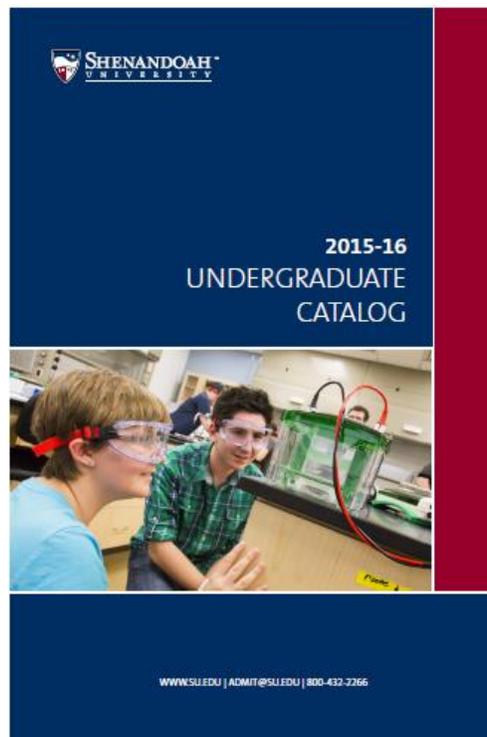




SHENANDOAH[™]
U N I V E R S I T Y

UNDERGRADUATE CATALOG 2015-16

02.10.2016 ADDENDUM



Corrections & Updates:

General Information: Accreditation: Filing a Complaint

Student Life Policies: Bicycles, mopeds, skateboards, skates,
hoverboards (inappropriate use of)

Sexual/Gender Harassment, Discrimination
and Sexual Misconduct Policies, Procedures
and Transcript Notations

Accreditation

Shenandoah University is accredited by the Southern Association of Colleges and Schools Commission on Colleges to award baccalaureate, masters and doctorate degrees. Contact the Commission on Colleges at 1866 Southern Lane, Decatur, Georgia 30033-4097 or call (404) 679-4500 for questions about the accreditation of Shenandoah University.

Filing a Complaint

To file a complaint against Shenandoah University for alleged non-compliance with an accreditation standard or requirement, you may download the SACSCOC policy on [Complaint Procedures](#) from the [Southern Association of Colleges and Schools – Commission on Colleges](#) website. Please note that the SACSCOC complaint process is not intended to be used to involve the Commission in disputes between individuals and member institutions or to cause the Commission to interpose itself as a reviewing authority in individual matters; nor does the policy allow the Commission to seek redress on an individual's behalf. The primary purpose of the SACSCOC complaint procedure is to acquire valuable information regarding an accredited institution's possible non-compliance with accreditation standards, policies and procedures rather than to resolve individual disputes.

To register a complaint against Shenandoah University for any reason unrelated to accreditation, please contact the President's Office at 540-665-4505 or by email at pres@su.edu.

Normal inquiries about the institution, such as admission requirements, financial aid, educational programs and the like should be addressed directly to the institution and not to the Commission office.

Once all institutional processes have been exhausted and the issue is not resolved, students may file a formal complaint with the State Council of Higher Education for Virginia (SCHEV). SCHEV can be contacted at 804.225.2600 or through the SCHEV Complaint Process website: <http://www.schev.edu/students/studentcomplaint.asp>.

Other Accreditation Bodies

Accreditation Council for ...

[New section to be inserted on page 13 within the Accreditation section in the Undergraduate General Information chapter.]

Bicycles, mopeds, skateboards, skates, hoverboards (inappropriate use of) –

Bicycle racks are located at each residence hall and many academic buildings, therefore individuals may not secure bikes or mopeds to fire hydrants, light poles, street signs, etc., or any place where a chained bicycle obstructs or impedes pedestrian or vehicular traffic, including handrails, corridor railings, doorways and handicapped access ways. Motorized bicycles (mopeds) are not to be driven on lawns or sidewalks. Skateboards are permitted only on sidewalks and parking lots unless otherwise posted. The use and storage of hoverboards on campus property is not permitted due to safety risks.

[Replaces Bicycles, mopeds, skateboards, skates (inappropriate use of) section on page 100 to include hoverboards in the Undergraduate Student Life Policies chapter.]

Shenandoah University's Sexual/Gender Harassment, Discrimination and Sexual Misconduct Policy

Statement Against Discrimination

All members of the Shenandoah University community including guests and visitors have a reasonable expectation to be free from all forms of sex/gender harassment, misconduct, and discrimination. Sexual harassment includes quid pro quo (this for that) and hostile environment harassment. Sexual misconduct occurs when two individuals engage in any sexual acts and one individual does not consent to the sexual act or withdraws/withholds consent to a sexual act. Examples of sexual misconduct can include acts of sexual harassment, sexual assault (which includes both non-consensual sexual contact, non-consensual sex), sexual exploitation, domestic violence, dating violence, and stalking. Gender/Sex discrimination occurs when one party is treated differently or singled out because of his/her gender in any education program or activity.

Sexual harassment, discrimination and misconduct violate Shenandoah University policy and federal civil rights law, including the Title IX Education Amendments of 1972. As a recipient of federal funds, the University complies with Title IX of the Education Amendments of 1972 (Title IX). Title IX provides that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

Introduction

All members of the campus community, including visitors and guests, are expected to conduct themselves in a manner that does not infringe upon the rights of others. The university believes in zero tolerance for sex/gender-based misconduct both on and off campus. Zero tolerance means that when an allegation of misconduct is brought to an appropriate administrator's attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied, including serious sanctions when a responding party is found to have violated this policy. All university employees, staff, and faculty are responsible employees. Responsible employees are required by federal law to report to the Title IX Coordinator any allegations of sexual misconduct that are reported to them. The only employees exempted from this reporting requirement are as follows: The staff at the Wellness Center, the staff and volunteers at the [Not] Just Women's Center, Rev. Justin Allen, Rev. DeLyn Celec, the counseling staff located in Cooley Hall and Elizabeth Hand, the Safety & Health Programs Coordinator. These exempted employees are not required to make any reports to the Title IX Coordinator and are considered a confidential resource.

Shenandoah University is committed to investigating and adjudicating reports of sexual harassment, misconduct, and discrimination according to the policies of the University. The University will provide support to both the victim and the responding party throughout the investigative and adjudicatory processes.

The university uses the preponderance of the evidence (also known as “more likely than not”) as a standard for proof of whether a violation occurred. In campus resolution proceedings, legal terms like “guilt,” “innocence” and “burdens of proof” are not applicable, but the university never assumes a responding party is in violation of university policy. Both parties will present their facts and the Title IX Coordinator will determine whether it is more likely than not that an act of sexual misconduct, harassment, or discrimination occurred. Campus resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

This policy uses the term “victim” instead of “survivor”. This is intentional on our part. Rather than assuming a victim is a survivor, we believe each victim needs to decide at their own pace, whether and how they will become survivors. It is not for us to presume it. Once a victim enters the process, we refer to them as the “reporting party”. Reports brought by individuals other than the recipient of the unwelcome behavior are referred to as “third-party reports” and those bringing them are deemed “third-party reporters”. The person facing an accusation is referred to throughout as the “responding party”.

Lastly, the university’s sex/gender harassment, misconduct, and discrimination policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom. Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or that touch on academic exploration of matters of public concern.

Confidentiality, Privacy and Reporting Policy

Confidentiality and Reporting of Offenses under This Policy

All university employees (faculty, staff, administrators) are expected to immediately report actual or suspected sexual misconduct, sexual harassment, or sex/gender discrimination to appropriate officials, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to appropriate university officials - thereby offering options and advice without any obligation to inform an outside agency or individual unless a victim has requested information to be shared. Other resources exist for a victim to report crimes and policy violations and these resources will take action when an incident is reported to them. The following describes the two reporting options at university:

Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- Wilkins Wellness Center Health
(540) 665-4530 or wwcenter@su.edu

- SU Counseling Center, Cooley Hall rooms 301-307, call 540-665-4530 for appointments or email Director Nancy Schulte, nschulte@su.edu
- [Not Just] Women's Center located in Cooley Hall
- Rev. Justin Allen (540) 535-3546
- Rev. DeLyn Celec (540) 535-3546
- The Laurel Center- located in downtown Winchester
- Elizabeth Hand, Safety & Health Programs Coordinator, Cooley Hall, Room 201

All of the above employees will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. Campus counselors are available to help free of charge and can be seen on an emergency basis during normal business hours. These employees will submit anonymous, aggregate statistical information for Clery Act purposes unless they believe it would be harmful to a specific client, patient or parishioner.

Formal Reporting Options

All university employees have a duty to report, unless they fall under the “Confidential Reporting” section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator. Employees must share all details of the reports they receive. Generally, climate surveys, classroom writing assignments, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Coordinator by employees.

Not all reports will result in formal university action. In some instances, a conduct conversation can be had with the parties. The conduct conversation is a tool used to correct inappropriate behavior and restore appropriate interactions between members of the community.

If a victim wishes to pursue an investigation and requests accommodations or protective measures, those measures will be kept confidential to the extent it will not impair the university's ability to provide the accommodations or protective measures.

If a victim does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a university resolution to be pursued, the victim may make such a request to the Title IX Coordinator or Deputy Coordinators, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern, predation, threat, weapons and/or violence, the university will likely be unable to honor a request for confidentiality. In cases where the victim requests confidentiality and the circumstances allow the university to honor that request, the university will offer interim supports and remedies to the victim and the community, but will not otherwise pursue action. A reporting party has the right, and can expect, to have reports taken seriously by the university when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Reports to the Title IX Coordinator can be made via email, phone or in person at the contact information below:

Whitney Pennington

Title: Title IX Coordinator

Cooley Hall, Room 206

540 665 4921

nosexualmisconduct@su.edu

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex or gender harassment or discrimination of which they become aware, is a violation of university policy and can be subject to disciplinary action, including termination, for failure to comply with university policies.

Federal Timely Warning Reporting Obligations

Victims of sexual misconduct should also be aware that university administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The university will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

Title IX Coordinator

The University's Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination and misconduct policy. The Coordinator reports directly to the director of student conduct and is housed in the Office of Residence Life & Student Conduct. Questions about this policy should be directed to the Title IX Coordinator. Anyone wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the university Title IX Coordinator:

Whitney Pennington

Title: Title IX Coordinator

Cooley Hall, Room 206

540 665 4921

Email: nosexualmisconduct@su.edu

Additionally, anonymous reports can be made by victims and/or third parties using the online reporting form posted at www.su.edu. The form may be found at the bottom of the webpage, under "In Campus Life", specifically "Learn about Sexual Misconduct Policy." Note that these anonymous reports may prompt a need for the institution to investigate.

Individuals experiencing harassment or discrimination also always have the right to file a formal grievance with government authorities:

Office for Civil Rights (OCR)

400 Maryland Avenue, SW

Washington, DC 20202-1100

Customer Service Hotline #: (800) 421-3481

Facsimile: (202) 453-6012

TDD#: (877) 521-2172

Email: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

In the event an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to the director of residence life. The office is located in Cooley Hall 212. The phone number is 540-545-7399.

Sexual Misconduct Offenses Include, But Are Not Limited To

1. Sexual Harassment
2. Sexual Assault
 - A. Non-Consensual Sexual Contact (or attempts to commit same)
 - B. Non-Consensual Sexual Intercourse (or attempts to commit same)
3. Sexual Exploitation
4. Domestic Violence (Intimate partner violence)
5. Dating Violence (Intimate partner violence)
6. Stalking

I. Sexual Harassment

Sexual harassment is:

- unwelcome,
- sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct.

Anyone experiencing sexual harassment in any University program is encouraged to report it immediately to the Title IX Coordinator or a deputy. Remedies, education and/or training will be provided in response.

There are two types of sexual harassment that may be disciplined. They include harassment that creates a hostile environment and quid pro quo (this for that) harassment.

A. Hostile Environment:

A hostile environment is created when sexual harassment is:

- Sufficiently severe, or
- Persistent or pervasive, and
- Objectively offensive that it:
 - Unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational, employment, social and/or residential program.

A totality of the circumstances test will be used to determine if the conduct is severe, pervasive, or persistent. The following factors will be analyzed to determine if a hostile environment has been created:

- Frequency of conduct
- Nature and severity of the conduct Physically threatening
- Humiliating
- Identity and relationship between alleged harasser and the subject or subjects of the harassment
- Age and sex of the alleged harasser and the subject of the harasser
- Size of the school
- Location of the incidents
- Context
- Effect on the alleged victim's mental or emotional state
- Whether the Conduct was directed at more than one person
- Whether the conduct unreasonably interfered with alleged victims educational or work performance.
- Whether the statement is an utterance, epithet which is offensive or offends by discourtesy or rudeness.
- Whether the speech or conduct deserves protection of academic freedom or First Amendment Protection.

B. Quid Pro Quo Harassment

Quid pro Quo harassment occurs when

- A person who has power or authority over another
- Makes unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature AND

- Submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development, or performance.

Quid pro quo includes receiving employment or academic status in exchange for sexual favors OR when a person is denied deserved employment or academic status because he or she refused a sexual request.

A totality of the circumstances test will be used to determine if the conduct is *quid pro quo* harassment. The following factors will be analyzed to determine if *quid pro quo* harassment has been created:

Some examples of possible Hostile Environment and *Quid Pro Quo* Sexual Harassment include:

- A pattern of conduct causing discomfort or humiliation, for example, unnecessary touching, gestures of a sexual nature, or remarks of a sexual nature, including comments about dress, jokes, or anecdotes.
- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live. Explicit sexual pictures are displayed in a professor's office or on the exterior of a residence hall door

Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.

- A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus
- Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations" and Weight Watchers.
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

- A student yells across the dining hall to an acquaintance from class "Hey baby, nice ass!"
- A student walks past someone they've never met and says, "Hey handsome! How are you today?" and when ignored, follows up with, "What, don't wanna talk? Be nice! Smile!" Gestures like this may seem harmless and a way of initiating discussion, but when unwanted they act as microaggressions that, when taken in the aggregate with other harassment someone may experience, can be intimidating and offensive and make an environment feel unsafe.
- Student engages in wolf whistling, panting, or other sexualized sounds aimed at peers, as well as physical cues such as clapping or honking their car horn at people on campus.

2. Sexual Assault (Non-consensual Contact and/or Intercourse)

Sexual assault is defined as any sexual act directed at another person when force is used, or consent is not obtained, or the person consents but is incapable of giving consent (for further clarification, please refer to the discussion of consent, incapacitation, and force which can be found on pages 14-17). Sexual Assault can be broken down into two large subsets, non-consensual sexual contact and non-consensual sexual intercourse.

A. Non-consensual Sexual Contact

Non-consensual sexual contact is:

- any intentional sexual touching of another person, on the breasts, buttock, groin or genitals
- however slight, with any object, by a person upon another person, that is without consent and/or by force.

B. Non-consensual Sexual Intercourse

Non-consensual sexual intercourse is:

- any sexual intercourse
- however slight,
- with any object,
- by a person upon another person,
- that is without consent and/or by force.

Intercourse includes vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

3. Sexual Exploitation

Sexual exploitation occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Attempting to cause incapacitation of another for sexual purposes;
- Prostituting another person;
- Non-consensual digital, video or audio recording of nudity or sexual activity;
- Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
- Distributing intimate or sexual information about another person;
- Engaging in voyeurism;
- Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch you having consensual sex);
- Knowingly exposing someone to or transmitting an STI, STD or HIV to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

4. Domestic Violence (Intimate Partner Violence)

Domestic Violence is defined as

- Force, Threats, or any act that results in bodily harm, mental/emotional harm, or reasonable apprehension of death or sexual assault and The acts listed above must be committed between two of the following persons:
 - Spouse, former spouse, parents, step-parents, children, stepchildren, siblings, half siblings, grandparents, grandchildren whether or not he or she resides in the same home as the victim;
 - Mother-in-law, father-in law, sister-in-law, brother-in- law but only if these parties reside in the same home with the reporting party
 - Any two individuals who currently cohabitate together or who have cohabited together within the past 12 months. Cohabitation is determined by looking at a totality of the circumstances to include: 1) duration, continuity, and permanency of the relationship, 2) consortium and 3) sharing of familial or financial responsibilities;
 - Two individuals who have a child in common, whether or not the individuals have been married or have resided together at any time.

5. Dating Violence (Intimate Partner Violence)

Dating Violence is defined as

- Use of physical, emotional, or sexually abusive behaviors to gain control in an intimate relationship and
- The abuse is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the reporting party.

The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Examples of both domestic violence and dating violence:

- A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy is a violation of the Intimate Partner Violence policy.
- An ex-girlfriend shames her female partner, threatening to out her as a lesbian if she doesn't give the ex another chance. Psychological abuse is a form of Intimate Partner Violence.
- A graduate student refuses to wear a condom and forces his girlfriend to take hormonal birth control though it makes her ill, in order to prevent pregnancy.
- Married employees are witnessed in the parking garage, with one partner slapping and scratching the other in the midst of an argument.

6. Stalking

Stalking is defined as

- Engaging in a course of conduct
- Directed at a specific person
- The conduct causes reasonable fear for
- His/her safety, including fear of death, sexual assault, or bodily injury to themselves or a household member OR
- causes the person to suffer severe emotional distress

Examples of Stalking:

- A student repeatedly shows up at another student's on-campus residence. The student brings flowers, candy, and cards despite being told those items are not welcome. The student will often leave these with the other student's roommate. The student even waits for the other student outside of classes and shows up to their on-campus place of employment requesting that they go out on a date together.

- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate the gift deliveries to stop. The student then started leaving notes of love and gratitude on the graduate assistant's car, both on-campus and at home. Asked again to stop, the student stated by email: "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything necessary to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. We are meant to be together."

Other Misconduct Offenses (Will Fall Under Title IX When Sex or Gender-based)

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of sex or gender;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, initiation, pledging, joining, or any other group affiliation activity (as defined further in the Hazing Policy);
- Bullying, defined as
 - o Repeated and/or severe
 - o Aggressive behavior
 - Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally
 - That is not speech or conduct otherwise protected by the 1st Amendment.
- Any other university policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender.

Retaliation

Retaliation is prohibited. Retaliation is any consequence or action taken in response to someone participating in a protected activity such as filing a report or being part of the investigation process. Retaliation against a responding party, a reporting party, a person who provides support to the reporting party, or a person who assists in providing information relevant to an allegation is a serious violation of university policy.

The Title IX Coordinator will investigate any reported acts of harassment or intimidation, including any act of reprisal, interference, restraint, or penalty – overt or covert – against any student, faculty, or staff who is a party to a complaint or associated with the proceedings described in this policy, including witnesses and members of the hearing panel.

Hindering, lying or tampering with an investigation is prohibited. Any individuals found responsible for interfering with an investigation are subject to the same sanctions as an individual responsible for a sexual misconduct violation

Examples:

- Jim plays for a men's athletic team at the university and Tammy plays for a women's athletic team at the university. The men and women's teams like to hang out together and have social events. During one of these social events, Tammy and Jim begin drinking and eventually have sex. Tammy cannot remember what happened. All she remembers is having a few drinks and waking up in her bed the next morning. Tammy goes to speak to the Title IX Coordinator. Tammy decides to file a report of sexual misconduct. Tammy tells her teammates about her decision. Her teammates tell the players on the men's team. Tammy's teammates and Jim's teammates no longer want to talk to her, her coach gradually quits playing her during games, and Tammy begins to receive texts from various team players that she is a traitor and needs to drop her allegations. Her coach even states that she needs to drop her allegations for the good of the athletic department. This would be retaliation under this policy.
- Jake brings a sexual misconduct claim against John. John is found not responsible after a thorough investigation. Jake is a member of the Literary Arts Club. John would like to join the Literary Arts Club and goes to speak with the club's president. Jake finds out about John wanting to join the club. Jake goes immediately to the president and states that the club should not allow a rapist to join the club and proceeds to tell the president what happened between Jake and John. Jake also tells a few other members of the club that John wants to be a member and if John is allowed to be a member then they will be allowing a rapist into the club. The members go to the president of the club and express their concern over the issue. The president does not allow John to join the club. This would be retaliation.
- Amber and Jill are both students under Professor Smith. Professor Smith hired Jill as a student worker to tutor some students who are struggling. One day, Amber confides in Professor Smith that she believes Jill touched her inappropriately one night while she was asleep. Professor Smith refers the matter to the Title IX Coordinator who then performs a thorough investigation. Jill is found not responsible. Amber tells Professor

Smith about the outcome and Professor Smith is dissatisfied. Professor Smith dismisses Jill from her tutoring position with the school because of the allegation Amber made about Jill. This would be retaliation.

Overview of Consent, Incapacitation and Force

The expectations of our community regarding sexual misconduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Previous consent does not imply consent to sexual activity in the future. Silence or passivity -- without actions demonstrating permission -- cannot be assumed to show consent. Consent, once given, can be withdrawn at any time. There must be a clear indication that consent is being withdrawn.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex. When determining if an action is coercive or seductive, the university will look to four factors: frequency, intensity, isolation and duration of the conduct in question.

Coercion need not be physical force, threats, duress, or intimidation but can be in the form of mental or emotional manipulation, such as making another feel guilty or selfish for not consenting.

Some examples of coercion:

- "I won't let you leave until we have sex"
- "If you cared about me, you would have sex with me."
- "You don't want to be thought of as a prude, do you?"

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. Under this policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "no."

Additional Applicable Definitions

1. Consent is defined as

- clear, and
- knowing, and

- voluntary [or affirmative, conscious and voluntary],
- words or actions,
- that give permission for specific sexual activity.

2. Key Concepts for Consent:

- Consent is active, not passive.
- Silence, in and of itself, cannot be interpreted as consent.
- Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity.
- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.
- In order to give consent, one must be of legal age.

3. Incapacitation and Consent

- Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this policy.
- Incapacitation can occur mentally or physically, from developmental disability, by alcohol or other drug use, or blackout.
- The question of what the responding party should have known is objectively based on what a reasonable person in the place of the responding party, sober and exercising good judgment, would have known about the condition of the reporting party.
- Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
- This policy also covers a person whose incapacity results from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of rape drugs. [Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>].

4. Force and Consent

- Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes free will or resistance or that produces consent (“Have sex with me or I’ll hit you. Okay, don’t hit me, I’ll do what you want.”).

- Coercion is unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- NOTE: There is no requirement for a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.
- Use of alcohol or other drugs will never function to excuse any behavior that violates this policy.
- This policy is applicable regardless of the sexual orientation and/or gender identity of individuals engaging in sexual activity.

Examples

1. Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00pm until 3:00am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being “a prude.” Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a “hand job” (hand to genital contact). Amanda would never had done it but for Bill's incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left. **Bill is responsible for violating the university Non-consensual Sexual Contact policy. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not valid when forced. Sex without consent is sexual misconduct.**
2. Jiang is a junior at the university. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? **Jiang would be held responsible in this scenario for Non-consensual Sexual Intercourse. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse.**

Of course, wherever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.

- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his room, and John comes on to Kevin, initiating sexual activity. Kevin asks him if he is really up to this, and John says yes. Clothes go flying, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he does not let that stop him. When Kevin runs into John the next day, he thanks him for the wild night. John remembers nothing, and decides to make a report to his Academic Dean. **This is a violation of the Non-consensual Sexual Intercourse Policy. Kevin should have known that John was incapable of making a rational, reasonable decision about sex. Even if John seemed to consent, Kevin was well aware that John had consumed a large amount of alcohol, and Kevin thought John was physically ill, and that he passed out during sex. Kevin should be held accountable for taking advantage of John in his condition. This is not the level of respectful conduct the university expects.**

Overview of Policy Expectations With Respect to Consensual Relationships

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the faculty/staff handbooks. The university does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the university.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes Resident Advisors (RAs) and students over whom they have direct responsibility. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

A romantic relationship that persists may result in a change of supervisory or evaluative responsibility.

Sanctions

The following sanctions may be imposed upon any member of the community found to have violated this policy. The following are the typical sanctions that may be imposed upon students or organizations singly or in combination:

Student Sanctions

Educational task: student must complete an assignment that benefits self, campus or community.

- Referral: requires the student seek appropriate guidance or resources for his/her success.
- Community restitution project: work projects on or off campus.
- Restitution: reimbursement by the student to cover the cost of repair or replacement of damaged or misappropriated property.
- Fines: monetary sanctions.
- Relegation to final room selection: student loses the opportunity to participate in the annual room selection (lottery) process.
- Removal from university housing: required removal from university housing with final approval from the director of residence life & student conduct (or designee) and without the refund of room fees. Once assigned this sanction, a student must move within a designated time frame (usually 48 hours unless otherwise permitted by the director of residence life & student conduct), after which the removed student cannot enter university housing without permission from the director of residence life & student conduct (or designee).
- Removal of property: required removal of property.
- University housing relocation: requires the student to move to another room, hall or quad with approval from the director of residence life & student conduct (or designee) Student must relocate within 24 hours, after which he/she cannot enter the building from which he/she was removed throughout the term of the sanction without permission from the director of residence life & student conduct (or designee). Written warning: official record that a student has been warned about behavior
- No-contact order: student is prohibited from having any direct or indirect contact or contact via a third-party with a particular person. Violation may result in suspension.
- Restriction of activities or privileges: participation in any and/or all organized university activities other than required academic endeavors are restricted for a designated period of time.
- Conduct probation: period of self-reflection during which a student is on official warning that subsequent violations of university rules, regulations or policies are likely to result in more severe sanctions, including suspension or dismissal from the university.

- **Conduct suspension:** a temporary cancellation of a student's enrollment at Shenandoah University with approval from the vice president for student life (or designee). Once assigned this sanction, a student is immediately removed from classes and banned from university property. A student cannot enter university property during his/her term of suspension without prior permission from the vice president for student life (or designee) nor graduate. Any classes taken at another institution suspended typically cannot be transferred to Shenandoah University unless given special permission by the vice president for student life and the Academic Dean. If a student lives in campus housing, he/she has 24 hours to vacate his/her campus residence.
- **Campus ban:** student is banned from being present on either the entire campus or specified areas of the campus.
- **Dismissal from the university:** a permanent cancellation of a student's enrollment at Shenandoah University with approval from the vice president for student life (or designee). Once assigned this sanction, students are immediately removed from classes and banned from university property. A student cannot enter university property once dismissed without prior permission from the vice president for student life (or designee) nor re-enroll or graduate from Shenandoah University.
- **Additional stipulations:** additional sanctions a student must complete and/or follow.

Employee Sanctions (listed below and defined in the Staff Handbook)

- Censure
- Probation
- Educational experience
- Separation (suspension)
- Dismissal

Sanctioning for Sexual Misconduct

- Any person found responsible for violating the non-consensual sexual contact policy (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion (student) or employment action to termination (employee), depending on the severity of the incident, and taking into account any previous disciplinary violations.*
- Any person found responsible for violating the non-consensual sexual intercourse policy will likely face a recommended sanction of suspension or expulsion (student) or suspension or termination (employee).*
- Any person found responsible for violating the sexual exploitation or sexual Harassment policies will likely receive a recommended sanction ranging from educational sanction to expulsion (student) or warning to termination (employee), depending on the severity of the incident, and taking into account any previous disciplinary violations.*

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

Additional Policy Provisions

a. **Attempted violations**

In most circumstances, university will treat attempts to commit any of the violations listed in the Sexual/Gender Harassment, Discrimination and Sexual Misconduct Policy as if those attempts had been completed.

b. **False Reports**

The university will not tolerate intentional false reporting of incidents. It is a violation of the *Student Code of Conduct* to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

c. **Amnesty for Victims and Witnesses**

The university community encourages the reporting of misconduct and crimes by victims and witnesses. Sometimes, victims or witnesses are hesitant to report to university officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that as many victims as possible choose to report to university officials, and that witnesses come forward to share what they know. To encourage reporting, university pursues a policy of offering victims of misconduct and witnesses amnesty from minor policy violations related to the incident.

d. **Lying, Hinderling or Tampering with an Investigation**

Hinderling, lying or tampering with an investigation is prohibited. Any individuals found responsible for interfering with an investigation are subject to the same sanctions as an individual responsible for a sexual misconduct violation.

Sexual Violence Risk Reduction Tips

Risk reduction tips can often take a victim-blaming tone, even unintentionally. Only those who commit sexual violence are responsible for their actions. We offer the tips below with no intention to victim-blame, with recognition that these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.

- Always try to be cognizant of your alcohol intake and drug use and acknowledge that drugs and alcohol lower your sexual inhibitions and impairs your decision making abilities. Alcohol is the most commonly used date rape drug, and it can make you vulnerable to someone who views a drunk person as a sexual opportunity. While it is always smart to monitor your own substance ingestion, someone who chooses to take advantage of your incapacitated state is ultimately the one responsible and at fault.
- Give considerable thought to sharing your intimate content, pictures, images and videos with others, even those you may trust. If you do choose to share, clarify your expectations as to how or if those images may be used, shared or disseminated.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- **DON'T MAKE ASSUMPTIONS** about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. Your partner's consent should be affirmative and continuous. If there are any questions or ambiguity then you **DO NOT** have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or altered state, even if they willingly consumed alcohol or substances.
- Realize that your potential partner could feel intimidated or coerced by you. You may have a power advantage simply because of your gender or physical presence. Don't abuse that power.
- Do not share intimate content, pictures, images and videos that are shared with you.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence, passivity, or non-responsiveness cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language. Read and communicate with your potential partner carefully and when in doubt ask for clarification.

Questions and Answers

Here are some of the most commonly asked questions regarding the university's sexual misconduct policy and procedures.

What is seduction?

Seduction is recognizing a party changed their mind of their own free will. The seducing party may have encouraged their partner by building arousal and attraction, but ultimately the consenting party decided on their own to consent. The seducing party did not pressure their partner to change their mind, they allowed their partner to come to the decision to change their mind on their own. Just as individuals can grant consent then revoke it, individuals can also initially refuse to grant consent and then knowingly and willingly change their mind.

Does information about a report remain private?

The privacy of all parties to a report of sexual misconduct must be respected, except insofar as it interferes with the university's obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. The university will not disseminate information and/or written materials to persons not involved in the resolution process without the consent of both parties or unless required by legal process. Witnesses are also required to maintain the privacy of information shared with them during interviews and/or hearings. Violations of the privacy of the reporting party or the responding party may lead to conduct action by the university, though both parties are allowed to share their perspectives and experiences. All parties, including witnesses, involved in an allegation are strongly encouraged to maintain the privacy of information and/or written materials.

In all resolutions of sexual misconduct, all parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim.

Certain university administrators are informed of the outcome within the bounds of student privacy vice president for student life.

If there is a report of an act of alleged sexual misconduct to a conduct officer of the university and it is necessary to protect the health or safety of the student or other individuals, local police will be notified. This does not mean charges will be automatically filed or that a victim must speak with the police, but the university is legally required to notify law enforcement authorities. If there is a report of an act of alleged sexual misconduct to a conduct officer of the university and it is a felony offense, the institution is legally required to notify the commonwealth attorney. This does not mean charges will be automatically filed or that a victim must speak with the commonwealth attorney but the university is legally required to notify the commonwealth attorney's office.

The institution also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an "Annual Security Report" of campus crime statistics. This statistical report does not include personally identifiable information.

Will my parents be told?

Whether you are the reporting party or the responding party, the university's primary relationship is to the student and not to the parent. However, in an effort to educate students and their families regarding decision making, the university will partner with parents and other family members as appropriate with the ultimate goal of student success and community safety.

Will the responding party know my identity?

Yes, if the university determines there is reasonable cause to believe a violation has occurred and investigates the matter. The responding party has the right to know the identity of the reporting party. If there is a hearing, the university does provide options for questioning without confrontation, including closed-circuit testimony, Skype, using a room divider or using separate hearing rooms.

Do I have to name the responding party?

Yes, if you want formal disciplinary action to be taken against the responding party. You can report the incident without the identity of the responding party, but doing so may limit the institution's ability to respond comprehensively.

What do I do if I am accused of sexual misconduct?

DO NOT contact the reporting party. You may immediately want to contact someone who can act as your advocate; anyone may serve as your or advocate. You may also contact Elizabeth Hand, the Safety & Health Programs Coordinator can explain the university's procedures for addressing sexual misconduct reports. She is a confidential resource on campus. You may also want to talk to a confidential peer mentor in the [Not] Just Women's Center or a confidential counselor with the university counseling center. All of these confidential resources are located in Cooley Hall.

Will I (as a victim) have to pay for counseling/or medical care?

The university has an on-campus counseling center and wellness center who provide free services to students.

What about legal advice?

Victims of criminal sexual assault need not retain a private attorney to pursue criminal prosecution because representation will be handled by the Commonwealth Attorney's office. You may want to retain an attorney if you are considering filing a civil action or are the responding party. The responding party may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution and/or the campus conduct proceeding. Both the responding party and the reporting party may also use an attorney as their advisor [or advocate] during the campus' resolution process. Attorneys are subject to the same restrictions as other advocates in the process as described in the procedure portion of the sexual misconduct policy.

How do I file criminal charges?

The reporting party is not required to file criminal charges or contact law enforcement. The reporting party may elect to file either criminal charges and/or a complaint, or both. If the sexual assault or gender-based incident occurred on main campus or in a university-owned building downtown, call the Winchester Police Department at 540/662-4131. If the incident occurred at East Campus Commons or the Health Professions Building, call the Frederick County Sheriff's office at 540/665-5600. If you wish to seek an emergency protective order you may go to the Winchester Magistrate office located at 141 Fort Collier Rd., Winchester.

What are my options for obtaining a protective order?

Victims of sexual misconduct may want to prevent communication between themselves and the other party. A protective order is a legal document that can help prevent such communication. There are four different types of Protective Orders: Emergency Protective Orders, Preliminary Protective Orders, Protective Orders and University-Based No Contact Orders. All four are issued through different processes and can all be active concurrently. Any person who obtains a protective order should provide a copy to the Department of Public Safety and the Office of the Title IX Coordinator. A reporting party may then meet with the Department of Public Safety to develop a Safety Action Plan, which is a plan for campus security and the reporting party to reduce risk of harm while on campus or coming and going from campus.

Violations for Emergency Protective Orders, Preliminary Protective Orders, and Protective Orders, may result in criminal charges, while violations of University-Based No Contact Orders may result in disciplinary action by the University.

Emergency Protective Orders (EPO): Victims can petition for an EPO at the local Magistrate office at no cost, even if there is no related criminal case. The Winchester magistrate is located at 141 Fort Collier Road, Winchester, Virginia. An EPO is generally valid for 72 hours but may be extended by the court.

Preliminary Protective Orders and Protective orders, are issued by the court and prohibit the defendant from contacting the victim(s). These may expire at the end of a criminal case, and victims should keep in contact with their victim witness coordinator and prosecutor to know when a No Contact Order has been imposed or will expire.

University-based No Contact Order: Shenandoah University may choose to impose a University-based No Contact Order when appropriate. To request a University-based No Contact Order, please contact the Title IX Coordinator at 540 665 4921, or by email at: nosexualmisconduct@su.edu.

How is a report of sexual misconduct decided?

The university investigates allegations of sex/gender based harassment, discrimination or sexual misconduct to determine whether there is evidence to indicate a policy violation is "more likely than not." This standard, called the preponderance of the evidence, corresponds to an amount of evidence indicating a policy violation is more than 50% likely.

What are interim measures that may be used during an investigation?

- Assistance from university support staff in completing a room relocation;
- Arranging to dissolve a housing contract and pro-rating a refund;
- Help with finding an off-campus residential alternative;
- Assistance with or rescheduling an academic assignment (paper, exams, etc.) or otherwise implementing academic assistance;
- Taking an incomplete in a class;
- Assistance with transferring class sections;
- Temporary withdrawal;
- Assistance with alternative course completion options;
- Escorts to and from campus locations;
- On or off-campus counseling assistance;
- Transportation assistance or support;
- Other accommodations for safety as necessary.

What should I do about preserving evidence of a sexual assault?

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the Hospital Emergency Room, before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is usually on call 24 hours a day, seven days a week (call the Emergency Room if you first want to speak to the nurse; ER will refer you). A victim advocate from the institution can also accompany you to Hospital and law enforcement or Security can provide transportation. If a victim goes to the hospital, local police will be called, but s/he is not obligated to talk to the police or to pursue prosecution. Having the evidence collected in this manner will help to keep all options available to a victim, but will not obligation him or her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.

For the Victim: the hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear evidence for the police to collect.

Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?

No. The seriousness of sexual misconduct is a major concern and the university does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct. The university provides amnesty from any consequences for minor policy violations that occur during or come to light as the result of a victim's report of sexual misconduct.

Will the use of drugs or alcohol affect the outcome of a sexual misconduct conduct resolution?

The use of alcohol and/or drugs by either party will not diminish the responding party's responsibility. On the other hand, alcohol and/or drug use is likely to affect the reporting party's memory and, therefore, may affect the resolution of the reported misconduct. A reporting party must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to prove that policy was violated. If the reporting party does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the responding party without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by a responding party.

Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present matter.

What should I do if I am uncertain about what happened?

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the institution's sexual misconduct policy, you should contact the Elizabeth Hand, the Safety & Health Programs Coordinator. She can explain the university's procedures for addressing sexual misconduct reports. She is a confidential resource on campus. You may also want to talk to a confidential peer mentor in the [Not] Just Women's Center or a confidential counselor with the university counseling center. All of these confidential resources are located in Cooley Hall. You may also inquire about the availability of process advocates who can help you to define and clarify the event(s), and advise you of your options].

Shenandoah University's Sexual/Gender Harassment, Discrimination and Sexual Misconduct Procedures

If the reporting party wishes to pursue an allegation or if the university, based on the alleged policy violation, wishes to pursue an allegation, then the Title IX Coordinator or designee begins an investigation. Investigations are completed promptly, but may take longer, for example, when initial reports fail to provide direct first-hand information or in complex situations. At any point during the investigation, if it is determined there is no reasonable cause to believe that the sexual misconduct policy has been violated, the Title IX Coordinator or deputy has authority to terminate the investigation and end formal resolution proceedings.

Reporting Party: In this process, the person alleging a violation of policy is referred to as the reporting party.

Responding Party: In this process, the person who is alleged to have violated campus policy is referred to as the responding party.

Business days: In this process, the university defines the word business days to mean when the school is open Monday through Friday 9am-5pm. The university is not open for business on days it is closed for holidays or as a result of weather.

Overview of Reports Concerning Sexual Misconduct, Gender Discrimination and/or Sexual Harassment

Shenandoah University does not permit discrimination or harassment in its programs and activities on the basis of sex, gender identity, or gender expression, by university policy or state, local, or federal law. Anyone who believes they have been subjected to sexual misconduct, gender discrimination or sexual harassment in violation of this policy should follow the procedure outlined in this *policy* to report these concerns to the Title IX Coordinator.

This process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the sexual misconduct policy has been violated. If so, the university will initiate an investigation that is thorough, reliable, impartial, prompt and fair. This investigation determines whether the university's sexual misconduct policy has been violated. If so, the university will promptly implement an effective remedy designed to end the discrimination, prevent its recurrence and address its effects.

The university aims to bring all allegations to a resolution within a 60 business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties. In overview, the timeline for resolution begins with notice to a responsible employee. All university employees have a duty to report sexual misconduct, sexual harassment, and gender discrimination, unless they fall under the "Confidential Reporting" section found in the sexual misconduct policy. After receiving a report, the Coordinator begins a preliminary inquiry by meeting with the reporting party to discuss the alleged sexual misconduct. The Coordinator will share information regarding the definition of sexual misconduct and possible action that may be taken in response to the alleged sexual misconduct. The Coordinator will also provide information concerning health and counseling services to the reporting party and the responding party. If the reporting party decides to pursue an allegation, an investigation will begin. Investigations range from days to weeks, depending on the nature and complexity of allegations. The parties are regularly apprised of the status of the investigation as it unfolds. The investigation may lead to an informal and/or formal resolution options. A failed informal resolution which triggers a formal resolution may require the university to extend this timeline accordingly. From there, appeals may be requested, with a five day window to file appeal requests once a formal determination is reached.

Interim Remedies/Actions

The Title IX Coordinator (or designee) may provide interim remedies intended to address the short-term effects of sexual misconduct, sexual harassment, gender discrimination and/or retaliation, i.e., to redress harm to the alleged victim and the community and to prevent further violations. The university will keep interim remedies and actions as private as possible.

These remedies may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Altering the housing situation of the responding party (resident student or resident employee or the alleged victim, if desired))
- Altering work arrangements for employees
- Providing campus escorts,
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.
- Assistance with or rescheduling an academic assignment (paper, exams, etc.) or otherwise implementing academic assistance;
- Taking an incomplete in a class;
- Assistance with transferring class sections;
- Temporary withdrawal;
- Assistance with alternative course completion options;

The university may interim suspend a student, employee or organization pending the completion of an investigation and resolution, particularly when in the judgment of the vice president for student life or designee, the safety or well-being of any member(s) of the campus community may be jeopardized by the on campus presence of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the opportunity to meet with the Title IX Coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The vice president for student life or designee, has sole discretion to implement or stay an interim suspension under the policy, and to determine its conditions and duration. Violation of an interim suspension under this policy is grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to university housing and/or the university campus/facilities/events. As determined by the vice president for student life or designee. This restriction can include classes and/or all other university activities or privileges for which the student might otherwise be eligible. At the discretion of the vice president for student life or designee, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party. The institution will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures.

Informal and Formal Resolution Procedure for Reports of Misconduct

This procedure applies to any member of the university community (faculty, student, staff and/or administration) who engages in sexual misconduct, gender discrimination or sexual harassment. Any person can report including faculty, students, staff, administration, guests, visitors, etc. All allegations of misconduct not involving sexual misconduct, gender discrimination or sexual harassment will be addressed through the procedures elaborated in the respective student, faculty and employee handbooks.

Informal Resolution

Before pursuing the Formal Resolution Process, every reasonable effort should be made to constructively resolve conflict with students, faculty, staff, or administrators. However, the informal resolution process is not suitable for all cases.

Within 10 business days of receiving the initial report, the Title IX Coordinator or designee will meet with the reporting party to determine if he or she wants to pursue an investigation. After meeting with the reporting party, the Title IX Coordinator will determine whether there is reasonable cause to pursue an investigation. If there is reasonable cause and the reporting party wants to pursue an investigation, the Title IX Coordinator will send a notice of investigation and charge letter to the responding party. The Title IX Coordinator will meet separately with the reporting party, the responding party, and other necessary witnesses to determine if a violation of the sexual misconduct policy has occurred.

After meeting with all parties and witnesses, the Title IX Coordinator or designee will determine if it is more likely than not that an act of sexual misconduct, gender discrimination, or sexual harassment occurred. If a violation did occur, the Title IX Coordinator or designee will create a resolution strategy and present it separately to the reporting party and the responding party. If the parties mutually agree to the resolution, the case is concluded. If the parties do not agree with the proposed resolution, the case will either advance to the formal resolution process described below, or upon request of the reporting party, the process may be concluded.

The formal resolution process will be used if:

1. Either the reporting party or the responding party do not agree with the proposed resolution or the proposed findings; or
2. The reporting party requests that the case go directly to the formal process; or
3. The Title IX Coordinator moves the case to the formal process.

Formal Resolution Process for Reports of Misconduct by Employees

The Office of Human Resources is designated to formally investigate reports of sexual misconduct, gender discrimination and/or sexual harassment by employees, to address inquiries and coordinate the university's compliance efforts regarding employee-related reports. In particular, when a responding party is an employee the Office of Human Resources Deputy Title IX Coordinator will handle the complaint.

Any member of the community can provide notice of sexual misconduct, gender discrimination and/or sexual harassment in person, by phone, via email or in writing to Chris Grant, Deputy Title IX Coordinator for Human Resources. His office is located in the Wilkins Building, room 139. He can be reached by phone at 540-665-5597 and by email at cgrant2@su.edu. The university strongly encourages submission of written reports to Human Resources.

The following are recommended elements of a report:

- Clear and concise description of the alleged incident(s) (e.g.: when and where it occurred);
- Any supporting documentation and evidence;
- Clear demonstration of all informal efforts, if any, to resolve the issue(s) with the person involved and the person's supervisor;
- This includes names, dates and times of attempted or actual contact along with a description of the discussion and the manner of communication made in the course of each effort;
- If contacting the person involved and/or the supervisor is impracticable, the reporting party should state the reasons why;
- The desired remedy sought;
- Name and all contact information for the reporting party;
- Signed by the reporting party.

The university's resolution will not typically be hindered because civil or criminal charges involving the same incident have been filed or because charges have been dismissed or reduced. However, the university may undertake a short delay (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g. to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The university will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

All investigations will be thorough, reliable and impartial, and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary.

The Title IX Coordinator or designee will take the following steps (not necessarily in order):

- Ensure the safety and security of the reporting party and/or the victim if the victim is not the reporting party;
- Ensure the reporting party and/or victim has access to campus resources such as the [Not] Just Women’s Center, on campus counseling services, and The Laurel Center.
- Identify the exact policies allegedly violated;
- Determine the identity and contact information of the reporting party;
- Inform the accused individual in writing of the following: a formal complaint of sexual misconduct has been filed, the nature of the complaint, a formal hearing is to be convened regarding the charges, the maximum disciplinary action that may be taken, and conditions and procedures by which an appeal may be filed. The complainant will also receive a copy of this written notice.
- In coordination with campus partners (e.g. the campus Title IX Coordinator), initiate any necessary remedial actions;
- Conduct an immediate initial inquiry to determine if there is reasonable cause to charge the responding party, and what policy violations should be alleged as part of the charge;
- If there is insufficient evidence to support reasonable cause, the report will be closed with no further action;
- Prepare the notice of charges on the basis of the initial inquiry;
- Commence a thorough, reliable and impartial investigation;
- Complete the investigation promptly;
- Provide regular updates to both the reporting and responding parties, as appropriate, throughout the investigation;
- Meet with the reporting party and responding party to finalize their statement;
- Create an investigation report to be provided to the hearing panel; and
- Notify within 30 calendar days from the day the responding party is formally notified of the complaint, convene a hearing panel.

The hearing panel consists of three members: two faculty/staff members and one deputy title IX coordinator from either athletics or human resources. In addition, the Title IX Coordinator will designate a hearing panel chair.

The hearing panel will consider information presented from the reporting party, responding party, necessary witnesses, and the investigation report completed by the Title IX Coordinator. The hearing will determine whether it is more likely than not that the responding party violated the policies forming the basis of the charge. The goal of the hearing is to provide an equitable resolution via an equitable process.

Where the responding party is found not responsible for the alleged violation(s), the investigation will be closed. Where a violation is found, the university will act to end the

discrimination, prevent its recurrence, and remedy its effects on the victim and the university community. All parties will receive written notification of the outcome, to the extent permitted by or mandated by law. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate partner violence, the written notification includes the finding, any resulting responsive actions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay and explains appeals options and procedures.

List of Sanctions for Employees if Found Responsible

An employee may be sanctioned to one or more of the following depending on the seriousness of the violation.

1. Censure
2. Probation
3. Educational experience
4. Separation (Suspension)
5. Dismissal

Formal Resolution Process for Reports of Misconduct by Students

The Title IX Coordinator is designated to formally investigate reports of sexual misconduct, gender discrimination and/or sexual harassment by students and to address inquiries/coordinate the university's compliance efforts regarding reports of misconduct by students. In particular, when a responding party is a student the Title IX Coordinator will handle the complaint.

Notice of a formal report can be made in person at Cooley Hall 206, by phone at (540) 665 4921, via email at nosexualmisconduct@su.edu or in writing to Whitney Pennington, Title IX Coordinator. Upon receipt of a report, the Title IX Coordinator will take all necessary remedial short-term actions.

If the reporting party wishes to pursue an allegation or if the university, based on the alleged policy violation, wishes to pursue an allegation, then the Title IX Coordinator or designee begins an investigation. Investigations are completed promptly but may take longer when, for example, initial reports fail to provide direct first-hand information or in complex situations. At any point during the investigation, if it is determined there is no reasonable cause to believe that the sexual misconduct policy has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

The university's resolution will not typically be hindered because civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the university may undertake a short delay (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g.: to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The university will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

All investigations will be thorough, reliable and impartial, and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary.

The Title IX Coordinator will take the following steps (not necessarily in order):

- Ensure the safety and security of the reporting party and/or the victim if the victim is not the reporting party;
- Ensure the reporting party and/or victim has access to campus resources such as the [Not] Just Women’s Center, on campus counseling services, and The Laurel Center.
- Identify the exact policies allegedly violated;
- Determine the identity and contact information of the reporting party;
- Inform the accused individual in writing of the following: a formal complaint of sexual misconduct has been filed, the nature of the complaint, a formal hearing is to be convened regarding the charges, the maximum disciplinary action that may be taken, and conditions and procedures by which an appeal may be filed. The complainant will also receive a copy of this written notice.
- In coordination with campus partners (e.g.: the campus Title IX Coordinator), initiate any necessary remedial actions;
- Conduct an immediate initial inquiry to determine if there is reasonable cause to charge the responding party, and what policy violations should be alleged as part of the charge;
- If there is insufficient evidence to support reasonable cause, the report will be closed with no further action;
- Prepare the notice of charges on the basis of the initial inquiry;
- Commence a thorough, reliable and impartial investigation;
- Complete the investigation promptly;
- Provide regular updates to both the reporting and responding parties, as appropriate, throughout the investigation;
- Meet with the reporting party to finalize their statement;
- Create an investigation report to be provided to the hearing panel; and
- Notify within 30 calendar days from the day the responding party is formally notified of the complaint, convene a hearing panel.

The hearing panel consists of three members: two faculty/staff members and one deputy title IX coordinator from either athletics or human resources. In addition, the Title IX Coordinator will designate a hearing panel chair.

The hearing panel will consider information presented from the reporting party, responding party, necessary witnesses, and the investigation report completed by the Title IX Coordinator. The hearing will determine whether it is more likely than not that the responding party violated the policies forming the basis of the charge. The goal of the hearing is to provide an equitable resolution.

At the conclusion of the hearing, the panel will determine if the responding party is responsible or not responsible for the alleged violations. Where the responding party is found not responsible for the alleged violation(s), the investigation will be closed.

The parties will receive written notification of the outcome, to the extent permitted or mandated by law. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate partner violence, the written notification includes the finding, any resulting sanctions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay between the notifications, explains appeals options and procedures, and any changes to the results that could occur before the decision is finalized.

Where the responding party is found in violation as the result of a hearing, the hearing panel will impose appropriate sanctions for the violation. The university will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the university community. Appeal proceedings as described below apply to all parties to the report.

The parties will receive written notification of the outcome of the hearing, to the extent permitted or mandated by law. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate partner violence, the written notification includes the finding, any resulting sanctions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay between the notifications, explains appeals options and procedures, and any changes to the results that could occur before the decision is finalized.

List of Sanctions for Students if Found Responsible

A student may be sanctioned to one or more of the following depending on the seriousness of the violation.

1. Educational task: student must complete an assignment that benefits self, campus or community.
2. Referral: requires the student seek appropriate guidance or resources for his/her success.
3. Community restitution project: work projects on or off campus.
4. Restitution: reimbursement by the student to cover the cost of repair or replacement of damaged or misappropriated property.
5. Fines: monetary sanctions.
6. Relegation to final room selection: student loses the opportunity to participate in the annual room selection (lottery) process.

7. Removal from university housing: required removal from university housing with final approval from the director of residence life & student conduct (or designee) and without the refund of room fees. Once assigned this sanction, a student must move within a designated time frame (usually 48 hours unless otherwise permitted by the director of residence life & student conduct), after which the removed student cannot enter university housing without permission from the director of residence life & student conduct (or designee).
8. Removal of property: required removal of property.
9. University housing relocation: requires the student to move to another room, hall or quad with approval from the director of residence life & student conduct (or designee) Student must relocate within 24 hours, after which he/she cannot enter the building from which he/she was removed throughout the term of the sanction without permission from the director of residence life & student conduct (or designee).
10. Written warning: official record that a student has been warned about behavior.
11. No-contact order: student is prohibited from having any direct or indirect contact or contact via a third-party with a particular person. Violation may result in suspension.
12. Restriction of activities or privileges: participation in any and/or all organized university activities other than required academic endeavors are restricted for a designated period of time.
13. Conduct probation: period of self-reflection during which a student is on official warning that subsequent violations of university rules, regulations or policies are likely to result in more severe sanctions, including suspension or dismissal from the university.
14. Conduct suspension: a temporary cancellation of a student's enrollment at Shenandoah University with approval from the vice president for student life (or designee). Once assigned this sanction, a student is immediately removed from classes and banned from university property. A student cannot enter university property during his/her term of suspension without prior permission from the vice president for student life (or designee) nor graduate. Any classes taken at another institution suspended typically cannot be transferred to Shenandoah University unless given special permission by the vice president for student life and the academic dean. If a student lives in campus housing, he/she has 24 hours to vacate his/her campus residence.
15. Campus ban: student is banned from being present on either the entire campus or specified areas of the campus.
16. Dismissal from the university: a permanent cancellation of a student's enrollment at Shenandoah University with approval from the vice president for student life (or designee). Once assigned this sanction, students are immediately removed from classes and banned from university property. A student cannot enter university property once dismissed without prior permission from the vice president for student life (or designee) nor re-enroll or graduate from Shenandoah University.
17. Additional stipulations: additional sanctions a student must complete and/or follow.

Requesting an Appeal

The decision of the Hearing Panel and/or the Title IX Coordinator may be appealed. A student may submit his/her request for an appeal to the vice president for student life. A faculty member may submit his/her request for an appeal to the vice president for academic affairs. A staff member may submit his/her request for an appeal to the vice president for administration and finance. The appellate officers may consult with other appellate officers about an appeal; however, the decision ultimately lies with the appellate officer to whom the appeal was originally assigned.

In the event that the responding party accepts the findings of the investigation, those findings cannot be appealed. **All sanctions imposed by the appellate officer will be in effect during the appeal.** A request may be made to the appellate officer to delay implementation of the sanctions until the appeal is decided, but the presumptive stance of the institution is that the sanctions will go into effect immediately. Graduation, study abroad, internships/externships, etc. do NOT, in and of themselves, constitute exigent circumstances, and the appellant may not be able to participate in those activities during their appeal. In cases where the appeal results in reinstatement to the university or resumption of privileges, all reasonable attempts will be made to restore the student to his/her prior status, recognizing that some opportunities lost may be irreparable in the short term.

Any party who files an appeal request for a review of the decision or the sanctions imposed must do so in writing to the correct appellate officer as listed above within five business days of receiving the written decision. The written decision will be provided in person and/or mailed to the local mailing address of the respective party as indicated in university records and emailed to all parties' university-issued email accounts. If there is no local address on file, mail will be sent to the parties' legal home permanent address. Once received in person, mailed or emailed, the notice of the decision will be deemed presumptively delivered.

The appellate officer will share the appeal request with the other party (e.g., if the responding party files an appeal, the appeal is shared with the reporting party, who may also wish to file a response and/or bring his/her own appeal on separate grounds; this response or appeal will be shared with the initial appealing party). The appellate officer can take one of four possible actions: 1) appeal request may be denied as untimely or ineligible, 2) may affirm the findings and the sanction imposed 3) may grant an appeal and remand the finding and/or sanction for further investigation or reconsideration at the hearing level or 4) may modify a sanction. Based on the written requests/responses or interviews as necessary, the appellate officer will send a letter of outcome for the appeal to all parties.

The original finding and sanction will stand if the appeal request is not timely or substantively eligible, and that decision is final. The party requesting an appeal must show clear error as the original finding and/or a compelling justification to modify a sanction, as both finding and sanction are presumed to have been decided reasonably and appropriately during the original hearing.

The appellate officer may determine to remand the case to the Title IX Coordinator to re-open the investigation. At the discretion of the appellate officer, the results of a revised investigation

can be subsequently forwarded for reconsideration at the hearing level. If the appeal remands to the hearing body for review, the reconsideration of the hearing body may not be appealed.

The ONLY grounds for appeal are as follows:

A serious procedural error occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.);

1. To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
2. The sanctions imposed fall outside the range of sanctions designated for this offense and the cumulative conduct history of the responding party.

In rare cases where a procedural error cannot be cured by the original hearing officers (as in cases of bias), the vice president for student life may order a new hearing with a new body of hearing officers. The results of a reconvened hearing cannot be appealed. The results of a new hearing can be appealed, once, on any of the three applicable grounds for appeals.

The procedures governing the hearing of appeals include the following:

- All parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
- If upon appeal the case is remanded, every opportunity to return the appeal to the original hearing body for reconsideration should be pursued;
- Appeals are not intended to be full re-hearings of the allegation (de novo). In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal;
- Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so;
- An appeal is not an opportunity for vice president for student life to substitute his/her judgment for that of the original hearing body merely because he or she disagreed with its finding and/or sanctions.
- Sanctions imposed are implemented immediately unless the vice president for student life receives and chooses to grant a request to delay implementation of such sanctions.

Participation of Advocates in the Resolution Process

All parties are entitled to an advocate of their choosing to guide and accompany them throughout the campus resolution process. The advocate may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is both eligible and available. People who will be called as witnesses may not serve as advocate.

The parties are entitled to be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake, interviews, hearings and appeals.

Advocate should help their party prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The university cannot guarantee equal advocate rights, meaning that if one party selects an advocate who is an attorney, but the other party does not, or cannot afford an attorney, the university is not obligated to provide one. Additionally, responding parties may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>),

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]

All advocates are subject to the same campus rules, whether they are attorneys or not. Advocates may not present on behalf of their party in a meeting, interview or hearing and should request or wait for a break in the proceeding if they wish to interact with campus officials. Advocates may confer quietly with their party as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advocates should ask for breaks or step out of meetings to allow for private conversation. Advocates will typically be given a timely opportunity to meet in advance of any interview or hearing with the administrative officials conducting that interview or meeting. This pre-meeting will allow advocates to clarify any questions they may have, and allows the university an opportunity to clarify the role the advisor is expected to take.

Advocates are expected to refrain from interference with the university investigation and resolution. Any advocate who steps out of their role in any meeting under the campus resolution process will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advocate is removed from a meeting, it will be in the discretion of the Title IX Coordinator if that meeting continue without the advocate present. Subsequently, the Title IX Coordinator or a deputy will determine whether the advocate may be reinstated, may be replaced by a different advocate, or whether the party will forfeit the right to an advocate for the remainder of the process.

The university expects that the parties will wish the university to share documentation related to the allegations with their advocate. The university provides a consent form that authorizes such sharing. The parties must complete this form before the university is able to share records with an advocate. The parties are not otherwise restricted from discussing and sharing information relating to allegations with others who may support them or assist them in preparing and presenting. Advocates are expected to maintain the privacy of the records shared with them by the university. These records may not be shared with 3rd parties, disclosed publicly, or used for purposes not explicitly authorized by the university. The university may seek to restrict the role of any advocate who does not respect the sensitive nature of the process or who fails to abide by the university's privacy expectations.

The university expects an advocate to adjust their schedule to allow them to attend university meetings when scheduled. The university does not typically change scheduled meetings to accommodate an advocate's inability to attend. The university will, however make provisions to allow an advocate who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advocates during the process, and is not locked into using the same advocate throughout.

The parties must advise the investigators of the identity of their advocate at least two business days before the date of their first meeting with the Title IX Coordinator. The parties must provide subsequent timely notice to the investigators if they change advocates at any time. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with campus officials.

Additional Notes

University students are responsible for knowing the information, policies and procedures outlined in this document.

The university reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. Students are encouraged to check online at <http://www.su.edu/campuslife/shenandoah-universitys-stance-on-sexual-misconduct/sexual-misconductpolicy/> for the updated versions of all policies and procedures. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form. Reports of misconduct made after the fact may raise issues of policy and procedure application, if policies and procedures have changed. Unless the parties accept current policies, all reports are governed by the policies that were in place at the time the alleged misconduct occurred. Procedures applicable are those that are in place at the time of resolution.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

Special Provisions for Resolution Process

a. University-initiated proceedings

As necessary, the university reserves the right to initiate a report and to initiate resolution proceedings without a formal report or participation by the victim of misconduct.

b. Closed Hearing Process and Confidentiality

Hearings will be closed to the University community-at-large and the public. In addition to the Hearing Panel, the complainant and the accused individual, others present at the hearing may include: a) one advocate each for the complainant and accused individual, b) witnesses called by the complainant and the accused individual, and c) witnesses called by the Hearing Panel.

Once a hearing panel member has been named to the panel, he or she may not discuss the merits of the complaint. The Chair will provide the hearing panel with a copy of the Notice of Hearing, the investigation report, and the list of witnesses submitted by the parties with an instruction to avoid discussion of the merits of the complaint.

c. Pre-hearing Meetings

The Title IX Coordinator will schedule individual pre-hearing meetings with all parties. At the meeting, the Title IX Coordinator will review hearing procedures, the complaint of alleged sexual misconduct, and will review the list of witnesses and pre-hearing submissions.

d. Notification of Outcomes

Findings and recommendations of the Hearing Panel must be based on a preponderance of the evidence presented and shall be the result of a majority vote of the Hearing Panel. In determining whether a violation(s) of the sexual misconduct policy occurred, the Hearing Panel will look at the facts and records of the case as a whole and at the totality of the circumstance.

Following review of the Hearing Panel, the chair will communicate findings and sanctions in writing to the reporting party and the responding party within 10 calendar days following the conclusion of the hearing (or a longer time if the chair determines that circumstances dictate the need). Final outcome communications will be copied to the Title IX Coordinator and the Office of Student Conduct.

The outcome of a campus hearing is part of the education record of the responding party, and is protected from release under a federal law, FERPA. However, the university observes the legal exceptions as follows:

- Parties to non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, domestic violence, and dating violence incidents have an absolute right to be informed of the outcome, essential findings/rationale, and any sanctions that may result, in writing, without condition or limitation, and without substantial delay between notifications to each party.
- The university may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a university policy that is a “crime of violence,” including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property, domestic violence dating violence, stalking and kidnapping/abduction. In doing so, the university will not release any information that could lead to the identification of the reporting party.

e. Testimony during the Hearing and Alternative Testimony Options

The parties shall not be permitted to question each other directly. The reporting party and the responding party must direct questions to the Hearing Panel Chair, who will repeat the questions to the appropriate party. If the reporting party is participating in the

process via video conferencing, the Title IX Coordinator will request questions in advance of the responding student entering the hearing room process.

For sexual misconduct reports, and other reports of a sensitive nature, whether the alleged victim is serving as the reporting party or as a witness, alternative testimony options will be given, such as placing a privacy screen in the hearing room, or allowing the alleged victim to testify outside the physical presence of the responding party, such as by Skype or phone. While these options are intended to help make the reporting party more comfortable, they are not intended to work to the disadvantage of the responding party.

The accused student has the option not to testify; however, the exercise of that option will not prevent the panel from the hearing process and determining the complaint on the basis of the evidence presented.

f. Hearing Procedure

The hearing will not follow a courtroom model, and formal rules of evidence will not be observed. The Chair will determine the order of the witnesses and resolve any questions of procedure arising during the hearing. The parties are responsible for ensuring that their proposed witnesses are present. The hearing panel will review in advance of the hearing all the written materials provided to them by the Chair. The parties will have received or been provided the opportunity to review these materials prior to the hearing. The parties will be expected not to repeat undisputed details or non-material circumstances that would merely duplicate the written materials. If the panel determines that unresolved issues exist that would be clarified by the presentation of additional evidence, the Chair may recess the hearing and reconvene it in a timely manner to receive such evidence. A recess may not be based on the failure of witnesses to appear.

g. Past Sexual History/Character

The past sexual history or sexual character of a party will not be admissible by the other party in the investigation or hearing unless such information is determined to be highly relevant by the Chair. If the Chair decides the information is highly relevant, the sexual history between the parties may be introduced to offer context. All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be reviewed in advance of the hearing by the Title IX Coordinator. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the Title IX Coordinator may supply previous reports of good faith allegations and/or findings to the investigators, the hearing officers, and the vice president for student life to consider as evidence of pattern and/or predatory conduct.

h. Witness participation in an investigation

Each party is entitled to present witnesses and evidence on their behalf. The parties will provide the Title IX Coordinator with a list of witnesses they propose to be called and copies of all documents and information they wish to propose to present at the hearing process on or before the date set by the Title IX Coordinator. The Title IX Coordinator will provide each party with a copy of the list of witnesses, identification or copies of documents or information submitted by each party.

Witnesses are expected to cooperate with and participate in the university's investigation. Any witness who declines to participate in or cooperate with an investigation will not be permitted to offer evidence or testimony later in a hearing. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person. Parties who elect not to participate in the investigation will have the opportunity to offer evidence during the hearing and/or appeal stages of the process, though failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence. Any witness scheduled to participate in a hearing must have been interviewed first by Title IX Coordinator (or have proffered a written statement), unless all parties consent to the participation of that witness in the hearing. All witness information must be made available to each party at least three business days prior to the scheduled hearing.

In the absence of good cause, as determined by the Chair in his/her sole discretion, the parties may not introduce witnesses, documents, or other evidence at the hearing that were not provided to the Title IX Coordinator by this deadline. The parties are also responsible for the attendance of their witnesses at the hearing.

i. Training for those implementing these procedures

Personnel tasked with implementing these procedures, e.g.: Title IX Coordinator, investigators, hearing officers, appellate officers, etc., will be trained at least annually. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to sexual harassment and discrimination allegations; the university's Sex/Gender-based Discrimination and Sexual Misconduct Policies and Procedures; confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance.

j. Conflicts of Interest and Bias

The university is committed to ensuring that its resolution processes (e.g.: investigation, hearing, appeal, etc.) are free from actual or perceived bias or conflicts of interest that would materially impact the outcome. A panel member may remove him or herself from the panel for a particular case if he or she feels rendering of an objective decision is not possible due to a personal relationships with any of the parties involved. Student Life stays their implementation in extraordinary circumstances, pending the outcome of the appeal.

The vice president for student life will typically render a written decision on the appeal to all parties within seven business days from hearing of the appeal. The vice president for student life's decision to deny an appeal request is final.

Any party who feels that there is actual or perceived bias or conflict of interest that would materially impact the outcome may submit a written petition for the person's removal from the process. The petition should include specifics as to the actual or perceived bias or conflict of interest, as to why the petitioner believes the bias or conflict could materially impact the outcome. When the allegation involves a responding party who is an employee, petitions should be submitted promptly to the director of human resources. When the allegation involves a responding party who is a student, petitions should be submitted promptly to the Title IX Coordinator. Such petitions may also be made to the director of

student conduct, or to the vice president for student life in the event that the potential conflict or bias involves the Title IX Coordinator.

Any panel member who cannot participate because of a conflict of interest must be replaced for that hearing by an appropriate member appointed by the Title IX Coordinator.

k. Admission of Responsibility

If, at any time prior to the hearing, the responding party elects to acknowledge his/her actions and take responsibility for the alleged Sexual Misconduct, he or she may request that the Chair propose a resolution to the charges and a sanction and, with the consent of the reporting party, resolve the complaint without a hearing.

l. Witnesses

The university expects full participation of its community members in the fact finding and the investigation of sexual misconduct claims.

m. Record Keeping

In implementing these procedures, records of all allegations, investigations, and resolutions will be kept by the Title IX Coordinator indefinitely in the electronic Title IX Coordinator database.

Statement of the Rights of the Reporting Party

When a student or employee reports to the institution that there has been a violation of this sexual misconduct policy, the student or employee will be provided with a written explanation of the student or employee's rights and options.

- The right to investigation and appropriate resolution of all credible reports or notice of sexual misconduct or discrimination made in good faith to university officials;
- The right to be informed in advance of any public release of information regarding the incident;
- The right of the reporting party not to have any personally identifiable information released to the public, without his/her consent.
- The right to be treated with respect by university officials;
- The right to have university policies and procedures followed without material deviation;
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by university officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
- The right to be informed by university officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be

assisted by campus authorities in notifying such authorities, if the student so chooses. This also includes the right not to report, if this is the victim's desire;

- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus law enforcement and other campus officials.
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services for victims of sexual assault, both on campus and in the community;
- The right to a campus no contact order (or a trespass order against a nonaffiliated 3rd party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the victim and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
 - Change of an on-campus student's housing to a different on-campus location;
 - Assistance from university support staff in completing the relocation;
 - Transportation accommodations;
 - Arranging to dissolve a housing contract and pro-rating a refund;
 - Exam (paper, assignment) rescheduling;
 - Taking an incomplete in a class;
 - Transferring class sections;
 - Temporary withdrawal;
 - Working situations;
 - Alternative course completion options.
- The right to have the institution maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures.
- The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;

- The right to review all documentary evidence available regarding the allegation, including the investigative report, subject to the privacy limitations imposed by state and federal law, at least 48 hours prior to the hearing;
- The right to be informed of the names of all witnesses who will be called to give testimony, at least two business day prior to the hearing, except in cases where a witness' identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the alleged victim/reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing;
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports heard by hearing and appeals officers who have received annual sexual misconduct training sexual misconduct, dating violence, domestic violence, sexual assault and stalking;;
- The right to a panel comprised of representatives of both genders, if a panel is to be used;
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to meetings, interviews and/or hearings that are closed to the public;
- The right to petition that any member of the conduct body be recused on the basis of demonstrated bias;
- The right to bring a victim advocate or advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding;
- The right to provide evidence by means other than being in the same room with the responding party;
- The right to be present for all testimony given and evidence presented during any resolution-related hearing;
- The right to make or provide an impact statement in person or in writing to the hearing officers following determination of responsibility, but prior to sanctioning;
- The right to be informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties, and usually within 1 business day of the end of the process;
- The right to be informed in writing of when a decision of the university is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the [finding and] sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the university;

Statement of the Responding Party's Rights

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct made in good faith to university administrators;
- The right to be informed in advance, when possible, of any public release of information regarding the report.
- The right to be treated with respect by university officials;
- The right to have university policies and procedures followed without material deviation;
- The right to be informed of and have access to campus resources for medical, health, counseling, and advisory services;
- The right to be fully informed of the nature, policies and procedures of the campus resolution process and to timely written notice of all alleged violations within the report, including the nature of the violation and possible sanctions;
- The right to a hearing on the report, including timely notice of the hearing date, and adequate time for preparation;
- The right to review all documentary evidence available regarding the allegation, including the investigative report, subject to the privacy limitations imposed by state and federal law, at least two business days prior to the hearing;
- The right to be informed of the names of all witnesses who will be called to give testimony, at least two business days prior to the hearing, except in cases where a witness' identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- The right to have reports heard by hearing and appeals officers who have received annual training on sexual misconduct, dating violence, domestic violence, sexual assault and stalking;
- The right to petition that any member of the conduct body be recused on the basis of demonstrated bias;
- The right to a panel comprised of representatives of both genders if a panel is to be used;
- The right to meetings, interviews and hearings that are closed to the public;
- The right to have an advocate of their choice to accompany and assist in the campus resolution process.
- The right to a fundamentally fair resolution, as defined in these procedures;
- The right to make or provide an impact statement in person or in writing to the hearing officers board following any determination of responsibility, but prior to sanctioning;

- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to be informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision of the university is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the [finding and] sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the university.

For the most up-to-date version of this policy, please visit:

<http://www.su.edu/campus-life/shenandoah-universitys-stance-on-sexual-misconduct/>

Transcript Notations Concerning Sexual Violence Violations

A prominent notation shall be placed on the academic transcript for each student who has been suspended, permanently dismissed or withdraws while under investigation for an offense involving sexual violence under Shenandoah University's Sexual Misconduct Policy.

The notations will read as follows:

- Permanent Dismissal from Shenandoah University for sexual violence under Shenandoah University's Sexual Misconduct Policy [begin date through end date].
- Suspended for a violation of Shenandoah University's Sexual Misconduct Policy involving sexual violence effective [begin date through end date].

*Students suspended from the university shall remain out of school for a period of at least one academic semester. After that period, a student can petition for reinstatement through the director of residence life and student conduct. Students not attending class at Shenandoah for three consecutive semesters will need to reapply for admission.

- Withdrew while under investigation for sexual violence under Shenandoah University's Sexual Misconduct Policy [begin date through end date].

*This notation shall be removed from the transcript if the student is subsequently found not responsible for a violation of the sexual misconduct policy or not suspended or expelled as a result of a violation of the sexual misconduct policy.

[Replaces Sexual Misconduct Policy and subsections on pages 119 through 131 in the Undergraduate Student Life Policies chapter.]