Resource Guide for Title IX and Sex/Gender-Based Misconduct

Campus Policies, Procedures, and Services
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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 benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

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 assistance. Accordingly, educational institutions that receive federal funds must respond promptly and effectively to incidents of sexual harassment, including incidents of Title IX and Sex/Gender-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 (“OCR”), 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 resolution procedures for managing reports and complaints of Prohibited Conduct, and promoting awareness and information to prevent Prohibited Conduct through prevention educations.

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 Appalachian. Fostering an environment free of discrimination, harassment, and retaliation. The Office responds to reports of Title IX and Sex/Gender-Based Misconduct to mitigate its effect and prevent its recurrence. The Office also investigates complaints of Title IX and Sex/Gender-Based Misconduct.

Appalachian’s Commitment

Appalachian State University is committed to providing a safe learning, living, and working environment for all members of our community. The University prohibits Title IX and Sex/Gender-Based Misconduct. In accordance with this, Appalachian 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.
What is Prohibited Conduct?

**Title IX Prohibited Conduct** is the following misconduct that occurred in the United States and in Appalachian’s education program or activity:

**Sexual Harassment:** unwelcome conduct on the basis of sex 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.

**Quid Pro Quo Harassment:** an employee of Appalachian conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct.

**Sexual Assault:** any act directed against another person, without their consent, or instances in which the Complainant is incapable of giving consent.

- *Rape:* 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.
- *Fondling:* the touching of the private body parts of another person (buttocks, groin, breasts), 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 under North Carolina law.
- *Statutory Rape:* sexual intercourse with a person who is under the statutory age of consent in the State of North Carolina, which is 16 years old.

**Dating Violence:** violence on the basis of sex committed by a person (i) who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and (ii) where the existence of such a relationship shall be determined based on a consideration of the following factors: (a) length of the relationship; (b) type of the relationship; and (c) frequency of interaction between the persons involved in the relationship.

**Domestic Violence:** violence on the basis of sex committed by (i) a current or former spouse or intimate partner of the Complainant; (ii) by a person with whom the Complainant shares a child in common; (iii) by a person who is cohabitating with or who has cohabitated with the Complainant as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of North Carolina; or (v) by 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.

**Sex-Based Stalking:** Conduct on the basis of sex defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for their safety or the safety of others; or (ii) suffer substantial emotional distress.

- *Course of Conduct:* means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any actions, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person’s property.

- *Substantial Emotional Distress:* significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
**Sex/Gender-Based Prohibited Conduct** that is not regulated by Title IX due to the location or nature of the incident is also prohibited by Appalachian.

**Sex/Gender-Based Discrimination:** 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; (b) a student or prospective student’s ability to participate in, access, or benefit from University programs, services, or activities; or (c) a volunteer or visitor’s ability to participate in, access, or benefit from or deliver University programs or services.

**Sex/Gender-Based Quid Pro Quo Harassment:** conduct where an employee or student conditions the provision of aid, benefit, or service on an individual’s participation in unwelcome sexual conduct.

**Sex/Gender-Based Hostile Environment Harassment:** exists when unwelcome conduct on the basis of an individual’s perceived or actual sex/gender is sufficiently severe, persistent, or pervasive that it effectively denies a person equal educational access. Such conduct includes unwelcome conduct of a sexual nature and may consist of unwelcome conduct based on sex or sex stereotyping.

**Non-Consensual Sexual Contact:** any intentional (not incidental or accidental) sexual touching, however slight, with any object or body part, performed by a person upon another such person, without consent.

**Non-Consensual Sexual Intercourse:** Any penetration, however slight, with any object or body part, performed by a person upon another such person, without consent.

**Sexual Exploitation:** occurs when a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and when that behavior does not otherwise constitute one of the other forms of Prohibited Conduct offenses.

**Intimate Partner Violence:** includes any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, or other intimate relationship. Intimate partner violence includes “dating violence” and “domestic violence”, as defined by VAWA.

**Stalking:** a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for their safety or the safety of others; or (ii) suffer substantial emotional distress.

*Course of Conduct:* means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any actions, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person’s property.

*Substantial Emotional Distress:* significant mental suffering, distress, or anguish that may, but does not necessarily require medical, mental health, or other professional treatment.
If You Have Experienced Title IX and Sex/Gender-Based Misconduct

In the event of an emergency, please call 911 for immediate assistance!

If you or someone you know has experienced Title IX and Sex/Gender-Based Misconduct, you may be trying to navigate next steps. Here are a few key places to start:

Medical Assistance:
Your physical health is important. Some medical concerns may not be immediately apparent, such as sexually transmitted infections (STI’s), internal injuries, and pregnancy. Some medications, such as the morning-after pill for pregnancy and antibiotics of STDs, are most effective when administered as soon as possible.

Medical care may also preserve evidence of an assault should you wish to pursue criminal charges immediately or in the future.

_Watauga Medical Center_, located on Deerfield Road in Boone, provides confidential, 24-hour medical care an assistance to all individuals including a medical exam, testing for sexually transmitted infections and pregnancy, and the preservation of evidence through a Sexual Assault Forensic Exam.

_Student Health Services_ is a primary care ambulatory campus health clinic available to Appalachian students. Student Health provides several medical care options including STI testing, emergency contraception, pregnancy testing, and physical exams.

_OASIS_ provides Medical Advocates for those seeking additional support and wanting to learn more about what to expect when seeking medical attention. An OASIS staff member can be present with you during medical examinations to offer advocacy and support.

Confidential Therapeutic and Counseling Support:
_OASIS_ offers a 24-hour confidential crisis line which puts you in touch with a staff member for immediate assistance: (828) 262-5035. OASIS offers free crisis counseling and long-term support through case management.

_Counseling & Psychological Services_ provides free confidential mental health counseling and support to students. (828) 262-3180

_Counseling for Faculty and Staff_ provides free mental health counseling and support to employees. (828) 262-4951

Reach out to Someone you Trust:
If you are not sure what you want or you should do—reach out to someone you trust: a friend, a family member, roommate, classmate, or even a professor. Having someone who cares about you and will support you can be helpful.

Request a Meeting:
If you are a student or employee and would like to request a meeting with the Title IX Coordinator please call (828) 262-2144 or email titleix@appstate.edu to schedule a meeting.

You do not have to describe any details of your experience during the meeting. The Title IX Coordinator may assign a case manager who can help identify resources and options, and most importantly support your Appalachian Experience.

Preserving Evidence:
- If you are seeking medical attention after a sexual assault, DO NOT: bathe, shower, douche, brush your teeth, drink, change clothing or comb your hair. It is only natural to want to do so, but in doing these things you may be destroying physical evidence that could be needed later if you wish to pursue criminal charges. If you have done these things, it does not mean that evidence cannot be found, it just may be more difficult. Gather additional evidence such as clothing and bedding.
- Maintain and log any form of communication between yourself and the Respondent.
- Log any incident (verbal, physical, emotional, or otherwise).
- Take photos of injuries or any property damage.
- Save and log any unwanted photographs, text messages, social media posts, emails, letters, or gifts.
- If contact is made through technology, consider using screenshots to document these instances.
- Do not delete your phone’s call log.
If You Are Alleged of Title IX and Sex/Gender-Based Misconduct

Being accused of Title IX and Sex/Gender-Based Misconduct can be a worrisome and confusing experience. You may be trying to navigate next steps. Here are a few key places to start:

**Student Respondents**

*Counseling & Psychological Services* (Confidential)
Provides free confidential mental health counseling and support to students. (828) 262-3180

*Student Legal Clinic* (Confidential)
Provides confidential information and assistance to student navigating questions about the law, contracts, and other local legal resources.

*University Ombuds* (Confidential)
Provides an independent, confidential environment for students to discuss campus-related concerns or problems.

*Case Management* (Private)
Provides 360-degree, individualized support to students, no matter their identity, navigating a myriad of concerns. Case managers help identify on and off campus resources and information.

*Office of Title IX Compliance* (Private)
Responds to referrals and formal complaints of Title IX and Sex/Gender-Based Misconduct. The Report and Response Coordinator is available to provide information regarding available supportive measures and options for reporting.

*Legal Aid of North Carolina*
Provides free legal help to low-income North Carolinians in civil cases involving basic human needs like safety, shelter, income, and more. (828) 335-4890

**Employee Respondents**

*Counseling for Faculty and Staff* (Confidential)
Provides free mental health counseling and support to employees. (828) 262-4951

*University Ombuds* (Confidential)
Provides an independent, confidential environment for students to discuss campus-related concerns or problems.

*Office of Title IX Compliance* (Private)
Responds to referrals and formal complaints of Title IX and Sex/Gender-Based Misconduct. The Report and Response Coordinator is available to provide information regarding available supportive measures and options for reporting.

*Legal Aid of North Carolina*
Provides free legal help to low-income North Carolinians in civil cases involving basic human needs like safety, shelter, income, and more. (828) 335-4890

Know that under federal and state law and Appalachian policy, every person accused of Title IX and Sex/Gender-Based Misconduct is not responsible for the alleged Prohibited Conduct until a determination regarding responsibility is made at the conclusion of a resolution process.
Upon receiving information of alleged Prohibited Conduct, Mandatory Referrers are required to share the information with the Office of Title IX Compliance. The following are Mandatory Referrers: Faculty, Athletics staff, Office of Human Resources Staff, University Housing staff and other staff with supervisory responsibility.
Choosing to make a report and deciding how to proceed after making the report can be a process that unfolds over time. Reporting can provide safety and support for individuals affected by Prohibited Conduct, provide the Complainant with resources and information about filing a Formal Complaint, and help create a safer community.

If you are ready to file a report, you can choose to report to the Office of Title IX Compliance:

1. Report On-line:
   a. Visit https://titleix.appstate.edu/
   b. Click on “Referrals and Reporting”
   c. Select the “Title IX and Sex/Gender-Based Misconduct Referral Form”
2. Report by Email:
   a. titleix@appstate.edu
3. Report by Calling:
   a. (828) 262-2144
4. Report by Postal Service:
   a. Office of Title IX Compliance
      123 I.G Greer Hall
      ASU Box 32053
      Boone, NC 28608

Report Anonymously

If the Office of Title IX Compliance receives an anonymous report, we will work with the appropriate University official on the most appropriate means to respond. While Appalachian will work to respond to the information provided and remedy the alleged Prohibited Conduct, please be advised that Appalachian’s response may be limited.

What Happens After a Report is Filed?

Upon receipt of information about Prohibited Conduct, the Title IX Coordinator will make an initial assessment to determine if the alleged Prohibited Conduct falls under Policy 112 and respond to any immediate health or safety concerns raised by the information. The Office of Title IX Compliance provides those impacted by the alleged Prohibited Conduct with information and details on reporting options while also providing confidential and non-confidential resources.

What if I Choose not to Report?

Appalachian and the Office of Title IX Compliance supports an individual’s right to choose whether to report. If you or someone you know needs information and help to facilitate the reporting process, we are here to help.
If you are ready to file a police report, you can choose to report to Law Enforcement:

1. App State Police Department:
   Individuals may file a report or request transportation to the hospital or magistrate. There are a number of ways you can file a report with App State PD:
   a. In an emergency call (828) 262-8000 {from your cell or home phone} or 8000 {from a campus phone}.
   b. In a non-emergency call (828) 262-2150 {from your cell or home phone} or 2150 {from a campus phone}.
   c. Stop by the Police Department located on the first floor of the River’s Street Parking Deck. The App State Police Department is able to assist you 24 hours a day, seven days a week, including holidays.

2. Local Law Enforcement
   Individuals may file a report or request transportation to the hospital.
   a. Boone Police Department: (828) 268-2900
   b. Blowing Rock Police Department: (828) 295-5212
   c. Watauga County Sheriff’s Office: (828) 264-3761

The Office of Title IX Compliance can assist you in submitting documentation and/or speaking with Law Enforcement.
In addition to our adherence to federal and state laws, including Title IX of the Education Amendments of 1972, Appalachian has its own internal policies regarding harassment, discrimination and retaliation. These policies communicate our expectations for behavior for all those affiliated with Appalachian.

Policy 112: Title IX and Sex/Gender-Based Misconduct

Policy 112 serves to address Prohibited Conduct adverse to Appalachian’s commitment to prevent sex/gender-based discrimination, harassment, and misconduct, as well as to provide an administrative framework and oversight for reporting, investigation, adjudicating and resolving alleged violations of the policy.

Policy 110: Discrimination and Harassment

Policy 110 specifically prohibits all forms of discrimination and harassment based on protected class status. Protected Status, as defined by the Policy includes age, color, disability, gender, gender identity, gender expression, genetic information, national origin, political affiliation, race, religion, sex, sexual orientation, and veteran status. Further, Policy 110 also prohibits retaliation against any individual for their report, investigation and adjudication of any alleged Prohibited Conduct.

Policy 602.21: Improper Relationships Between Students and Employees

Policy 602.21 articulates that Appalachian 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.

Policy 602.32: Workplace Violence

Policy 602.32 acknowledges Appalachian’s commitment to providing a workplace that is free from violence including, but not limited to bullying, domestic violence, intimidation and stalking.

Code of Student Conduct

The Code of Student Conduct articulates that Appalachian students are responsible for conducting themselves in a manner that helps enhance an environment of learning in which the rights, dignity, worth, and freedom of each member of the academic community are respected. Students are responsible for abiding by the Code, agree to expectations set forth by Appalachian, and can be held responsible for their behavior.

The Office of Title IX Compliance works in collaboration when referrals or complaints entail allegation of Prohibited Conduct involving gender, gender identity, gender expression, sex, and sexual orientation. This collaboration takes place, as appropriate, with Student Affairs, Human Resources and/or Academic Affairs.
Office of Title IX Compliance: Investigation Process

1. **Complaint Filed**
   The process begins after a written complaint of Title IX and Sex/Gender-Based misconduct is received by Appalachian either authored by the Complainant or Title IX Coordinator. The Title IX Coordinator will provide supportive measures throughout the process.

2. **Complaint Reviewed**
   The Title IX Coordinator will review the complaint and offer options for informal or formal resolution processes. If moving forward with a formal resolution process, an Investigator will be assigned to investigate the matter further. An informal process may be requested by either party at any time during the process, but must be agreed upon.

3. **Investigation Initiated**
   The Notice of Investigation and Allegation letter will be sent to both parties via University email. This Notice will inform about Party rights and next steps.

4. **Rights Reviewed**
   During the first interview, the Investigator will review the rights with the Party, including the right to a prompt, equitable investigation. Investigations are typically completed in 60 days. The Investigator will supply updates as the process continues.

5. **Interviews Facilitated**
   The Investigator will meet individually with relevant people for the investigation. All interviews are recorded for the purpose of transcription. Interviewees will have the opportunity to review a transcript of their interview electronically within one week of the interview.

6. **Evidence Collected**
   Additional evidence will be collected and examined, including witness testimony, medical documents, emails, text messages, and police reports, if applicable and when available. Parties may suggest additional witnesses and evidence at any point.

7. **Follow-Up Interviews**
   The Investigator will conduct additional interviews with the Complainant, Respondent, and follow up with any additional witnesses.

8. **Report Reviewed**
   Upon completion, the Parties will be able to review and respond to the Draft Investigative Report, including providing additional information or questions for the Investigator’s consideration.

9. **Investigation Forwarded**
   Upon completion, the Final Investigative Report is forwarded to the Title IX Coordinator who will initiate the adjudication process through a formal or informal resolution process.

For information on the Title IX and Sex/Gender-Based Misconduct Procedures please visit https://titleix.appstate.edu
Rights of Parties

- Be treated with dignity and respect in any meeting or process associated with the Title IX and Sex/Gender-Based Misconduct Procedures.
- Experience a safe living, educational and work environment.
- Be free from retaliation.
- To be informed of supportive resources.
- Be informed of and to request reasonable interim measures.
- A fundamentally fair process, including an initial presumption that no Party being investigated has committed a violation of Policy 112.
- Receive a Notice of Investigation, a summary of the allegations, and alleged Prohibited Conduct in writing.
- To request reasonable accommodations through the Office of Disability Resources, pursuant to Section 504 of the Rehabilitation Act and the American with Disability Act.
- A fair, equitable, and timely investigation into allegations of Prohibited Conduct.
- Ability to have an Advisor present in any meeting or process associated with the Office of Title IX Compliance.
- Inform the Title IX Coordinator of any bias or conflict of interest involving a person designated to facilitate a resolution process.
- Submit names of witnesses, evidence, and questions for consideration in the investigative process and any formal resolution.
- Not have irrelevant prior sexual history discussed in association with the Procedures.
- Ability to review their own transcript(s) produced in conjunction with investigative interviews.
- Opportunity to respond to the Draft Investigative Report prior to its formal finalization and submission.
- Opportunity to participate in a live hearing during a formal resolution process.
- Opportunity to provide an Appeal or Response to any outcome of a formal resolution process.

Possible Sanctions

Students:

- Letter of Concern
- Disciplinary Warning
- Disciplinary Probation
- Suspension
- Expulsion
- Community Service
- Restitution
- Educational Training/Programming
- Change in University Housing privileges
- Restriction of Leadership
- Campus or Building Ban
- Restriction of Contact
- Other sanctions determined appropriate

Employees:

- Letter of Reprimand/Written Warning
- Removal from Administrative Role
- Demotion in Rank
- Suspension Without Pay
- Discharge/Termination
- Educational Training/Programming
- Enhanced Supervision, Observation or Review
- Formal Performance Improvement Plan
- Restitution
- Assignment to a New Supervisor
- Transfer and/or Reassignment of Duties
- Decrease in Pay or Denial of Pay Increase
- Restriction of Professional Development
Notes