur.

Restriction of Privileges: Restriction of Privileges precludes a student organization from participating in certain activities or may require a student organization to forfeit specific privileges. A student organization

under the status of Restriction of Privileges is not in good standing with the College. Restriction of Privileges may include, but is not limited to, loss or limitation of social events or limitation of ability to participate in College events or activities.

Disciplinary Probation: Disciplinary Probation serves to notify a student organization that it must avoid any further violations for a specified period of time in order to avoid additional disciplinary action. Student organizations on probation are not in good standing with the College. A student organization may be prohibited from participating in certain activities or forfeit specific privileges while on probation. If a student organization on probation is found responsible for any subsequent violations, the outcomes may escalate. Disciplinary Probation may include Restriction of Privileges.

Deferred Suspension: Deferred Suspension is a status for a specified period of time during which any subsequent finding of Responsibility for a violation of the Hazing and Organization Misconduct Policy or any other College policy shall result in the Outcome of Suspension for the student organization. Deferred Suspension may include Restriction of Privileges.

Suspension: Suspension is a status for a specified period of time that includes, but is not limited to, the revocation of the College's registration of the student organization for a stated or an indeterminate period of time, cessation of College funding, restriction of all operations at the College, and restriction of use of College resources. If the student organization also holds a charter from a inter/national organizational governing body, the College may also request that the inter/national organizational governing body revoke the charter of the student organization.

A student organization placed on Suspension is prohibited from sponsoring, co-sponsoring, or participating in any and all social, intramural, athletic, or other similar activities on or off campus. A suspended student organization may not solicit or initiate any new members. Suspension may also include the forfeiture of other specifically listed privileges. Suspension should be for a specific and determined period of time, and will include a written return agreement outlining specific conditions for return. The Suspension may be delayed at the discretion of the Dean of Students or designee.

Educational Outcomes: Educational Outcomes may include, but are not limited to, educational programming, restorative justice, interventions, restrictions, workshops, or other outcomes determined to help develop the culture and community of the student organization.

Structural Outcomes: Structural Outcomes are related to the structure, membership, or governance of the organization. Structural outcomes, developed in collaboration with the organizational governing body or department (if applicable), may include, but are not limited to, changes to student organization operating procedures, a review of student organization membership/leadership, an external student organization review, and changes to student organization advisor support.

Appeals

Any outcome of the Hazing or Organization Misconduct process may be appealed.

The following are acceptable grounds for appeal:

- The evidence presented does not support the verdict;
- The sanction(s) is/are excessively severe;
- New or newly discovered evidence is of character that may substantially affect the outcome of the hearing;
- There was a procedural error that substantially affected the outcome of the hearing.

Organizations requesting an appeal must submit a letter to the Office of Student Life within three (3) business days from receipt of the written decision. All information to be considered with the appeal must be included at this time. Failure to request an appeal within the designated time will render the original decision final and conclusive.

Appeals shall be decided upon findings of fact and upon written briefs submitted by the parties. If a key point is in contention, the Appellate may call witnesses or seek other processes/methods through which to determine the facts. If the Appellate determines there is merit for an appeal, the facts of the incident will be reviewed with the student within ten (10) business days of receiving the student's written appeal.

The Appellate will be the Provost and Vice President for Academic Affairs or designee. The Appellate may:

- Deny the appeal
- The original sanction will be upheld.
- The original sanction will be modified. The standard of preponderance of evidence will be used in all decision-making.

Once an appeal has been submitted, the imposition of sanctions will be deferred pending the outcome of the appeal unless the Dean of Students determines that it is against the best interest or safety of the campus community.

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. 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. Additional information is available from the Office of Public Safety.

In the event of smoke or fire, calmly exit the building using the nearest exit. If the building's alarm system is not sounding, pull the fire alarm when exiting the building. All College buildings have posted exit diagrams and all building occupants should know the exit routes and be familiar with College fire evacuation procedures set forth in the Emergency Response and Safety Plan. Failure to exit the building at the sound of a fire alarm or warning is a violation of College policy, as well as a violation of state law. In addition, tampering with or falsely activating a fire alarm is a violation of College policy and state law.

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.

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. Fires must be reported even if the fire was extinguished or contained. The Office of Public Safety posts specific incidents in the Crime and Fire Log within two business days of receiving the report.

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 must 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.

The Office of Student Life and the Office of Public Safety value the importance of outdoor recreation and wish to promote a safe environment for student groups that request the opportunity to use fire pits as well as grills as the center of social gathering. To approve these requests while following related laws governing these activities, the Office of Student Life in cooperation with the Elkins City Fire Department have created rules that must be followed, rules that promote the safety of those involved as well as the greater community. Other than this approved exception, any incidents of fire must be reported to the Office of Public Safety to include as a fire statistic in the Annual Security and Fire Safety Report.

Fire Drills

By law, two fire drills must be conducted per residential facility each academic semester. These drills are random and can be assigned to individual officers or to multiple officers as a “group effort” to complete.

Step 1: Choose a residential facility to conduct a fire drill.

Step 2: Choose a pull station lever to engage-once alarm begins to sound-re-engage the pull station lever.

Step 3: Conduct a walk-through of the entire facility, announcing Public Safety and knocking on all doors, indicating to those present to vacate the facility and report to their designated zone.

Step 4: Once the dorm is vacant, the officer/s will silence the alarm, all while taking note of the time in which the drill took to complete, and the time it took all occupants to vacate.

Step 5: An incident report is filed in the Office of Public Safety detailing the above-mentioned steps and the fire log is updated to reflect these actions as well as to maintain compliance with Federal law.

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 2024
Darby	None	✓	✓	✓	2
Booth	None	✓	✓	✓	2
Gribble	None	✓	✓	✓	2
Moyer	None	✓	✓	✓	2
Presidential	None	✓	✓	✓	2
Glory	✓	✓	✓	✓	0
Byrd	✓	✓	✓	✓	2
Morison N.	None	✓	✓	✓	2
11 Spruce	None	✓	None	None	0
122 College	None	✓	None	None	0

Residential Facilities	Total Fires	Date	Time	Cause of Fire	Number of Injuries	Number of Deaths	Property Damage Value
Darby	0	N/A	N/A	N/A	0	0	0
Booth	1	10/17	20:11	Electric	0	0	\$1,715.00
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
Glory	0	N/A	N/A	N/A	0	0	0

Byrd	0	N/A	N/A	N/A	0	0	0
Morrison N.	0	N/A	N/A	N/A	0	0	0
11 Spruce	0	N/A	N/A	N/A	0	0	0
122 College	0	N/A	N/A	N/A	0	0	0

Continuing improvements towards Fire Safety falls under the preview of the Safety Committee and are considered and implemented on an annual basis.