

# College-Wide Policy Against Sex Discrimination, Sexual Harassment, Sexual Assault and Other Forms of Sexual Violence, Dating Violence, Domestic Violence and Stalking

Washington & Jefferson College is committed to maintaining a learning, working and living environment free from all forms of sexual misconduct including sex discrimination, sexual harassment, sexual assault and other forms of sexual violence, dating violence, domestic violence and stalking. In this Policy "sexual misconduct" is intended to refer to a broad range of conduct focused on sex and/or gender that may or may not be sexual in nature. Sexual harassment, sexual assault, sexual exploitation, stalking, and relationship violence are all forms of sexual misconduct prohibited by law and this Policy.

The College does not discriminate on the basis of sex in the education programs or activities it operates, and is required by Title IX not to discriminate in such a manner. This form of misconduct is specifically prohibited by Washington & Jefferson, as is retaliation for having brought forward a concern or allegations under this policy. This policy applies to and protects all members of the College community (all students, faculty and staff) as well as to individuals not directly affiliated with the College (e.g. contractors, vendors and visitors). This policy also applies to off-campus conduct which may affect the campus community or may affect any student's access to or participation in the College's educational programs, extra-curricular activities and athletics.

The college has an obligation to address allegations and suspected instances of sexual misconduct when it knows or should have known information that would lead a reasonable person to believe that this policy has been violated. The College may take any action it deems appropriate, including informing the accused of the allegations and pursuing an investigation even in cases when the complainant is reluctant to proceed. The complainant will be notified in advance when such action is necessary. The college's disciplinary response may be limited if the accused is a visitor or other third party or is not subject to the college's jurisdiction.

Violations of this policy can occur regardless of sexual orientation or gender identity and regardless of whether the complainant and respondent are members of the same sex. Although sexual harassment often involves a supervisory relationship or teacher/student relationship, all forms of misconduct covered by this policy can also be committed by a student against a faculty member, by an employee against a supervisor, by an employee against a peer employee, or by a student against another student. Under federal, state and local laws (including, without limitation, Title IX of the Education Amendments of 1972), the College has an affirmative duty to address the issue of sexual assault and the other forms of misconduct covered by this policy; to devise and adopt appropriate procedures for maintaining an environment free of sexual harassment, coercion or intimidation; and to investigate claims of alleged violations of this policy. This policy is intended to implement this mandate, and represents the College's commitment to take prompt, effective steps to address sexual harassment, sexual assault and other forms of sexual violence by stopping the misconduct, preventing its recurrence, and addressing its effects.

All members of the College community are expected to take reasonable measures to prevent and discourage any sexual harassment from occurring. Prevention should, in particular, be a guiding concern for all involved in any proceedings under this policy. Any faculty member, student, staff employee, vendor or visitor found to have violated this policy will be subject to appropriate disciplinary and/or corrective action, which may include expulsion from school or termination of employment.

## **Reporting: Who You Should Contact**

Members of the College community who are aware of conduct that violates this policy, whether they observe the conduct directly or otherwise learn about it, should report it to a Title IX Coordinator or one of the Title IX Investigators listed below. Responsible employees (as defined below) are obligated by this policy to report such conduct to assure the matter is handled promptly and appropriately by trained personnel and that appropriate corrective, protective, and remedial actions may be taken as warranted, including interim measures.

## **Student Requests for Confidentiality:**

A student reporting an incident of alleged sexual violence might ask that his/her name not be disclosed to the alleged perpetrator or that no investigation or disciplinary action be pursued to address the alleged sexual violence. In such cases, the Title IX Coordinator will inform the student that honoring the request may limit the College's ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator, and will explain that this policy and the law include protections against retaliation. If the student still requests that his or her name not be disclosed to the alleged perpetrator or that the College not investigate or seek action against the alleged perpetrator, the Title IX Coordinator will determine whether or not the College can honor such a request while still providing a safe and nondiscriminatory environment for all students, including the student who reported the incident of alleged sexual violence. Factors that may be considered in evaluating such requests include, but are not limited to, the nature and seriousness of the alleged harassment and whether there have been other complaints or reports of harassment against the same alleged harasser.

## **Title IX Coordinator and Investigators:**

If you believe you are a victim of some form of sex discrimination, sexual harassment, sexual assault or other forms of sexual violence, domestic violence, dating violence or stalking, the College's Title IX Coordinator and the Title IX Investigators are available to provide information to you about the processes under this policy for dealing with such concerns and complaints, and also to provide information about other resources that may be available to you. Questions regarding Title IX may be directed to the College's Title IX Coordinator or to the Office of Civil Rights. The Title IX Coordinator has authority to investigate complaints and is responsible for overseeing the processing of complaints of alleged violations of this policy, and for identifying and addressing patterns of alleged sex discrimination, sexual harassment/violence and systemic problems. The Title IX Coordinator must be knowledgeable about other applicable federal and state laws that overlap with Title IX.

The following individuals serve as the College's Title IX Coordinator and Title IX Investigators, and are available to speak with anyone who wishes to bring forward a concern or complaint under this policy:

## **Title IX Coordinator:**

Robert Allison  
Director of Human Resources  
Washington & Jefferson College  
60 S. Lincoln Street  
Thompson Hall 3<sup>rd</sup> Floor  
Washington, PA 15301  
(724) 250-3539  
[rallison@washjeff.edu](mailto:rallison@washjeff.edu)

**Title IX Compliance Liaison:**

Eva Chatterjee-Sutton  
Vice President of Student Life & Dean of Students  
Washington & Jefferson College  
60 S. Lincoln Street  
Office of Student Life  
Washington, PA 15301  
(724) 223-1360

*The role of the Title IX Compliance Liaison will be to consult with the Title IX Coordinator regarding matters related to training and policy development for the Title IX Office and the College at large. The Title IX Coordinator remains primarily responsible and has ultimate oversight regarding the College's compliance with Title IX.*

**Title IX Investigators**

Jill Gregory  
Student Success & Student Athlete Recruitment Coordinator  
Washington & Jefferson College  
Rossin Campus Center  
60 S. Lincoln Street  
Washington, PA 15301  
(724) 503-1001, Ext. 3059  
[jgregory@washjeff.edu](mailto:jgregory@washjeff.edu)

Ketwana Schoos  
Assistant Dean of Student Life Inclusive Campus Engagement  
Washington & Jefferson College  
60 S. Lincoln Street  
Rossin Campus Center 316  
Washington, PA 15301  
(724) 503-1001, Ext. 3540  
[kschoos@washjeff.edu](mailto:kschoos@washjeff.edu)

Kaley Wood  
Human Resources Specialist  
Washington & Jefferson College  
Thompson Hall 3rd Floor  
60 S. Lincoln Street  
Washington, PA 15301  
(724) 503-1001, Ext. 3012  
[kwood@washjeff.edu](mailto:kwood@washjeff.edu)

Dana Shiller  
Associate Dean of the Faculty  
Washington & Jefferson College  
Thompson Hall 2<sup>nd</sup> Floor  
60 S. Lincoln Street  
Washington, PA 15301  
(724) 503-1001, Ext. 5265  
[dshiller@washjeff.edu](mailto:dshiller@washjeff.edu)

Jomara Coghlan  
Head Coach Field Hockey  
Washington & Jefferson College  
Henry Gymnasium 339

60 S. Lincoln Street  
Washington, PA 15301  
724-503-1001, Ext. 3007  
[jcoghlan@washjeff.edu](mailto:jcoghlan@washjeff.edu)

Justin Dandoy  
Director of Community Engagement  
Washington & Jefferson College  
Commons 003  
60 S. Lincoln Street  
Washington, PA 15301  
(724) 503-1001, Ext. 3086  
[jdandoy@washjeff.edu](mailto:jdandoy@washjeff.edu)

### **Resources:**

Law Enforcement Resolution Options

In addition to making a report with the College, the College encourages complainants to pursue criminal action for incidents of sexual misconduct that may also be crimes under Pennsylvania law. Complainants can bring criminal charges through the criminal justice system and use the College's resolution procedures simultaneously.

Washington Police Department: 724-223-4200

East Washington Police Department: 724-222-2929

Campus & Public Safety: 724-223-6032

Victims of sexual assault and other forms of sexual violence, domestic violence, dating violence and stalking may contact Campus & Public Safety 24 hours a day at 724-223-6032 or by dialing 911 from a campus phone. Calling 911 from a cell phone will route calls to a Washington County 911 dispatcher who will appropriately route calls from there.

### **On-Campus Resources**

Campus Crisis Hotline: 724-223-6500

Advocates for Sexual Assault Prevention: [asap@washjeff.edu](mailto:asap@washjeff.edu)

Campus & Public Safety: 724-223-6032

Office of Student Life: 724-223-1360

Student Health & Counseling Services: 724-223-6107

### **Off-Campus Resources**

Washington Hospital: 724-225-7000

Southwestern Pennsylvania Human Services CARE Center: 1-888-480-7283

Washington County Crisis Line: 877-225-3567

Domestic Violence Services of Southwestern PA - 24 Hour Hotline 724-223-5481

Title IX is enforced by the Department of Education's Office for Civil Rights. For information on how to file a discrimination complaint with the Office of Civil Rights, see: <http://www2.ed.gov/about/offices/list/ocr/docs/howto.pdf> or calling 1-800-421-3481.

### **Confidential Resources:**

There are also confidential resources available on campus. Those confidential sources include counselors and psychologists in the employee assistance program and student health services. Because the content of discussions with confidential resources is not reported to other offices on campus, such discussions do not serve as notice to the College to address alleged sexual discrimination, sexual harassment, sexual violence and/or other forms of alleged misconduct under this policy.

Contacts:  
Advocates for Sexual Assault Prevention: [asap@washjeff.edu](mailto:asap@washjeff.edu)

Student Health and Counseling Center, New Residence Hall, Ground Floor: 724-223-6107

Employee Assistance Program: 877-240-6863

### **Retaliation is Strictly Prohibited**

The college will not tolerate retaliation in any form against any individual who makes an allegation, files a report, serves as a witness, assists a complainant, or participates in an investigation of discrimination or harassment. Any conduct constituting retaliation is a violation of this policy and is equally subject to disciplinary action under it. Any person subjected to conduct perceived as retaliation for initiating an inquiry or lodging a complaint in good faith regarding an alleged violation of this policy should promptly report all relevant information to a Title IX Coordinator or one of the Title IX Investigators listed above. The College will take steps to prevent retaliation and will also take strong responsive action if the College finds that retaliation has occurred.

### **Options for Resolution**

Individuals making reports of alleged violations of this policy will be informed about options for resolving potential violations. These options include informal dispute resolution, referral to other College offices or programs (where appropriate), formal investigation pursuant to this policy, and availability of resources outside the College process.

Complainants will be informed about the range of possible outcomes, including interim protections, remedies for the individual harmed by the alleged misconduct, and disciplinary actions that might be taken against the accused as a result of the report, including information about the procedures leading to such outcomes.

### **Interim Remedial Measures**

Interim remedial measures may include, but are not limited to: changes in housing assignments, changes in course scheduling, alternative employment conditions, no contact orders, and other measures specifically calculated to remediate any harassment.

In consultation with, and approval of the Title IX Coordinator, a "no contact order" may be issued. No contact orders shall be issued in writing, with notice to both parties. The Department of Campus & Public Safety will be notified of all issued no contact orders. Under the terms of such an order, both the parties are prohibited from communicating with each other. This pertains to direct contact and all forms of communication, including but not limited to email, social networking sites, phone, instant messaging, and any contact through third parties. All parties have the option of pursuing a protective order from a court of relevant jurisdiction at all times. A no contact order may be valid pending the outcome of the investigation, or for a time period specified by the Title IX Coordinator.

In the handling of inquiries and complaints under this policy, the College will protect confidentiality to the extent consistent with the College's legal obligations to take all reasonable steps to conduct an effective investigation of claims, and to protect the welfare of the College community.

Telling one's experience to the Title IX Coordinator does not obligate the individual to report it to the police, nor does reporting it to the police obligate someone to file a complaint under this policy – these are separate processes. College process and criminal process can occur simultaneously or they can occur independently. If a victim would like to notify law enforcement, the Title IX Coordinator (or designee) can assist with that notification. The College encourages victims of sexual assault and other forms of sexual violence, dating violence, domestic violence and stalking to report those matters to the police.

In sum, students who believe that they have been the victim of sexual assault or other sexual misconduct have the right to: (1) notify proper law enforcement authorities, including on-campus and local police; (2) be assisted by campus authorities in notifying law enforcement authorities if the student so chooses; and (3) decline to notify such authorities.

### **Preservation of Evidence**

The preservation of evidence in incidents of sexual violence is critical and particularly time-sensitive. Evidence preservation is important in the event a complainant decides to report a crime, seek a protective/restraining order, file a civil lawsuit, or report to the College immediately after an incident occurs or at a future date. It is important to keep records, documentation, or other types of evidence of the incident whether it is a repeated occurrence or a onetime event. An individual who has been sexually or physically assaulted should do everything possible to preserve any evidence of the incident and injuries.

To preserve evidence, it is recommended that you do not bathe, shower, douche, eat, drink, smoke, brush your teeth, urinate, defecate, or change clothes before receiving medical attention. Even if you have already taken any of these actions, you are still encouraged to have prompt medical care, and evidence may still be recoverable.

### **A) Procedures for Informal Resolution**

The College encourages informal resolution when the parties desire to resolve the situation cooperatively. Informal resolution may include an inquiry into the facts, but typically does not rise to the level of a formal and comprehensive investigation.

Informal resolution includes, but is not limited to, options such as referral to another campus office or program, mediation, separation of the parties, referral of the parties to counseling programs, conducting targeted educational and/or training programs, or other remedial measures. Situations that are resolved through informal resolution are usually subject to follow-up after a period of time to assure that resolution has been implemented effectively. Steps taken by the Title IX Coordinator or Title IX Investigators to help the parties achieve informal resolution will be documented.

Some reports of alleged sex discrimination, sexual harassment or sexual violence may not be appropriate for informal resolution, but may require a formal investigation at the discretion of the Title IX Coordinator. Also, the Office for Civil Rights of the U.S. Department of Education has taken the position that mediation is not an appropriate mechanism for resolution in cases of alleged sexual assault.

### **b) Procedures for Formal Investigation**

In response to reports of alleged sex discrimination or sexual misconduct in cases where the complainant does not wish to engage in informal resolution, where informal resolution is not appropriate, or in cases where attempts at informal resolution are unsuccessful, a formal investigation will be conducted. In such cases, unless a written complaint has already been submitted, the individual making the report (here termed the "Complainant") should file a written, signed complaint containing the relevant allegations against a person (here termed the "Respondent"). The written complaint shall be submitted to the Title IX Coordinator. The Title IX Coordinator will manage this process.

The following general principles and procedures shall govern this process:

1. All persons concerned are to be treated with respect and impartiality. Procedures are to be fair, both in substance and in perception, to all persons concerned, to the various constituencies, and to the College community.
2. The Title IX Coordinator shall appoint an investigator or investigators and shall inform the complainant and the respondent of their identity and shall provide the respondent with a copy of the written complaint. The investigation and adjudication of complaints under this policy will be prompt, fair and conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
3. The investigator(s) shall conduct a thorough investigation of the allegations in the complaint with a view to (a) determining whether any conduct alleged in the complaint did occur in the manner and circumstances alleged or otherwise; and (b) to the extent that alleged misconduct did occur, determining whether the conduct constitutes a violation of this policy.
4. The investigation generally shall include interviews with the parties, interviews with other witnesses as needed, and a review of relevant documents as appropriate. Disclosure of facts to non-party witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation.
5. The investigator(s) shall give both the complainant and the respondent an opportunity to be heard, to provide documentation and other evidence to the investigator(s), and to suggest the names of other persons who they believe may have relevant information. The respondent will receive written notice of the allegations with sufficient time to prepare a response before the initial interview. The complainant and the respondent will be provided equal access to relevant information and documents regarding the investigation, usually after the investigation has been completed.
6. Interim measures may be available before the final outcome of an investigation to ensure equal access to the college's education and employment programs and activities, and to protect the complainant when necessary. At any time during the investigation, the investigator(s) may recommend to the Title IX Coordinator that interim protections or remedies be provided by appropriate College officials. These protections or remedies may include (but are not limited to) separating the parties, placing limitations on contact between the parties, or making alternative workplace, student housing, transportation, extracurricular or academic arrangements where reasonable and feasible. Failure to comply with the terms of interim protections may be considered a separate violation of this policy.
7. The investigation shall be completed as promptly as possible and in most cases within 60 calendar days of the date the original complaint was received. This will vary depending on the complexity of the investigation and the severity and extent of the alleged sexual misconduct. In the event that an investigation cannot be completed within 60 calendar days, the parties shall be notified in writing.
8. After concluding the investigation, the investigator(s) shall record his/her findings and recommendations in a written report. In making findings, the investigator(s) shall use a "preponderance of the evidence" standard (which means it is more likely than not that a violation has occurred). The investigator's recommendations may include, but are not limited to, educational programs, counseling/coaching, remedies for the complainant, and/or a referral to applicable campus disciplinary procedures, if and as appropriate. The written report shall be submitted to the Title IX Coordinator, who shall inform the complainant and the respondent of the completion of the investigation and will provide a copy of the investigator's written report to each of them simultaneously.
9. The Title IX Coordinator shall evaluate the findings and recommendations of the investigator(s) and recommend appropriate action, based on that evaluation, in accordance with the provisions of this policy and other applicable College policies and procedures. The Title IX Coordinator's evaluation and recommendations shall be submitted to the appropriate vice president(s) of the units where the complainant and respondent are located. Final decisions with respect to actions to be taken will be made by the appropriate vice presidents. Reports and recommendations for student complaints are reviewed by the Vice President for Student Life for final decisions and implementation.
10. The Title IX Coordinator's recommendations as well as final decisions of the appropriate vice presidents will be communicated in writing to both the complainant and the respondent simultaneously. The appropriate actions will be implemented consistent with the Corrective Actions and Disciplinary Procedures section of this policy.
11. Appropriate sanctions and corrective actions will be implemented on a case-by-case basis for violations of this policy. The College also will take appropriate steps to prevent recurrence of any violations and to remediate the effects on the complainant and others in the campus community, if and as appropriate.
12. No person shall make an allegation that he or she knows to be untrue or knowingly provide false information during the course of an investigation. Intentionally making a false complaint or giving false information is a violation of this policy and may be a basis for discipline, up to and including expulsion from school or termination from employment.
13. The College will respect the privacy of students involved in this process by sharing information only with those who need to know the information. The privacy of student information is protected by the Family Educational Rights and Privacy Act ("FERPA"), and nothing in this policy or process would violate FERPA.

### **Appeals**

Both parties have a right to appeal the decision of the investigator within 5 business days after receiving the decision notification letter. Appeals

are not granted automatically. A request for appeal must be well-reasoned, substantive, and demonstrative of one of the following criteria:

- That there was a substantive procedural error that may have prohibited the investigation from being conducted fairly. Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results.
- New evidence that was not available during the investigation has become available, and is potentially sufficient to alter a decision.

Appeals will be coordinated by the Title IX Compliance Liaison. Appeals will be concluded in one of the following manners:

1. If it is determined that neither of the appeals criteria have been met, the appeal request will be denied, thereby upholding the investigation report findings and sanctions (if applicable).
2. If it is determined that new information not previously available needs to be considered, the matter will be remanded to the Title IX investigator(s) for further consideration. Parties will be allowed to respond to new information and new findings as the report is issued.
3. If it is determined that there was a procedural error that had a significant impact the outcome, the matter will be remanded to take corrective action to remedy the error.

### **Additional Points Relevant to Complaints of Alleged Violations of this Policy**

The Title IX Coordinator may accommodate concerns regarding the personal safety, well-being and/or peace of mind of the Complainant, Respondent, and/or any witness(es) during the above-described process.

If found responsible, the Respondent will be subject to sanctions based on the findings and severity of the incident. In cases where it is determined that a violation of this policy has occurred, student disciplinary action may range from (but is not limited to) coaching/counseling, verbal or written warning, suspension or expulsion from residence halls and/or dining facilities, suspension or exclusion from extracurricular or co-curricular activities, community service, suspension or expulsion from the College. All decisions concerning sanctions are made on a case-by-case basis based upon the specific findings in a particular case.

After any report of an alleged sexual assault, the Title IX Coordinator may recommend that interim protections or remedies be provided by the College. These interim protections and remedies may include (but are not limited to) separating the parties, placing limitations on contact between the parties, limiting/restricting access to campus events and/or facilities, making alternative housing, extracurricular or academic arrangements where reasonable and feasible, and/or imposing an interim suspension to ensure the safety of all students involved until the issue is resolved.

### **Role of Advisors**

The respondent and complainant may be assisted during meetings under this policy by an advisor of their choice. The respondent and complainant may present witnesses and may produce other evidence for consideration. The respondent and complainant are responsible for presenting evidence on their own behalf. Advisors may speak privately to their advisee, respondent or complainant, during the investigation. Either party may request a brief recess to consult with their advisor. Advisors for the respondent and complainant may not present evidence or question witnesses.

### **Corrective Action and Disciplinary Procedures**

Possible sanctions for students resulting from a policy violation are listed above (under "Additional Points Relevant to Complaints of Alleged Violations of this Policy). Possible corrective actions for faculty and staff range from an oral warning to termination of employment. Both the complainant and the respondent shall be informed of the outcome of the corrective action or disciplinary process.

Guests and other third parties who are found to have violated this policy will be subject to corrective action deemed appropriate by the College, which may include removal from the campus/campus owned properties and termination of any applicable contractual or other relationships with the College.

### **Definitions**

**Consent** means words or actions that show an active, knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Consent cannot be gained by force, by coercion, by ignoring or acting in spite of the objections of another, or by taking advantage of the incapacitation of another, where the actor knows or reasonably should have known of such incapacitation. Intoxication is not an excuse for failure to obtain consent. Consent is also lacking when the activity in question exceeds the scope of consent previously given.

**Dating Violence** is any act of violence committed by a person who is or has been in a romantic or intimate relationship with the victim. The existence of such a relationship shall be determined based on the type, length, interactions and frequency of interactions between the persons involved in the relationship. Two people may be in a romantic or intimate relationship regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context would constitute a romantic or intimate relationship.

**Domestic violence** is knowingly, intentionally or recklessly causing bodily injury of any kind, causing fear of bodily injury of any kind, assault (sexual or not sexual), rape, sexually abusing minor children, or knowingly engaging in a repetitive conduct toward a certain person (i.e. stalking) that puts them in fear of bodily injury. These acts can take place between current or former family or household members, sexual partners or those who share biological parenthood in order to qualify as domestic violence.

**Hostile Environment** A hostile environment exists when sexual or sex-based harassment is sufficiently serious to deny or limit a student's ability to participate in or benefit from the College's programs or activities or has the effect of unreasonably interfering with an employee's work performance or altering the terms and conditions of the employee's employment. A hostile environment can be created by anyone involved in a College program or activity (e.g., staff, faculty members, students, and campus visitors).

In determining whether sex-based harassment has created a hostile environment, the College 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 the College 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 determine whether a hostile environment exists for a student or employee, the College will consider a variety of factors related to the severity, persistence, or pervasiveness of the sex-based 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 the student's education or the employee's employment. The more severe the sex-based 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 sex-based harassment is not particularly severe.

**Incapacitation** is the inability, temporarily or permanently, to give consent, because the person is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, or the person is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. Some signs of incapacitation may include, but are not limited to, lack of control over physical movements (e.g., stumbling, falling down), lack of awareness of circumstances or surroundings, the inability to speak or communicate orally, or the inability to communicate for any reason.

It is a violation of this Policy to engage in sexual activity with a person who is incapacitated, regardless of whether the person appeared to be a willing participant. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication.

**Responsible Employee:** A "responsible employee" for purposes of this policy includes all College employees except for the professional counselors in the Counseling Center and professional staff in the Health Center. Responsible employees have an obligation to promptly report incidents of sexual violence or other types of misconduct prohibited by this policy to the Title IX Coordinator or one of the Deputy Title IX Coordinators listed above. The report should include all relevant details about the alleged incident that a student or another person has shared with the responsible employee, including the name of the alleged perpetrator (if known), the student or other member of the campus community who experienced the alleged misconduct, others involved in the incident as well as the date, time and location of the incident. Before a student reveals this type of information to a responsible employee, the responsible employee should make every effort to ensure that the student understands the employee's reporting obligation and the student's option to request that the College maintain his or her confidentiality (which request would be considered by the Title IX Coordinator), and the student's ability to share the information confidentially with certain individuals on campus (i.e., the professional counselors) or with off-campus sexual assault resource centers, advocates and health care providers.

**Sex discrimination** means differential treatment based on sex.

**Sexual harassment** includes any unwelcome sexual advances, requests for sexual favors, or other visual, verbal or physical conduct of a sexual nature. Sexual harassment also includes unwelcome sexual conduct when:

1. submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment or student status in a course, program or activity; or
2. submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual; or
3. such conduct has the purpose or effect of interfering with an individual's work or educational performance; or of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from an educational program or activity.

Examples of conduct that may constitute sexual harassment as defined above may include, but are not limited to, 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.

Verbal conduct:

- Making or using derogatory comments, epithets, slurs, or humor
- Verbal abuse of a sexual nature; graphic verbal commentaries about an individual's body; sexually degrading words used to describe an individual; suggestive or obscene letters, notes, or invitations.
- Offensive comments of a sexual nature, including sexually explicit statements, questions, jokes, or anecdotes.

Visual conduct:

- Leering; making sexual gestures; displaying suggestive objects or pictures, cartoons, or posters in a public space or forum.
- Visual displays of suggestive, erotic, or degrading, sexually oriented images that are not pedagogically appropriate.

Written conduct:

- Letters, notes or electronic communications, including social media, containing comments, words, or images described above.

Quid pro quo conduct:

- Offering employment or academic 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.

**Sexual Violence** is a form of sexual harassment and it includes but is not limited to rape, sexual assault, sexual battery and sexual coercion (which is the act of using pressure or force to have sexual contact with someone who has already refused). It is a violation of this policy to have sexual contact with any member of the community without that person's clear and voluntary consent, or where that person is incapable of giving consent.

**Sexual Assault** includes any type of sexual activity perpetrated against a person's will, where that person does not give clear and voluntary consent or where the person is incapable of giving consent due to drug or alcohol use or due to intellectual or other disabilities. Sexual penetration includes: vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact); no matter how slight the penetration or contact. All such acts of non-consensual sexual intercourse are forms of sexual assault, and therefore sexual misconduct, under this policy.

**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; electronically recording, photographing, or transmitting intimate sounds or images of another person; and/or allowing third parties to observe sexual acts. Examples of sexual exploitation include, but are not limited to, the following:

- Observing another individual's nudity or sexual activity or allowing another to observe nudity or sexual activity without the consent of all parties involved in a place where the individual being observed would have a reasonable expectation of privacy;
- Recording, streaming, or photographing private sexual activity and/or a person's nudity, or distribution of such without the consent of all parties involved;
- Prostituting another individual; and/or Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

**Stalking** means intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional distress. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy, or alarm him or her. Examples of stalking may include, but are not limited to:

- Unwelcome/unsolicited communication including in-person communication, telephone calls, voice messages, text messages, e-mail messages, social networking site postings, instant messages, postings, written letters, gifts or other communications;
- Following, pursuing, waiting or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by a complainant;
- Surveillance and other types of observation, whether by physical proximity or electronic means;
- Trespassing;
- Vandalism;
- Non-consensual touching;
- Direct physical and/or verbal threats against a complainant or someone close to the complainant;
- Gathering of information about a complainant from family, friends, or co-workers and/or classmates;
- Manipulative and controlling behaviors such as threats to harm oneself;
- Defamation or slander against the victim; or
- Using a third party or parties to accomplish any of the above.

### **Statement on Privacy**

The College recognizes and respects the sensitive nature of incidents that revolve around the issues of sexual assault and sexual harassment. The College will make every effort to protect the privacy of those involved and will comply with all applicable state and federal privacy laws concerning student and health information. Personally identifiable information regarding incidents or complaints of sexual assault or relationship violence will not be publicly released, except where required by law or court order. Personally identifiable student information is protected by the Family Educational Rights and Privacy Act (FERPA). Statistical crime reporting required by the Clery Act does not include personally identifiable information.

However, the College cannot guarantee absolute confidentiality when the College is obligated to disclose information to any government agency or when protecting confidentiality compromises the College's ability to protect the rights of other members within the campus community.

### **Education and Training**

Washington & Jefferson College's ongoing, campus wide initiative to educate all members of the college community about policies and procedures regarding sex discrimination, sexual harassment and sexual violence and about Title IX includes the dissemination of policies and procedures through email and website announcements, information provided in recruitment advertisements, and information provided in the college catalog. All incoming students, student leaders (members of Greek organizations, athletes, RAs, and LINKs) and employees are required to participate in training programs, and all members of the college community are encouraged to participate throughout the year in ongoing

campaigns and trainings focused on the prevention of sexual misconduct on campus. The Title IX Coordinators and Title IX Investigators are appropriately trained and possess comprehensive knowledge in all areas over which they have responsibility in order to effectively carry out their responsibilities, including the College's policies and procedures on sex discrimination and all complaints raising Title IX issues throughout the institution.

### **Annual Reporting**

The Title IX Coordinators and Title IX Investigators are responsible for maintaining records relating to reports, investigations and resolutions of complaints of alleged violations of this policy. Records shall be maintained in accordance with College records policies, generally for at least six years after the date of final resolution of the complaint. Records may be maintained for longer periods of time at the discretion of the Title IX Coordinators in cases where one or more of the parties have a continuing affiliation with the College. All records pertaining to threatened or pending litigation or a request for records shall be maintained in accordance with instructions from College legal counsel. Requests for information should be directed to a Title IX Coordinator.