Title IX & Sex-Based Misconduct

Office of Title IX Compliance
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Dear Mountaineers,

As I look back on this past year, Appalachian State University journeyed through an unprecedented year that posed various challenges. Fortunately, we made it through the new year because of our commitment to each other. As the Office of Title IX Compliance, we are committed to creating a culture of gender equity. Our culture will not change without partnerships across campus.

The Office of Title IX Compliance reports to the Division of Academic Affairs, yet our campus partners — including the Provost's Office, the Office of Human Resources, the Office of Disability Resources, the Athletics Department, Wellness and Prevention Services, Office of the Dean of Students, the Residential Life staff, Fraternity and Sorority Life, and the App State Police Department — worked collaboratively on prevention and response efforts related to Title IX issues.

As part of our commitment, the Title IX team facilitated training with students, faculty, and staff. As a campus community, 3,715 individuals participated in training; either by participating in zoom in-person training, or training offered via Everfi, an online training portal. The number of campus community members that participated in training this past year is a direct reflection of our campus community's commitment to our goal of reaching gender equity across campus.

The Office of Title IX Compliance (OTC) is not just about compliance. Our purpose is to help guide and facilitate our campus to meet our community goals through increased presence, visibility, and campus partnerships. OTC would not be able to accomplish our community goals without our incredible campus partnerships and our dedicated Mountaineers' commitment.

Our Annual Report gives a snapshot of the past calendar year, providing an overview of prevention efforts, information about reports made to our office, resolutions, and support measures we offer to students, faculty, and staff at any time when they are in need. This data is specific to App State and informs the way we work to meet our campus community's needs. This work takes all of us, and the Annual Report shows that collective effort. Through partnerships across the campus, we are creating a system of consistent support in which every member of our community has a vital role to play.

If you have any questions or suggestions, please feel free to contact me at titleix@appstate.edu.

- Jeff Lamoureaux

Director of Title IX Compliance/Title IX Coordinator
Annual Sex-Based Misconduct Report

Beginning this year (2021), App State will annually publish data regarding reported incidents of Sex-Based Misconduct that includes: Sexual Harassment, Sexual Assault, Dating/Domestic Violence, Stalking, and Gender-Based Discrimination managed through the Office of Title IX Compliance (OTC) in collaboration with the offices of Academic Affairs, Human Resources, and the Dean of Students. This Annual Report covers matters brought to the attention of these offices and other valuable campus partners from the calendar year January 1, 2020 - December 31, 2020.

Reports come to the university through many channels and with varying levels of detail, from a complete written report with names of parties and witnesses to a vague description of a concern without identification of the parties involved. The university is sharing information about all reports, including those for which the university did not have enough information to proceed because it could not obtain additional information despite attempts to do so.

We know that the ability of our students, faculty, and staff to flourish depends upon a healthy academic, work, and student living environment. This report’s outcome section provides data showing that policy violations have been found across a spectrum of Respondents, including faculty, staff, and students. Disciplinary outcomes are also provided for review. Additionally, the report details university interventions—efforts to address prohibited conduct through individualized education even before conduct rises to the level of a policy violation or under circumstances in which an investigation is not feasible.

Reading this Report

This Annual Report focuses on Gender-Based Discrimination, including Sex-Based Misconduct incidents, both on and off campus. The subject matters covered in this report include:

- Sexual Harassment in the Workplace-Academic Setting
- Sexual Harassment in the Student Setting
- Sexual Assault - Penetration / Intercourse
- Sexual Assault - Contact / Touching
- Stalking
- Dating / Domestic Violence
- Retaliation
- Gender Discrimination
- Other

A glossary on page 22 assists with understanding these and other terms in the report.
Although there is an expectation that all reports relating to Sex-Based Misconduct will be reported and addressed centrally, it is possible that not all incidents were forwarded to OTC. Moreover, we know that many instances of Sex-Based Misconduct are never reported to the university or OTC. Accordingly, we acknowledge that these data are incomplete.

Further, we know our community is interested in learning more about individuals' experiences based on identities; for example, we know survey data show that transgender, non-binary, and genderqueer individuals face higher incidents of Sex-Based Misconduct. However, the data we publish is based on the incidents that are reported to OTC.

Moreover, this Annual Report is limited in scope. For example, this Annual Report does not include sexual harassment-related matters that are outside of the oversight of OTC. Specifically, it does not include information from App State affiliate organizations, including health organizations, outside law enforcement departments, or advocacy groups.

The information shared in this year’s report also spans two sets of federal Title IX regulations regarding Sex-Based Misconduct: guidance issued by the Obama administration in 2011 and changes made by the Trump administration that became effective August 2020. The most significant changes in 2020 were:

- The requirement of colleges and universities to allow cross-examination of the complaining and responding parties, as well as any witnesses, during a live hearing led by institution officials.

- Replacement of the “single investigator model” in which one person investigated, adjudicated and issued disciplinary sanctions against respondents with a model that requires three separate officials to work through each piece of the complaint process: a Title IX coordinator, who receives reports of sexual misconduct; an investigator, to gather facts and interview parties and witnesses; and a decision maker, to determine sanctions and remedies for parties.

- An institution’s choice whether to use a “preponderance of the evidence” or “clear and convincing” standard as a burden of proof and to apply the same standard for all complaints, whether they involve student or faculty misconduct. Details can be found at https://titleix.appstate.edu/policies-and-procedures.
What is Title IX?

**Title IX of the Education Amendments of 1972**: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any education program or activity receiving federal funds.”

The U.S. Department of Education’s Title IX of the Education Amendments of 1972 ("Title IX") prohibits discrimination on the basis of sex under any educational program or activity receiving federal financial assistance. Accordingly, educational institutions that receive federal funds must respond promptly and effectively to incidents of sexual harassment, including incidents of sex-based misconduct that create a hostile environment. In May 2020, the Department issued a set of new Rules and Regulations effective August 14, 2020, that set forth processes and procedures to ensure due process for all parties.

The Department of Education’s Office for Civil Rights requires campuses to employ numerous efforts to promote the safety and security of students, employees, guests, and visitors to institutions of higher learning.

Such efforts include documenting and maintaining policies against harassment and retaliation, establishing equitable grievance procedures for managing reports and complaints of Prohibited Conduct, and promoting awareness and information to prevent Prohibited Conduct through prevention education.

The Office of Title IX Compliance supports equity and access on the basis of sex or gender, including sexual orientation, gender expression, and gender identity across App State, fostering an environment free of discrimination, harassment, and retaliation. OTC responds to reports of Sex-Based Misconduct to mitigate its effect and prevent its recurrence. OTC also investigates complaints of Sex-Based Misconduct.

**App State’s Commitment**

App State is committed to providing a safe learning, living, and working environment for all members of our community inclusive of gender, gender expression, gender identity, sex, and sexual orientation. The university prohibits Sex-Based Misconduct. In accordance with this, App State responds to allegations of such behavior seriously.

We recognize the rights of all members in our community and understand the importance of providing a prompt and fair response to allegations, and providing avenues of support.
App State's Policies

POLICY 110: Discrimination & Harassment

The purpose of this policy is to support App State's commitment to providing an institutional environment free from discrimination and harassment. This policy serves to address prohibited conduct adverse to App State's commitment to preventing discrimination and harassment and providing an administrative framework and oversight for reporting, investigating, adjudicating, and resolving violations of this policy.

For more information: POLICY 110: Discrimination & Harassment

POLICY 112: Sex-Based Misconduct

This policy applies to all members of the App State community, including students, faculty, staff, visitors, volunteers, and others who participate in programs, activities, or conduct business on behalf of App State that occur in locations, events, or circumstances where App State exercises substantial control over both the respondent and the context in which the alleged sex-based misconduct occurs. Allegations of harassment and discrimination based on sex, gender, gender expression, gender identity, and sexual orientation, including instances involving sexual assault, dating violence, domestic violence, or stalking, are subject to this policy and Policy 110: Discrimination & Harassment.

For more information: POLICY 112: Sex-Based Misconduct

POLICY 602.21: Improper Relationships

App State does not condone amorous relationships between students and employees. Members of the University community should avoid such liaisons, which can harm affected students and damage the integrity of the academic enterprise. Further, sexual relationships between unmarried persons can result in criminal liability. In two types of situations, University prohibition and punishment of amorous relationships are deemed necessary: (1) when the employee is responsible for evaluating or supervising the affected student; (2) when the student is a minor, as defined by North Carolina law. The following policies shall apply to all employees and students of the sixteen constituent institutions.

For more information: POLICY 602.21: Improper Relationships
Office of Title IX Compliance Staff

Jeff Lamoureux | Director of Title IX Compliance, Title IX Coordinator

Jeff is responsible for overseeing institutional compliance with Title IX of the Education Amendments of 1972, the Violence Against Women Reauthorization Act of 2013, and other federal and state laws and mandates. The Coordinator provides leadership and support to all institutional Title IX efforts, including, but not limited to, policy and procedure development and maintenance, investigation oversight, federal and state compliance, prevention, training, and response management.

Amy Carson | Case Coordinator

Amy is the central administrator for case management in the Office of Title IX Compliance. The Case Coordinator is responsible for assisting the Director of Title IX Compliance / Title IX Coordinator with managing the tracking and resolution of all complaints from the beginning to the end of each documented incident. Amy also coordinates data collection and reporting processes to ensure departmental and campus-wide compliance with System-, state-, and nation-wide policies, mandates, and laws.

Courtney Cornelius | Administrative Support

Courtney provides primary office management functions for the Office of Title IX Compliance, including administrative support and customer service. Courtney helps investigators with case documentation and scheduling hearings when an investigation is complete. She is also responsible for supporting the Director of Title IX Compliance / Title IX Coordinator by researching best practices in Title IX and Sex-Based Misconduct and assisting with other duties as assigned.

Dr. Tim Koch | Civil Rights Investigator

Dr. Koch conducts neutral fact-finding investigations into allegations of sexual discrimination, harassment, or assault involving students, faculty, staff, or administrators, in accord with federal legislation and guidelines. Such allegations may encompass sexual assault, dating/domestic violence, stalking, or the creation of a hostile environment for another based upon that person’s gender, sexual orientation, or gender identity. At the close of each investigation, Dr. Koch prepares an investigative report that becomes the basis for further University action.
2020 Updates & Projects

COVID-19 Impact

We know that the ability of our students, faculty, and staff to flourish depends upon a healthy academic, work, and student living environment. The global pandemic caused a transition to virtual learning and working, altering the way our office does business. Because students moved to virtual learning, there were fewer reports related to Title IX. From 2019 to 2020, there was a decrease in complainant reports by 34%. This is likely attributable to social distancing guidelines and the remote teaching, learning and working environment over much of the reporting period.

Title IX Website & Resource Guide

With the August 2020 onset of new regulations and procedural changes to the Sex-Based Misconduct process, OTC spent considerable time reexamining and updating the Title IX website to better serve our campus community. Changes to the website included providing an FAQ section, simplifying how to submit a report, listing available resources for complainants and respondents, detailing a new grievance policy, and compiling information and support for our pregnant and parenting Mountaineers. In addition, OTC created a downloadable resource guide that explains campus policies and procedures, as well as services for those involved in the Title IX process.

Staff Training for New Regulations

To prepare and fully understand the changes made to the Title IX regulations effective August 2020, OTC staff participated in multiple training opportunities, including 2020 Title IX Regulations Implementation Training & Certification by ATIXA. Staff members were trained on the expectations and responsibilities of a Title IX Coordinator, Hearing Board Panelist, and Appellate Officer. All OTC staff also received extensive education on Title IX investigations. The professional development list also includes instruction on topics such as Conflicts of Interest and Bias, Supportive Measures during the Grievance Process, Appeals, Title IX Report Writing, and Virtual Hearings. For a complete list of all training completed by our staff, please visit https://titleix.appstate.edu/otc-team/professional-development.

Title IX Deputy Coordinators & Liaisons

In summer 2020, the Title IX Coordinator, Jeff Lamoureux, appointed individuals across the university to be Deputy Title IX Coordinators/Liaisons. By August 2020, nine individuals agreed to be part of the OTC team. As Deputy Title IX Coordinators, they collaborate with the Office of Title IX Compliance involving all reported incidents of alleged sexual misconduct assisting with the initial assessment of the reported incident(s) and helping with the resolution of the reported incident(s). The Deputy Coordinators work with OTC to administer supportive measures for the involved parties (Complainant/Respondent), assist in decisions involving placing employees on administrative/investigatory leave, and ensure informal or formal grievance procedures are followed in compliance with App State and state policy and procedures.
Campus Collaboration

The Office of Title IX Compliance (OTC) worked with several campus partners throughout the year to ensure compliance with Title IX and create a culture of respect. Although our work is never-ending, a special thank you to our campus partners in Athletics, Student Affairs, Human Resources, Academic Affairs, Faculty Senate, App State Police, and all the student leadership that assisted us throughout the past year.

Deputy Title IX Coordinators

**Academy at Middle Fork | Darron Daniels**, Deputy Title IX Coordinator at Academy at Middle Fork

A special thank you for the leadership and assistance of Deputy Title IX Coordinator at Middle Fork, Director of Student Affairs & Emergency Management, Darron Daniels. Darron works with the school’s administrative team to support and manage the behavioral, social, and academic needs of students, campus emergencies, and implement restorative justice practices.

**Faculty Affairs | Dr. Jacqui Bergman**, Vice Provost for Faculty Affairs and Professor of Management, Deputy Title IX Coordinator

A special thank you for the leadership and assistance of Deputy Title IX Coordinator, Vice Provost for Faculty Affairs, Dr. Jacqui Bergman. As a Deputy Title IX Coordinator, Jacqui collaborates with OTC concerning all reported incidents of alleged Sex-Based Misconduct involving EHRA faculty employees to assist with the initial assessment of the reported incident(s) and help with the resolution of the reported incident(s). Jacqui also works with OTC to coordinate supportive measures for the involved parties and ensure that informal or formal grievance procedures are followed in compliance with the Faculty Handbook, App State, the UNC system, and the State of North Carolina.

**Human Resources | Angie Miller**, Deputy Human Resources Director

A special thank you for the leadership and assistance of Deputy Title IX Coordinator, Deputy Human Resources Director, Angie Miller. As a Deputy Title IX Coordinator, Angie works with the OTC to coordinate supportive measures for involved parties, assist in decisions involving placing employees on administrative/investigatory leave, and ensure grievance procedures are followed in compliance with App State and state policy and procedures. As a result of Angie’s support and leadership, OTC was able to work with many departments to train several current and newly hired employees.

**Athletics | Makini Thompson**, Senior Associate Athletics Director, Senior Woman Administrator

A special thank you for the leadership and assistance of Deputy Title IX Coordinator, Senior Associate Athletics Director/Senior Woman Administrator, Makini Thompson. As a Deputy Title IX Coordinator, Makini works with OTC to ensure compliance with Title IX by monitoring the athletics department’s efforts for gender equity in athletic opportunities to all student-athletes. Makini also collaborates with OTC to coordinate Title IX training for all student-athletes and athletic staff. Because of Makini’s exemplary leadership, all 16 athletic teams (418 students) and 135 staff participated in Title IX training.
Campus Collaboration Continued

Title IX Liaisons

Disability Resources | Maranda Maxey, Director of the Office of Disability Resources, ADA/504 Coordinator

A special thank you for the leadership and assistance of Title IX Liaison, Director of the Office of Disability Resources / ADA Coordinator, Maranda Maxey. As a Title IX Liaison, Maranda is the point of contact for the Office of Title IX Compliance related to any requests for disability resources and providing accommodations determined appropriate by ODR. Maranda's knowledge and leadership have ensured our university's compliance with all laws of the Americans with Disabilities Act as amended (2008), Section 504 of the Rehabilitation Act of 1973, and supporting individuals with disabilities.

Case Management | Ellen Grulke, Interim Director of Case Management

A special thank you for the leadership and assistance of Title IX Liaison, Interim Director of Case Management, Ellen Grulke. As a Title IX Liaison, Ellen assists with implementing supportive measures related to student safety, including incidents involving Sex-Based Misconduct/Title IX concerns. The support extended through case management is available to students whether or not they participate in a grievance process and is provided based on the student’s desired level of support. Ellen also developed the Campus Climate Survey concerning Sex-Based Misconduct.

Residence Life | Dr. Shannon Jordan, Senior Associate Director for Residence Life

A special thank you for the leadership and assistance of Title IX Liaison, Senior Associate Director for Residence Life, Dr. Shannon Jordan. As a Title IX Liaison, Shannon serves as the contact point for OTC involving any Sex-Based Misconduct/Title IX concerns in housing. Additionally, Shannon assists with implementing housing accommodations as it relates to Sex-Based Misconduct/Title IX incidents involving students. Shannon also collaborates with OTC to ensure Residential Housing staff receives annual Title IX training.

App State Police Department | Bill McGowan, Clery Act Compliance Coordinator

A special thank you for the leadership and assistance of Title IX Liaison, Clery Act Compliance Coordinator, Bill McGowan. As a Title IX Liaison, Bill ensures all Sex-Based Misconduct/Title IX incidents reported to ASUPD are promptly reported to OTC. Bill ensures all campus community crimes are accurately reported and published in the Annual Campus Security & Fire Safety Report. Bill also assists with implementing timely warnings for the campus community whenever a safety concern is detected and ensures Campus Security Authorities (CSA) receive annual training.
Campus Collaboration Continued

Title IX Liaisons – Continued

Wellness & Prevention | Kyra Patel, Coordinator for Student Social Wellness

A special thank you for the leadership and assistance of Title IX Liaison, Coordinator for Student Social Wellness, Kyra Patel. As a Title IX Liaison, Kyra works to develop and implement peer education-based interpersonal violence prevention initiatives. Kyra serves as the advisor for the Red Flag Campaign, an IPV peer education group. Kyra assists with the development of new online modules and serves as a referral resource for students to connect them to the appropriate support resource. Additionally, Kyra conducts sexual health consultations with students to address any questions/concerns about their sexual well-being.

Intercultural Student Affairs | Lamont Sellers, Director of the Office of Intercultural Student Affairs

A special thank you for the leadership and assistance of Title IX Liaison, Director of the Office of Intercultural Student Affairs, Lamont Sellers. As a Title IX Liaison, Lamont is committed to elevating student voices from minoritized and marginalized identities that may have experienced sexual assault, dating violence, stalking, and other disruptive behaviors. Through collaboration, programming, education, and individualized interactions, Sellers hopes to help students understand their rights and be empowered to take action.

Diversity & Inclusion | Dr. Willie Fleming, Chief Diversity Officer

A special thank you for the leadership and assistance of Title IX Liaison, Chief Diversity Officer, Dr. Willie Fleming. Before his retirement in June 2021, Willie regularly hosted training for faculty, staff, and students to help encourage ongoing discussions about equity and inclusion on our campus. Notably, 90% of academic departments and nearly 25% of staff offices and departments have received training in implicit bias. Willie played a significant role in bringing inclusive excellence to App State. Although we will greatly miss his support and guidance, OTC looks forward to continuing our partnership with his successor, Interim Chief Diversity Officer Jamie Parson.
Campus Collaboration Continued

Intercultural Student Affairs

App State’s Intercultural Student Affairs (ISA) office provides mentoring, advocacy, community, and identity affirmation for marginalized and underrepresented students. The office also offers opportunities such as the Diversity Lecture Series, Equity in Action conference, MLK Celebration, and other events so that all App State students can develop an appreciation for diversity and different perspectives, enhance their self-awareness, increase their multicultural knowledge and strengthen their intercultural competency. ISA operates three student-led outreach centers:

The Women’s Center

The App State Women’s Center has been a resource on campus since September 1998. It is the only completely volunteer-run Women’s Center in the state of North Carolina. We are committed to educating the App State community, eliminating gender discrimination, promoting social, economic, and political equity, and empowering ALL female-identifying individuals!

As a student-centered organization, we coordinate programs and events that align with the mission of the Women’s Center and develop other interests as they arise through campus happenings and current events.

The Multicultural Center

The Multicultural Center at App State provides a bridge that connects and promotes the uniqueness of various multicultural groups. At the same time, it encourages respect and appreciation of the history, traditions, and culture of these diverse groups. They accomplish this by providing a venue for hosting exhibits, programs, activities, and lectures that seek to enhance the rich cultures that comprise our collective community.

Henderson Springs LGBTQ+ Center

The Henderson Springs LGBTQ+ Center is a resource, referral, and social outlet for the campus and surrounding community. The Center provides a safe, welcoming, supportive, and inclusive space for all people regardless of gender identity or sexual orientation. This center was founded to provide resources, support, information, and a welcoming atmosphere for LGBT individuals and their allies.
Training, Education, & Prevention

The Office of Title IX Compliance teamed up with various campus partners to increase the number of Mountaineers who participate in training about Sex-Based Misconduct. As part of our education efforts, we provided increased opportunities for training, sent out campus emails promoting Title IX training opportunities to the campus community, created information posters, conducted a Campus Climate Survey, and bolstered our social media presence through Instagram. These dedicated campus partners also contributed to the development and implementation of Policy 112 - Sex-Based Misconduct.

Online Module (EVERFI)

In Fall 2020, EVERFI introduced a new online training opportunity for mandatory reporters, "Building a Supportive Community; Clery Act and Title IX." A total of 464 individuals participated in the course.

Zoom Trainings

Last year brought on new challenges in reaching out to the campus community concerning training opportunities. Instead of letting these hurdles halt training goals, OTC developed education via Zoom and conducted virtual Title IX instruction for students, faculty, and staff, reaching close to 1,500 people.

In response to the new regulations, OTC also held a Zoom series of 6 training sessions (for a total of 12 hours) as a base requirement for 45 employees who will serve as Hearing Board Panelists and/or Advisors.

Wellness and Prevention

It is the mission of Wellness and Prevention Services to serve all students by promoting healthy behaviors, risk behavior modification services, and advocacy for campus-wide health policies that facilitate student success and holistic well-being. Through online training by EVERFI, during the 2019-20 academic year, 1,758 students completed "Sexual Assault Prevention for Undergraduates."

In addition to online opportunities, 210 students participated in the Red Flag Campaign, which is designed to raise awareness and educate people about being active bystanders. Another 620 students were reached through Red Flag’s social media campaigns and programming called “Take Back The Night" and "Clothesline Project."

Campus Climate Survey

In fall semester 2020, a Campus Climate Survey on the perceptions of Sex-Based Misconduct was completed voluntarily by 2,028 App State students. A total of 160 participants reported experiencing a form of Sex-Based Misconduct while enrolled at App State, which is 8% of those that participated in the survey. Note that because the survey was completed late in the fall semester, more information from the survey will be shared in the 2021 Annual Report.

Posters

To build awareness of the Office of Title IX Compliance, the team has created signage now displayed in buildings across campus.

The posters have QR codes allowing students to scan them with their phone for quick access to the Title IX website, available resources, and contact information for the Title IX Coordinator.

Social Media

In October 2020, OTC launched its first social media account on Instagram. The purpose is to present easily understandable Title IX information for App State students. A weekly post contains information such as Sex-Based Misconduct definitions, university policies, frequently asked questions, and contact information for available resources. As the account gains more followers, the goal is to begin promoting events for more Title IX education, such as Q&A lunch sessions and specialized training events. Follow us at appstatetix.
Pregnant and Parenting

Title IX protects pregnant and parenting individuals from discrimination based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. Title IX requires equal access and equal participation for Pregnant and Parenting individuals in educational programs and activities including work, clubs, sports, honor societies, leadership opportunities, and other activities. In 2020 at App State, nineteen pregnant/parenting individuals contacted OTC for assistance.

Assistance & Adjustments

Upon request, App State will provide reasonable adjustments to Pregnant and Parenting Individuals including, but not limited to:

- assistance with parking considerations
- communication and support for reasonable and appropriate breaks for standing, lactation, nursing, etc.
- providing support for one’s physical environment (i.e., accessible seating)
- requesting an incomplete in a course when applicable and appropriate

Lactation Lounge

App State also has a Lactation Lounge in its Plemmons Student Union to provide support to mothers in the App State Community. This designated space for breastfeeding and/or expressing milk is available to faculty, staff, students, and campus visitors during the facility's normal operating hours.

The Lactation Lounge offers the following:

- A keycode access door.
- Three private lactation nooks each with a chair, footstool, table, dimmable lamp, sound machine, and an electrical outlet with USB ports for charging cell phones and other electronics.
- A common area with a sink, drying rack, microwave, refrigerator, full-length mirror, and lockers for storing personal items.
- Two zones of lighting: one above the common area and one above the lactation nooks for optimal aesthetics.
Reports of Sex-Based Misconduct

Allegations of Sex-Based Misconduct

In 2020, there were 157 cases of Sex-Based Misconduct — a 34% reduction in reports compared to 2019, likely attributable to the COVID-19 pandemic and App State's remote teaching, learning and working environment during that time.

During 2020, there were 38 allegations of Sexual Harassment, 24% of all cases, followed by 34 allegations of Sexual Assault*. Dating/Domestic Violence made up 26 of the allegations, while 21 of the allegations were stalking. Eleven allegations were Sexual Assault - Contact/Touching, and 8 were Sexual Assault - Intercourse/Penetration. Six allegations were classified as Sexual Exploitation, 2 allegations of Gender Identity Discrimination, and 1 allegation on the basis of Sexual Orientation Discrimination. It was determined that there was insufficient information to classify 10 allegations. These were documented incidents of students in need of support but there was no known allegation of sex-based misconduct. Alcohol or drug usage was a factor in 10 of the reports. In 2020, the most common allegations of Sex-Based Misconduct were:

- **Sexual Harassment**: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to any App State education program or activity.

- **Sexual Assault**: Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent.

- **Dating/Domestic Violence**: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant’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. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates: the people cohabitating must be current or former spouses or have an intimate relationship.

*When the Complainant solely uses the term "sexual assault" and does not provide any other behavioral identifiers to suggest a specific type of sexual assault, i.e., non-consensual sexual contact or non-consensual sexual intercourse.
Reports of Sex-Based Misconduct

Locations of Reported Sex-Based Misconduct

In 2020, the most common disclosed on-campus location of Sex-Based Misconduct occurred in Residence Halls. In most cases, however, the location was unknown/undisclosed, often because the Complainant did not offer this information.

Identification Status of Reported Sex-Based Misconduct

In 2020, there were 135 reports by Student Complainants, approximately 86% of all cases, followed by 6 reports from Unknown Complainants, and 6 reports by Non-Community Member Complainants.

Although students were the majority of Complainants, Unknown Respondents were involved in 59 reports, approximately 38% of all cases, followed by 50 reports with Student Respondents, 31 reports with Non-Community Member Respondents, 5 reports with Faculty Respondents, and 2 reports involving Staff Respondents.

It was determined that there was insufficient information to classify 10 allegations. These were documented incidents of students in need of support but there was no known allegation of sex-based misconduct.
Reports of Sex-Based Misconduct

Identification Status of Reported Sex-Based Misconduct – Continued

Complainants

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<th>Allegations*</th>
<th>Student</th>
<th>Staff</th>
<th>Faculty</th>
<th>Non-Community</th>
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</tbody>
</table>

*It was determined that there was insufficient information to classify 10 allegations. These were documented incidents of students in need of support but there was no known allegation of sex-based misconduct.

**When the Complainant solely uses the term “sexual assault” and does not provide any other behavioral identifiers to suggest a specific type of sexual assault, i.e., non-consensual sexual contact or non-consensual sexual intercourse.
# Reports of Sex-Based Misconduct

## Identification Status of Reported Sex-Based Misconduct – Continued

### Respondents

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<td>Non-Consensual Sexual Contact</td>
<td>3</td>
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<td>1</td>
<td>0</td>
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<td>1</td>
<td>6</td>
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<tr>
<td>Sexual Assault**</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>24</td>
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<tr>
<td>Stalking</td>
<td>7</td>
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<td>0</td>
<td>7</td>
<td>6</td>
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<tr>
<td>Sexual Exploitation</td>
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<td>0</td>
<td>0</td>
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<td>1</td>
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<td>Relationship Violence</td>
<td>5</td>
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<td>0</td>
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<tr>
<td>Discrimination based on Sexual Orientation</td>
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<td>Discrimination based on Gender/Gender Identity</td>
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</tr>
</tbody>
</table>

*It was determined that there was insufficient information to classify 10 allegations. These were documented incidents of students in need of support but there was no known allegation of sex-based misconduct.

**When the Complainant solely uses the term “sexual assault” and does not provide any other behavioral identifiers to suggest a specific type of sexual assault, i.e., non-consensual sexual contact or non-consensual sexual intercourse.
Reports of Sex-Based Misconduct

Reasons for Non-Participation in the Grievance Process

Reasons the university will not move forward with the Grievance Process include having insufficient information or lack of jurisdiction. The August 2020 changes to Title IX regulations stipulate that institutions cannot investigate off-campus incidents unless the location is officially recognized by the institution (such as fraternity or sorority housing or athletic housing). In 2020, there were 38 reports that were determined to have insufficient information to move ahead with the Grievance Process. In these instances, although numerous attempts were made to contact the reported Complainant for additional information and to offer resources, the reports lacked detail and therefore remained unverified. The university did not have jurisdiction to proceed in 28 instances.

OTC addresses prohibited conduct that occurs either:

- On property owned or controlled by App State.
- Off campus property in any building owned or controlled by a student organization that App State officially recognizes.
- On property owned or controlled by non-Appalachian entities or individuals that has an adverse or detrimental effect on Appalachian and its employees, employment applicants, students, visitors, or volunteers.

In all cases, OTC documents the report and offers resources to the Complainant even when it can’t investigate further. OTC will also help with resources if the Complainant was a campus visitor not affiliated with App State.

In some instances, Complainants declined to participate in a formal process or did not respond to communications or outreach attempts from the university. In some instances, Complainants requested only support and interim protective measures, and requested the university refrain from moving forward with the Grievance Process.

Complainants may choose this path because they:

- Wish to keep the details of their experiences private rather than involve potential witnesses,
- Do not want the respondent to know a report has been made, and/or
- Do not want to pursue a formal investigation.

The Title IX Coordinator evaluates these requests relative to campus safety and that of the parties involved. If there is no threat to campus, the university honors the request and provides information, support, and assistance with interim measures. If the Title IX Coordinator determines that the facts and circumstances reported constitute a threat to the campus community, the university may not be able to honor a Complainant’s request.
Reports of Sex-Based Misconduct

**Informal and Formal Resolutions**

The Title IX Coordinator reviews every formal complaint and offers options for informal or formal resolution processes. If the Title IX Coordinator determines that an informal resolution can be offered, both parties must agree. In this process, the parties agree to the informal resolution, which could include an appropriate sanction, such as counseling or probation. However, if the Parties do not agree or the Title IX Coordinator does not find an informal process to be appropriate, an Investigator will be assigned to conduct a thorough and impartial investigation.

A formal complaint may also be dismissed (1) if the complainant decides to withdraw their report or (2) the alleged conduct would not constitute a policy violation. The Title IX Coordinator also has the discretion to dismiss a formal complaint if the respondent is no longer enrolled in or employed by App State or circumstances prevent OTC from gathering evidence sufficient to reach a determination.

Two cases were dismissed, 1 case was formally resolved, and 8 cases were informally resolved. Cases resolved through formal or informal resolution — as noted in the chart below — resulted in probation, suspension, expulsion, campus ban, counseling, change in housing, nonrenewal of contract, and/or no contact directive. One faculty member and 4 students were found responsible.

**Resolutions and Outcomes**

<table>
<thead>
<tr>
<th>Identification Status</th>
<th>Type of Resolution</th>
<th>Outcome</th>
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</thead>
<tbody>
<tr>
<td>Faculty</td>
<td>Formal</td>
<td>Nonrenewal of Contract</td>
</tr>
<tr>
<td>Student A</td>
<td>Informal</td>
<td>Counseling, Training, No Contact Directive, Probation</td>
</tr>
<tr>
<td>Student B</td>
<td>Informal</td>
<td>Counseling, Training, No Contact Directive, Suspension, Probation</td>
</tr>
<tr>
<td>Student C</td>
<td>Informal</td>
<td>No Contact Directive</td>
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<tr>
<td>Student D</td>
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<td>Student E</td>
<td>Informal</td>
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<tr>
<td>Student F</td>
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<td>No Contact Directive</td>
</tr>
<tr>
<td>Student G</td>
<td>Informal</td>
<td>No Contact Directive, Housing Removal</td>
</tr>
<tr>
<td>Student H</td>
<td>Informal</td>
<td>Counseling, No Contact Directive, Probation, Housing Ban, Campus Ban</td>
</tr>
</tbody>
</table>
2021 Updates & Projects

New Assistant Director Position

OTC is excited about the addition of a new position in summer 2021: Assistant Director of Title IX Compliance. Some of the essential duties of this position will include participating in the development, implementation, and maintenance of comprehensive university policies, procedures, and practices, working collaboratively with important campus stakeholders regarding the maintenance of a safe, inclusive campus community, and assisting in training and educational efforts of university students, employees, and community members regarding sexual and relationship violence.

Parenting & Pregnancy Website

The Pregnancy and Parenting Working group was formed during the fall 2020 semester, including representatives from the Office of Human Resources, the Office of Disability Resources, the Office of Title IX Compliance, Student Affairs, and the faculty. In an attempt to streamline information on pregnancy and parenting support for faculty, staff, and students, the group has proposed a stand-alone website that would be a one-stop-shop for students and employees. This website would provide information about resources, their rights under federal/state laws and regulations, and how to request accommodations/adjustments. The working group is hopeful that this website will launch before the start of the fall 2021 semester.

LGBTQ+ Resources Guide

As OTC continues to expand the Title IX website to provide resources for all App State students, our team is assembling an LGBTQ+ guide for release in 2021. The goal is to provide a document (downloadable from the website) that connects all university community members to campus, local, and national resources around supporting and advocating for gender-diverse students. The main focus will be on resources around Title IX and Sex-Based Misconduct. The Henderson Springs LGBT Center also provides resources and connections to campus organizations that may be helpful to those seeking more information about Gay, Lesbian, Bisexual, and Transgender Life at App State. OTC will provide a campus announcement once the guide is completed.

Hearing Panel Training

In response to the U.S. Dept. of Education’s new Title IX regulations, OTC worked closely with campus partners in the Division of Student Affairs, the Office of Faculty Affairs, the Office of Human Resources, and the Office of the General Counsel to identify and train professionals from across our campus to learn the nature of these new regulations and the requirements for serving on Sex-Based Misconduct hearing panels as well as acting as advisors to the parties involved. Drawing upon external resources through the Association of Title IX Administrators (ATIXA), OTC held a series of 6 training sessions (for a total of 12 hours) as a base requirement for those serving on these hearing panels and/or as advisors. OTC is in the process of creating follow-up training on particular skills related to this process, including those specific to chairing these panels and crafting decision-making documents. Additionally, OTC will continue recruiting and training additional personnel to serve in the key roles of advisors and hearing panel members.
**Title IX Glossary**

- **Appellate Officer** – Individual(s) who have been assigned by the Title IX Coordinator or designee the have decision-making authority to hear and respond to any appeals filed by the involved parties.

- **Complainant** – Any person who has alleged to be the victim of conduct that could constitute Sex-Based Misconduct or Retaliation.

- **Consent** – For consent to be present, it must be knowing and voluntary, with clear permission, by word or action, to engage in sexual activity. For more about consent, visit, [What is Consent?](#)

- **Dating Violence** – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant’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. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

- **Domestic Violence** – To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates: the people cohabitating must be current or former spouses or have an intimate relationship. Domestic violence involves a felony or misdemeanor crime of violence committed by:
  - A current or former spouse or intimate partner of the Complainant;
  - A person with whom the Complainant shares a child in common;
  - A person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
  - A person similarly situated to a spouse of the Complainant under the domestic or family violence laws of North Carolina;
  - Any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of North Carolina.

- **Formal Complaint** – A document submitted by a Complainant or signed by the Title IX Coordinator requesting App State to investigate an allegation involving: (a) Sex-Based Misconduct against a Respondent, or (b) Retaliation against an individual who is engaging in protected activities under [App State Policy 112 – Sex-Based Misconduct](#) or these procedures.

- **Gender Discrimination** – Conduct based on an individual's sex/gender that is an unlawful or otherwise prohibited preference for, or detrimental treatment of, one individual compared to other individuals. The conduct must be sufficiently serious to unreasonably interfere with or limit: a. an employee or employment applicant’s access to employment, terms, conditions or benefits of employment (e.g., hiring, advancement, assignment, etc.); b. a student or admission applicant’s ability to participate in, access or benefit from University programs, services, or activities (e.g., admission, academic standing, grades, assignments, campus housing, etc.); or c. a volunteer or visitor's ability to participate in, access or benefit from or deliver University's programs or services.
Title IX Glossary

- **Gender Equity** – Fairness in the access to opportunities and resources irrespective of an individual's gender identity.

- **Hearing Panel** – Individuals who have decision-making authority within App State's Formal Grievance Process for determinations of responsibility, as expressed in these procedures.

- **Hostile Environment Discrimination** – Unwelcome conduct that is based on sex as defined in this policy where enduring the offensive conduct unreasonably interferes with a person's participation in the educational program or activity OR the conduct is so severe, pervasive, and objectively offensive such that a reasonable person in similar circumstances and with similar identities would consider it intimidating, hostile, or abusive. An isolated incident, unless sufficiently severe, does not constitute a hostile environment.

- **Investigator** – An individual charged by the Title IX Coordinator with gathering testimonial and documentary evidence about an alleged violation of Sex-Based Misconduct and compiling the information into an investigation report.

- **Mandatory Reporter** – Employees of App State who are responsible for sharing knowledge, notice, or reports of Sex-Based Misconduct and Retaliation with the Title IX Coordinator, as identified in App State Policy 110 - Discrimination and Harassment. A Mandatory Reporter may also be referred to as a "Responsible Employee."

- **Respondent** – Any individual who has been reported to be the perpetrator of conduct that could constitute Sex-Based Misconduct or Retaliation.

- **Retaliation** – Any adverse action against an individual, or an individual's spouse, partner, or other person with a close personal relation, for: (a) making or supporting a claim of Sex-Based Misconduct, (b) opposing any Sex-Based Misconduct, (c) participating in the reporting, investigation, or resolution of alleged violation(s) under this policy, or (d) otherwise engaging in a protected activity under these procedures or other associated University policies. Examples of Retaliation include intimidation, threats, Coercion, or adverse employment or educational actions. Retaliation may be found even when an underlying report or complaint made in good faith was not substantiated.

- **Sanction** – A consequence imposed by App State on a Respondent(s) who is found to have committed Prohibited Conduct.

- **Sex** – As referenced in these procedures encompasses sex, gender, gender expression, gender identity, and sexual orientation, as defined by federal and state law and UNC system policies.

- **Sex-Based Misconduct** – Any conduct that involves the Sexual Harassment or Sex-Based Discrimination of an individual based on their gender, gender expression, gender identity, sex (including pregnancy) or sexual orientation, including instances involving Sexual Assault, Dating Violence, Domestic Violence, or Stalking.
Title IX Glossary

- **Sexual Assault** – Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent.

- Non-Consensual Sexual Intercourse - Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
- Non-Consensual Sexual Contact - the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant
- Incest - sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law
- Statutory Rape - sexual intercourse with a person who is under the statutory age of consent

- **Sexual Exploitation** – Taking non-consensual and/or abusive sexual advantage of another person for one's own advantage or benefit, or for anyone other than the person being exploited, or taking advantage of another person's sexuality.

- **Sexual Harassment** – Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to any Appalachian education program or activity.

- **Stalking** – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others; or suffer substantial emotional distress. “Course of conduct” is defined as two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property; and “substantial emotional distress” is defined as significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.


- **Title IX Coordinator** – App State's Director of Title IX Compliance who oversees all implementation of App State Policy 112 – Sex-Based Misconduct and these procedures.

- **Title IX Team** – A team comprised of the Title IX Coordinator, Title IX Deputy Coordinators, Investigators, Title IX Staff, Title IX Liaisons, and any member of the Grievance Process Pool.