



# **Annual Campus Security 2019**

**Shepherd University**

**Martinsburg Center**

# Annual Campus Security and Fire Safety Report

Shepherd **U**niversity is firmly committed to maintaining a safe campus environment and to the swift prosecution of criminal offenders. The full benefit of academic freedom is only experienced by faculty and students when the University community is free of violence or other criminal activity. The University makes basic information regarding crime available to students and employees in compliance with federal and state policies.

## How Shepherd University Prepares the Annual Crime Statistics

Shepherd University has a committee of individuals who gather the crime statistics throughout the year and help produce the Annual Security and Fire Safety Report. When notified of a crime, the committee members will document the crime and report it. The crimes are then classified within the guidelines set forth in the most updated version of the published Clery Act.

The Clery Compliance Committee members include:

- Chief of Police, John P. McAvoy, Chair
- Director of Residence Life, Elizabeth J. Sechler
- Director of Facilities Management, James King
- Assistant Vice President for Student Success, Holly Frye
- Title IX Coordinator, Anne Lewin

## Reporting Crimes

Shepherd University Police Department (SUPD) officers have full law enforcement powers and duties within the jurisdiction of the University. The University strongly urges all students and requires all employees with knowledge of a crime to report the crime promptly to SUPD. Only employees designated as serving as a “counselor” are exempt from this requirement.

Prompt reporting of crime maximizes the potential for a successful arrest and prosecution. The preservation of evidence is critical to successful prosecutions. University police officers are available 24 hours per day, 7 days a week. The SUPD phone is 304-876-5374; evenings and weekends dial 304-876-5202 to reach an officer directly. In an emergency, dial 9-911 from any campus phone.

Alternatively, a student with knowledge of a crime, or as a victim, has a right to file a report with:

- Shepherdstown Municipal Police Department, phone: 304-876-6036
- Jefferson County Sheriff's Department, phone: 304-728-3205
- West Virginia State Police, phone: 304-725-8484

SUPD officers have traditionally maintained an excellent working relationship with all regional law enforcement agencies in the joint investigation of offenses within the jurisdiction of the University, and inter-departmental agreements provide for mutual assistance with the municipal and Sheriff's departments. Institutional discipline for any criminal offense is not dependent on prosecution or conviction in the state or federal courts.

## Limited Voluntary Confidential Reporting

SUPD encourages anyone who is a victim or witness to a crime to promptly report the incident to the University Police. Because police records are public records under state law, SUPD cannot hold reports of crimes in confidence. However, confidential reports for purposes of inclusion in the annual disclosure of crime statistics can generally be made to any Shepherd University campus security authorities as identified below.

### Campus Security Authorities are:

Officials of Shepherd University who have significant responsibility for student and campus activities, including, but not *limited* to, student housing, student discipline and campus judicial proceedings.

## Shepherd University Gender-based/ Sexual Misconduct and Interpersonal Violence Policy

### I. Resources

#### a. Overview

Shepherd University is committed to providing all members of the community with an environment free from discrimination, harassment, and violence. Any member of the campus community that experiences gender-based or sexual misconduct, including sexual assault, relationship violence, or stalking is encouraged to seek assistance from the resources listed below. All members of the campus community have the right to make a report to the University, University Police, local law enforcement, and/or the State Police, or choose not to report at all. Shepherd campus community members have a right to be protected from retaliation for reporting an incident and to receive assistance and resources from the University outlined below.

Shepherd University employs a full time Title IX Coordinator on campus. The Title IX Coordinator, **Ms. Annie Lewin** is located in the Student Center, Suite 122, in room 121. The Title IX Coordinator can be reached by emailing [alewin@shepherd.edu](mailto:alewin@shepherd.edu) or calling 304-876-5160. Online reporting and further information can be found at <http://www.shepherd.edu/title-ix>.

#### b. Confidential Resources (Counseling and Advocacy)

The University encourages all community members to make a prompt report of any incident of sexual misconduct to the University and/or local law enforcement. For individuals who are not prepared to make a report to the University, may be unsure what happened, or are seeking information and support, there are several legally protected confidential resources available as designated below. These confidential resources will not share information with the University or anyone else without the individual's permission. Information shared with these confidential resources is not considered a report to the University.

##### i. On-campus Confidential Support

- **SU Counseling Services**

**304-876-5161**

Counseling Services has professionally trained clinicians to offer advocacy, support, therapy, and guidance. Counselors are available to provide advocacy to students and connect them to other resources, on and off campus. Any names and information shared with a counselor will not be shared with any other campus personnel except when there is an immediate danger to self or others or a suspicion of child abuse. Counseling Services works with the Title IX Coordinator to provide sexual violence prevention education to the campus community.

- Confidential Advisors (Complainant Support)

Confidential Advisors are well trained faculty and staff members who volunteer their time to partner with students to provide emotional support and to assist students by addressing medical concerns, safety issues, interim accommodations, reporting options, and can connect students with on and off campus resources. Sharing information with a confidential advisor will not trigger a university investigation into an incident against the person's wishes. Confidential advisors are required to report non-personally identifiable information to the Title IX coordinator for the collection of aggregate data and crime statistics purposes.

#### **i. Off-campus Confidential Support Options**

- **Eastern Panhandle Empowerment Center :** **304-263-8292**  
EPEC is a confidential domestic violence and sexual assault crisis center serving both men and women; services include emotional support, counseling, emergency shelter and a 24 hour hot line. Although EPEC is officially located off-campus, Shepherd has a long standing and highly functional relationship with EPEC. Advocates at EPEC can connect victims of violence and harassment to University resources or reporting, as well as facilitate criminal reporting and medical assistance <http://epecwv.org/>
- **The National Sexual Assault Hotline** **1-800-656-HOPE**
- **The National Resource Center on Domestic Violence** **[www.nrcdv.org](http://www.nrcdv.org)**
- **The National Coalition Against Domestic Violence** **[www.ncadv.org](http://www.ncadv.org)**
- **WV Foundation for Rape Information and Services** **[www.fris.org](http://www.fris.org)**
- **Rape, Abuse and Incest National Network (RAINN):** **800-656-4673**  
A confidential, anonymous national sexual assault hotline **[www.rainn.org](http://www.rainn.org)**

#### **c. Confidential Medical Resources**

A medical professional can provide emergency and/or follow-up medical services. Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (SAFE - commonly referred to as a rape kit). Winchester Medical Center is located in Winchester, VA and will provide exams free of charge. Other local options include Berkeley Medical Center, located in Martinsburg, WV and Jefferson Medical Center, located in Ranson, WV. The medical exam has two goals: first, to diagnose and treat the full extent of any injury or physical effect (including prevention of sexually transmitted infections and/or pregnancy) and second, to properly collect and preserve evidence. The University is not notified by the hospital unless the Complainant desires to have on-campus personnel notified.

If a SAFE exam is desired, it is ideal if the Complainant (victim/survivor) does not shower, use the bathroom, or clean one's body in any way. The individual should also preserve any clothing (including undergarments) in a paper bag.

#### **i. On-campus Confidential Medical Resources**

- **Shepherd Health Services Center:** **304-876-5161**  
The professionals at SU Health Services Center provide medical attention and referrals to campus and community resources. While Health Services does not provide a sexual assault forensic exam, they do provide some testing for sexually transmitted infections, pregnancy testing, Plan B emergency contraception, and treatment for minor injuries. Any names and information shared

with a member of the Health Services staff will not be shared with any other campus personnel except when there is an immediate danger to self or others or a suspicion of child abuse.

#### ii. Off-campus Confidential Medical Resources

- **Winchester Medical Center:** **540-536-8000**  
1840 Amherst St, Winchester, VA 22601
- **Berkeley Medical Center:** **304-264-1000**  
2500 Hospital Drive, Martinsburg, WV 25401
- **Jefferson Medical Center** **304-728-1600**  
• 300 South Preston Street, Ranson, WV 25438

Shepherd University will work with the Eastern Panhandle Empowerment Center to fully and promptly cooperate in obtaining appropriate medical attention for a Complainant, including transportation to one of the listed hospitals.

#### d. Campus Resources

In addition to the confidential resources listed above, Shepherd community members have access to a variety of resources provided by the University. The staff members listed below are trained to support individuals affected by gender-based and sexual harassment, discrimination, or violence and will collaborate with the Title IX Coordinator in a manner consistent with the University's commitment to a safe and healthy educational environment. While not bound by confidentiality, these resources will maintain the privacy of an individual's information within the limited circle of those involved in the Title IX resolution process.

- **Title IX Coordinator: Annie Lewin** **304-876-5160**  
The Title IX Coordinator oversees the University's response to a report of gender-based or sexual misconduct. The Coordinator is responsible for the initial Title IX assessment, implementing interim remedies and protective measures for the individual and the community, initiating the investigation, and ensuring a fair and impartial resolution designed to stop the harassing conduct, address its effects, and prevent its recurrence. The Coordinator provides oversight of all Title IX complaints to ensure compliance with local, state and federal authority. The Title IX Coordinator receives and reviews all complaints to identify and address any systemic problems. The Coordinator also assesses student activities periodically to ensure that the practices and behaviors of the students do not violate the policies on sexual harassment and violence, and to tailor education, prevention, and training programs regarding sexual misconduct to the needs of the community. The Coordinator is available to meet with students, staff and faculty.
- **Student Conduct Office** **304-876-5214**  
Student Conduct can provide options and resources for students as well as assist with a variety of accommodations and interim remedies. Student Conduct will work with the Title IX Coordinator to resolve misconduct relating to students under this Policy.
- **Vice President for Student Affairs,** **304-876-5214**  
The Vice President for Student Affairs has overall responsibility for the division of Student Affairs and can help facilitate resolution of complaints.

- **Residence Life Office**

**304-876-5172**

Residence Life staff are trained to respond to all kinds of student emergencies and can quickly connect the complainant to other resources on and off campus. Students involved in sexual misconduct incidents in a substantial capacity may request an immediate change of living situations, if an alternative is reasonably available, by contacting Residence Life, the Title IX Coordinator, or the Student Conduct Office. The University also reserves the right to require alternative housing for the parties in certain circumstances.

- **Academic Support Center**

**304-876-5221**

ASC can aid in maintaining academic success through offering access to peer tutoring, learning skills instruction, and academic advising.

## **II. Shepherd University Commitment to Civility and Community Expectations:**

Shepherd University is committed to developing and implementing appropriate strategies to achieve greater awareness, appreciation, and human understanding, both in the classroom and throughout the campus. We promote a campus culture that celebrates multiculturalism and diversity. We demonstrate this commitment through our acceptance and appreciation of all groups and individuals. We commend those individuals on our campus who practice civility daily by actively supporting and fostering differences at Shepherd University. The university's Mission Statement demonstrates that it is our shared duty to create an inclusive culture where all members of the campus community are accepted and respected. For more information go to <http://www.shepherd.edu/civility-memo/>

## **III. Scope of Policy**

The University prohibits all forms of sexual and gender-based discrimination and harassment, including sexual harassment, sexual violence, stalking, and relationship violence. Sexual or gender-based misconduct may occur regardless of a participant's sex, sexual orientation, gender identity, or gender expression.

The University strives to foster a climate free from gender-based harassment, discrimination, or violence through training, education, and prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and ensure timely, fair, and impartial investigation and resolution of complaints in a way that eliminates the sexual misconduct, prevents its recurrence, and addresses its effects. This Policy applies to all members of the Shepherd campus community, including students, faculty, administrators, staff, volunteers, vendors, independent contractors, visitors and any individuals regularly or temporarily employed, studying, living, visiting, conducting business with, or having any official capacity with the University or University property. This Policy protects all members of the campus community.

This Policy is intended to protect and guide individuals who have been affected by gender-based and sexual misconduct, whether as a Complainant, a Respondent, or a third party, and to provide fair and equitable procedures for the investigation and resolution of reports.

When used in this Policy, "Complainant" refers to the individual who identifies oneself as a victim or survivor of sexual or gender-based discrimination, sexual or gender-based harassment, sexual violence, stalking, or relationship violence. A "Respondent" refers to the individual who has been accused of prohibited conduct under this Policy. A "Third Party" refers to any other participant in the process, including a witness to the incident or an individual who makes a report on behalf of someone else.

This Policy applies to conduct occurring on University property or at University-sanctioned events or programs that take place off-campus, including study abroad and internship programs. With respect to incidents in which both the Complainant and Respondent are members of the campus community, this Policy will apply regardless of the location of the incident. In addition, off campus conduct by or against a member of the Shepherd community that is likely to have a substantial adverse effect on, or poses a threat of danger to, any member of the Shepherd campus community or Shepherd itself is covered under this Policy.

A Complainant is encouraged to report misconduct regardless of where the incident occurred, or who committed it. Even if the University does not have jurisdiction over the Respondent, the University will still take prompt action to provide for the safety and well-being of the Complainant and the broader campus community and will assist a Complainant in identifying the appropriate external reporting options.

#### **IV. Non-Discrimination Statement**

Shepherd University strives to create a safe and non-discriminatory learning, living, and working environment for all members of the campus community, based on mutual respect and acceptance of differences. Accordingly, the University provides opportunity to all prospective and current members of the student body, faculty, and staff on the basis of individual qualifications and merit. Shepherd University does not discriminate on the basis of race, color, national origin, religion, ancestry, age, ability, pregnancy, marital or family status, veteran status, sex, sexual orientation, gender identity, or gender expression.

Title IX is a federal law that prohibits sex discrimination in institutions of education that receive Federal financial assistance. Inquiries concerning the application of Title IX may be referred to the University's Title IX Coordinator or to the Department of Education's Office for Civil Rights. Shepherd University's Title IX Coordinators' information can be found here:

Annie Lewin, Title IX Coordinator, 304-876-5160, [alewin@shepherd.edu](mailto:alewin@shepherd.edu)  
Student Center, Suite 122, Shepherd University <http://www.shepherd.edu/title-ix>

Contact information for the Department of Education's Office for Civil Rights, Philadelphia Office:

The Wanamaker Building  
100 Penn Square East, Suite 515  
Philadelphia, PA 19107  
Telephone: 215-656-8541  
FAX: 215-656-8605  
Email: [OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov) [www.ed.gov/ocr](http://www.ed.gov/ocr)

#### **V. Privacy vs. Confidentiality:**

The University is committed to protecting the privacy of all individuals involved in a Title IX report or investigation. All employees who participate in the university's Title IX response, including the Title IX Coordinator, the Student Conduct Office, Title IX investigators, the Hearing Panel members, and any other member of the Title IX team receive specific training and instruction about respecting and safeguarding

private information. Throughout the process, every effort will be made to protect the privacy interests of all involved individuals in a manner consistent with the need for a thorough review of the report. All university proceedings are conducted in compliance with the requirements of the Family Educational Rights and Privacy Act (FERPA), the Clery Act, the Violence Against Women Act (VAWA), Title IX, and state and federal law. No information shall be released from such proceedings except as required or permitted by law and university policy. To ensure all members of the community understand how the university protects the privacy of individuals, please be aware that privacy and confidentiality have distinct meanings.

**a. Privacy:**

Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those university employees who need to know in order to assist in the active review, investigation or resolution of the report, including the issuance of interim measures. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process

**b. Confidentiality:**

Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual. These designated campus and community professionals include professional counselors in the counseling center, medical health professionals in the student health center, and ordained clergy.

All Shepherd employees outside of designated confidential campus professionals will be responsible to report knowledge of any sexual misconduct or interpersonal violence to the Title IX Coordinator, who will then weigh any requests for confidentiality against the University's obligation to provide a safe, non-discriminatory environment for all members of the campus community. When a report involves suspected abuse of a minor under the age of 18, these confidential resources are required by West Virginia law to notify child protective services and/or local law enforcement. They are also required to notify the Title IX Coordinator that such a report has been made.

**c. Responsible Employees**

Under Title IX, a university is required to take immediate and corrective action if a "responsible employee" knew or, in the exercise of reasonable care, should have known about sexual or gender-based misconduct that creates a hostile environment. At Shepherd, employees with supervisory and leadership responsibilities on campus are considered "responsible employees." This includes all Faculty, Coaches, Administrators, Resident Assistants/Residence Hall Directors, and other student employees/volunteers with a significant responsibility for student welfare.

Accordingly, with the exception of individuals who have legally protected confidentially (see section 1, Resources), all "responsible employees" of the University are required to share with the Title IX Coordinator any report of gender-based or sexual misconduct they receive or of which they become aware. This allows the Title IX Coordinator to conduct an initial assessment of the reported behavior,

ensure that a Complainant is familiar with the full range of options for resolution, both on and off campus, and address the necessity for any interim remedies or accommodations to protect the safety of the Complainant and the community. The Title IX Coordinator will seek the Complainant's expressed preferences in determining a course of action.

**d. Complainant's Request for Privacy**

Where a Complainant requests that the Complainant's name or other identifiable information not be shared with the Respondent or that no formal action be taken, the University will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all campus community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before action is taken against a Respondent. The Title IX Coordinator evaluates such requests for privacy. In making this determination, the Title IX Coordinator may consider:

- The seriousness of the conduct;
- The respective ages and roles of the complainant and respondent;
- The rights of the respondent to receive notice before disciplinary action is sought
- Circumstances that suggest there is an increased risk of the respondent committing additional acts of sexual violence or other violence (e.g., whether there have been other complaints or reports of harassment or misconduct about the same respondent, whether the respondent has a history of arrests, records from a prior school indicating a history of violence, whether the respondent threatened further sexual violence or other violence against the complainant or others, and whether the sexual violence was committed by multiple respondents)
- Circumstances that suggest there is an increased risk of future acts of sexual violence under similar circumstances (e.g., whether the complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group)
- Whether the sexual violence was perpetrated with a weapon
- Whether the University possesses other means to obtain relevant evidence (e.g., security camera or other physical evidence).

The University will take all reasonable steps to investigate and respond to the complaint consistent with the request for privacy or request not to pursue an investigation promptly upon receipt of report. Where the University is unable to take action consistent with the request of the Complainant, the Title IX Coordinator will inform the Complainant about the University's chosen course of action.

**e. Timely Warning and Other Considerations**

All University proceedings are conducted in accordance with University policies and procedures (contained herein) and in compliance with the requirements of FERPA, the Clery Act, Title IX, the Violence Against Woman Act ("VAWA"), and state and federal law. No information shall be released from such proceedings except as required or permitted by law and University policy.

If a report of misconduct discloses a serious or continuing threat to the Shepherd community, the University may issue a campus-wide timely warning which will take the form of an email to campus to protect the health or safety of the community. The timely warning will not include any identifying information about the Complainant. The determination to issue a timely warning is considered on a case by case basis through an assessment by the Clery Compliance committee, taking into account the effect on the parties involved and the campus as a whole.

## **VI. Prohibited Conduct and Definitions**

### **a. Prohibited Forms of Conduct**

The University prohibits all forms of sexual or gender-based misconduct, which encompasses a broad range of behavior. Sexual/gender-based misconduct and interpersonal violence may occur between people of the same or different sexes, gender identities or expressions, or sexual orientations.

Within these broad categories, the University prohibits the following specific conduct:

**Sexual Harassment** includes unwanted or unwelcome sexual advances or requests for sexual favors, or other behavior of a sexual nature. This can include, but is not limited to:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in a University sponsored educational program or activity.
- B. Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual.
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or of creating an intimidating, hostile, or offensive educational or working environment.

A single isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe.

Examples of conduct that may constitute sexual harassment as defined above may include a severe, persistent or pervasive pattern of unwelcome conduct that includes one or more of the following:

- Physical conduct:
  - Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements
  - Unwanted sexual advances within the employment context
- Verbal conduct:
  - Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual
  - Objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes
- Visual conduct:
  - Severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate

- Written conduct:
  - Letters, notes or electronic communications containing comments, words, or images described above
- Quid pro quo conduct:
  - Direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists
  - Offering employment benefits in exchange for sexual favors
  - Making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose
  - Making or threatening reprisals after a negative response to sexual advances

The following forms of conduct are prohibited under this policy. Each specific prohibited conduct may also be a form of sexual harassment.

**Non-consensual Sexual Contact**, including any intentional sexual touching, however slight, with any object or body part, performed by a person upon another person. Sexual Contact includes (a) intentional touching of the breasts, buttocks, groin or genitals, whether clothed or unclothed, or intentionally touching another with any of these body parts; and (b) making another touch you or themselves with or on any of these body parts.

**Non-consensual Sexual Intercourse**, including any penetration, however slight, with any object or body part, performed by a person upon another person. Sexual Intercourse includes (a) vaginal penetration by a penis, object, tongue, or finger; (b) anal penetration by a penis, object, tongue, or finger; and (c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person.

**Sexual Exploitation** includes taking non-consensual, unjust, or abusive advantage of another person for the benefit or advantage of anyone other than the person who is exploited

**Gender-based harassment**, including unwelcome conduct of a nonsexual nature based on a student's actual or perceived sex, sexual orientation, gender identity, gender expression, and nonconformity with gender stereotypes. \*

**Dating Violence** includes committing, attempting, or threatening an act of violence against a person in a romantic or intimate relationship, either currently or formerly.

**Domestic Violence** includes committing, attempting, or threatening an act of violence by a person against a current or former spouse, current or former cohabitant, person sharing a child in common, or person situated in a similar familial environment.

**Stalking** includes engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

For the purposes of this definition:

- 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, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Retaliation** includes retaliatory action of any kind, including intimidation, coercion, or threats, against any individual as a result of a person's attempt to seek redress or to participate in an investigation under applicable procedures dealing with sexual and other misconduct.

**\*Gender Identity** is defined as an innate identification of oneself as male, female, both, neither, transgender, genderqueer, gender non-conforming, or other gender-based identification. For some people, gender identity is in accord with physical anatomy. For transgender people, gender identity may differ from physical anatomy or expected social roles. It is important to note that gender identity, biological sex, and sexual orientation are separate and that you cannot assume how someone identifies in one category based on how they identify in another category.

## **b. Other Definitions**

**Consent:** Consent is a knowing, voluntary, and mutual agreement to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear, unambiguous permission regarding willingness to engage in the sexual activity.

- Consent is active, not passive. Silence, passivity, or lack of resistance does not imply consent.
- Consent to engage in one form of sexual activity does not imply consent to engage in other forms of sexual activity.
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- Past consent does not imply future consent.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent cannot be given when it is the result of coercion, intimidation, force, threat of harm, or when a person is mentally or physically incapacitated.
- Incapacitation can occur as a result of mental disability, sleep, involuntary physical restraint, unconsciousness, voluntary (or involuntary) use of alcohol and/or drugs, or when a person is otherwise physically helpless.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

*The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.*

**Incapacitation:** An incapacitated individual is unable to make rational, reasonable decisions (e.g. to understand the fact, nature, or extent of the sexual interaction) and therefore is incapable of giving consent. Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.

Incapacitation may result from the use of alcohol and/or drugs. The impact of alcohol and drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include but are not limited to slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, emotional volatility, lack of control over physical movements, and inability to communicate.

**Force:** Force is the use or threat of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcomes an individual's free will to choose whether or not to participate in sexual activity.

**Coercion:** Coercion is the improper use of pressure to compel another individual to initiate or continue sexual activity. Coercion occurs when a person intimidates, forces, or manipulates someone into engaging in sexual activity without the use of physical force. Manipulative statements, threats of violence, blackmail, drugs, and/or alcohol can be used to coerce another into sexual activity. A person's words or conduct are sufficient to constitute coercion if another individual's freedom of will and ability to choose whether or not to engage in sexual activity is impaired. Use of alcohol as a tool to engage another, sexually, will be a factor in determining coercion and consent. A person's age and level of experience compared to another will also be used as a factor in determining whether sexual activity has been consensual.

**Warning:** In general, the University considers sexual contact while under the influence of alcohol or other drugs to be risky behavior. Alcohol and drugs can impair a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication, the prudent course of action is to forgo or cease any sexual contact or activity.

Intoxication or impairment through the use of drugs or alcohol **is never an excuse** for sexual harassment, misconduct, or interpersonal violence and does not diminish one's responsibility to obtain informed and freely given consent.

## **VII. Reporting**

Shepherd University campus community members have the right to make a report to the University by contacting the Title IX Coordinator; or to law enforcement by contacting University Police or any local police department. All members of the campus community have a right to be protected from retaliation for reporting an incident of sexual or gender-based misconduct.

The University is committed to supporting those who experience sexual and gender-based misconduct and encourages all individuals or third-party witnesses to report any incident to the University and/or local law

enforcement. Reporting options are not mutually exclusive. Both campus and criminal reports may be pursued simultaneously. At the time a report is made, a Complainant does not have to decide whether or not to request any particular course of action, nor does a Complainant need to know how to label what happened. The University provides support that can assist each individual in making these important decisions and, to the extent legally possible, will respect an individual's autonomy in deciding how to proceed. In this process, the University will balance the individual's interest with its obligation to provide a safe and equitable environment for all members of the campus community.

Any individual who reports sexual or gender-based misconduct can be assured that all reports will be investigated and resolved in a fair and impartial manner. A Complainant, a Respondent, and all individuals involved can expect to be treated with dignity and respect. In every report under this Policy, the University will make an immediate assessment of any risk of harm to the Complainant or to the broader campus community and will take steps necessary to address those risks. These steps will include interim measures to provide for the safety of the individual and the campus community.

**a. Emergency and External Reporting Options**

The University will help any campus community member to get to a safe place and will provide coordination with law enforcement and information about on- and off-campus resources and options for resolution. The University will fully and promptly cooperate in obtaining appropriate medical attention for a complainant, including coordination with the local rape crisis center to provide transportation for the complainant to a local hospital.

**Law Enforcement:**

**911 for immediate assistance on campus**

**SUPD:**

304-876-5202

**Shepherdstown Police Dept.**

304-876-6036

**Jefferson County Sherriff's Dept.**

(304) 728-3205

**West Virginia State Police**

304-724-7986

**Medical Providers:**

**Winchester Medical Center**

540-536-8000

Provides Sexual Assault Forensic Exams

**Berkeley Medical Center**

304-264-1000

Provides Sexual Assault Forensic Exams

**Jefferson Medical Center**

304-728-1600

Provides Sexual Assault Forensic Exams

**Shepherd Health Services**

304-876-5161

Provides medical treatment

Monday through Friday, 8:00 a.m. – 4:30 p.m.

**b. Reporting Considerations: Timeliness and Location of Incident**

Complainants and third-party witnesses are encouraged to report sexual misconduct as soon as possible in order to maximize the University's ability to respond promptly and effectively. The University does not, however, limit the time frame for reporting. If the Respondent is not a member of the Shepherd community, the University will still seek to meet its Title IX obligation by taking steps to end the harassment, prevent its recurrence, and address its effects. The University's ability to take disciplinary action against the Respondent may be limited, but the University will assist the Complainant in identifying the appropriate external reporting options.

Additionally, an incident does not have to occur on campus to be reported to the University. Off-campus conduct that is likely to have a substantial effect on the Complainant's on-campus life and activities or poses a threat or danger to members of the Shepherd community may also be addressed under this Policy.

**c. Amnesty for Alcohol or Other Drug Use**

Shepherd is concerned first and foremost with the safety of the entire campus community. At times, students are hesitant to report the occurrence of gender-based violence, including sexual assault, to University officials because students are concerned about charges for violating alcohol or drug policies. While alcohol and drug violations are not condoned by the University, reporting sexual misconduct and interpersonal violence are strongly encouraged.

A bystander, acting in good faith, or a reporting individual (complainant) acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to University officials will not be subject to code of conduct action for violations of alcohol and/or drug use policies occurring in connection with the report.

**d. Coordination with Law Enforcement**

A Complainant has the right to file criminal charges with the appropriate law enforcement official or may decline to notify law enforcement. The University encourages Complainants to pursue criminal action for incidents of sexual misconduct that may also be crimes under West Virginia law. The University will assist a Complainant in making a criminal report if a Complainant decides to pursue the criminal process. The University will cooperate with law enforcement agencies.

The University's Policy, definitions and standard of proof may differ from West Virginia criminal law. A Complainant may seek recourse under this Policy and/or pursue criminal action. Neither law enforcement's determination whether or not to prosecute a Respondent, nor the outcome of any criminal prosecution, are determinative of whether a violation of this Policy has occurred. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

At the request of law enforcement, the University may agree to defer its Title IX fact gathering until after the initial stages of a criminal investigation. The University will nevertheless communicate with the Complainant regarding Title IX protections, procedural options and the implementation of interim measures to assure safety and well-being. The University will promptly resume its Title IX fact-gathering as soon as it is informed that law enforcement has completed its initial investigation.

**e. Statement Against Retaliation**

It is a violation of University Policy and Title IX to retaliate in any way against an individual because the individual raised allegations of sexual or gender-based harassment, sexual violence or exploitation, stalking, or relationship violence or participated in an investigation. The University recognizes that retaliation can take many forms, may be committed by or against an individual or a group, and that a Complainant, Respondent or third party may commit or be the subject of retaliation.

The University shall not retaliate against an individual who files a complaint of or participates in an investigation of gender-based/sexual misconduct. The University will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting gender-based or sexual misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report does not later result in a finding of responsibility.

#### **f. False Reports**

The University will not tolerate intentional false reporting of incidents. The University takes the validity of information very seriously as a charge of sexual misconduct may have severe consequences. A good-faith complaint that results in a finding of not responsible is not considered a false or fabricated accusation of sexual misconduct. However, when a Complainant or third-party witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, that individual may be subject to disciplinary action. It is a violation of the Code of Student Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws. Similarly, a Respondent or witness who is later proven to have intentionally given false information during the course of an investigation or conduct action may be subject to disciplinary action.

### **VIII. Interim Measures, Remedies and Accommodations**

Upon receipt of a report, the University will impose reasonable and appropriate interim measures designed to eliminate the hostile environment and protect the parties involved. The University will make reasonable efforts to communicate with the parties to ensure that all safety, emotional and physical well-being concerns are being addressed; namely, the University will offer to change academic, living, transportation, and working situations or protective measures, if such accommodation is reasonably available. Interim measures may be imposed regardless of whether formal disciplinary action is sought by the Complainant or the University.

A Complainant or Respondent may request a No-Contact Order or other protection, or the University may choose to impose interim measures at its discretion to ensure the safety of all parties, the broader University community and/or the integrity of the process.

All individuals are encouraged to report concerns about the failure of another individual to abide by any restrictions imposed by an interim measure. The University will take immediate and responsive action to enforce a previously implemented measure. Failure to abide by an interim measure imposed by the University is a violation of this Policy, and the University may pursue disciplinary action for any failure to comply.

#### **a. Range of Measures**

Interim measures will be implemented at the discretion of the University. Potential measures, which may be applied to the Reporting Party and or the Responding Party, include:

- Access to counseling services and assistance in setting up an initial appointment, both on and off campus
- References and assistance in obtaining medical services
- Imposition of a campus No Contact Order
- Imposition of a No Trespass Order

- Security Assistance (examples might include security escorts, increased patrol, accompanying a student during an interview with SUPD, etc.)
- Academic accommodations (with permission of the student and with agreement of the appropriate faculty, who will not be informed of the specific reason for the request): Rescheduling of exams and assignments, providing alternative course completion options, Change in class schedule or other academic accommodations, without penalty to the party
- Providing Academic support services, such as tutoring
- Change in work schedule or job assignment
- Residence modifications: change in on-campus housing, arranging to dissolve a housing contract and pro-rating a refund in accordance with campus housing policies, relocation assistance
- Limit of an individual or organization's access to certain University facilities or activities pending resolution of the matter
- Voluntary leave of absence
- Interim suspension or restrictions
- Any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

#### **b. Interim Suspension**

The University may suspend a student for an interim period pending the adjudication of a complaint of sexual misconduct or interpersonal violence. An interim suspension may become effective immediately without prior notice whenever there is evidence that the continued presence of the Respondent student on the University campus poses a substantial threat to others, or to the stability and continuance of normal University functions. In cases where there is an appeal following the adjudication of a complaint of sexual misconduct in which an interim suspension was issued, the interim suspension shall continue during the appeal. A student suspended on an interim basis may not withdraw from the University before the conclusion of the adjudication and appeal, if any.

### **IX. Options for Resolution of Reports**

#### **a. Time Frame for Resolution**

The University seeks to resolve all reports within a reasonable time frame . All time frames expressed in this Policy are meant to be guidelines rather than rigid requirements. Extenuating circumstances may arise that require the extension of time frames. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In general, a Complainant and Respondent can expect that the process will proceed according to the time frames provided in this Policy and accompanying procedures. The University will keep all parties updated on the status of resolution procedures throughout the process.

#### **b. Resolution for Complaints against Students**

##### **1. Initial Title IX Assessment**

Upon receipt of a report, the University's Title IX Team will conduct an initial Title IX assessment. The goal of this assessment is to provide an integrated and coordinated response to reports of sexual and or gender-based harassment, discrimination, and interpersonal violence, including sexual violence, stalking, and

relationship violence. The assessment will consider the nature of the report, the safety of the individual and of the campus community, and the Complainant's expressed preference for resolution in determining the appropriate course of action to eliminate any hostile environment presented, stop the conduct at issue, prevent its recurrence, and address its effects.

Both informal and formal options are available to resolve the complaint. At the conclusion of the assessment, the Title IX Team may refer the report for informal resolution, which includes the identification of remedies to stop the sexual misconduct, address its effects, and prevent its recurrence. Alternatively, the Title IX Team may refer the matter for formal resolution. Formal resolution begins with a formal investigation. The goal of the investigation is to gather all relevant facts and determine if there is sufficient information to refer the report to an adjudication or grievance process in order to determine responsibility and impose appropriate sanctions or outcomes.

Depending on the circumstances and requested resolution, the Respondent may or may not be notified of the report or resolution. A Respondent will be notified when the University seeks action that would impact a Respondent, such as protective measures that restrict his/her movement on campus, the initiation of an investigation or the decision to involve the Respondent in Informal Resolution.

## **2. Informal Resolution Options**

Informal resolution is a remedies-based approach designed to eliminate a hostile environment and prevent future misconduct.

Where the Title IX assessment concludes that informal resolution may be appropriate, the University will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Complainant's access to the educational and extracurricular activities at the University, eliminate any hostile environment issues, and prevent future misconduct. Examples of protective remedies are provided in Section VIII: Interim Remedies. Other potential remedies include targeted or broad-based educational programming or training, direct confrontation of the Respondent and/or indirect action by the Title IX Coordinator or the University. The Title IX Coordinator will work with the Complainant to determine the best and most appropriate option for informal resolution based the individual circumstances of the situation. Participation in informal resolution is voluntary, and parties can request to end informal resolution at any time. The informal resolution process will include a document outlining action steps to address current and prevent future hostile environment concerns. Informal resolutions can include No Contact Orders, educational requirements, and other supportive measures. The Title IX Coordinator will maintain records of all reports and conduct referred for informal resolution. The University will keep all parties informed of the progress of the informal resolution process.

## **3. Formal Resolution Options**

### **a. Formal Investigation**

Following the initial Title IX assessment, the University may initiate a prompt, thorough, and impartial investigation. The Title IX Coordinator, in consultation with the Title IX team, will oversee the investigation. Prior to any investigation meetings, the Title IX Coordinator, or member of the Title IX team will meet with both the Complainant and Respondent to inform both parties of their rights and responsibilities, the name of

the investigator(s) appointed to the case, the policy provisions alleged to have been violated, the range of potential sanctions for the alleged violations, the name of the parties alleging violations, and the date, time, and place of the alleged sexual or gender-based misconduct, to the extent known. At the conclusion of the investigation, if warranted, the Student Conduct Officer, in coordination with the Investigator and Title IX Coordinator, will facilitate resolution of the complaint, or the investigation may be referred for adjudication through a student conduct hearing board panel.

The investigation is designed to provide a fair and reliable gathering of the facts. All individuals in the investigation, including the Complainant, the Respondent and any third-party witnesses, will be treated with appropriate sensitivity and respect. Consistent with the need for a full assessment of the facts, the investigation will safeguard the privacy of the individuals involved as much as possible.

The investigator(s) will coordinate the gathering of information from the Complainant, the Respondent, and any other individuals who may have information relevant to the determination. The investigator(s) will also gather any available physical or medical evidence, including documents, communications between the parties, and other electronic records as appropriate. The Complainant and Respondent will have an equal opportunity to be heard, to submit evidence, and to identify witnesses who may have relevant information.

At the conclusion of the investigation, the investigator(s) will prepare a written investigation report synthesizing the facts that will be submitted for review by the Student Conduct Office or Hearing Board to determine responsibility outcomes and sanctions.

#### **b. Friendly Advisors**

Complainants and respondents have the right to be assisted by an advisor to provide support through the investigation and student conduct process. Advisors may be any member of the campus community but may not be a witness or other party in the proceeding. Complainants and Respondents who wish to consult with an attorney may do so at their own expense; the attorney may act as the student's advisor and accompany the student to any investigation meeting and/or student conduct hearing. An advisor may be present for any investigation or student conduct meeting. An advisor may attend but not participate in the hearing process; the student conduct officer must be notified no less than 72 hours in advance of the hearing with the name of any advisor. Advisors have no speaking role during the investigation or student conduct process and are not permitted to ask or answer questions or address the hearing board. An advisor may only provide advice to the complainant or respondent in a non-disruptive manner (such as communicating in writing). Any case must be presented by the student. Students should select an advisor whose schedule allows attendance at any scheduled pre-hearing conference and hearing.

Delays will not normally be allowed due to the scheduling conflicts of an advisor. All communication regarding the conduct process will be directed to the student. An advisor will not be permitted to communicate on the student's behalf. Students may contact the Title IX Coordinator for a referral to a trained advisor.

### **c. Preliminary Hearing and Review of Documents**

Following the Investigation, the Student Conduct Officer will meet with the Title IX Coordinator and/or the Title IX investigator who conducted the formal investigation to review the investigation report and determine whether there is a preponderance of evidence present to demonstrate violation of a policy, or if the case should be referred to a formal hearing. If the charge does not carry the possibility of suspension or expulsion, the investigation report may be referred for administrative hearing. If the charge carries the possibility of a sanction of suspension or expulsion, the investigation will be referred to a formal hearing board panel.

During the preliminary hearing process, both the complainant and respondent will have the opportunity to meet with the Student Conduct officer and Title IX officer to review all documents within the investigation report and make any final clarifications. If the Student Conduct and Title IX officers determine that the respondent is responsible for violating policy during the preliminary hearing process, the respondent may accept responsibility or request a formal student conduct hearing. The respondent has up to two business days from the conclusion of the preliminary hearing process (or by 8 a.m. on the next university business day if the deadline occurs when the university is closed) to decide which option the respondent would like to utilize to resolve the charges. If a respondent accepts responsibility for the alleged offense, then a respondent will waive the right to a formal hearing and accept the assigned sanction. If a respondent does not accept responsibility for the alleged offense, then a formal hearing will be conducted to determine if a respondent is responsible for the alleged violations and to determine the sanction(s), if appropriate. A complainant may also request a formal hearing if the preliminary hearing process concludes that the investigation report does not demonstrate a preponderance of information to find a respondent responsible for violating this policy.

If a respondent does not accept responsibility or does not attend the preliminary hearing, a formal hearing will be convened at the discretion of the student conduct officer. Respondents are not required to participate in the student conduct process; however, the student conduct process will continue based on the information that is presented. At the discretion of the university, the student conduct process may be carried out prior to, simultaneously with, or following legal proceedings. The university reserves the right to resolve the matter through a formal hearing should the student conduct officer deems it to be necessary based on the type and severity of the alleged violations. A respondent may not be offered a preliminary hearing option.

### **d. Administrative Hearing and Preponderance Standard**

An Administrative hearing may be used for all cases except those concerning prohibited conduct resulting in a sanction of suspension or expulsion. An administrator from the Office of Student Conduct will review the investigation report and decide whether the respondent is responsible for violating university policy and determine a sanction, if appropriate. Preponderance of evidence is the required standard for determining a policy violation. Administrators charged with rendering a decision of policy violation must be convinced based on the information provided that a policy violation was more likely to have occurred than to not have occurred in order to find a respondent responsible for violating a policy. If the policy violation may result in suspension or expulsion and the preliminary hearing was not offered or the respondent did not take responsibility during the preliminary hearing process, the investigation will be referred to the formal student conduct hearing board process.

### **e. Student Conduct Board Hearing**

The student conduct hearing board typically consists of three members drawn from a pool of faculty and staff, selected and trained by the Student Conduct Office and the Office of the Title IX Coordinator. All hearing board members must participate in annual training on non-discrimination; the dynamics of sexual harassment, sexual violence, stalking, and intimate partner violence; the factors relevant to a determination of credibility; the appropriate manner in which to receive and evaluate sensitive information; the manner of deliberation; evaluation of consent and incapacitation; the application of the preponderance of the evidence standard; sanctioning and the University's policies and procedures. The training will be coordinated by the Title IX Coordinator and the Student Conduct Office.

The Hearing Board is supported by the Student Conduct Officer, who is present at hearings but is not a voting member of the board. He or she will meet with the Complainant and Respondent prior to the hearing, be present during the hearing to serve as a resource for the hearing board on issues of policy and procedure, and to ensure that policy and procedure are appropriately followed throughout the hearing.

No recordings of the proceedings shall be made by any person other than the student conduct administrator or the administrative hearing officer. All formal hearing recordings will be maintained by the Office of Student Conduct.

### **f. Witnesses**

The Complainant, Respondent, and the hearing board all have the right to call witnesses. Witnesses must have observed the conduct in question or have information relevant to the incident and cannot be called solely to speak about an individual's character

In general, neither party will be permitted to call as a witness anyone who was not interviewed by the investigator as part of the University's investigation. If either party wishes to call witnesses, whether or not they were previously interviewed as part of the University's investigation, the following must be submitted no later than two (2) business days before the hearing to the Student Conduct Officer in writing:

- The names of any witnesses that either party intends to call;
- A written statement and/or description of what each witness observed, if not already provided during investigation;
- A summary of why the witness' presence is relevant to making a decision about responsibility at the hearing; and,
- The reason why the witness was not interviewed by the investigator, if applicable.

The Student Conduct Officer will determine if the proffered witness(es) has relevant information and if there is sufficient justification for permitting a witness who was not interviewed by the investigator. The Student Conduct Officer may also require the investigator to interview the newly proffered witness which may delay the hearing no more than five (5) business days.

If witnesses are approved to be present, the Respondent and Complainant are provided with a list of witnesses and any relevant documents related to their appearance at the hearing no later than five (5) business days before the hearing. All parties have the opportunity to ask questions of witnesses (through the board), regardless of which party requested the witness.

**g. Sanctions**

| <b>Prohibited Conduct/Policy Violation</b>   | <b>Range of Sanctions</b>  |
|--|--|
| Sexual Misconduct Constituting Sexual Harassment (Not constituting non-consensual sexual contact or intercourse)             | Maximum:<br>Suspension<br>Deferred Suspension<br>Disciplinary Probation<br>Minimum: Educational/Counseling Component<br>Community Service                    |
| Sexual Misconduct Constituting Non-consensual Sexual Contact   | Maximum: Expulsion<br>Suspension<br>Minimum: Deferred Suspension, or<br>Disciplinary Probation, and<br>Community Service<br>Educational/Counseling Component |
| Sexual Misconduct Constituting Non-consensual Sexual Intercourse   | Maximum: Expulsion<br>Minimum: Suspension, and<br>Educational/Counseling Component   |
| Sexual Misconduct Constituting Sexual Exploitation   | Maximum: Expulsion<br>Suspension<br>Deferred Suspension<br>Disciplinary Probation<br>Minimum: Educational/Counseling Component<br>Community Service          |
| Gender-based Misconduct Constituting:<br>- Gender-based harassment<br>- Dating Violence<br>- Domestic Violence<br>- Stalking | Maximum: Expulsion<br>Suspension<br>Deferred Suspension<br>Disciplinary Probation<br>Minimum: Educational/Counseling Component<br>Community Service          |

The conduct body reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the initial hearing officers nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

For further definitions please refer to the student code of conduct at <https://www.shepherd.edu/student-handbook>

**h. Outcome Notification**

Written notice of the outcome, the rationale for the decision, relevant sanctions imposed, and instructions for filing an appeal will be provided to both parties following the decision. Both parties also will be notified of any change to the outcome that occurs prior to final resolution, and when the outcome becomes final.

### **i. Appeals**

A respondent or complainant has up to three business days (or by 8 a.m. on the next university business day if the deadline occurs when university offices are closed) from the date of the decision notification to submit an appeal in writing to the Office of Student Conduct.

An appeal may be made on the following grounds:

- The student conduct process was not conducted in a fair or impartial manner.
- New, relevant information became available after the hearing was completed.
- The hearing was not conducted according to established procedures.

This notification must clearly identify the grounds for the appeal and give clear support for this reason. Appeals based on the outcomes of student conduct board hearings, and for cases where the formal hearing occurred as an administrative hearing through the Student Conduct Office, will be heard through the Shepherd University Appeal Board. The Shepherd University Appeal Board will consist of three faculty or staff members, one of which will serve as chairperson. The appeals process will be limited to the content of the appeal request, a review of hearing recordings (if any), supporting documents, and related information. The university representative, the respondent, and the complainant may not be required to attend the Appeals Hearing Board unless needed to explain the basis of new information. The decision of the Shepherd University Appeal Board will be considered to be final in all cases and cannot be appealed. Decisions of the Shepherd University Appeal Board may take one of the following three forms:

- Affirm the original decision and sanctions.
- Change the original decision and/or sanctions.
- Void the original decision and order a new formal hearing.

The Shepherd University Appeal Board will make its decision promptly and communicate the findings to the respondent and complainant in writing in a timely manner.

### **4. Records**

The Title IX Coordinator will retain records of all reports and complaints, regardless of whether the matter is resolved by means of Title IX assessment, informal resolution, or formal resolution.

Complaints resolved by means of Title IX assessment or informal resolution are not part of a student's conduct file or academic record.

Affirmative findings of responsibility in matters resolved through formal resolution are part of a student's conduct record. Such records shall be used in reviewing any further conduct, or developing sanctions, and shall remain a part of a student's conduct record.

Student conduct records will be retained in the Student Conduct Office for seven years from when the student graduates or leaves the University due to death, withdrawal, or academic dismissal. Student conduct records of cases resulting in suspension, expulsion, or organizational deactivation may be retained for longer periods of time or indefinitely at the discretion of the University.

### **c. Resolution for Resolving Complaints against Employees**

As outlined in the Reporting section of this policy, an individual who wishes to make a report of sexual harassment, sexual violence, stalking, or intimate partner violence is encouraged to make a report directly

to the Title IX Coordinator or the Office of Student Conduct. Complaints involving University employees, volunteers or contractors can also be made to the University's Affirmative Action/Equal Employment Opportunity (AA/EEO) Officer, Marie DeWalt. In every instance under this policy, the University will conduct an initial Title IX Assessment. For complaints involving University employees the Title IX team will coordinate with the University's AA/EEO Officer. The Initial Assessment, Informal Options for Resolution, and Investigation will similarly occur in reports against Employees of the University.

The contact information for the AA/EEO Officer is as follows:

Dr. Marie DeWalt  
Office of Human Resources  
120 N. Princess Street Shepherdstown, WV  
304-876-5288  
mdewalt@shepherd.edu

### **1. Informal**

Informal resolution is a remedies-based approach designed to eliminate a hostile environment without taking formal disciplinary action against a Respondent. If the Informal Resolution option is chosen, the complainant may opt for a meeting with the alleged offender and the Title IX Coordinator or AA/EEO Officer, or designee. The Ombudsperson may also serve as mediator, listening to all views and establishing a resolution document or mediation agreement as appropriate. The Title IX Coordinator may also meet with all parties separately and work with the AA/EEO Officer to seek an appropriate resolution. The resolution document or mediation agreement may include a "no-contact arrangement" and/or other provisions. The outcome of the informal resolution should meet the satisfaction of all parties to the fullest extent possible. If the complainant is not satisfied, the Title IX Coordinator may review other options, including the formal resolution. All records, including the resolution document, are submitted to the office of AAO for filing. The AAO or Title IX Coordinator will follow-up with parties within two weeks of the resolution if one was reached. Additional follow-up contacts will be made as needed. Proceedings and records will be confidential to the fullest extent possible. If additional complaints arise subsequently as to the same employee, the earlier records may be evidence of a continuing practice of misconduct.

### **2. Formal Resolution Options**

Upon receipt of a formal complaint of sexual or gender-based misconduct, the Title IX Coordinator will consult with the University's AA/EEO Officer prior to taking action to investigate or resolve the complaint. The Title IX Coordinator will work with the AA/EEO Officer to conduct an investigation of the allegations that will include an interview with the Complainant, the Respondent, and witnesses as well as the collection of relevant documents, if any. The University seeks to resolve all reports within a reasonable time frame. The Title IX Coordinator will submit the investigation report to the AA/EEO Officer.

### **3. Social Justice Panel**

The President shall annually designate a ten-member body made up of five faculty and five staff members. The AAO will randomly select three members to serve on the social justice panel for formal resolution of complaints against employees. Immediate supervisors of the accused or the accuser, or any person with a specific, known bias, will be excluded from serving on the three-member panel. The formation of the panel

will be completed within two weeks of the submission of the written complaint, except where extenuating circumstances require additional time. The panel may meet with the investigator, complainant, respondent, or any witnesses relevant to the investigation to clarify any information but shall at all times act collectively as a group and not individually. The panel shall prepare a written report of its factual findings and conclusions regarding the merits of the complaint. This report may, if applicable, include dissenting conclusions. If the report finds any part of the complaint to be meritorious, then the report will designate appropriate action with respect to the respondent. The panel shall direct its written report to the AAO and to the executive officer who supervises the respondent. The AAO shall then provide a copy of the report to the complainant and respondent and notice of whether the executive officer implemented some form of adverse action.

#### **4. Sanctions**

Disciplinary action may include, but is not limited to, a letter of reprimand, instructions to draft and send a letter of apology, termination of a contract, demotion, termination of employment, or expulsion from University programs. The decision notification will also advise the Complainant and the Respondent of the right to appeal the decision.

#### **5. Rights to Appeal**

The Complainant or Respondent may appeal the decision by filing a written appeal with the AA/EEO Officer. After receipt of the appeal, an Appeal Panel will be appointed in accordance with the procedures in the applicable grievance procedures of the University. For further information see <https://www.shepherd.edu/hr/hr-policies-and-procedures>

### **X. Education and Prevention Programs**

Shepherd University is committed to the prevention of sexual and intimate partner violence, harassment, and discrimination through education and awareness programs. Throughout the year, programs designed to promote awareness are presented by a variety of campus resources. Prevention programs include an overview of the University's policies and procedures, relevant definitions, including prohibited conduct, discussion of the impact of alcohol and drug use, affirmative consent, safe and positive options for bystander intervention, and information about risk reduction.

Incoming first year students and new employees will receive primary prevention and awareness programming as part of their orientation as well as online training. Returning students and employees will receive ongoing training on a periodic basis. The Title IX Coordinator oversees the education and prevention calendar and tailors programming to campus needs and climate. All educational programs include a review of resources and reporting options available for students, faculty and staff.

#### **a. Training for Faculty/Staff**

All incoming faculty and staff at Shepherd University receive Title IX/Sexual Harassment training focused on both the awareness and prevention of gender-based harassment, discrimination and violence. Options are given for all faculty and staff to complete Title IX training in person through a presentation from the Title IX Coordinator or online through the completion of the Shepherd Employee Title IX training for faculty and staff created by the Title IX Office using the Articulate 360 software. All Shepherd employees are required to complete one of the training options described above.

## **b. Prevention and Education Programs for Students**

### **1. Shepherd Online Sexual Respect Module**

All incoming students are required to complete the Shepherd University Virtual Tour on Sexual Respect created by the Title IX Coordinator using collaboration from the IPV Prevention Task Force and the online software Articulate 360. This online training is customized to explain Shepherd University policies, procedures, definitions, and techniques for prevention, including videos featuring the Title IX Coordinator, the Shepherd Chief of Police, the Vice President for Student Affairs, Counseling Services, the local rape crisis center (Eastern Panhandle Empowerment Center), and other campus and student voices.

### **2. In-person Title IX and Sexual Violence Prevention Training**

All incoming students, student-athletes, student employees, students involved in fraternity or sorority life, and student leaders are required to complete annual Title IX and sexual/intimate partner violence prevention training. In addition, all incoming students will receive in-person sexual and interpersonal violence prevention training during orientation. All training programs are organized by the Title IX Office, in collaboration with the Prevention Task Force.

### **3. Stand Up Campaign**

“Stand Up Don’t Stand By,” modeled after the national Green Dot Program is Shepherd’s homegrown bystander intervention program implemented to raise awareness and empower the bystander to prevent sexual and intimate partner violence, harassment, and discrimination on campus. 3D Thursday occurs every Thursday at Shepherd and empowers all members of the campus community as bystanders to direct, distract, or delegate to get involved in a situation and prevent sexual and other misconduct or bias related behavior from occurring. Every year the Stand Up Campaign hosts a “Green Game” at a Shepherd University during one of the home football games. All

### **4. On-going Prevention and Awareness Campaigns**

Shepherd University has engaged in a variety of prevention and awareness campaigns including the Stand-Up Bystander Intervention Program, the It’s On Us Pledge Campaign, the Red Flag Campaign, the Culture of Respect Campaign, SU Consent Week, and Campus Conversations on healthy masculinity programming using the . The Prevention task force described below utilizes evidence-based prevention methods through resources including the CDC’s Technical Packet for Addressing Sexual Violence. Risk reduction efforts include empowerment campaigns for survivors of violence, and student run organizations like Rising LOVE (Leaders Objecting to Violence and Promoting Equity). Every year, starting in 2016, Rising LOVE organizes the Rams Rally for Respect and March to End Violence.

## **c. Prevention Task Force**

The Interpersonal Violence Prevention Task Force was formed in the spring of 2016 through coordination of the Title IX team. The Task Force utilizes diverse campus community collaboration and includes representatives from faculty, undergraduate and graduate students, athletics, Title IX, SAVAs, Local Women’s Center, SUPD, and student affairs (residence life, counseling services, student success, new student programming, Sorority & Fraternity Life, student engagement, student conduct, disability support services, and multicultural student affairs). The Mission of Task Force is as follows: Incorporating Shepherd University’s core value of community, the task force will collaborate with communities across campus to

coordinate and implement campus-wide comprehensive education training and programming for the prevention of gender-based discrimination, harassment, and violence. Utilizing a public health model and a social justice approach, the task force works to promote a safe and equitable campus community environment based on the values of mutual respect and human dignity.

#### **XI. Agreements with Local Law Enforcement and Rape Crisis Programs**

Shepherd University is a grantee of the Office for Violence Against Women and has signed both internal and external memoranda of understanding with local law enforcement and the local rape crisis center, the Shenandoah Women's Center. Shepherd is also engaged in a partnership with the WV Foundation for Rape and Information Services for training and grant coordination purposes.

#### **XII. Campus Climate Survey**

The Title IX Office conducted a campus climate survey during the spring of 2018 and all of the data from that survey can be found here on the website for any campus or community member to view: <https://www.shepherd.edu/title-ix/shepherd-campus-climate>. As you can see, nearly 83% of students are aware of and understand policies and procedures for handling sexual violence. 91.8% of students feel safe on this campus, and almost 90% of students believe that Shepherd is trying hard to make sure students feel safe. Nearly 85% of students know what services are available for students that have experienced sexual assault and 91% of students feel that if they reported sexual assault Shepherd would treat them with dignity and respect. 93.6% students responded that sexual harassment is not tolerated at this school. If you compare Shepherd results to other schools, Shepherd leadership response and perception is much higher than other schools. You can find that information here: <https://media.suweb.site/2019/04/SU-Comparison-2.pdf?v=1558815054?v=1556131244>

According to the survey, students know where to report and understand the resources and support available to them. We know that sexual misconduct is happening at Shepherd and at schools across the country. We will continue to work toward improving outreach, prevention, and appropriate response.

#### **XIII. Conflicts with Other Policies**

To the extent that this Policy conflicts with any other University policy, procedure, handbook, faculty or employee bylaw, agreement, or process, this Policy shall prevail.

## West Virginia Offenses

### **§61-8B-2. Lack of consent.**

- 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

### **§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-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.

**§61-2-9a. Stalking; harassment; penalties; definitions.**

- a) Any person who repeatedly follows another knowing or having reason to know that the conduct causes the person followed to reasonably fear for his or her safety or suffer significant emotional distress, is guilty of a misdemeanor and, upon conviction thereof, shall be incarcerated in the county or regional jail for not more than six months or fined not more than one thousand dollars, or both.
- b) Any person who repeatedly harasses or repeatedly makes credible threats against another is guilty of a misdemeanor and, upon conviction thereof, shall be incarcerated in the county or regional jail for not more than six months or fined not more than one thousand dollars, or both.
- c) Notwithstanding any provision of this code to the contrary, any person who violates the provisions of subsection (a) or (b) of this section in violation of an order entered by a circuit court, magistrate court or family court judge, in effect and entered pursuant to part 48-5-501, et seq., part 48-5-601, et seq. or 48-27-403 of this code is guilty of a misdemeanor and, upon conviction thereof, shall be incarcerated in the county jail for not less than ninety days nor more than one year or fined not less than two thousand dollars nor more than five thousand dollars, or both.
- d) A second or subsequent conviction for a violation of this section occurring within five years of a prior conviction is a felony punishable by incarceration in a state correctional facility for not less than one year nor more than five years or fined not less than three thousand dollars nor more than ten thousand dollars, or both.
- e) Notwithstanding any provision of this code to the contrary, any person against whom a protective order for injunctive relief is in effect pursuant to the provisions of section five hundred one, article twenty-seven, chapter forty-eight of this code who has been served with a copy of said order or section six hundred eight, article five, chapter forty-eight of this code who is convicted of a violation of the provisions of this section shall be guilty of a felony and punishable by incarceration in a state correctional facility for not less than one year nor more than five years or fined not less than three thousand dollars nor more than ten thousand dollars, or both.
- f) For the purposes of this section:
  - 1) "Bodily injury" means substantial physical pain, illness or any impairment of physical condition;
  - 2) "Credible threat" means a threat of bodily injury made with the apparent ability to carry out the threat and with the result that a reasonable person would believe that the threat could be carried out;
  - 3) "Harasses" means willful conduct directed at a specific person or persons which would cause a reasonable person mental injury or emotional distress
  - 4) "Immediate family" means a spouse, parent, stepparent, mother-in-law, father-in-law, child, stepchild, sibling, or any person who regularly resides in the household or within the prior six months regularly resided in the household; and
  - 5) "Repeatedly" means on two or more occasions.

- g) Nothing in this section shall be construed to prevent lawful assembly and petition for the lawful redress of grievances, including, but not limited to: Any labor or employment relations issue; demonstration at the seat of federal, state, county or municipal government; activities protected by the West Virginia constitution or the United States Constitution or any statute of this state or the United States.
- h) 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 is to 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.
- i) Upon conviction, the court may issue an order restraining the defendant from any contact with the victim for a period not to exceed ten 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.

### **West Virginia Domestic Violence Laws.**

#### **§61-2-28. Domestic violence -- Criminal acts.**

- a) *Domestic battery.* -- Any person who unlawfully and intentionally makes physical contact force capable of causing physical pain or injury to his or her family or household member or unlawfully and intentionally causes physical harm to his or her family or household member, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than twelve months, or fined not more than \$500, or both fined and confined.
- b) *Domestic assault.* -- Any person who unlawfully attempts to use force capable of causing physical pain or injury against his or her family or household member or unlawfully commits an act that places his or her family or household member in reasonable apprehension of immediately suffering physical pain or injury, 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 \$100, or both fined and confined.
- c) *Second offense.* -- Domestic assault or domestic battery.

A person convicted of a violation of subsection (a) of this section after having been previously convicted of a violation of subsection (a) or (b) of this section, after having been convicted of a violation of subsection (b) or (c), section nine of this article or subsection (a), section fourteen-g of this article where the victim was his or her current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or who has previously been granted a period of pretrial diversion pursuant to section twenty-two, article eleven of this chapter for a violation of subsection (a) or (b) of this section, or a violation of subsection (b) or (c), section nine of this article or subsection (a), section fourteen-g of this article where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the

defendant's child or ward or a member of the defendant's household at the time of the offense is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than sixty days nor more than one year, or fined not more than \$1,000, or both fined and confined.

A person convicted of a violation of subsection (b) of this section after having been previously convicted of a violation of subsection (a) or (b) of this section, after having been convicted of a violation of subsection (b) or (c), section nine of this article or subsection (a), section fourteen-g of this article where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or having previously been granted a period of pretrial diversion pursuant to section twenty-two, article eleven of this chapter for a violation of subsection (a) or (b) of this section or subsection (b) or (c), section nine of this article or subsection (a), section fourteen-g of this article where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense shall be confined in jail for not less than thirty days nor more than six months, or fined not more than \$500, or both fined and confined.

- d) Any person who has been convicted of a third or subsequent violation of the provisions of subsection (a) or (b) of this section, a third or subsequent violation of the provisions of section nine of this article or subsection (a), section fourteen-g of this article where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or who has previously been granted a period of pretrial diversion pursuant to section twenty-two, article eleven of this chapter for a violation of subsection (a) or (b) of this section or a violation of the provisions of section nine of this article or subsection (a), section fourteen-g of this article in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or any combination of convictions or diversions for these offenses, is guilty of a felony if the offense occurs within ten years of a prior conviction of any of these offenses and, upon conviction thereof, shall be confined in a state correctional facility not less than one nor more than five years or fined not more than \$2,500, or both fined and confined.
- e) As used in this section, "family or household member" means "family or household member" as defined in §48-27-204 of this code.
- f) A person charged with a violation of this section may not also be charged with a violation of subsection (b) or (c), section nine of this article for the same act.
- g) No law-enforcement officer may be subject to any civil or criminal action for false arrest or unlawful detention for effecting an arrest pursuant to this section or pursuant to §48-27- 1002 of this code.

**§61-2-29. Abuse or neglect of incapacitated adult; definitions; penalties.**

- a) The following words, when used in this section and sections twenty-nine-a and twenty-nine-b of this article, have the meaning ascribed, unless the context clearly indicates otherwise:
- 1) "Abuse" means the intentional infliction of bodily injury on an incapacitated adult;
  - 2) "Bodily injury" means substantial physical pain, illness or any impairment of physical condition;
  - 3) "Caregiver" means any person who has assumed the legal responsibility or a contractual obligation for the care of an incapacitated adult or has voluntarily assumed responsibility for the care of an incapacitated adult. The term includes a facility operated by any public or private agency, organization or institution which provides services to, and has assumed responsibility for the care of an incapacitated adult.
  - 4) "Incapacitated adult" means any person eighteen years of age or older who by reason of advanced age, physical, mental or other infirmity is unable to carry on the daily activities of life necessary to sustaining life and reasonable health;
  - 5) "Neglect" means the unreasonable failure by a caregiver to provide the care necessary to assure the physical safety or health of an incapacitated adult; and
  - 6) "Serious bodily injury" means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.
- b) A caregiver who neglects an incapacitated adult or who knowingly permits another person to neglect an incapacitated adult is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500 or confined in jail for not more than one year, or both fined and confined.
- c) A caregiver who abuses an incapacitated adult or who knowingly permits another person to abuse an incapacitated adult is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500 or confined in jail for not less than ninety days nor more than one year, or both fined and confined.
- d) A caregiver of an incapacitated adult who intentionally and maliciously abuses or neglects an incapacitated adult and causes the incapacitated adult bodily injury is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and imprisoned in a state correctional facility not less than two years nor more than ten years.
- e) A caregiver of an incapacitated adult who intentionally and maliciously abuses or neglects an incapacitated adult and causes the incapacitated adult serious bodily injury is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 and imprisoned in a state correctional facility not less than three years nor more than fifteen years.
- f) Nothing in this section or in section twenty-nine-a of this article shall be construed to mean an adult is abused or neglected for the sole reason that his or her independent decision is to rely upon treatment by spiritual means in accordance with the tenets and practices of a recognized church or religious denomination or organization in lieu of medical treatment.

g) Nothing in this section or in section twenty-nine-a of this article shall be construed to mean an incapacitated adult is abused or neglected if deprivation of life-sustaining treatment or other act has been provided for by the West Virginia Health Care Decisions Act, pursuant to article thirty, chapter sixteen of this code.

### **Security and Access to Campus Facilities**

The Shepherd campus consists of academic, administrative, and student services facilities, as well as grounds covering more than 300 acres. Academic and administrative buildings are unlocked each morning by facilities management and then secured each evening by SUPD, according to established schedules. Generally, unscheduled access to a secured administrative or academic building is not possible, except for authorized employees.

Admission to campus residence halls is limited as set forth in the *Student Handbook*. SUPD officers periodically patrol the interior of residence halls. Enforcement of regulations of residence hall visitation is through the cooperative efforts of all residents and the residence hall advisors. West Woods residence hall rooms open directly to the campus grounds; the continuous use of locks on all doors is, therefore, imperative for maximum student safety.

The campus grounds are regularly patrolled by SUPD, and secured exterior doors are periodically checked. It is not possible for every portion of the campus to be under continuous visual oversight by a police officer, however, and all students are cautioned to exercise reasonable care for personal safety, especially during night hours. Lighting is installed along most popular pedestrian lanes of traffic on the campus; unlit or dimly lit areas should be avoided, particularly by students or employees walking alone. Any student may telephone SUPD for an escort from one campus location to another during night hours; a short wait may be necessary except for emergency situations.

There are numerous call boxes located throughout the campus. By pushing the call button, SUPD is immediately notified and will automatically come to that location. Two-way communication with SUPD is possible by pushing the button to talk and releasing it to listen. Where a call box is so labeled, a call box may call the 911 Center rather than SUPD.

### **Holiday Closings**

As is stated on the *Residence Hall Contract*, residence halls serve only as a temporary residence for students, and the opening and closing of the residence halls follows the University's academic calendar, with Printz and Dunlop Hall apartments being exempted. The University reserves the right to modify this schedule in accordance with officially announced changes in the University calendar. Unless students are notified otherwise, residence halls are officially closed for holidays at the following times:

- Beginning at 6 p.m. on the Friday preceding both Thanksgiving Break and Spring Break until 2 p.m. the Sunday terminating each respective break.
- Beginning at 6 p.m. on the day of the University's last scheduled final examination for Winter Break until 10 a.m. on the day before classes beginning in the spring semester (new first-year residents may arrive earlier).
- Beginning at 6 p.m. on the day of the University's last scheduled final examination of the spring semester until 10 a.m. on the day before classes begin for summer term I. Graduating seniors who apply for extended stay in accordance with all posted procedures and designated deadlines may remain in the residence halls at no additional charge until Commencement in consolidated spaces in the facility designated by Residence Life.

- At the end of the fall, spring, and summer terms, each resident is expected to vacate the residence hall room no later than 24 hours after taking her/his last final examination or by 6 p.m. on the day of the last scheduled final examination, whichever comes first.
- Apartment residents may remain in their assigned housing during all holidays and breaks during the contract period of their Residence Hall Contract. If an apartment resident is not returning to Shepherd University for the spring semester, he/she must officially check out as prescribed for other residential students.

### **Sexual Assaults/Offenses**

Because incidents of sexual assault often create great emotional hardship for the victim, the University provides or coordinates special counseling through the Office of Student Affairs and the student counselor. Reports of sexual assaults are made to the police, as required by law, but victims are given a choice in advance as to whether their names will be included in the report, to the extent permitted by law. Counseling services are coordinated through the Counseling Office. Further information on policies and students' rights is provided in the Student Handbook.

### **Sex Offender Information**

The West Virginia State Police maintain an Internet record of registered sex offenders living in Jefferson, Berkeley, and other counties in West Virginia. This information can also be accessed through the University Police Department.

### **Security Education**

During the month of August, at the beginning of each academic year, the University conducts orientation sessions for freshmen and other new students. The orientation program includes information regarding SUPD and issues of personal security. Additionally, brochures and other information regarding personal security, or institutional security operations, are available from the Office of Student Affairs.

For students living on campus, issues of security are frequently addressed by the Residence Life staff, who have received a brief training on security issues. For students, the University offers at least one self-defense instructional course each academic year.

### **Off-Campus Student Activities**

The University's sphere of interest extends beyond the geographic jurisdiction of the University's campus and grounds. Any formal or informal student organizations, and all of its members or participants, remain under the authority and jurisdiction of University policies, even when meeting off-campus.

In the case of criminal activity, Shepherd University regularly receives notification of arrests of students from the regional law enforcement agencies, and such activity will result in a case by case review of whether disciplinary sanctions will be applied by the University.

### **Alcohol and Narcotics**

As explained in the *Student Handbook*, Shepherd University strongly supports the alcohol and narcotics regulations of the state and federal government. Possession or use by, or distribution of alcoholic beverages to any underage person (less than 21) is prohibited by state law, and this legal mandate is strongly enforced by the University through the Residence Life staff and SUPD. Discipline and/or counseling will be pursued for violators. Persons possessing, using, or distributing illegal narcotics are usually suspended or expelled from the University. Counseling for persons seeking liberation from substance abuse is available from Student Affairs.

## **Firearms**

The possession of any firearms, (e.g., pistols, rifles, shotguns, or crossbows) is prohibited unless specifically authorized in writing by the President of the University. Any person on campus with a loaded firearm will be prosecuted.

## **Emergency Response**

The University's Safety Manual includes information about fire procedures, bomb threats, mail and/or package threats, blood-borne pathogens and spill, and appropriate counter measures. University departments are responsible for developing contingency plans and continuity of operations plans for their staff and areas of responsibility.

SUPD officers and supervisors have received training in Incident Command and Responding to Critical Incidents on Campus. When a serious incident occurs that causes an immediate threat to the campus, the first responders to the scene are usually SUPD, Shepherdstown Police Department (SPD), the Jefferson County Sheriff's Office, West Virginia State Police and the Shepherdstown Volunteer Fire Department (SVFD) or Sharpsburg, MD Volunteer Fire Department. Shepherd University works closely with the Jefferson County Homeland Security and Emergency Management Agency, which responds and may manage the incident if needed. Depending on the nature of the incident, other SU departments and other local or federal agencies could also be involved in responding to the incident.

General information about the emergency response and evacuation procedures for SU is publicized each year as part of the institution's Clery Act compliance efforts and that information is available on the Shepherd University website. Detailed, updated information about the *Student Handbook* is available on the Campus website at <http://www.shepherd.edu/students/studenthandbook.pdf>.  
<https://www.shepherd.edu/student-handbook>

All members of the SU community are notified on an annual basis that they are required to notify SUPD of any situation or incident on campus that involves a significant emergency or dangerous situation that may involve an immediate or on-going threat to the health and safety of students and/or employees on campus. SUPD has the primary responsibility of responding to and summoning the necessary resources to mitigate, investigate, and document any situation that may cause a significant emergency or dangerous situation. In addition, SUPD has a responsibility to respond to such incidents to determine if the situation does, in fact, pose a threat to the community. If that is the case, federal law requires that the institution immediately notify the campus community or the appropriate segments of the community that may be affected by the situation.

### **Notification to the Shepherd Community About an Immediate Threat**

SUPD, the General Counsel, and the Office of Student Affairs receive critical information from various offices/departments on campus, student housing, faculty, staff, students, grounds, and building maintenance. These three offices work together to assess whether there is an emergency or dangerous situation that poses an immediate threat to the health or safety of some or all members of the SU community. The Vice President of Administration, General Counsel, Police Chief, or the Vice President of Student Affairs will, without delay and taking into account the safety of the community, determine the content of the notification and initiate an appropriate notification system, unless issuing a notification will, in the judgment of the first responders (including but not limited to: SUPD, SPD, and/or SVFD), compromise the efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

In the event of a serious incident that poses an immediate threat to members of the SU community, the University has various systems in place for communicating information quickly. Some or all of these methods of communication may be activated in the event of an immediate and substantial threat to the SU campus community, or a component thereof. These methods of communications include postings of notices, mass voice-messaging to campus phones, network e-mails, University website alerts, and emergency text messages that can be sent to a phone or PDA (individuals can sign up for this service on the campus website, under RAVE). The University will post updates during a critical incident on the SU campus website at <http://www.shepherd.edu/police/campussecurity.pdf>. Members of the larger community may not be notified of an emergency through RAVE or e-mail. Students, faculty, and staff who are interested in receiving information about emergencies on campus should sign up for the emergency text message system, RAVE, on the campus website.

### **Emergency Evacuation Procedures**

An evacuation drill is coordinated by SUPD and the Associate Director of Residence Life each semester for each residential facility on campus. A second drill is coordinated each semester for some first-year Residence Halls and the more densely populated halls. Thus, the emergency response and evacuation procedures are tested at least twice each year and, for some of the buildings, four times a year. Students learn the locations of the emergency exits in the buildings and are provided guidance about the direction they should travel when exiting each facility for a short-term building evacuation. University staff members do not tell students in advance about the designated location for long-term evacuations because those decisions are affected by time of day, location of the building being evacuated, the availability of the various designated emergency gathering locations on campus, and other factors such as location and nature of the threat. In both cases, SUPD and Residence Life staff on the scene will communicate information to students regarding the developing situation to students or any evacuation status changes.

The purpose of evacuation drills is to prepare building occupants for an organized evacuation in case of fires or other emergencies. At SU, evacuation drills are used as a way to educate and train occupants on fire safety issues specific to their building. During the drill, occupants “practice” drill procedures and familiarize themselves with the location of exits and the sound of the fire alarm. In addition to educating the occupants of each building about the evacuation procedures during the drills, the process also provides the University an opportunity to test the operation of fire alarm system components.

Evacuation drills are monitored by the SUPD, SVFD and the Residence Life staff to evaluate egress and behavioral patterns. Reports are prepared by participating departments which identify deficient equipment so that repairs can be made immediately, as well as assessment and evaluation of emergency plans and capabilities. Residence Life staff prepares a summary of its emergency response and evacuation procedures in conjunction with at least one drill or exercise each calendar year. Recommendations for improvements are also submitted to the appropriate departments/offices for consideration.

Students receive information about evacuation and procedures during their first-floor meetings and during other educational sessions that they can participate in throughout the year. The Residence Life staff members are trained in these procedures as well and act as an on-going resource for the students living in residential facilities.

## **Evacuation Protocol**

An evacuation protocol exists in the event that a residence hall must be evacuated for an extended period of time. The evacuations of buildings are rare occurrences but understanding what each person needs to do provides a mechanism for a smoother transition during an emergency. The following are things you need to know to assist with a smoother evacuation:

- In any given situation where a building is deemed uninhabitable for an extended period of time by the Director of Facilities, the ranking officer of University Police, the Director of Residence Life and/or SVFD will determine if the occupants/residents will need to be evacuated.
- When a building must be evacuated, follow the directives of campus officials including those from SUPD, Student Affairs, Residence Life, and Facilities Management. In many cases, the SVFD will also be providing directives. The fire department is in charge when on the scene of an incident.
- Report directly to the Student Center, Storer Ballroom, to check in with full-time staff and receive additional information and directions. You are not required to stay in the Student Center after you have identified yourself and your plans while your building is evacuated.
- The University's main extension (304-876-5000) will have a brief message notifying caller of the incident and instructing them to report to the Student Center, Storer Ballroom, for updated information and assistance.
- The Student Center will have telephone lines and some staff will have cell phones for students to contact parents/emergency contacts, if necessary.
- Should the Dining Hall be evacuated and uninhabitable, food service will be operational in the Student Center only.
- Staff in the Student Center will keep students and others abreast of the situation and students will be notified when the building has been cleared for re-entry.

## **Evacuation Route**

When the fire alarm sounds in your building, proceed to the nearest exit or follow posted emergency exit plans. Proceed to a designated assembly area as indicated by Residence Life staff members. Keep streets, fire lanes, hydrant areas, and walkways clear for emergency response vehicles and personnel.

## **Notification of Missing Students**

If a member of the University community has reason to believe that a student who resides in on-campus housing is missing, he or she should immediately notify SUPD at 304-876-5202. SUPD will generate a missing person report and initiate an investigation immediately.

After investigating the report of a missing person, should SUPD determine that the student is genuinely missing, SUPD will notify the student's designated emergency contact no later than 24 hours after that student is determined to be missing. If the missing student is under the age of 18 and is not an emancipated individual, SUPD will notify the student's parent or legal guardian immediately after SUPD has determined that the student has been missing.

## **Safety and Security of Residents**

Residence Life staff members are dedicated to and place an utmost priority on, the preservation of the safety and security of our residents. As such, a variety of procedures has been put in place for this purpose.

## **Main Desk Coverage**

Each traditional hall and apartment building has a main desk. The desk serves as a security measure and is open from 6 p.m. to 3 a.m. on Thursday-Saturday. The desk is staffed by RAs and Hall Security. All guests accompanied by a resident of that building are required to stop and register at the desk during hours of operation.

In addition, games, vacuum cleaners, snow shovels, Residence Life forms, and work order requests for maintenance repairs are available at the main desk.

## **Hall Security**

Hall Security students have been trained by Residence Life personnel. Their primary job responsibilities include implementing and enforcing the visitation policy; student conduct; collaborating with RAs to address and document policy infractions; and following appropriate response protocols in emergency situations.

## **Community Policing**

Residence Life collaborates closely with SUPD officers in responding to and resolving incidents which occur in the residence halls. Regular, confidential communication takes place between the two departments. In addition, SUPD officers may make unscheduled visits to residence halls and conduct regular walking tours in and around the exterior of buildings to ensure no safety or security breaches exist. These rounds also provide officers and residents an opportunity to get to know each other better.

## **K-9 Unit**

A K-9 unit is an important aspect of the community policing team. It is used as a deterrent to illegal drug possession and consumption. A K-9 unit will periodically make unannounced inspections of the residence halls.

## **Health and Safety Inspections**

Residence Hall health and safety (H&S) inspections are done at least five times a year, twice each in the fall and in the spring and once in the summer. Inspections will be announced only during the first round of the fall semester. All other inspections are unannounced. The H&S inspections are primarily designed to find and eliminate safety violations. Students are required to read and comply with the Residential Community Guidelines, which include the H&S inspections and all other rules and regulations for residential buildings. This inspection includes, but is not limited to, a visual examination of electrical cords, sprinkler heads, smoke detectors, fire extinguishers, and other life safety systems.

In addition, each room will be examined for the presence of prohibited items (e.g., sources of open flames, such as candles; non-surge protected extension cords; halogen lamps; portable cooking appliances in non-kitchen areas, etc.) or prohibited activity (e.g., smoking in the room; tampering with life safety equipment; possession of pets, etc.). This inspection will also include a general assessment of food and waste storage and cleanliness of the room. Prohibited items will be immediately disabled with a locking device or confiscated.

## **Medical Emergencies**

For medical or mental health emergencies, students are strongly encouraged to call 9-911 from any campus phone immediately for emergency transport services, and then notify a residence hall staff member for support. Residence Life staff members are trained to follow strict protocols in emergency situations. Due to limited staffing, the Campus Health Center is not able to respond to medical emergencies outside of the Health Center facility.

In cases where a student's life may be in danger, Residence Life staff or an SUPD officer may contact individuals listed on the student's emergency contact information card. Please note that Shepherd University is not responsible for the costs of any emergency transport services or medical care incurred by a students.

## **Theft and Renter's Insurance**

Shepherd University is not responsible for theft, damage, or loss of personal items belonging to residents. To prevent such occurrences, keep your door locked at all times, including when going to use bathroom facilities. It is suggested that residents do not keep large sums of money or expensive items in their rooms. If you do choose to keep such valuables in your room, it is highly recommended that you purchase insurance.

## **Fire Protection Equipment/Systems**

A majority of University buildings are equipped with automatic fire detection and alarm systems which are constantly monitored by SUPD staff. Refer to the chart in this document to review the Fire Safety Amenities in SU residential facilities for information about fire detection, notification, and suppression systems in each residential facility.

## **General Fire Safety**

If a fire occurs in an SU building, community members should immediately notify emergency services by call 9-1-1 , IF ON CAMPUS at 9-911 .

During fire alarms, community members are required to heed the warning and evacuate buildings immediately upon hearing a fire alarm in a facility. Use the nearest stairwell and/or exit to leave the building immediately. Community members should familiarize themselves with the exits in each building. The Fire Marshall can levy fines and penalties to individuals who fail to evacuate a building promptly – but a more important reason for evacuating is for safety reasons!

When a fire alarm is activated, the elevators in most buildings will stop automatically. Occupants should use the stairs to evacuate the building. If you are caught in the elevator, push the emergency phone button. The emergency phones in elevators on campus ring to an SUPD officer.

Following a false alarm in a residential facility, an e-mail message is distributed to residents, typically the next business day, informing them of the cause of the activation and the reason for the evacuation. The purpose of providing follow-up information is to use those instances as a teaching moment to point out the reason for the alarm activation, the evacuation routes, and the instructions and guidelines for evacuations.

## Fire Emergency Procedures

Residence Life addresses fire safety for its residents through building rules which reduce the risk of fire, safety training for students, and routine fire drills for all residents. These drills provide an opportunity to ensure that fire warning systems are functioning properly and that residents know the appropriate evacuation routes. In addition to these fire drills, residence hall staff members conduct weekly checks of all fire extinguishers and other fire safety equipment, ensuring that these lifesaving tools are fully charged and functional.

The SVFD has an excellent crisis response team. Fire squads, EMTs, and ambulance crews provide additional emergency services to the campus. The individuals who staff these units are well-trained responders who regard the Shepherd University campus as a top priority.

A fire emergency is defined as any situation in which a discernible smell of smoke or fire, visible signs of smoke, or a live fire in a residence hall exists.

In case of fire:

- Sound the alarm. Yell “fire!” repeatedly. As you leave the building, activate the nearest fire alarm pull.
- Evacuate the building quickly. Use the nearest exit or follow posted emergency exit plans and proceed to the designated gathering place. Remember that saving lives is the most important thing; do not carry any items with you. Once you are outside, be sure to go to and remain in your designated area until an accurate headcount has been taken. Do not return to an evacuated building unless instructed to do so by a University official or fire and rescue personnel.
- If the door to your room feels hot, do not open it. Keep the door closed and place wet towels at the bottom of the door, if possible, to prevent smoke from entering. Call 911 for help; if no operable phone is available, yell out the window for help. Remain in your room and wait for assistance.
- If the hallway is filled with smoke, drop low to the ground, cover your nose and mouth with a damp cloth, if possible, and crawl quickly to the nearest exits. If the smoke is overwhelming or fills the entire hallway, return to and remain in your room, following the procedures above.
- Call 911 from a safe place for emergency response services. Provide your name, phone number, and exact building location.
- Call SUPD at x5202. The responding officer will be responsible for directing traffic and communicating with fire and ambulance personnel.
- Under no circumstances are residents or staff to reenter the building until the responding Fire Chief or law enforcement officer has indicated that it is safe to do so.

## Annual Fire Safety Report

A daily fire log is available for review Monday through Friday from 8 a.m. to 4 p.m. The information in the fire log typically includes information about fires that occur in residential facilities, including the nature, date, time, and general location.

SUPD publishes this fire safety report as part of its annual Clery Act compliance document, via this brochure, which contains information with respect to the fire safety practices and standards for SU. This report includes statistics concerning the number of fires, and the value of the property damage caused by a fire (see chart for more information). The compliance document is available for review 24 hours a day on the SU website at <http://www.shepherd.edu/police/campussecurity.pdf>.

## **Education of Members of the University Community**

Shepherd University's safety and security measures, along with fire safety procedures, are discussed during new student orientation. SUPD staff and Student Affairs Staff (including Residence Life) participate in forums, meetings, and program in residence halls to address students and explain University security, public safety, and fire safety measures and procedures at SU. SUPD members conduct crime prevention and general security and safety awareness presentations when requested by various community groups, including students and employees of the University. During these presentations, the following information is typically provided: crime prevention tips; statistics on crime at SU; fire safety information; and information regarding campus security/safety. In addition, SUPD organizes and sets up crime prevention and education display tables which are staffed by officers at various locations throughout the year. This activity provides an opportunity for SUPD staff to hand out safety related information, as well as to answer individual questions. New employee orientation includes the distribution of crime prevention and fire safety materials to all new employees of the institution.

## Criminal Offenses – On Martinsburg Campus

For each of the following criminal offenses, enter the number reported to have occurred On Campus.

| Criminal Offense  | Total Occurrences<br>On Campus |      |      |
|---|--------------------------------|------|------|
|   | 2016                           | 2017 | 2018 |
| Murder/Non-negligent manslaughter                             | 0                              | 0    | 0    |
| Negligent manslaughter  | 0                              | 0    | 0    |
| Rape  | 0                              | 0    | 0    |
| Fondling  | 0                              | 0    | 0    |
| Incest  | 0                              | 0    | 0    |
| Statutory rape  | 0                              | 0    | 0    |
| Robbery   | 0                              | 0    | 0    |
| Aggravated assault  | 0                              | 0    | 0    |
| Burglary  | 0                              | 0    | 0    |
| Motor vehicle theft (Do not include theft from motor vehicle) | 0                              | 0    | 0    |
| Arson   | 0                              | 0    | 0    |

## Criminal Offenses – Public Property

For each of the following criminal offenses, enter the number reported to have occurred on Public Property.

| Criminal Offense   | Total Occurrences<br>On Campus |      |      |
|--|--------------------------------|------|------|
|  | 2016                           | 2017 | 2018 |
| Murder/Non-negligent manslaughter                                    | 0                              | 0    | 0    |
| Negligent manslaughter   | 0                              | 0    | 0    |
| Rape   | 0                              | 0    | 0    |
| Fondling   | 0                              | 0    | 0    |
| Incest   | 0                              | 0    | 0    |
| Statutory rape   | 0                              | 0    | 0    |
| Robbery  | 0                              | 0    | 0    |
| Aggravated assault   | 0                              | 0    | 0    |
| Burglary   | 0                              | 0    | 0    |
| Motor vehicle theft <i>(Do not include theft from motor vehicle)</i> | 0                              | 0    | 0    |
| Arson  | 0                              | 0    | 0    |

## Hate Crimes – On Martinsburg Campus

For the criminal offenses listed below first enter the total number of Hate Crimes that were reported to have occurred on campus; then break down each total by category of bias (e.g. race, religion, etc.).

| Criminal Offense   | Occurrences of Hate Crimes                   |      |          |                       |        |                    |            |           |                    |
|--|--|------|----------|-----------------------|--------|--------------------|------------|-----------|--------------------|
|  | Category of Bias for crimes reported in 2018 |      |          |                       |        |                    |            |           |                    |
|  | 2018<br>TOTAL                                | Race | Religion | Sexual<br>Orientation | Gender | Gender<br>Identity | Disability | Ethnicity | National<br>Origin |
| a. Murder/Non-negligent manslaughter                                       | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| b. Negligent manslaughter  | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| c. Sex offenses – Forcible   | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| d. Rape  | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| e. Fondling  | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| f. Sex offense – Non-forcible  | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| g. Incest  | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| h. Statutory rape  | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| i. Robbery   | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| j. Aggravated assault  | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| k. Burglary  | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| l. Motor vehicle theft<br><i>(Do not include theft from motor vehicle)</i> | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| m. Arson   | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| n. Simple assault  | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| o. Larceny-theft   | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| p. Intimidation  | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |
| q. Destruction/damage/vandalism of property                                | 0  | 0    | 0        | 0                     | 0      | 0                  | 0          | 0         | 0                  |

## VAWA Offenses – On Martinsburg Campus

For each of the following crimes, enter the number reported to have occurred On Campus.

| Criminal Offense     | Total Occurrences On Campus |      |      |
|----------------------|-----------------------------|------|------|
|                      | 2016                        | 2017 | 2018 |
| a. Domestic violence | 0                           | 0    | 0    |
| b. Dating violence   | 0                           | 0    | 0    |
| c. Stalking          | 0                           | 0    | 0    |

## VAWA Offenses – Public Property

For each of the following crimes, enter the number reported to have occurred on Public Property.

| Criminal Offense     | Total Occurrences on Public Property |      |      |
|----------------------|--------------------------------------|------|------|
|                      | 2016                                 | 2017 | 2018 |
| a. Domestic violence | 0                                    | 0    | 0    |
| b. Dating violence   | 0                                    | 0    | 0    |
| c. Stalking          | 0                                    | 0    | 0    |

## Arrests – On Martinsburg Campus

Enter the number of Arrests for each of the following crimes that occurred On Campus.

**Do NOT include drunkenness or driving under the influence in Liquor Law violations.**

| Crime                                  | Number of Arrests |      |      |
|--|-------------------|------|------|
|  | 2016              | 2017 | 2018 |
| a. Weapons: carrying, possessing, etc. | 0                 | 0    | 0    |
| b. Drug abuse violations               | 0                 | 0    | 0    |
| c. Liquor law violations               | 0                 | 0    | 0    |

## Arrests – Public Property

Enter the number of Arrests for each of the following crimes that occurred on Public Property.

**Do NOT include drunkenness or driving under the influence in Liquor Law violations.**

| Crime                                  | Number of Arrests |      |      |
|--|-------------------|------|------|
|  | 2016              | 2017 | 2018 |
| a. Weapons: carrying, possessing, etc. | 0                 | 0    | 0    |
| b. Drug abuse violations               | 0                 | 0    | 0    |
| c. Liquor law violations               | 0                 | 0    | 0    |

## Disciplinary Actions – On Martinsburg Campus

Enter the number of persons referred for disciplinary action for crimes that occurred On Campus  
for each of the following categories.

**Do not include disciplinary actions that were strictly for school policy violations.**

**If the disciplinary action is the result of an arrest, please do not count it here; count the violation as 1 arrest.**

**Do NOT include drunkenness or driving under the influence in Liquor Law violations.**

| Crime                                  | Number of Persons referred for Disciplinary Action |      |      |
|--|--|------|------|
|  | 2016   | 2017 | 2018 |
| a. Weapons: carrying, possessing, etc. | 0  | 0    | 0    |
| b. Drug abuse violations               | 0  | 0    | 0    |
| c. 0                                   | 0  | 0    | 0    |

## Disciplinary Actions – Public Property

Enter the number of persons referred for disciplinary action for crimes that occurred on Public Property  
for each of the following categories.

**Do not include disciplinary actions that were strictly for school policy violations.**

**If the disciplinary action is the result of an arrest, please do not count it here; count the violation as 1 arrest.**

**Do NOT include drunkenness or driving under the influence in Liquor Law violations.**

| Crime                                  | Number of Persons referred for Disciplinary Action |      |      |
|--|--|------|------|
|  | 2016   | 2017 | 2018 |
| a. Weapons: carrying, possessing, etc. | 0  | 0    | 0    |
| b. Drug abuse violations               | 0  | 0    | 0    |
| c. Liquor law violations               | 0  | 0    | 0    |

## Unfounded Crimes

Of those crimes that occurred On Campus, in On-Campus Student Housing Facilities, on or in Non-Campus property or buildings, and on Public Property, enter the number of crimes that were unfounded.

The total number of unfounded crimes should include all criminal offenses, hate crimes, arrests or disciplinary action referrals for weapons, drug or liquor law violations, and domestic violence, dating violence, or stalking incidents that have been unfounded.

If a reported crime is investigated by law enforcement authorities and found to be false or baseless, the crime is “unfounded.” Only sworn or commissioned law enforcement personnel may unfound a crime.

Count unfounded crimes in the year in which they were originally reported

|                           | Number |      |      |
|---------------------------|--------|------|------|
|                           | 2016   | 2017 | 2018 |
| a. Total unfounded crimes | 0      | 0    | 0    |