

FERRUM COLLEGE

SEXUAL MISCONDUCT POLICY AND PROCEDURES

Important Information for Individuals Who May Be Victims of Sexual Assault..... 1

Table of Contents

ARTICLE I. Introduction..... 1

- (a) Notice of Nondiscrimination 1
- (b) Overview of This Policy 1
- (c) Applicability of This Policy..... 2
- (d) Timeframe for Filing a Complaint 2
- (e) Definitions Applicable to This Policy 2

ARTICLE II. Statements of Policy..... 2

- (a) Prohibition on Sexual Misconduct..... 2
- (b) Prohibition on Retaliation 3
- (c) Prohibition on Providing False Information 3
- (d) Confidentiality..... 3
- (e) Requests Not to Investigate and Refusals to File a Complaint or Cooperate 6
- (f) Related Misconduct and Limited Amnesty 7
- (g) Individuals with Disabilities 7

ARTICLE III. How and Where to Report Alleged Sexual Misconduct 7

- (a) Reporting to Local Law Enforcement 8
- (b) Reporting to College Administration 9

ARTICLE IV. Procedures Applicable to All Complaints of Sexual Misconduct..... 10

- (a) Overview 10
- (b) Initial Review of Complaint and Meetings 11
- (c) The Investigation and Final Report 13

ARTICLE V. Informal Resolution (Mediation) 18

APPENDIX A. Suggested Actions and Resources for Victims of Sexual Misconduct 20

APPENDIX B. Suggested Actions and Resources for Individuals Accused of Sexual Misconduct 23

APPENDIX C. Definitions 25

FERRUM COLLEGE
SEXUAL MISCONDUCT POLICY AND PROCEDURES

**IMPORTANT INFORMATION FOR INDIVIDUALS WHO MAY
BE VICTIMS OF SEXUAL ASSAULT:**

If you or someone you know may have been a victim of Sexual Assault or any other type of Sexual Misconduct prohibited under this policy, you are strongly encouraged to consult [Appendix A](#) to this policy and seek immediate assistance from one or more of the sources listed there.

ARTICLE I. INTRODUCTION

(a) Notice of Nondiscrimination

Ferrum College does not discriminate on the basis of sex in its education programs and activities. As a general proposition, Ferrum College does not discriminate on the basis of any class protected by law including, but not limited to, sex, sexual orientation, gender identity, or national origin. Please see other College policies that also address the College's commitment to nondiscrimination, especially as to all other classes protected by law.

Sexual Misconduct constitutes sexual discrimination prohibited by Title IX. Inquiries concerning the application of Title IX may be referred to Ferrum College's Title IX Coordinator or to the U. S. Department of Education's Office for Civil Rights (www.2.ed.gov). Ferrum College's Title IX Coordinator is Ms. Nicole Lenez, whose office is in Bassett Hall room 105. She may be contacted by phone at 540-365-4461 or by email at nlenez@ferrum.edu.

(b) Overview of This Policy

Ferrum College strives to maintain a safe and healthy educational and work environment in which no member of the College community is, on the basis of gender, sexual orientation, or gender identity, excluded from participation in, denied the benefits of, or subjected to discrimination or harassment in any College program or activity.

This policy is designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements including Title IX of the Education Amendments of 1972, relevant sections of the Violence Against Women Reauthorization Act, and Title VII of the Civil Rights Act of 1964. This policy applies to any form of sexual and/or gender-based misconduct which includes, but is not limited to, Sexual Assault, Sexual Violence, Domestic Violence, Dating Violence, Stalking, and/or Sexual Harassment. The term Sexual Misconduct will be used herein to refer to all of these forms of improper conduct. This policy supersedes any prior or other policies on this topic.

It is the policy of the College to provide educational training programs regarding Sexual Misconduct, to encourage reporting of incidents, to make available timely services for those

who have been affected by Sexual Misconduct, and to provide prompt and equitable methods of investigation and resolution in cases of Sexual Misconduct.

Any question of interpretation regarding this policy shall be referred to the Title IX Coordinator for final determination. The Title IX Deputy Coordinator may serve as the Title IX Coordinator's designee for any procedures outlined in this policy.

(c) Applicability of This Policy

This policy applies to any allegation of Sexual Misconduct made by or against a student or an employee of the College or a third party, regardless of where the alleged Sexual Misconduct occurred, if the conduct giving rise to the report is related to the College's academic, educational, employment, athletic, or extracurricular programs or activities. However, the College's disciplinary authority may not extend to third parties who are not students or employees of the College. Although there is no geographical limitation to invoking this policy, Sexual Misconduct that is alleged to have occurred at a significant distance from the College and/or outside of the College property may be difficult for the College to investigate. Any incident involving a Ferrum College employee must be reported to the Director of Human Resources.

(d) Timeframe for Filing a Complaint

The College does not impose a time limit for filing a Complaint. The College encourages Complaints to be filed as soon as reasonably possible following an alleged policy violation because the College's ability to gather adequate information may be limited where a significant length of time has elapsed. Complaints should also be filed promptly, if possible, in order to preserve evidence for potential legal proceedings. Further, the College's ability to complete its processes may be limited with respect to respondents who are no longer enrolled or are no longer employed.

(e) Definitions Applicable to This Policy

Terms used in this policy but not defined have the meanings set forth in Appendix C.

ARTICLE II. STATEMENTS OF POLICY

(a) Prohibition on Sexual Misconduct

Ferrum College prohibits all types of sexual misconduct including sexual assault, gender-based discrimination or harassment, domestic violence, dating violence, and stalking. This policy is designed to protect the rights and needs of Complainants and Respondents. Creating a safe environment is the responsibility of all members of the College community.

The College strongly encourages prompt reporting of all types of Sexual Misconduct and is committed to fostering a community that promotes prompt, fair, and impartial resolution of Sexual Misconduct cases. The College has defined Sexual Misconduct broadly to include

any unwelcome conduct of a sexual nature and will review all allegations of Sexual Misconduct.

(b) Prohibition on Retaliation

Retaliation against any person who raises an allegation of Sexual Misconduct, cooperates in an Investigation, or opposes discriminatory practices is strictly prohibited. Violations of this prohibition will be addressed through this policy and/or other College disciplinary procedures, as deemed appropriate at the College's discretion. Any person who feels that he or she has been subjected to Retaliation should make a report to the Title IX Coordinator.

(c) Prohibition on Providing False Information

Any individual who knowingly submits a Complaint that is not in good faith or provides false or misleading information in any review, Investigation or Resolution of a Complaint may be subject to disciplinary action.

(d) Confidentiality

- (i) Standard of Confidentiality (Applicable to All Complaints).** The College will respect and will make every feasible effort to properly preserve the confidentiality of the information shared by and the identities of the parties involved in Sexual Misconduct matters.

In order to comply with FERPA and Title IX and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the Investigation and any information related to the College's involvement in this process are not available to the general public. Documents prepared or received by the College, including but not limited to the Complaint, written statements, the Investigators' notes, and the Final Report will not be discoverable or disclosed unless required or authorized by law.

In keeping with this respect for confidentiality, information regarding alleged Sexual Misconduct will generally be disclosed by College personnel only as follows:

- (1)** The College's Responsible Employees will (and are obligated to) report information regarding alleged Sexual Misconduct to the Title IX Coordinator as soon as practicable. The Responsible Employee must promptly report to the Title IX Coordinator all relevant details about the alleged Sexual Misconduct shared by the Complainant.
- (2)** College personnel will (and are obligated to) handle information regarding alleged Sexual Misconduct in accordance with applicable local, state, and federal laws. For example, under conditions of potential imminent harm to the community, the College may be required by federal

law to inform the community of the occurrence of the alleged incident of Sexual Misconduct. Similarly, information regarding the alleged Sexual Misconduct may be used as an anonymous report for data collection purposes under the Clery Act.

- (3)** College personnel may report alleged Sexual Misconduct to local law enforcement if warranted by the nature of the allegations at issue.
 - (A)** Per Virginia state law, if the College determines that disclosure of an act of Sexual Violence is necessary to protect the health and safety of the victim or other individuals, the College is required to disclose information, including personally identifiable information, to local law enforcement.
 - (B)** Per Virginia state law, in cases involving felony Sexual Assault, the College is required to consult with the local Commonwealth Attorney responsible for prosecuting the crime.
- (4)** College administrators will share information regarding alleged Sexual Misconduct, as appropriate and necessary, in order to implement measures, address and resolve the Complaint at issue, prevent the recurrence of similar Sexual Misconduct, and address the effects of the Sexual Misconduct.

Please note that the College cannot control disclosures by students or third parties.

- (ii) Anonymity.** If information regarding alleged Sexual Misconduct is shared with a Responsible Employee, the Responsible Employee is obligated to report that information to the College's Title IX Coordinator as soon as is practicable.

If the individual to whom the information pertains desires that the Title IX Coordinator not share the information with the Respondent or with others, even as appropriate and necessary to address the allegations, such individual must request that the College apply Anonymity to such information. This request must be made to the Title IX Coordinator.

In these cases, the College employee will report the details of the sexual misconduct incident to the Title IX Coordinator as they have been disclosed, excluding the name of the Complainant. The name of the Complainant will be released by the person who received the initial report only when deemed absolutely necessary by the Title IX Coordinator. The College will apply any remedies that can be effective within the bounds of Complainant anonymity. Complainant anonymity will be breached only when a comprehensive investigation is required to prevent the possible occurrence of another sexual misconduct incident.

The College takes requests for Anonymity seriously; however, these requests may limit the College's ability to conduct an Investigation into the incident or pursue disciplinary action against the Respondent. The College, therefore, must weigh such requests against the College's obligation to provide a safe, nondiscriminatory environment for all students.

The Title IX Coordinator has the authority to evaluate requests for Anonymity and may seek advice or input from any person(s) deemed appropriate in rendering a decision. Requests for Anonymity may be weighed against the following standards:

- (A) the seriousness of the alleged Sexual Misconduct,
- (B) the alleged Complainant's age,
- (C) whether there have been other Complaints of Sexual Misconduct against the Respondent,
- (D) the Respondent's right to receive information about the allegations if the information is maintained by the College as an "education record" under FERPA, and
- (E) the applicability of any laws mandating disclosure.

Although rare, there are times when the College may not be able to honor a Complainant's request for Anonymity. The Title IX Coordinator will inform the person requesting Anonymity of the College's limitations on maintaining Anonymity and whether the College intends to pursue investigation and/or resolution in spite of the person's request.

The College will remain ever mindful of the Complainant's wellbeing, and will take the following steps as needed:

- (A) Assist the Complainant in accessing available victim advocacy; academic support; counseling; disability, health, or mental health services; and other assistance both on- and off-campus.
- (B) Inform the Complainant of the right to report a crime to campus or local law enforcement and provide the Complainant with assistance if the Complainant wishes to report.
- (C) Take prompt action to limit the effects of the alleged Sexual Misconduct and to prevent its recurrence.

(iii) Professional and Pastoral Counselors

- (1) **Professional and Pastoral Counselors.** Individuals may discuss alleged Sexual Misconduct in strict confidence with the College's professional, licensed counselors and pastoral counselors who provide mental-health

counseling to members of the College community. These individuals are not required to report any Personally Identifiable Information about an incident without a Complainant's permission. The information may be reported as required by law, as may be the case with alleged Sexual Misconduct involving a minor or under conditions of imminent physical harm for example.

At Ferrum College the Professional and Pastoral Counselors are:

- (A)** College Counselor
- (B)** Dean of the Chapel

College employees who are not defined as Professional and/or Pastoral Counselors are considered Responsible Employees. Communications made to Responsible Employees and others are not entitled to the same confidentiality protections as those made to Professional and/or Pastoral Counselors.

(e) Requests Not to Investigate and Refusals to File a Complaint or Cooperate.

A Complainant may disclose an incident to a Responsible Employee but may (i) request that no Investigation into the incident be conducted or disciplinary action taken, (ii) refuse to file a Complaint, and/or (iii) refuse to cooperate in an Investigation and/or resolution of the allegations.

The College takes these requests seriously; however, such requests may limit the College's ability to conduct an Investigation into the incident or pursue disciplinary action against the Respondent. The College, therefore, must weigh such requests against the College's obligation to provide a safe, nondiscriminatory environment for all students.

The Title IX Coordinator has the authority to evaluate such requests and may seek advice or input from any person(s) she deems appropriate in rendering a decision. Requests may be weighed against the following standards:

- (i)** the seriousness of the alleged Sexual Misconduct,
- (ii)** the alleged Complainant's age,
- (iii)** whether there have been other Complaints of Sexual Misconduct against the Respondent,
- (iv)** the Respondent's right to receive information about the allegations if the information is maintained by the College as an "education record" under FERPA, and
- (v)** the applicability of any laws mandating disclosure.

The Title IX Coordinator will inform the person requesting that the College not pursue an Investigation, refusing to file a Complaint and/or refusing to participate in the Investigation or resolution of allegations of Sexual Misconduct, if the College intends to pursue the investigation and/or resolution in spite of the person's request or refusal. Information about on- and off-campus resources and support will still be made available to the Complainant.

Regardless of an individual's requests or decisions, Title IX requires the College to take reasonable action in response to the information known to it. Thus, the College may consider broader remedial action such as increased monitoring, enhanced security at locations where reported sexual misconduct occurred, increasing education and training efforts, and/or revisiting its policies and practices. Any report of sexual misconduct may simultaneously trigger a broader examination of past reports (including anonymous reports) in an effort to identify serial perpetrators.

Even if the College cannot take disciplinary action against the Respondent because of the Complainant's refusal to file a Complaint or participate in the Investigation and/or resolution of allegations, to the extent practicable and appropriate, the College will take prompt action to limit the effects of the alleged Sexual Misconduct and to prevent its recurrence.

The Complaint or other information regarding alleged Sexual Misconduct may also be used as an anonymous report for data collection purposes under the Clery Act.

(f) Related Misconduct and Limited Amnesty

The College encourages the reporting of all potential violations of Sexual Misconduct. While the College does not condone underage alcohol consumption or the use of illegal drugs; however, because the College has a paramount interest in protecting the wellbeing of its community, the College may extend limited amnesty from disciplinary action in the case of illegal alcohol or drug use to victims, witnesses, and those reporting incidents and/or assisting victims of Sexual Misconduct. Said individuals must have acted in good faith in such capacity and any such violation must not have placed the health or safety of any other person(s) at risk.

The College may choose to adjudicate alleged misconduct that is related to the Sexual Misconduct at issue, even if such related misconduct is not, when standing alone, governed by this policy. The College may also initiate a discussion or other educational actions to address this conduct.

(g) Individuals with Disabilities

The College recognizes that there may be circumstances in which a student with a disability may be a victim of Sexual Misconduct and will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to aid in understanding and/or complying with this Policy. Requests for accommodations must be made to the Title IX Coordinator Nicole Lenez

(located in Bassett Hall 105 and available by phone at 540-365-4461, or email nlenez@ferrum.edu).

ARTICLE III.

HOW AND WHERE TO REPORT ALLEGED SEXUAL MISCONDUCT

If you or someone you know may have been a victim of Sexual Assault or any other type of Sexual Misconduct prohibited under this policy, you are strongly encouraged to consult Appendix A to this policy and seek immediate assistance from one or more of the sources listed there.

Ferrum College students, faculty, staff, appointees, or third parties who believe they have experienced or witnessed Sexual Misconduct that is covered by this Policy may request information or advice, including whether certain conduct may violate the Policy; seek an informal resolution; or file a formal Complaint. Individuals are encouraged to share concerns with the Title IX Coordinator but may contact another Responsible Employee of the College who will refer the matter as appropriate.

If the College determines that the alleged perpetrator(s) pose a serious and immediate threat to the College community, the College may issue a timely warning to the community. Any such warning may not include information that identifies the victim.

Because Sexual Misconduct may in some instances constitute both a violation of College policy and criminal activity, and because the College grievance process is not a substitute for instituting legal action, the College encourages individuals to report alleged Sexual Misconduct promptly to campus officials and to law enforcement authorities, where appropriate.

(a) Reporting to Local Law Enforcement.

Individuals may file a Complaint directly with local law enforcement agencies by dialing 911. The matter may be handled by the Ferrum College Police Department by dialing 911 or by calling 540-365-4444.

Individuals may contact any of the following for assistance in filing a complaint:

- (i)** The Ferrum College Police Department, 24 hours a day, seven days a week. An officer is available by phone at 540-365-4444. The department is located at 10021 Franklin Street (on Route 40 adjacent to the Ferrum Mercantile across from campus).
- (ii)** The College's Title IX Coordinator, Ms. Nicole Lenez, from 8:30 a.m. to 5:00 p.m., Monday through Friday. She is available by phone at 540-365-4461, by email at nlenez@ferrum.edu and in Room 105 of Bassett Hall.

- (iii)** The College's Title IX Deputy Coordinator, Mr. Chris Chandler, from 8:30 a.m. to 5:00 p.m., Monday through Friday. He is available by phone at 540-365-4287, by email at cchandler@ferrum.edu, and is located in Human Resources Office in the Pine House on Route 602.

Individuals may inform law enforcement authorities about Sexual Misconduct and discuss the matter with a law enforcement officer without making a formal criminal complaint or a College Complaint. Individuals who make a criminal complaint may also choose to pursue a College Complaint simultaneously.

Individuals may choose not to report alleged Sexual Misconduct to law enforcement. The College supports the individual's decision with respect to reporting; however, the College may notify appropriate law enforcement authorities if required or warranted by the nature of the allegations at issue.

In the event an allegation includes behavior or actions that are also being investigated by law enforcement authorities, the Title IX Coordinator will, in light of status updates from law enforcement authorities, assess and reassess the timing of the investigation so as not to compromise any criminal investigation. Depending on the circumstances, the Investigator and/or Title IX Coordinator may agree to temporarily delay the Investigation while law enforcement authorities gather evidence; however, in the event of such a delay, the College may take measures when necessary to protect the Complainant and/or the College community. The College will not wait for the conclusion of a criminal proceeding to begin and/or complete its own Investigation of a Complaint of Sexual Misconduct.

The College will cooperate with any law enforcement investigation. In addition, in the event the College learns that a court has entered a lawful order (e.g., Protective or Restraining Order) relating to a Complaint or to conduct that may also be a potential violation of this policy, the Title IX Coordinator will review the order and will comply with applicable law. The College's resolution of a Complaint Investigation may differ from the resolution of a criminal investigation.

(b) Reporting to College Administration

Individuals may choose not to report alleged Sexual Misconduct to campus officials. The College respects and supports the individual's decision with respect to reporting. However, if information about Sexual Misconduct comes to the attention of the College, the College may start an investigation (with the College acting as the Complainant) even in the absence of a filed Complaint and/or notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware.

Anyone wishing to make a Complaint under this Policy should contact one of the following individuals or offices:

- (i)** Title IX Coordinator. The College's Title IX Coordinator is Ms. Nicole Lenez, whose office is Bassett Hall Room 105. Ms. Lenez may be contacted during business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), by phone at 540-365-4461 or by email at nlenez@ferrum.edu.

- (ii)** Title IX Deputy Coordinator. The College's Title IX Deputy Coordinator is Mr. Chris Chandler, whose office is located in Human Resources Office in the Pine House on Route 602. Mr. Chandler may be contacted during business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), by phone at 540-365-4287, or by email at cchandler@ferrum.edu.
- (iii)** Ferrum College Police Department. The College Police may be reached 24 hours a day, 7 days a week by calling 540-365-4444 or 911. Their office is located at 10021 Franklin Street (on Route 40 adjacent to the Ferrum Mercantile across from campus).

If any of the parties designated above is the Respondent or is otherwise at issue in a Complaint, or if an individual is uncomfortable with making a Complaint to one of the parties listed above, he or she may report alleged Sexual Misconduct to any other party or office listed above.

If an employee of the Ferrum College Police Department receives a report of alleged Sexual Misconduct, that employee must notify the College's Title IX Coordinator or Interim Title IX Deputy Coordinator.

- (iv)** An individual may report alleged Sexual Misconduct to a Responsible Employee other than those referenced above. No member of the College community may discourage an individual from reporting alleged incidents of Sexual Misconduct. No employee is authorized to Investigate or Resolve Complaints without the involvement of the College's Title IX Coordinator or Title IX Deputy Coordinator.

Anonymous reports of Sexual Misconduct can be submitted in writing to any of the parties listed above or through the College Police Department's Anonymous Silent Witness Form (http://www.ferrum.edu/campus_life/communications/campus_alerts/report_a_crime.html). The level of detail or identifying information regarding the alleged Misconduct will determine the College's ability to thoroughly investigate and respond to the report.

Information related to Sexual Violence will be reported to the College's Title IX Review Committee (TRC). The TRC consists of the Title IX Coordinator, the Title IX Deputy Coordinator, and the Ferrum College Chief of Police or their designees.

- (a)** The TRC may obtain law enforcement records, criminal history information, health records, institutional conduct or personnel records, known facts and circumstances of the information reported, and information or evidence known to the institution or to law enforcement.
- (b)** The TRC shall meet within 72 hours to review the information and meet as necessary as new information becomes available.
- (c)** If the TRC determines that disclosure of the information, including Personally Identifiable Information, is necessary to protect the health or safety of the student or other individuals, the Title IX Coordinator or designee shall immediately disclose

such information to the law enforcement agency that would be responsible for investigating the incident. Upon such disclosure, the Complainant shall be notified that such disclosure is being made.

- (d) In cases in which the Sexual Violence would constitute a felony violation, the law enforcement representative on the TRC shall inform the other members of the TRC and shall, within 24 hours, consult with the local Commonwealth's Attorney to provide him with the information received by the TRC without disclosing Personally Identifiable Information. If the TRC determined that disclosure of Personally Identifiable Information is necessary to protect the health or safety of the student or other individuals, Personally Identifiable Information may also be shared with the local Commonwealth's Attorney.

ARTICLE IV.

PROCEDURES APPLICABLE TO ALL COMPLAINTS OF SEXUAL MISCONDUCT

(a) Overview.

- (i) **Oversight.** The Title IX Coordinator will be responsible for overseeing the prompt, fair, and impartial Investigation and Resolution of Complaints filed with the College.
- (ii) **Conflicts.** If any administrator designated by this Policy to participate in the Investigation or Resolution of a Complaint is the Respondent, then the President will appoint another College administrator to perform such person's duties under this Policy. If the President is the Respondent, then the Title IX Coordinator will appoint another College administrator to perform her duties under this policy.
- (iii) **Personal Advisors.** Both the Complainant and the Respondent may bring a Personal Advisor to any interview or meeting. The Personal Advisor may:

- (1) consult with the advisee he or she is there to support
- (2) offer feedback on an advisee's written statements

The Personal Advisor may not:

- (1) participate in the meeting or interview by asking or answering questions
- (2) make statements to the Investigator or Interviewer
- (3) interview witnesses
- (4) have any kind of speaking role

- (5) have any first-hand personal knowledge about the alleged incident (for example, the Personal Advisor cannot also be a witness).

A Personal Advisor must maintain complete confidentiality regarding any and all communications exchanged pursuant to this Policy.

- (iv) **Timing.** The College will make every reasonable effort to ensure that the investigation and resolution of a Complaint occurs in as timely and efficient a manner as possible. The College's Investigation and Resolution of a Complaint (not including an appeal, if applicable) will generally be completed within 60 calendar days of the receipt of the Complaint, absent extenuating circumstances. Throughout the Investigation, the Complainant and the Respondent will receive periodic status updates from the Investigator or the Title IX Coordinator. The College may modify deadlines for good cause with written notice to both the Complainant and the Respondent of the delay and the reason for the delay.

- (v) **Interim Measures.** Reasonably available interim measures designed to support and protect the Complainant, the Respondent, and/or the College community may be considered or implemented at any time. Interim measures may include, but are not limited to, no-contact orders, academic or work schedule alterations, academic accommodations, changes in housing, leaves of absence, immediate interim suspension, creating of a safety plan, and increased monitoring of certain areas of the campus.

Interim measures may be requested either verbally or in writing and should be directed to the College Police, Title IX Coordinator, or Title IX Deputy Coordinator.

The College will share information about protective measures with others if it is necessary in order to implement the protective measures.

(b) Initial Review of Complaint and Meetings

- (i) **Complainant's Initial Meeting with the Investigator.** Once a Complaint is received, the Title IX Coordinator may assign the case to an Investigator. The Coordinator or Investigator ("Investigator") will contact the Complainant in an attempt to gather additional information including what remedy or relief he or she seeks. The Investigator will conduct the interview in a trauma-sensitive. At this initial review, the Investigator will, as applicable:

- (1) Provide the Complainant with a copy of the Policy.
- (2) Explain avenues for resolution of the Complaint.
 - a. Formal Resolution and steps involved.
 - b. Informal Resolution (mediation).

- c. Criminal charges.
 - d. Not to pursue.
 - e. Allow someone to communicate with Respondent on behalf of the Complainant.
- (3) Discuss confidentiality standards and concerns. Parties remain free to share their own experiences other than information that they have learned solely through the investigatory process. There is potential for compromising the integrity of the investigation by disclosing information about the matter, so it is generally advisable that all parties limit the number of people in whom they confide. The Complainant will also be notified that sharing information might be construed as retaliation.
 - (4) Discuss retaliation and how to report it.
 - (5) Provide the Complainant with Resources available both on- and off-campus (see Appendix A).
 - (6) Discuss possible interim measures that can be provided during the Investigation and Resolution process. The College may implement such measures, if appropriate and reasonably available, whether a formal Complaint has been filed or whether an Investigation has commenced.

Following the meeting, the Title IX Coordinator will determine whether to implement interim measures or to revise any measures already in place. Such determination will be promptly communicated to the Complainant and the Respondent.

- (ii) **Respondent's Initial Meeting with the Investigator.** If the Complainant wishes to pursue a Formal or Informal Resolution through the College or if the College otherwise determines that a further Investigation is warranted, the Investigator will schedule an initial meeting with the Respondent. The Investigator will, as applicable:
 - (1) Provide the Respondent, in writing, sufficient information consistent with state and federal privacy laws and, if applicable, the Complainant's request for confidentiality, to allow him or her to respond to the substance of the allegation, including, if possible, the name of the Complainant and the date, location, and nature of the Sexual Misconduct.
 - (2) Provide the Respondent a copy of this Policy.
 - (3) Explain avenues for resolution of the Complaint.
 - a. Formal Resolution and steps involved.
 - b. Informal Resolution (mediation).

- c. Criminal charges.
- d. Not to pursue.
- e. Allow someone to communicate with Respondent on behalf of the Complainant.

- (4) Discuss confidentiality standards and concerns. Parties remain free to share their own experiences other than information that they have learned solely through the investigatory process. There is potential for compromising the integrity of the investigation by disclosing information about the matter, so it is generally advisable that all parties limit the number of people in whom they confide. The Respondent will also be notified that sharing information might be construed as retaliatory.
- (5) Discuss retaliation and how to report it.
- (6) Provide the Respondent with Resources available both on- and off-campus (see Appendix B).
- (7) Inform the Respondent of any interim measures already determined and being provided to the Complainant that directly affect the Respondent.
- (8) Discuss, as appropriate, possible interim measures that can be provided to the Respondent during the Investigation and Resolution process. The College may implement such measures, if appropriate and reasonably available, whether a formal Complaint has been filed or whether an investigation has commenced.
- (9) Allow the Respondent to provide a written statement in response to the allegation if the Respondent so desires.

(c) The Investigation and Notification of Findings.

- (i) **The Title IX Coordinator's Initial Determination.** The Investigator will confer with the Title IX Coordinator and make a preliminary determination as to whether the allegation, if true, would constitute a violation of this policy such that further Investigation would be warranted.

If the initial determination is that the allegation, if true, would not constitute a violation of this Policy, then the Title IX Coordinator will administratively close the case and notify the Complainant and the Respondent. The Complainant may request reconsideration only if there is substantive and relevant new information that was not available and that may change the outcome of the initial decision. Any such request must be in writing and submitted to the Title IX Coordinator within three (3) days of the initial determination. The Title IX Coordinator will promptly inform the other party of the appeal.

If the allegation, if true, would not constitute a violation of the Sexual Misconduct Policy, but may constitute a violation of any other Ferrum College policy, the case may be referred to the appropriate office on campus for investigation and resolution.

- (ii) Investigators.** If the initial determination is that the allegation violates this policy, then the Title IX Coordinator will promptly appoint two Investigators, share their names and contact information with the Complainant and Respondent, and forward the Complaint to the Investigators. The Title IX Coordinator and Interim Title IX Deputy Coordinator may also serve as Investigators.

At all times, the Investigators will remain neutral. If the Complainant or Respondent have a good faith basis to believe that an Investigator has a personal bias or is otherwise not able to be fair or impartial, the party must promptly inform the Title IX Coordinator in writing and prior to the conclusion of the Investigation of his or her contention and the basis for it. The Title IX Coordinator or Title IX Deputy Coordinator will evaluate and respond to the information.

In the event that the Respondent voluntarily admits to the conduct alleged by the Complainant, the Investigators will inform the Complainant and focus on the Respondent's sanctions.

- (iii) The Investigators' Activities and Report.** Upon receipt of the Complaint, the Investigators will promptly begin their Investigation, taking steps such as:

- (1)** Conducting additional interviews as needed with the Complainant, Respondent, and third-party witnesses and summarizing interviews in written form.

Witnesses will be informed of the potential for compromising the integrity of the investigation by disclosing information about the matter and the expectation that they keep such information confidential. They will also be notified that sharing information might be construed as retaliatory.

- (2)** Reviewing law enforcement investigation documents.
- (3)** Reviewing student and personnel files.
- (4)** Gathering and examining other relevant documents or evidence.
- (5)** Visiting, inspecting, and taking photographs at relevant sites.
- (6)** Collecting and preserving relevant evidence. In cases of corresponding criminal complaints, this step may be coordinated with law enforcement agencies.

If the College learns that there is material evidence collected for purposes of criminal reporting, the Complainant and/or Respondent may be asked to grant the College access to the evidence including, but not limited to, material evidence and narrative reports. Failure of the Complainant to grant the College access to the evidence may result in the College turning the Investigation wholly over to law enforcement authorities thereby limiting the College's ability to continue the Investigation or respond effectively to the Complaint.

- (7) Investigators will conduct follow-up interviews with the Complainant and the Respondent to give each an opportunity to respond to any additional information. The Investigators will inform both the Complainant and Respondent that the Investigation is complete and will give them the final opportunity to provide anything that may be pertinent to the Complaint or Investigation.

The Investigators will compile an investigative file that includes items such as summaries of all interviews conducted, photographs, and descriptions of relevant evidence, summaries and copies of relevant electronic records, and a detailed final report of the events in question.

(iv) Investigative Procedures

- (1) **Notice.** Not less than two (2) days' notice of interviews and investigative meetings will be provided to the Complainant, Respondent, and any witnesses or other third parties whose information the Investigators deem relevant. The notice should set forth, as applicable, the date, time, and location of the meetings.
- (2) **Failure to Appear.** If the Complainant or the Respondent fails to attend meetings with Investigators if requested to do so, and the party was provided proper notice of the meeting, then absent extenuating circumstances, the Investigators will proceed to determine the resolution of the Complaint.
- (3) **Special Arrangements and/or Accommodations.** In addition to disability-related accommodations, the parties may request special arrangements and/or accommodations (for example, the ability to participate remotely) in connection with the Investigation. Such requests should be submitted in writing to the Interim Title IX Coordinator. The Title IX Coordinator will determine whether to grant such requests and his or her decision will be final. Additionally, even in the absence of a specific request from a party, the Title IX Coordinator may make special arrangements related to the Investigation or other accommodations as deemed necessary.

- (4) Evidence.** The Complainant and the Respondent will have an equal opportunity to present evidence and information pertinent to the Complaint. Formal rules of evidence do not apply.

Evidence of the past sexual histories of the Complainant and the Respondent will not be permitted at the hearing with the following exceptions:

- (A)** Evidence is permitted to show that the Complainant has, in the past, been formally disciplined by the College for falsely filing Complaints alleging Sexual Misconduct.
 - (B)** Evidence is permitted to show that the Respondent has, in the past, been either convicted in a criminal proceeding or formally disciplined by the College for Sexual Misconduct.
 - (C)** Evidence regarding the past sexual activity of the Respondent (regardless of whether the Respondent was formally charged with a violation of the Policy with respect to such conduct) may be permitted to show that the Respondent has engaged in a pattern of behavior similar to the alleged Sexual Misconduct at issue before the Investigators, provided that (1) the Respondent has been found “not in violation” by the College in a proceeding related to such sexual activity, and (2) the Investigators made written findings both that the evidence is reliable and trustworthy and that the conduct is sufficiently and substantially similar to the conduct at issue before the Investigators to suggest a pattern of behavior.
- (v) Notification of Findings.** As soon as is practicable, the Investigators will share their findings, decision, and the rationale for their findings with the Interim Title IX Coordinator. Within 20 days of receipt of the Investigators’ findings and decision, the Title IX Coordinator will issue a Notification of Findings to the Complainant and the Respondent simultaneously in writing. In cases where the Title IX Coordinator serves as an Investigator, the Title IX Deputy Coordinator will issue the Notification of Findings.

The Notification of Findings will include the following components:

- (1)** Findings of fact
- (2)** Application of the Preponderance of the Evidence Standard
- (3)** Determination of whether or not the Respondent violated the Sexual Misconduct Policy
- (4)** Rationale for the findings and the sanctions, if any

- (5) If the Investigators conclude that the Respondent violated the Policy or if the Respondent admits to the allegations, the Title IX Coordinator will also include the sanction(s) to be implemented by the College.

Sanctions are dependent upon the nature and gravity of the misconduct, any record of prior discipline, or both.

Sanctions may include, but are not limited to, educational sanctions, mandated counseling, disciplinary probation, expulsion from campus housing, suspension, expulsion from the College, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments. The sanctions should achieve the following:

- (A) bring an end to the violation in question,
- (B) remedy the effects of the violation, and
- (C) educate the Respondent about Sexual Misconduct.

Important Note: Under Virginia state law, a Respondent suspended for, expelled for, or withdrawing from the College while under investigation for a violation involving Sexual Violence, said suspension, expulsion, or withdrawal will be **prominently** noted on the Respondent's academic transcript. The notation shall be removed from the Respondent's academic transcript if he or she a) completes the term of the suspension and all accompanying sanctions and b) has been determined to be in Good Standing.

- (6) Information about both the Complainant's and Respondent's ability to appeal the decision.

The Notification of Findings may also include any additional information deemed relevant and may include an analysis or judgments as to credibility and veracity.

Sanctions imposed are not effective until the resolution of any appeal period. However, if it is advisable in order to protect the welfare of the victim or the College community, the Title IX Coordinator may determine that any sanctions be effective immediately and continue in effect until such time as the appeal process is exhausted. Alternatively, the Title IX Coordinator may implement any interim measures as deemed appropriate including, but not limited to, no-contact orders, academic or work schedule alterations, academic accommodations, changes in housing, leaves of absence, immediate interim suspension, or increased monitoring of certain areas of the campus. If the sanction for a violation of this Policy is expulsion, the President of the College will review the expulsion regardless of whether the decision is appealed.

In addition to sanctions imposed on the Respondent, the Interim Title IX Investigator will determine if there are other accommodations to be provided to the Complainant.

Consistent with FERPA, the Notification of Findings will not disclose the names of any witnesses without their express consent to do so.

(vi) Appeal of the Notification of Findings. The Complainant or the Respondent may appeal the decision as stated in the Notification of Findings within five (5) days of the Notification of Findings. The appeal must be in writing (email is acceptable) and addressed to the President of the College. The only permissible grounds for an appeal are as follows:

- (1)** the discovery of new material evidence that was not readily available as of the conclusion of the Investigation and that could significantly impact the conclusion of the Investigators;
- (2)** a material procedural error related to the investigation that affected the determination or sanction; and/or
- (3)** if the Respondent was found to have violated this Policy, material evidence that the sanction imposed was either excessive or insufficient.

It is not a valid or proper basis for an appeal that a party merely disagrees with the decisions reached by the Investigators.

Upon receipt of a timely appeal, the President or her designee will notify the other party in writing. The other party may submit a written response within five (5) days of said notification.

The President will review the appeal and the other party's written response (if one is submitted). The President then has the authority and discretion to either uphold the Investigator's decision or determine that there is a valid basis for the appeal, in which case she will explain the reasoning and the revised outcome of the Complaint. The President will simultaneously notify both parties in writing of her decision.

All appeal decisions are final.

ARTICLE V.

INFORMAL RESOLUTION (MEDIATION)

A Complainant may make a request, either orally or in writing, for Informal Resolution. The request should identify the alleged Respondent(s), if known, and describe the allegations with specificity. The Title IX Coordinator will consider the severity of the alleged

misconduct and the potential risk for others in the community to determine whether Informal Resolution may be appropriate.

Informal Resolution may be appropriate if:

- (a)** the Complainant requests it,
- (b)** the Respondent agrees to such resolution,
- (c)** the Complainant and the Respondent are both students or are both employees of the College,
- (d)** the Title IX Coordinator or Title IX Deputy Coordinator determines that Informal Resolution is an appropriate mechanism for resolving the Complaint, and
- (e)** the Complaint does not involve Sexual Assault.

Upon a determination that Informal Resolution is appropriate, the Title IX Coordinator may assign the matter to an Investigator. The Investigator will consult the person initiating the request and seek to clarify the potential resolution the person seeks. The Investigator will inform the other party and gather additional relevant information as necessary from the parties and others. In consultation with the Investigator, the Title IX Coordinator may also put into place any appropriate interim measures to protect the educational, living, and work environment. The Investigator will attempt to aid the parties in finding a mutually acceptable resolution. The agreement reached by the parties will be shared in writing with both parties.

At any point prior to such an express agreement, either party may terminate the Informal Resolution process. Furthermore, the Title IX Coordinator may, where appropriate, terminate or decline to initiate Informal Resolution and proceed for Formal Resolution instead. In such cases, statements or disclosures made by the parties in the course of the Informal Resolution process may be considered in the subsequent Formal Resolution proceedings.

A matter will be deemed satisfactorily resolved through Informal Resolution when both parties expressly agree to an outcome that is also acceptable to the Interim Title IX Coordinator.

A request for Informal Resolution does not preclude a Formal Resolution nor does it guarantee that there will not be a criminal investigation by law enforcement.

APPENDIX A

SUGGESTED ACTIONS AND RESOURCES FOR VICTIMS OF SEXUAL MISCONDUCT

Any type of Sexual Misconduct is inappropriate and is taken seriously by the College. If you are the victim of Sexual Misconduct, the College's priority is to help you take steps to address your safety, medical needs, and emotional wellbeing. You are strongly encouraged to seek assistance regardless of whether or not you decide to pursue criminal or College disciplinary charges.

1. Ensure Your Physical Safety.

Please do not hesitate to call the Ferrum College Police Department (540-365-4444) or dial 911. College Police officers are on duty 24 hours a day, 7 days a week and can provide you with both on- and off-campus resources.

2. Seek Medical Assistance and Treatment.

Local options for emergency medical care and collection of personal evidence include Carilion Franklin Memorial Hospital in Rocky Mount (540-483-5277) or Carilion Roanoke Memorial Hospital, located in Roanoke (540-981-7000).

It is crucial that you obtain medical attention as soon as possible after a Sexual Assault to determine the possibilities of physical injury, to prevent or treat sexually transmitted diseases, and/or to screen for the presence of sedative drugs such as Rohypnol or GHB (date-rape drugs). College staff can help you contact a support person, such as a family member, friend, or roommate.

If you choose to have an evidence collection kit (or "rape kit") completed, it is important to do so within 120 hours of an assault. Even if you have not decided to file charges, it is advisable to have the evidence collection kit completed so that you can preserve the options of obtaining a protective order and/or filing criminal charges at a later date.

In order to best preserve evidence for an evidence collection kit, it may be advisable to avoid showering, bathing, going to the bathroom, or brushing your teeth before the kit is completed. You should also wear (or take with you in a paper – not plastic – bag) to the hospital the same clothing that you were wearing during the assault. An evidence collection kit can still be completed even if you have showered or bathed.

You can visit www.notalone.gov/students for additional information and resources.

3. Obtain Emotional Support.

The College Counselor and the Dean of the Chapel can help victims sort through their feelings and begin the recovery process as they are trained to provide

confidential crisis intervention on short-term and emergency issues. They can also provide referrals for outside providers and law enforcement.

Short-term counseling is free of charge to all students. In some instances, the law may require the disclosure of information shared by students with counselors; however, absent a legal mandate to the contrary, counseling services are confidential, are not part of students' College records, and will not be reported to other College personnel.

The Dean of the Chapel can provide pastoral counseling which is also confidential, not part of students' records, and not reportable to other College personnel except in instances where the law may require the disclosure of information shared by students with counselors.

4. Obtain Information and Report Misconduct.

Even if you have filed a report directly with law enforcement, you are encouraged to report incidents of sexual misconduct to the College's Title IX Coordinator or a Responsible Employee. These College personnel can help you access resources and can provide you with support and additional information.

CAMPUS RESOURCES

Ferrum College's Title IX Coordinator is Ms. Nicole Lenez, whose office is located in the Bassett Hall 105. Ms. Lenez may be contacted from 8:30 a.m. to 5:00 p.m., Monday through Friday at 540-365-4461 or by email at nlenez@ferrum.edu.

Ferrum College's Title IX Deputy Coordinator is Mr. Chris Chandler, whose office is in the Human Resources Office in the Pine House on Route 602. Mr. Chandler may be contacted from 8:30 a.m. to 5:00 p.m., Monday through Friday at 540-365-4287 or by email at cchandler@ferrum.edu.

The **Ferrum College Police Department** has officers available 24 hours a day, 7 days per week who can be reached by calling 540-365-4444 or 911. They are located at 10021 Franklin Street, across from campus (on Route 40, adjacent to the Ferrum Mercantile).

The **Student Counselor**, Cherri Hall, is located in B-106 Bassett Hall and is available by phone at 540-365-4219 (you should leave a message if she does not answer the phone). Ms. Hall is on campus from 8:30 a.m. to 5:00 p.m., Monday through Friday.

Jan Nicholson-Angle, the Dean of the Chapel, is located in lower Franklin Hall near the Campus Post Office. She can be reached by calling 540-365-4285 or through email at jcnicholson@ferrum.edu.

COMMUNITY RESOURCES

Local Law Enforcement Agencies can be reached by calling 911.

Franklin County Family Resource Center may be contacted at 540-483-1234. Their website address is www.franklincountyva.org/shelter.

Carilion Franklin Memorial Hospital is located at 180 Floyd Avenue in Rocky Mount. The Emergency Department can be reached by calling 540-483-5277.

Carilion Roanoke Memorial Hospital is located at 1906 Belleview Avenue, SE, in Roanoke. The Emergency Department can be reached by calling 540-981-7000.

Sexual Assault Response and Awareness, Inc. (SARA) runs a 24-hour hotline that can be reached at 540-981-9352. You can also visit them online at www.sararoanoke.org.

Piedmont Community Service Board, Franklin County is located at 30 Technology Drive in Rocky Mount and can be reached by calling 540-483-0582.

Contact Listen Line is a 24-hour counseling hotline that can be reached at 1-877-WEHELP6 or 1-877-934-3576.

The **U.S. Government website** www.notalone.gov/students offers links for additional information and resources.

LONG-TERM CARE

Options for long-term medical and mental health care are:

Tri-Area Community Health Center which is located on campus on the ground floor of the Chapel. Appointments may be made by calling 540-365-4469.

Piedmont Community Service Board, Franklin County is located at 30 Technology Drive in Rocky Mount and can be reached by calling 540-483-0582.

These providers may be able to make referrals to resources in other cities if needed.

APPENDIX B

SUGGESTED ACTIONS AND RESOURCES FOR INDIVIDUALS ACCUSED OF SEXUAL MISCONDUCT

Any type of sexual misconduct is inappropriate and is taken seriously by the College. If you have been accused of Sexual Misconduct, the College encourages you to take steps to address your emotional wellbeing. You are strongly encouraged to seek assistance and support through this process.

Obtain Emotional Support.

The College Counselor and the Dean of the Chapel can help you sort through your feelings as they are trained to provide confidential crisis intervention on short-term and emergency issues. They can also provide referrals for outside providers.

Short-term counseling is free of charge to all students. In some instances, the law may require the disclosure of information shared by students with counselors; however, absent a legal mandate to the contrary, counseling services are confidential, are not part of students' College records, and will not be reported to other College personnel.

The Dean of the Chapel can provide pastoral counseling which is also confidential, not part of students' records, and not reportable to other College personnel except in instances where the law may require the disclosure of information shared by students with counselors.

CAMPUS RESOURCES

Ferrum College's Title IX Coordinator is Ms. Nicole Lenez, whose office is located in the Bassett 105. Ms. Lenez may be contacted from 8:30 a.m. to 5:00 p.m., Monday through Friday at 540-365-4461 or by email at nlenez@ferrum.edu.

Ferrum College's Title IX Deputy Coordinator is Mr. Chris Chandler, whose office is located in the Human Resources Office, the Pine House on Route 602. Mr. Chandler may be contacted from 8:30 a.m. to 5:00 p.m., Monday through Friday at 540-365-4287 or by email at cchandler@ferrum.edu.

The **Ferrum College Police Department** has officers available 24 hours a day, 7 days per week who can be reached by calling 540-365-4444 or 911. They are located at 10021 Franklin Street, across from campus (on Route 40 adjacent to the Ferrum Mercantile).

The **Student Counselor**, Jessica Stallard, is located in B-106 Bassett Hall and is available by phone at 540-365-4219 (you should leave a message if she does not answer the phone). Ms. Stallard is on campus from 8:30 a.m. to 5:00 p.m., Monday through Friday.

Jan Nicholson-Angle, the Dean of the Chapel, is located in lower Franklin Hall near the Campus Post Office. She can be reached by calling 540-365-4285 or through email at jcnicholson@ferrum.edu.

COMMUNITY RESOURCES

Franklin County Family Resource Center may be contacted at 540-483-1234. Their website address is www.franklincountyva.org/shelter.

Carilion Franklin Memorial Hospital is located at 180 Floyd Avenue in Rocky Mount. The Emergency Department can be reached by calling 540-483-5277.

Carilion Roanoke Memorial Hospital is located at 1906 Belleview Avenue, SE, in Roanoke. The Emergency Department can be reached by calling 540-981-7000.

Sexual Assault Response and Awareness, Inc. (SARA) runs a 24-hour hotline that can be reached at 540-981-9352. You can also visit them online at www.sararoanoke.org.

Piedmont Community Service Board, Franklin County is located at 30 Technology Drive in Rocky Mount and can be reached by calling 540-483-0582.

Contact Listen Line is a 24-hour counseling hotline that can be reached at 1-877-WEHELP6 or 1-877-934-3576.

The **U.S. Government website** www.notalone.gov/students offers links for additional information and resources.

LONG-TERM CARE

An option for long-term mental health care is:

Piedmont Community Service Board, Franklin County is located at 30 Technology Drive in Rocky Mount and can be reached by calling 540-483-0582.

These providers may be able to make referrals to resources in other cities if needed.

APPENDIX C

DEFINITIONS

Clery Act. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”) is a federal law. The Clery Act generally requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.

Complainant. A “Complainant” is an alleged victim of Sexual Misconduct who chooses to file a Complaint and participate in the College’s Investigation and Resolution of the alleged Sexual Misconduct.

Complaint. A “Complaint” is an allegation of Sexual Misconduct asserted against another party and reported to or filed with the College.

Consent. “Consent” is informed, freely and actively given and mutually understandable words or actions that indicate a willingness to participate in mutually agreed-upon sexual activity. Consent exists when a reasonable person would consider the words or actions of the parties to have manifested a mutually understandable agreement between them to engage in certain conduct with each other. Consent cannot be gained by ignoring or acting in spite of the objections of another.

Consent cannot be inferred from:

- 1) Silence, passivity, or lack of resistance alone;
- 2) A current or previous dating or sexual relationship alone (or the existence of such a relationship with anyone else);
- 3) Attire;
- 4) Prior discussion as to sexual matters; or
- 5) Consent previously given (i.e., consenting to one sexual act does not imply consent to another sexual act).

Consent is not effective if it is obtained through the use of physical force, violence, duress, intimidation, coercion, or the threat, expressed or implied, of bodily injury. Whether a party used intimidation or coercion to obtain consent will be determined by reference to the perception of a reasonable person found in the same or similar circumstances.

Consent may never be given by:

- 1) Minors, even if the other participant did not know the minor’s age.
- 2) Mentally disabled persons, if their disability was reasonably knowable to a sexual partner who is not mentally disabled.

- 3) Persons who are incapacitated (whether as a result of drugs, alcohol or otherwise), unconscious, asleep or otherwise physically helpless or mentally or physically unable to make informed, rational judgments. The use of alcohol or drugs does not diminish one's responsibility to obtain Consent and does not excuse conduct that constitutes Sexual Misconduct under this Policy.

If at any time during a sexual act, any confusion or ambiguity is or should reasonably be apparent on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify the other's willingness to continue and capacity to consent. Neither party should make assumptions about the other's willingness to continue.

Dating Violence. "Dating Violence" means violence committed by a person

- 1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- 2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - a) the length of the relationship,
 - b) the type of relationship, and
 - c) the frequency of interaction between the persons involved in the relationship.

Dating Violence is a pattern of abusive behaviors used to exert power and control over a dating partner. Dating Violence may include but is not limited to:

- 1) Physical Abuse: Any intentional use of physical force with the intent to cause fear or injury.
- 2) Verbal or Emotional Abuse: Non-physical behaviors such as threats, insults, constant monitoring, humiliation, or intimidation.
- 3) Sexual Abuse: Any action that impacts a person's ability to control his or her sexual activity.
- 4) Digital Media Abuse: Use of technology to intimidate, harass, or threaten a dating partner. This includes but is not limited to social media, cell phones, cyber-bullying, and sexting.

Day. A business day unless otherwise specified.

Domestic Violence. "Domestic Violence" includes felony or misdemeanor crimes of violence committed

- 1) by a current or former spouse or intimate partner of the victim,
- 2) by a person with whom the victim shares a child in common,
- 3) by a person who is cohabiting with or has cohabited with the victim as a spouse or intimate partner,

- 4) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or
- 5) against any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

“Domestic Violence” is a pattern of abusive behaviors used to exert power and control and can include emotional, sexual, verbal, economic, social media, or physical threats. Acts may include any behaviors that intimidate, isolate, manipulate, humiliate, coerce, frighten, blame, or hurt someone.

Family Educational Rights and Privacy Act (FERPA). FERPA is a federal law that generally protects the privacy of student education records. FERPA grants to parents or eligible students the right to access, inspect, and review education records, the right to challenge the content of education records, and the right to consent to the disclosure of education records.

Gender-Based Discrimination and Harassment. This includes:

- 1) Acts of verbal, nonverbal, or physical aggression; intimidation; or hostility based on sex, even if those acts do not involve conduct of a sexual nature.
- 2) Sex-based harassment by those of the same sex.
- 3) Discriminatory sex stereotyping (e.g., harassment of lesbian, gay, bisexual, transgendered, and/or questioning students).

Good Standing. A student is deemed in Good Standing as pertains to the sexual violence offense if the student has completed all other sanctions, requirements, and recommendations related to the offense. The College may determine that a student is not in Good Standing as pertains to the Sexual Violence offense if there are extenuating circumstances involving the offense or if there were additional offenses of any kind following the student's departure from the College. The term “Good Standing” as pertains to the Sexual Violence offense is applicable only to the removal of the required transcript notation. The removal of the notation from the transcript marks the end of the suspension period, but does not guarantee readmission to a student.

Investigation. The “Investigation” is the process of compiling and synthesizing information gathered by the Investigators in their effort to determine whether a Complainant is in violation of the Sexual Misconduct Policy.

Investigator. The “Investigator” is a neutral fact-finder who is designated by the Title IX Coordinator to investigate a Complaint. The Investigator will be trained regularly on (1) reasonable and appropriate investigative techniques, (2) issues related to Sexual Misconduct, and (3) how to conduct an Investigation that protects the safety of victims and promotes accountability.

Notification of findings. Issued from the Title IX Coordinator or Interim Deputy Coordinator, the Notification of Findings includes findings of fact, application of the preponderance of the evidence standard, determination of whether or not the Respondent violated the Sexual Misconduct Policy, rationale for the findings and sanctions, appeal process, any additional information deemed relevant, ongoing accommodations.

Personally Identifiable Information. Personally Identifiable Information (as that term is defined by FERPA) includes but is not limited to:

- 1) a Student's name;
- 2) the name of a Student's parent(s) or other family members;
- 3) the address of a Student or a Student's family;
- 4) a personal identifier, such as a Student's social security number, student number, or biometric record;
- 5) other indirect identifiers, such as a Student's date of birth, place of birth, or mother's maiden name;
- 6) other information that, alone or in combination, is linked or linkable to a specific Student and that would allow a reasonable person in the College community, who does not have personal knowledge of the relevant circumstances, to identify the Student with reasonable certainty; or
- 7) information requested by a person whom the College reasonably believes knows the identity of the Student to whom the education record relates.

Preponderance of the Evidence. The "Preponderance of the Evidence" standard means that an Investigation must determine whether a complaint of Sexual Misconduct is "more likely than not" to have occurred or 51% likely to have occurred. This standard applies to all complaints of Sexual Misconduct.

Rape. "Rape" is penetration, no matter how slight, with any body part or any object, or oral penetration by a sex organ of another person or a sex-related object, without the consent of the victim.

Reasonable Person. A person under similar circumstances with similar identities to the victim.

Respondent. A "Respondent" is an individual who has been accused of committing Sexual Misconduct by the report or filing of a formal or informal Complaint.

Responsible Employees. The College's "Responsible Employees" are any employees who have the authority to take action to redress sexual violence, who have been given the duty to report to appropriate school officials about incidents of sexual violence or any other misconduct by students, or who a student could reasonably believe has this authority or responsibility.

Retaliation. “Retaliation” means any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Complaint of Sexual Misconduct, including but not limited to direct and indirect intimidation, threats, and harassment.

Sexual Assault. “Sexual assault means any actual, attempted, or threatened sexual act with another person without that person’s Consent. Sexual Assault includes but is not limited to:

- 1) Rape and attempted Rape;
- 2) Intentional and unwelcome sexual touching (including disrobing or exposure), however slight, with any body part or any object, by a man or a woman upon a man or a woman, without effective Consent, of a person’s breasts, buttocks, groin, or genitals (or clothing covering such areas), or coercing, forcing, or attempting to coerce or force another to touch you, themselves, or a third party with any of these body parts or areas when such touching would be reasonably and objectively offensive;
- 3) Any sexual act in which there is force, violence, or use of duress or deception upon the victim;
- 4) Any sexual act perpetrated when the victim is unable to give Consent; and
- 5) Sexual intimidation, which includes but is not limited to:
 - a) Threatening, expressly or impliedly, to commit a sexual act upon another person without his or her Consent,
 - b) Stalking or cyber-stalking, and
 - c) Engaging in indecent exposure.

Sexual Exploitation. “Sexual Exploitation” means any act of taking non-Consensual, unjust or abusive sexual advantage of another person for one’s own advantage or benefit or to benefit or advantage anyone other than the person being exploited. Sexual Exploitation includes:

- 1) Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such person;
- 2) Prostituting another person (for example, personally gaining money, privilege, or power from the sexual activities of another);
- 3) Non-consensual videotaping, photographing, or audio-taping of sexual activity and/or distribution of these materials via media such as, but not limited to, the Internet;

- 4) Exceeding the boundaries of Consent (for example, allowing another person to observe consensual sex without the knowledge of or Consent from all participants);
- 5) Voyeurism; and
- 6) Knowingly or recklessly transmitting a sexually transmitted disease to another individual.

Sexual Harassment. “Sexual Harassment” is any unwelcome verbal, nonverbal, written, electronic or physical conduct of a sexual nature. Examples of Sexual Harassment include instances in which:

- 1) Submission or consent to the behavior is reasonably believed to carry consequences for the individual’s education, employment, on-campus living environment, or participation in a College activity. Examples of this type of sexual harassment include:
 - a) pressuring an individual to engage in sexual behavior for some educational or employment benefit, or
 - b) making a real or perceived threat that rejecting sexual behavior will carry a negative educational or employment consequence for the individual.
- 2) The behavior is so severe or pervasive that it has the effect of substantially interfering with the individual’s work or educational performance by creating an intimidating, hostile, or demeaning environment for employment, education, on-campus living, or participation in a College activity. Examples of this type of sexual harassment include:
 - a) one or more instances of Sexual Assault;
 - b) persistent unwelcome efforts to develop a romantic or sexual relationship;
 - c) unwelcome sexual advances or requests for sexual favors;
 - d) unwelcome commentary about an individual’s body or sexual activities;
 - e) repeated and unwelcome sexually-oriented teasing, joking, or flirting; and
 - f) verbal abuse of a sexual nature.

Sexual harassment also includes acts of intimidation, bullying, aggression or hostility based on gender or gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

Sexual Misconduct. “Sexual Misconduct” means any unwelcome conduct of a sexual nature, including any conduct or act of a sexual nature perpetrated against an individual without Consent. Sexual Misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual Misconduct can be committed by men or by women, and it can occur between people of the same or different

sex. The College encourages reporting of all Sexual Misconduct. Sexual Misconduct includes but is not limited to:

- 1) Dating Violence;
- 2) Domestic Violence;
- 3) Non-forcible acts, which are unlawful sexual acts where Consent is not relevant, such as sexual contact with an individual under the statutory age of Consent, as defined by Virginia law, or between persons who are related to each other within degrees wherein marriage is prohibited by law
- 4) Sexual Assault;
- 5) Sexual Exploitation;
- 6) Sexual Harassment; and
- 7) Stalking.

Sexual Violence. “Sexual Violence” is

- 1) use of physical force to compel a person to engage in a sexual act against his or her will, whether or not the act is completed;
- 2) attempted or completed sex act involving a person who is unable to understand the nature of condition of the act, to decline participation (give consent), or to communicate unwillingness to engage in the sexual act (e.g., because of illness, disability, or the influence of alcohol or other drugs or because of intimidation or pressure); or
- 3) abusive sexual contact.

Acts of Sexual Violence may include, but are not limited to, rape, sexual assault, sexual abuse, and coercion.

Stalking. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- 1) fear for his or her safety or the safety of others, or
- 2) suffer substantial emotional distress.

“Stalking” may include, but is not limited to, non-consensual communication; following, pursuing, or showing up uninvited at a workplace, place of residence, classroom or other locations frequented by a Complainant; surveillance and other types of observation; trespassing; vandalism; non-consensual touching; direct physical and/or verbal threats against a Complainant or a Complainant’s loved ones; gathering of information about a Complainant from family, friends, co-workers and/or classmates; manipulative and controlling behaviors such as threats to harm oneself or threats to harm someone close to the Complainant; and defamation or slander against the Complainant.

Student. “Student” is any non-employee participating in a Ferrum College-sponsored educational program (a) at the time of the alleged Sexual Misconduct and (b) at the time a Complaint is filed.

Substantial Emotional Distress. “Substantial Emotional Distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Title IX Coordinator. The College’s “Title IX Coordinator” has ultimate oversight responsibility for handling Title IX-related Complaints and for identifying and addressing any patterns or systemic problems involving Sexual Misconduct. The Title IX Coordinator is available to meet with individuals who are involved with or concerned about issues or College processes, incidents, patterns or problems related to Sexual Misconduct on campus or in College programs. All allegations involving Sexual Misconduct should be directed to the Title IX Coordinator or other designated College individuals or offices as outlined in the Sexual Misconduct Policy and Procedures.

Title IX Deputy Coordinator. The College’s “Title IX Deputy Coordinator” works under the oversight of the Title IX Coordinator to assist with the handling of Title IX-related Complaints. The Title IX Coordinator may assign a Title IX Deputy Coordinator in connection with a given Complaint.