

APPALACHIAN COLLEGE OF PHARMACY SEXUAL MISCONDUCT POLICY



Appalachian College of Pharmacy
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IMPORTANT NOTICE: The contents of the Appalachian College of Pharmacy (ACP) Sexual Misconduct Policy are subject to change. Students and employees are responsible for staying informed of current and updated policies and procedures which may be published to ACP's website whether or not such changes have been directly received by the student or employee. It shall not be a defense for a failure to follow any rule or policy that he or she was not personally aware of or understood the rules, policies, and procedures or the sanctions set forth herein. All students and employees are charged with notice and understanding of the policies herein and revisions made thereto upon same being posted on the ACP website.

Updated July 6, 2015

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I. Introduction

Harassment of applicants, students, and employees of the Appalachian College of Pharmacy (ACP) for any reason, particularly on the basis of race, color, religion, age, sex, marital status, national origin, disability or handicap, sexual orientation, ancestry, or veteran's status, including sexual harassment (all as defined and protected by applicable law) is prohibited.

As a recipient of federal financial assistance, ACP is required to comply with Title IX of the Higher Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*) and related regulations, which prohibit discrimination on the basis of sex in educational programs or activities. Sexual Misconduct as defined in this Policy is a form of sex discrimination, and is prohibited by Title IX.

II. Scope of Policy

The Appalachian College of Pharmacy has adopted the following standards of conduct (herein after broadly referred to as "Sexual Misconduct Policy" or "Policy") for all members of our community-- students, faculty, administrators, staff, vendors, contractors, and third parties-- with respect to sexual harassment, sexual exploitation, sexual violence, stalking, and dating and domestic violence (collectively referred to as "Prohibited Conduct") to address ACP's responsibilities under Title IX and the 2013 Violence Against Women Reauthorization Act of 2013 (also known as the Campus SaVE Act). These standards apply equally to all regardless of the sex, gender, sexual orientation, gender identity, or gender expression of any of the individuals involved.

Sexual Misconduct (both on and off campus) violates ACP policy and Federal Civil Rights Laws, and may also be subject to criminal prosecution. ACP is committed to creating and sustaining an educational and working environment free of sex discrimination, sexual harassment, sexual violence, sexual exploitation, domestic violence, dating violence, and stalking. The safety and well-being of the campus community is a priority for ACP.

This Sexual Misconduct Policy adopted by ACP is designed to provide for a prompt, fair, and impartial investigation and resolution of complaints, while ensuring a Complainant's protections under Title IX.

III. Title IX Coordinator

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education's implementing regulations at [34 C.F.R. Part 106](#), ACP's Title IX Coordinator has primary responsibility for coordinating ACP's efforts to comply with and carry out its responsibilities under Title IX, which prohibits sex discrimination in all the operations of ACP, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX. The Title IX Coordinator oversees this process in order to the appropriate steps to end the Prohibited Conduct (under Title IX and the Campus SaVE Act), prevent its recurrence, and redress its effects. The Title IX Coordinator shall be appointed by the President of ACP.

Title IX Coordinator:

Dr. Marcy Hernick

Office Phone: (276) 498-5244

Address: 227 McGlothlin Hall (1060 Dragon Rd., Oakwood, VA 24631)

Email: mhernick@acp.edu

Website: <http://www.acp.edu/title-ix-compliance/>

All ACP faculty and staff are required to report allegations of Prohibited Conduct as defined in this Policy (or potentially Prohibited Conduct) to the Title IX Coordinator unless they have a recognized confidentiality privilege. Additionally, any student with knowledge of Prohibited Conduct is strongly encouraged to report the concern to the Title IX Coordinator.

Under Virginia Code § 23-9.2:15: Any responsible employee who in the course of his employment obtains information that an act of sexual violence may have been committed against a student attending the institution or may have occurred on campus, in or on a noncampus building or property, or on public property shall report such information to the Title IX coordinator as soon as practicable after addressing the immediate needs of the victim. "Sexual violence" means physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent.

Individuals may contact the Title IX Coordinator to:

- seek information or training about students' rights and courses of action available to resolve reports or complaints that involve potential sex discrimination, including Sexual Misconduct,
- file a complaint or make a report of sex discrimination, including Sexual Misconduct,
- notify ACP of an incident or policy or procedure that may raise potential Title IX concerns,
- get information about available resources (including confidential resources) and support services relating to sex discrimination, including Sexual Misconduct, and
- ask questions about ACP's policies and procedures related to sex discrimination, including Sexual Misconduct.

A person may also contact or file a complaint with the US Department of Education, Office for Civil Rights (OCR; Phone: 1-800-421-3481; Email: OCR@ed.gov) regarding an alleged violation of Title IX online at: <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.

IV. Assistance Following Incident of Sexual Misconduct

A. Immediate Assistance

If you or someone you know is the victim of any form of Sexual Misconduct, you are strongly urged to seek assistance. If you are the victim of any form of *Sexual Violence*, you are strongly urged to seek **immediate assistance from police and healthcare providers**.

The following resources in the area can provide 24-hour assistance:

- **If you are in immediate danger, dial 911.**
- Buchanan County Sheriff's Office (276) 935-0885
- Buchanan General Hospital (276) 935-1000
- Clinch Valley Medical Center (276) 596-6000

During business hours (8:00 AM to 5:00 PM, Monday through Friday), you are also strongly urged to contact the Title IX Coordinator regarding any violations of this Policy (by phone 276-498-5244 or email mhernick@acp.edu or in person at 227 McGlothlin Hall, Appalachian College of Pharmacy, 1060 Dragon Road, Oakwood, VA 24631). The Title IX Coordinator is also available to assist you with notifying the police.

B. Ongoing Assistance

The following are services available in the areas surrounding ACP. This directory is included for informational purposes only and is not an endorsement of a specific service provider.

1. Confidential Advice, Counseling Services, and Advocacy:

Family Crisis Support Services

Program Type: Sexual and Domestic Violence Agency.

Sexual Violence services include Confidential Crisis and Supportive Counseling, Sexual Assault Response Team (SART) Services, Transportation Assistance, Personal Accompaniment & Advocacy for Medical Exams, Investigations, and Court Processes, and more. Domestic Violence Services include: Emergency Shelter, Children's Services, Emergency Transportation, Hospital & Court Accompaniment, Confidential Crisis & Supportive Counseling, Criminal Justice Information, Support Groups, and more.

24 HR Hotline: (877) 348-3416 (Sexual Violence) or (800) 572-2278 (Domestic Violence)

Office Phone: (276) 679-7240

Website: www.family-crisis.com

Address: 701 Kentucky Ave. SE, Norton, VA 24273-2811

Service Areas: Buchanan County, City of Norton, Dickenson County, Lee County, Russell County, Scott County, Wise County

People, Inc. of Virginia

Program Type: Sexual and Domestic Violence Agency - Provides temporary emergency shelter, supportive services, and advocacy to help victims of domestic violence and/or sexual assault. A 24-hour crisis hotline offers immediate counseling and support.

24 HR Hotline: (276) 935-5485 or (877) 697-9444

Office Phone: (276) 889-8477

Website: www.peopleinc.net

Address: 1173 W. Main Street, Abingdon, VA 24210

Service Areas: Buchanan County, Russell County

Healing Waters Counseling Center

Program Type: Psychological Evaluation, Individual Counseling, Group Counseling, Child and Adolescent Counseling, Family and Marriage Counseling

Office Phone: (276) 963-0111

Website: <http://www.healingwaterscc.com/services.php>

Address: 1113 Cedar Valley Drive, Cedar Bluff, VA 24609

Cumberland Mountain Community Services

Program Type: Mental Health Services, Substance Abuse Services, Intellectual Disability Services, Prevention Services

Office Phone: (276) 935-7154 (Grundy) or (276) 964-6702 (Cedar Bluff)

After Hours: (800)-286-0586

Address: 1014 Stillhouse Rd., Grundy, VA or 113 Cumberland Rd. Cedar Bluff, VA 24609

Other Emergency Hotlines:

Virginia Family Violence & Sexual Assault Hotline 1-800-838-8238 24 hours a day

National Sexual Assault Hotline 1-800-656-HOPE (4673) 24 hours a day

National Domestic Violence Hotline 1-800-799-SAFE (7233) 24 hours a day

LGBTQ Partner Abuse & Sexual Assault Helpline 1-866-356-6998 Mon-Fri 8am-8pm

2. Medical Assistance and Evidence Preservation

Any victim of sexual violence (e.g., rape, acquaintance rape, dating violence, domestic violence, or stalking) is encouraged to ***seek immediate assistance from police and healthcare providers*** for their physical safety, emotional support, and medical care.

It is important that an individual that has been victim of sexual assault, domestic or dating violence, or stalking take steps to preserve and collect evidence to safeguard the full range of options available to them through ACP's administrative complaint procedures or criminal prosecution, including protection orders. If possible, an individual who has been sexually assaulted should seek medical attention immediately and should not shower, bathe, brush their teeth, douche or change clothes or bedding before going to the hospital or seeking medical attention. If the individual decides to change clothes, he or she should not wash the clothes worn during the assault and should bring them to the hospital or medical facility. Do not straighten up the area where the incidence took place or dispose of items that were present during the incident. These steps are important to help preserve evidence for possible use in legal actions or requests for a civil no-contact order and/or an order of protection. Because evidence dissipates quickly, individuals who wish to preserve evidence are encouraged to seek medical attention within 48 hours (and no more than 86 hours) of the incident.

Buchanan General Hospital
Office Phone: (276) 935-1000
Address: 1535 Slate Creek Rd, Grundy, VA 24614

Clinch Valley Medical Center
Office Phone: (276) 596-6000
Address: 6801 Gov. George C. Peery Highway, Richlands, VA 24641

You can also search through your health insurance provider for other services in the area.

3. Legal Assistance

Virginia Department of Criminal Justice Services (VDCJS) 1-888-887-3418
The INFO-Line provides victims of crime with information and support **Mon - Thurs 8:30 a.m. to 4:30 p.m.** **If you reach the INFO-Line message system, your call usually will be returned by 4:30 p.m. that day or by the end of the next business day.** Callers will be informed of their rights as victims under Virginia's *Crime Victim and Witness Rights Act* and will receive additional information, support, and referrals to programs and resources in their communities.

The Title IX Coordinator can provide you with a copy of the VDCJS “Protective Orders in Virginia – A Guide for Victims” upon request, and is available to assist or accompany you to obtain an order of protection.

Buchanan General and Juvenile and Domestic Relations District Combined Courts, 29th Judicial District of Virginia (Protective Orders)
Office Phone: (276) 935-6526 Mon-Fri 8 AM – 4 PM
Address: 1012 Walnut Street, Suite 328, Grundy, VA 24614

Legal Aid Hotline 1-866-LEGLAID (1-866-534-5243)

Virginia Poverty Law Center (Family & Sexual Violence) 1-800-868-8752

Virginia State Bar Lawyer Referral Service 1-800-552-7977

For assistance filling out protective order petition forms online:

Go to www.courts.state.va.us, click Online Services, then Assistance with Protective Orders (I-CAN!).

Family Crisis Support Services

Program Type: Sexual and Domestic Violence Agency.

Sexual Violence services include Confidential Crisis and Supportive Counseling, Sexual Assault Response Team (SART) Services, Personal Accompaniment & Advocacy for Medical Exams, Investigations, and Court Processes, and more. Domestic Violence Services are provided through the Hope House program, and include: Emergency Shelter, Children's Services, Emergency Transportation, Hospital & Court Accompaniment, Confidential Crisis & Supportive Counseling, Criminal Justice Information, Support Groups, and more.

24 HR Hotlines: (877) 348-3416 (Sexual Violence) or (800) 572-2278 (Domestic Violence)

Website: www.family-crisis.com

Address: 701 Kentucky Ave. SE, Norton, VA 24273-2811

Service Areas: Buchanan County, City of Norton, Dickenson County, Lee County, Russell County, Scott County, Wise County

V. Prohibited Conducts and Definitions

The Appalachian College of Pharmacy is committed to creating and sustaining an educational and working environment free of sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, and stalking. Therefore, ACP prohibits the following actions both on and off campus: sexual harassment, sexual violence, sexual exploitation, domestic violence, dating violence, and stalking. An attempt to commit an act identified in this Policy, as well as assisting or willfully encouraging any such act, is also considered a violation of this Policy.

- A. **Sexual Harassment:** means unwelcome conduct, based on sex or on gender stereotypes, which is so severe or pervasive that it unreasonably interferes with a person's ACP employment, academic performance or participation in ACP programs or activities ***and*** creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive.

Sexual harassment has been defined generally as including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature

whenever: (1) submission to the conduct is either an explicit or implicit term or condition of employment or admission to or advancement within ACP; (2) employee or student reaction to the conduct is used as a basis for decisions or actions affecting that employee or student; or (3) the conduct has the purpose or effect of interfering with employer or student performance or creating an intimidating, hostile, or offensive work or academic environment. Sexual harassment does not refer to occasional compliments of a socially acceptable nature or consensual personal and social relationships without a discriminatory employment or academic achievement effect.

Examples of conduct of a sexual nature include, but are not limited to, the following: sex-oriented verbal “kidding,” “teasing,” or jokes; repeated offensive sexual flirtations, advances, or propositions; reference or use of sexual material in class without any contextual relationship to the material being presented; attempted or actual unwanted kissing or fondling; continued or repeated verbal abuse of a sexual nature; *unwelcome conduct* of a nonsexual nature based on a student’s actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes; graphic or degrading comments about an individual or his or her appearance; the display of sexually suggestive objects or pictures; subtle pressure for sexual activity; inappropriate physical contact; or implied or overt sexual threats. The examples listed above are not exclusive, but simply represent types of conduct that may constitute sexual harassment.

ACP has one of the strongest anti-fraternization policies in the national academic community that prohibits ACP administration, faculty, and staff from sexually harassing or dating students:

“ACP is charged with and takes seriously providing a safe and productive learning environment for its students and therefore considers it inappropriate for any ACP employee to establish or allow to be established an intimate physical relationship with a student, regardless of gender, whose academic performance, work performance, or financial support or aid will be evaluated, determined, or influenced by such employee. ACP considers it a violation of this policy for any employee to offer or request sexual favors, make sexual advances, or engage in sexual conduct, regardless of consent, with a student who is not the employee’s spouse. This policy is specifically designed to avoid any implied or direct misuse of power that any employee may exert or intimate over a student at any time such student is enrolled at ACP.”

- B. **Hostile Environment:** A “hostile environment” exists when *sexual harassment* is sufficiently serious to deny or limit the student’s ability to participate in or benefit from ACP’s programs or activities. A hostile environment can be created by anyone involved in an ACP program or activity (*e.g.*, administrators, faculty members, students, and campus visitors). In determining whether *sexual harassment* has created a hostile environment, ACP considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not enough, that the conduct was *unwelcome* to the student who was harassed. But ACP will also need to find that a reasonable person in the student’s position would have perceived the conduct as undesirable or offensive in order for that conduct to create or contribute to a hostile environment. To make the ultimate determination of whether a hostile environment exists for a student or students, ACP considers a variety of factors related to the severity, persistence, or pervasiveness of the *sexual harassment*, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of

the conduct and the context in which it occurred; and, (5) the degree to which the conduct affected one or more student's education. The more severe the *sexual harassment*, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of *sexual assault* may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the *sexual harassment* is not particularly severe.

First Amendment Considerations

This policy does not impair the exercise of rights protected under the First Amendment. ACP's Sexual Misconduct Policy prohibits only sexual harassment that creates a hostile environment. In this and other ways, ACP applies and enforces this policy in a manner that respects the First Amendment rights of students, faculty, and others.

- C. **Unwelcome Conduct:** Conduct is considered "unwelcome" if the individual did not request or invite it and considered the conduct to be undesirable or offensive. Unwelcome conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Unwelcome conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Unwelcome conduct can involve persons of the same or opposite sex.

Participation in the conduct or the failure to complain does not always mean that the conduct was welcome. The fact that an individual may have welcomed some conduct does not necessarily mean that the individual welcomed other conduct. Also, the fact that an individual requested or invited conduct on one occasion does not mean that the conduct is welcome on a subsequent occasion.

- D. **Sexual Exploitation:** means taking sexual advantage of another person without Consent, and includes, without limitation, causing or attempting to cause the Incapacitation of another person in order to gain a sexual advantage over such other person; causing the prostitution of another person; recording, photographing or transmitting identifiable images of private sexual activity and/or the intimate parts (including genitalia, groin, breasts or buttocks) of another person; allowing third parties to observe private sexual acts; engaging in voyeurism; and/or knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection, including HIV.
- E. **Sexual Violence:** means physical sexual acts such as unwelcome sexual touching, sexual assault, sexual battery, rape, sexual exploitation, domestic violence, dating violence, and stalking (when based on gender or sex) perpetrated against an individual against his or her will and without consent or against an individual who is incapable of giving consent due to that individual's use of drugs or alcohol, status as a minor, or disability.
- F. **Sexual Assault:** In Virginia, **sexual assault** is defined as sexual abuse of an individual by the use of force, threat, or intimidation. Rape, sodomy, sexual battery, and attempts to commit these crimes are some of the several types of sexual assault offenses.

Sexual assault includes, but is not limited to:

1. *Non-consensual sexual contact:* means "Sexual Contact" that occurs without Consent. For this Policy "Sexual Contact" is defined as the deliberate touching of a person's intimate parts (including genitalia, groin, breast or buttocks, or clothing covering any

of those areas), or using Force to cause a person to touch his or her own or another person's intimate parts.

2. *Non-consensual sexual intercourse*: means Sexual Intercourse that occurs without Consent. For this Policy Sexual Intercourse means penetration (anal, oral or vaginal) by a penis, tongue, finger, or an inanimate object.

G. **Consent**: means words or actions that show a knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Consent cannot be gained by Force, by ignoring or acting in spite of the objections of another, or by taking advantage of the Incapacitation of another, where the accused knows or reasonably should have known of such Incapacitation. Consent is also absent when the activity in question exceeds the scope of Consent previously given. The age of consent in Virginia is 18, with a close-in-age exception that allows teenagers aged 15 to 17 to engage in sexual acts but only with a partner younger than 18.

H. **Force**: means physical force, violence, threat, intimidation or coercion.

I. **Incapacitation**: means the physical and/or mental inability to make informed, rational judgments. States of Incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol is involved, one does not have to be intoxicated or drunk to be considered Incapacitated. Rather, Incapacitation is determined by how the alcohol consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. The question is whether the accused individual knew, or a sober, reasonable person in the position of the accused should have known, that the complainant was Incapacitated. Because Incapacitation may be difficult to discern, individuals are strongly encouraged to err on the side of caution; when in doubt, assume that another person is Incapacitated and therefore unable to give Consent. Being intoxicated or drunk is never a defense to a complaint of Prohibited Conduct under this Policy.

J. **Domestic Violence and Dating Violence**. As defined in the Commonwealth of Virginia:

Domestic violence is a pattern of physically, sexually, and/or emotionally abusive behaviors used by one individual to assert power or maintain control over another in the context of an intimate or family relationship.

Dating violence is a kind of intimate partner violence that occurs between two people in a close relationship. It can be verbal, physical, or emotional abuse by one partner against the other within the context of either casual dating or a long-term relationship.

Individuals encompassed in these definition include, but are not limited to: persons who have or have had a dating or engagement relationship; persons who have or have had a social relationship of a romantic or intimate nature; current or former spouses, domestic partners, parents, children, stepchildren and other persons related by blood or by current or prior marriage; persons who share or formerly shared a common dwelling; persons who have or allegedly have a child in common; persons who share or allegedly share a relationship through a child; and personal assistants and personal caregivers for the elderly or disabled.

K. **Stalking**: In Virginia stalking is defined as engaging in conduct, on more than one occasion,

directed at another person with the intent to place the person in fear of death, criminal sexual assault, or bodily injury to that other person or that person's family or household member.

Conduct that can amount to stalking is that which is unwelcome and that would cause a reasonable person to fear for his/her or other's safety, or to suffer other emotional distress. This may include any actions directed at another person, whether done directly, indirectly, through others, via devices, or via any other methods or means (specifically including electronic means), including but not limited to:

- Following a person;
- Being or remaining in close proximity to a person;
- Entering or remaining on or near a person's property, residence, or place of employment;
- Monitoring, observing or conducting surveillance of a person;
- Threatening (directly or indirectly) a person;
- Communicating to or about a person;
- Giving gifts or objects to, or leaving items for, a person;
- Interfering with or damaging a person's property (including pets); or
- Engaging in other unwelcome contact.

VI. Reporting Policies and Protocols

Any victim of ACP's Sexual Misconduct policy has the right to simultaneously file a Title IX complaint with ACP and a criminal complaint with law enforcement. While victims are strongly encouraged to report any incident of sexual violence to the police and/or ACP's Title IX Coordinator so that steps may be taken to protect the victim and the rest of the campus community, non-reporting is also an option.

A. Reporting Incidents to ACP

Incidences of Prohibited Conduct or other Title IX concerns should be reported to ACP's Title IX Coordinator.

Title IX Coordinator:

Dr. Marcy Hernick

Office Phone: (276) 498-5244

Address: 227 McGlothlin Hall (1060 Dragon Rd., Oakwood, VA 24631)

Email: mhernick@acp.edu

Website: <http://www.acp.edu/title-ix-compliance/>

All ACP faculty and staff are required to report allegations of Prohibited Conduct (or potentially prohibited conduct) to the Title IX Coordinator unless they have a recognized confidentiality privilege. VA Code § 23-9.2:15 requires responsible employees to report any information about an act of sexual violence to the Title IX coordinator "as soon as practicable" after addressing the victim's immediate needs. Additionally, any person with knowledge of Prohibited Conduct is encouraged to report the concern to the Title IX Coordinator.

A person may also contact or file a complaint with the US Department of Education, Office for Civil Rights (OCR; Phone: 1-800-421-3481; Email: OCR@ed.gov) regarding an alleged violation of Title IX online at: <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.

B. Reporting Incidents to Law Enforcement

If you are in immediate danger, dial 911. Any victim of ACP's Sexual Misconduct Policy has the right to contact or not to contact the police at any time. If you so desire, ACP's Title IX Coordinator is available to assist you in notifying the police.

Buchanan County Sheriff's Office
Office Phone: (276) 935-0885
Address: 1032 Walnut St, Grundy, VA 24614

Virginia Code § 23-234 requires notification to the commonwealth's attorney of a law enforcement investigation of a felony sexual assault occurring on campus, in a non-campus building or property, or on public property, within 48 hours of beginning an investigation.

C. Confidentiality

All ACP faculty and staff are required to report allegations of Prohibited Conduct (or potentially prohibited conduct) to the Title IX Coordinator unless they have a recognized confidentiality privilege. VA Code § 23-9.2:15 requires responsible employees to report any information about an act of sexual violence to the Title IX coordinator "as soon as practicable" after addressing the victim's immediate needs. Additionally, any person with knowledge of Prohibited Conduct is encouraged to report the concern to the Title IX Coordinator.

Physicians, licensed counselors, clergy, sexual assault counselors and advocates who work or volunteer on or off campus, and who provide medical or mental health treatment or counseling may not report any information about an incident of Sexual, Domestic, or Dating Violence to anyone else at the University, including the Title IX Coordinator, without the victim's consent.

ACP will take steps to preserve the Complainant's and Respondent's privacy and to protect the confidentiality of information except where required by law. All reports and information regarding Prohibited Conduct will be handled discretely, with facts made available only to those who need to know to respond, investigate, and/or resolve the matter.

Any sanctions or interim measures imposed on the Respondent that directly relate to the Complainant/Impacted Party, including but not limited to no contact orders, transfer of class sections, or suspension, will be disclosed to the Complainant/Impacted Party.

In the event ACP cannot take disciplinary action against the alleged harasser because the complainant insists on confidentiality, it will pursue other steps to limit the effects of the alleged harassment and prevent its recurrence.

ACP may need to take action against a perpetrator even if it is against the victim's wishes. In accordance with the 2011 Dear Colleague Letter, ACP will evaluate confidentiality requests in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. Therefore, confidentiality requests will be weighed against the following factors:

- Seriousness of alleged harassment
- Impacted party's age
- Whether there have been other harassment complaints about the same individual
- The alleged harasser or assailant's rights to receive information about the allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99.

ACP undertakes these decisions very carefully and would inform the victim and take appropriate steps to ensure the victim's safety prior to taking any action against the perpetrator.

Virginia Code § 23-234 requires notification to the commonwealth's attorney of a law enforcement investigation of a felony sexual assault occurring on campus, in a non-campus building or property, or on public property, within 48 hours of beginning an investigation.

D. Clery Act

1. **Timely Warnings.** If ACP determines that the Respondent poses a serious and immediate threat to the campus community, a designated Campus Security Authority under the Clery Act may be called upon to issue a timely warning to the community. Any such warning will not include any information that identifies the victim.
2. **Reporting.** All reported crimes that take place on-campus must be recorded and are published in an Annual Security Report. Several crimes must be listed, including:
 - Stalking: ongoing conduct that could cause a reasonable person to fear for the safety of themselves or others, or suffer emotional distress (e.g., following, monitoring, threatening, communicating to or about the victim, or interfering with a victim's property)
 - Intimidation: words or conduct that places the victim in reasonable fear of bodily harm (does not include use of a weapon, which is a different crime under Clery)
 - Dating Violence: threats or actual sexual or physical abuse in a dating relationship
 - Domestic Violence: crime of violence committed by former spouse, cohabiting partner, or someone with whom you share a child
 - Sexual Assault: rape (oral, anal or vaginal), fondling, incest, or statutory rape
 - Hate Crimes: any crime motivated by perpetrator bias against the victim based on race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability (whether actual or perceived)

Clery Act Reports **do not** provide any identifying information about a victim. They include only the date of the report, the date of the crime, and the general location. The Clery Act does not require a college or university that receives a report of a campus crime to initiate an investigation.

E. Interim Measures

ACP will take interim measures prior to conclusion of an investigation or potential disciplinary action to reduce or eliminate the negative impact on individuals who have been the victim of Prohibited Conduct.

Individuals that have experienced Sexual Misconduct may seek reasonable accommodations in their academic, living, transportation, or working situations. Examples include: adjustment to work assignments, course schedules or supervisory reporting relationship; assistance with finding emergency housing; immediately prohibiting the accused from coming to ACP; limitation of extracurricular activities; training or education; prohibiting the accused from contacting the parties involved in the reported incident; or other appropriate actions to stop the Prohibited Conduct, prevent its recurrence, remedy its effect on the Impacted Party or improve ACP policies or practices.

These options may be available to you whether or not you choose to report the sexual violence to campus police or law enforcement. The Title IX Coordinator remains available to assist you and provide you with reasonable remedies requested by you throughout the reporting, investigative, and disciplinary processes, and thereafter.

F. Preservation of Evidence

It is important that any individual that has been victim of sexual assault, domestic or dating violence, or stalking take steps to preserve and collect evidence to safeguard the full range of options available to them through ACP's administrative complaint procedures, criminal prosecution, or for the purposes of obtaining protection orders. If possible, an individual who has been sexually assaulted should seek medical attention immediately and should not shower, bathe, brush their teeth, douche or change clothes or bedding before going to the hospital or seeking medical attention. If the individual decides to change clothes, he or she should not wash the clothes worn during the assault and should bring them to the hospital or medical facility. Do not straighten up the area where the incidence took place or dispose of items that were present during the incident. These steps are important to help preserve evidence for possible use in legal actions or requests for a civil no-contact order and/or an order of protection. Because evidence dissipates quickly, individuals who wish to preserve evidence are encouraged to seek medical attention within 48 hours (and no more than 86 hours) of the incident.

G. Amnesty

Amnesty will not be extended for any violations of ACP policy for victims or witnesses of Prohibited Conduct.

VII. Investigation and Grievance/Adjudication Procedures

ACP is required to investigate and resolve all reports or complaints of Prohibited Conduct under this Policy in a manner that provides for a prompt, fair, and impartial investigation and resolution. A Title IX investigation and grievance/adjudication process should normally be completed within 60 calendar days after ACP has notice of an allegation of Prohibited Conduct.

Violations of this Policy will result in disciplinary actions, include but are not limited to: warnings, fines, educational projects, mandatory training or counseling, no contact orders, termination of employment, suspension, probation, demotion, or dismissal from ACP. The standard that will be used in this Policy for determining whether or not the Prohibited Conduct occurred is a

“preponderance of the evidence” (i.e., whether it is more likely than not that the Respondent has committed the violation).

Please note that any sanctions or interim measures imposed on the Respondent that directly relate to the Complainant/Impacted Party, such as a no contact order, transfer of class sections, or suspension, will be disclosed to the Complainant/Impacted Party.

While an informal mediation process is one option for resolving complaints regarding sexual harassment, mediation CANNOT be used for adjudication of violations that involve sexual violence, including sexual assault.

In addition to ACP’s internal Title IX proceedings, some Prohibited Conducts may also be subject to an external criminal investigation by law enforcement. There is no coordination between ACP and local law enforcement, so victims of Prohibited Conduct that is also subject to criminal charges are encouraged to contact law enforcement. Criminal investigation by law enforcement does not relieve ACP of its duty to resolve internal complaints of Prohibited Conduct. Additionally, ACP may not wait until the conclusion of the police investigation to commence its own investigation, although it may be necessary to temporarily delay the fact-finding portion of the investigation while police gather evidence.

A. Investigation

1. Upon receiving a report or formal complaint regarding Sexual Misconduct, the Title IX Coordinator will meet with the Complainant and/or Impacted Party to go over their rights and make them aware of the resources available to them. The Title IX Coordinator shall investigate the complaint and may obtain assistance with this responsibility from other appropriate persons who are not connected to the complaint.
2. At the start of the investigation, the Title IX Coordinator will advise the Respondent of the allegations against him or her in writing (Notice of Investigation) and a copy of the Notice of Investigation will be provided to the Complainant and/or Impacted Party. The Notice of Investigation will be electronically sent to ACP issued email addresses of the parties. Additionally, hard copies of the Notice will be mailed to the party’s address on record of ACP.
3. The purpose of the investigation is to make a determination of whether Prohibited Conduct occurred; whether there is an ongoing risk of harm for further Prohibited Conduct and if so, to take steps to prevent its recurrence; whether interim measures need to be put in place for the Complainant to redress the effects of Prohibited Conduct; whether interim or safety measures should be put in place to ensure the safety of the ACP community; whether changes to policies, practices, or training should be considered or implemented.
4. In accordance with VA Code § 23-9.2:15, upon receipt of information that an act of sexual violence may have been committed, the Title IX Coordinator, or designee, shall report the information, including any personally identifiable information to a review committee. The review committee shall meet within 72 hours to review the information. If the review committee determines disclosure of the information, including personally identifiable information, is necessary to protect the health or safety of the student or other individuals, the representative of law enforcement on the review committee shall

immediately disclose such information to the law-enforcement agency that would be responsible for investigating the alleged act of sexual violence. The Title IX coordinator or designee shall notify the victim that such disclosure is being made.

5. In the event that the alleged act of sexual violence would constitute a felony violation, the representative of law enforcement on the review committee shall inform the other members of the review committee and consult with the Commonwealth's Attorney within 24 hours.
6. At the conclusion of the investigation, the Title IX Coordinator will submit a report of the investigation along with any recommendations to the Associate General Counsel. The Associate General Counsel, or designee, may follow-up with any witnesses, further investigate the complaint, and/or impose sanctions, if warranted, as outlined in the grievance/adjudication process described below.
7. The Title IX Coordinator and any other appropriate persons involved in the investigation of the complaint will take all reasonable steps to preserve all parties' privacy throughout the investigation except where required by law; however, the investigative process itself will oftentimes require some disclosure of facts and parties in order to discuss witness accounts or seek forensic evidence such as computer-based postings or messages.
8. The Title IX Coordinator or Associate General Counsel may at any time in the process impose interim measures when there is a need to protect the person filing the grievance, or the campus community, from further contact with the Respondent. These may include, but are not limited to, temporary suspensions approved by the Dean or agreements of no contact. If these measures are imposed and subsequent positive resolution of the complaint occurs, ACP may take reasonable restorative steps such as reinstatement, reassignment, promotion, training, back pay, or reinstatement of other benefits as advisable.
9. In accordance with Virginia Code § 23-9.2:18, academic transcripts will indicate with "a prominent notation" if a student has been suspended for, permanently dismissed for, or voluntarily withdraws from the institution while under investigation for an offense involving sexual violence. The notation shall be removed if the student has been found not to have committed an offense of sexual violence or completes the suspension, returns to the university and is in good standing.

B. Grievance/Adjudication Process

1. Within five (5) days of receiving the investigation report from the Title IX Coordinator, the Associate General Counsel, or designee, shall make an initial resolution of the matter and will inform the parties of this resolution based on "preponderance of evidence". The Title IX Coordinator shall receive a copy of the initial resolution, along with the findings of any subsequent disciplinary proceedings regarding Title IX complaints. The initial resolution will consist of a determination of fact, determination of the merits of the allegation, imposition of sanctions (if appropriate), and any other appropriate information regarding the investigation. The five (5) day timeline may be extended by ACP if all parties are provided written notice to their addresses of record. The

resolution will be electronically sent to the ACP issued email addresses of the parties involved to ensure simultaneous notification of all parties. Additionally, hard copies of the resolution will also be mailed to the party's address on record at ACP.

Possible sanctions include but are not limited to the following: warnings, fines, educational projects, mandatory training or counseling, no contact orders, termination of employment, suspension, probation, or dismissal from ACP. Sanctions requiring administrative action (*e.g.*, termination of employment, suspension, probation, dismissal) will be executed by the Dean.

If any party involved is unsatisfied with the Associate General Counsel's, or designee's, initial resolution of the complaint, the Complainant or Respondent may request that ACP hold a hearing on the complaint. This request must be made within five (5) working days of the issuance of the initial resolution.

2. If a hearing is held, the following procedural rules shall apply:
 - a) The hearing shall be held within five (5) working days of the request for the hearing. The five-day timeline may be extended by ACP if all parties are provided written notice to their addresses of record.
 - b) The President, or designee, shall preside over the hearing.
 - c) The two parties to the hearing are as follows:
 - i. The Complainant, or his or her designee who shall state his or her complaint;
 - ii. The person the complaint was brought against, the Respondent.
 - d) The order of the hearing shall be as follows:
 - i. Reading of the complaint.
 - ii. A statement by the Complainant or designee.
 - iii. A statement by the Respondent or designee.
 - iv. Presentation of evidence and witnesses by both parties.
 - v. Closing comments of the complaint or designee.
 - vi. Reply by the Respondent or designee
 - e) A record of the hearing shall be created.

The Complainant and Respondent or their designee may not directly address or cross-examine each other during the hearing. Each party may submit questions in advance to the hearing Chair for the other party to answer. ACP will accommodate Complainants who do not wish to be present in the same room as the Respondent upon request.

If the alleged Sexual Misconduct is subject to related criminal charges, the Complainant and Respondent will be allowed to have an attorney for advisory purposes at the any hearing(s). The attorneys may consult with or advise the Complainant or Respondent, but not directly participate in the hearing.

3. Upon completion of the hearing, the President, or designee, shall make a decision in writing on the validity of the complaint and the appropriate institutional response thereto, if any, within five (5) calendar days. The five-day timeline may be extended by ACP if all parties are provided written notice to their addresses of record. Both the Complainant and Respondent will receive simultaneous written notice of the outcome of the disciplinary hearing, ACP's appeal procedures, any change to the results made before the results are final, and written copy of the final results. Absent an appeal to the

ACP Board Chair, the decision of the President, or designee, is final. Notifications will be electronically sent to ACP issued email addresses of the parties involved to ensure simultaneous notification of all parties. Hard copies of the notifications will also be mailed to the party's address on record at ACP.

4. Any party, if not satisfied with the decision of the President, or designee, may appeal that decision in writing to the Chair of ACP's Board of Trustees provided that notice of appeal is received by the Chair within five (5) working days from the date of the President's, or designee's, written decision. The Chair, or designee, shall review the record of the proceeding and conduct further investigations as are deemed appropriate. The Chair, or designee, shall consider all information to ensure the outcome provided for fundamental fairness and take one of the following actions: concur with sanctions, reduce or rescind sanctions, or resubmit the complaint to the President, or designee, with appropriate instructions. The decision of the Chair, or designee, shall be final and shall be rendered in writing within five (5) calendar days of the appeal. The decisions of the Chair, or designee, will be electronically sent to ACP issued email addresses of the parties involved to ensure simultaneous notification of all parties. Hard copies of the decisions will also be mailed to the party's address on record at ACP.
5. The records of all complaints, all complaint hearings, and all final decisions on complaints will be kept by the President, Associate General Counsel, and Title IX coordinator for a period of not less than five (5) years, and these records will be made available to others only with the express and specific approval of the Associate General Counsel or the President or upon a subpoena from an authorized agency.

C. Rights of the Complainant/Impacted Party and Respondent

1. Both the Complainant/Impacted Party and Respondent have an opportunity to respond to the Notice of Investigation in writing and in a meeting with the Title IX Coordinator.
2. Both the Complainant and Respondent are entitled to an equal opportunity to be accompanied by an advisor of their choice at any internal disciplinary procedure. The advisor may assist the student through the process. The faculty advisor may attend the hearing(s) but is prohibited from providing legal advice (i.e. interpretation of or advice regarding state or federal law, legal rights, regulations, or procedure), conducting his or her own investigation, questioning any party or witness before or during the hearing, testifying as a fact witness, or attempting to have any influence upon the decision making process.

If the alleged Sexual Misconduct is subject to related criminal charges, the Complainant and Respondent will be allowed to have an attorney for advisory purposes at the any hearing(s). The attorneys may consult with or advise the Complainant or Respondent, but not directly participate in the hearing.

3. Both the Complainant and Respondent are entitled to an equal right to request that the Title IX coordinator meet with relevant witnesses and evaluate relevant documentary or other evidence.
4. Both the Complainant and Respondent have equal rights to see each other's written statements and to present evidence and witnesses, including character witnesses,

during the hearing.

5. Both the Complainant and Respondent have equal rights to submit questions for the other party in advance, to the hearing Chair. The Complainant and Respondent or their designees may not directly address or cross-examine each other during the hearing.
6. Both the Complainant/Impacted Party and Respondent will receive simultaneous written notice of the outcome of the disciplinary hearing, ACP's appeal procedures, any change to the results made before the results are final, and written copy of the final results.
7. Both the Complainant/Impacted Party and Respondent are entitled to appeal the outcome of any decision outlined in the Grievance/Adjudication process.

D. Training and Conflicts of Interest

1. All procedures involving the investigation and grievance process for Sexual Misconduct will be conducted by officials that receive annual training on issues related to sexual assault, domestic violence, dating violence, and stalking, as well as how to conduct a hearing process that protects victim safety and promotes accountability.
2. If any official involved in the processes of handling Sexual Misconduct complaints is a party to the grievance or in some other way is not capable of making a fair and impartial judgment on the complaint, the President shall appoint an impartial ACP employee with the appropriate training to perform the role of the that individual in the complaint process.
3. If the President is a party to the complaint or in some other way is not capable of making a fair and impartial judgment on the complaint, the Chair of the Board shall appoint an impartial ACP employee with the appropriate training to perform the role of the President in the complaint process.
4. If the Chair is a party to the complaint or in some other way is not capable of making a fair and impartial judgment on the complaint, the Board's vice-Chair or his designee from among the members of the Board of Trustees shall perform the role of the Chair in the complaint process.

VIII. Retaliation

Title IX includes protections against retaliation for the purpose of interfering with any right or privilege secured by these laws. It is a violation of Appalachian College of Pharmacy policy to retaliate against any person making a complaint of Prohibited Conduct or against any person cooperating in the investigation of any such allegation. ACP will take appropriate measures to prevent retaliation against a student that files a complaint or against those who provide information as witnesses AND will take strong, prompt responsive action if it occurs, including disciplinary action. Any incidences of retaliation should promptly be reported to the Title IX Coordinator or Campus Security Authority (CSA). The CSA must notify the Title IX Coordinator of any incidences of retaliation along with subsequent actions that were taken.

IX. Prevention and Education

The Appalachian College of Pharmacy prohibits acts of sexual violence, domestic violence, dating violence, and stalking. In an effort to prevent such acts from occurring, the Title IX coordinator is responsible for providing training and educational programs to all ACP employees and students, including Primary Prevention programs for new students and employees, as well as ongoing prevention and awareness campaigns for current students and employees.

These programs may include, but are not limited to:

- Climate surveys of students and employees
- ACP policies and procedures regarding Sexual Misconduct
- Common facts and myths about the causes of Sexual violence
- Safe options for bystander intervention
- Methods to encourage peer support for victims
- How to recognize the warning signs of abusive behavior to avoid potential risks
- Resources available for victims of Sexual Misconduct