



# APPALACHIAN

## SCHOOL OF LAW



## 2023 ANNUAL SECURITY REPORT

This information is provided in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, commonly referred to as the Clery Act.

## **ASL CAMPUS SECURITY INFORMATION: 2023 EDUCATING IN A SAFE AND SECURE ENVIRONMENT**

The Appalachian School of Law (“ASL”) is committed to fostering a safe and secure environment in which to learn and work. ASL publishes the Annual Safety and Security Report (“ASR”), in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”).

The ASR specifically contains information about:

- campus security and personal safety, including topics such as: crime prevention, campus safety authorities, crime reporting policies, evacuation procedures, disciplinary procedures, and other matters of importance related to security on campus; and
- crime statistics for the three (3) previous calendar years concerning reported crimes that occurred on campus; in certain off-campus buildings or property owned or controlled by the Law School; and on public property within, or immediately adjacent to and accessible from the campus.

Campus crime, arrest, and referral statistics include those reported to the Appalachian School of Law’s Security Office, designated Campus Security Authorities as defined under the Act, the Dean or Chief Academic Officer, and local law enforcement agencies. Each year, notification of the completed ASR is sent to all students, faculty, and staff by October 1<sup>st</sup>. The email notification provides a direct link to access the ASR online. The ASR can be accessed on ASL’s website. Printed copies of the report may also be obtained from the Office of the Director of Campus Security by calling 276-244-1230. All prospective employees may obtain a copy from the Office of Personnel by calling 276-244-1228.

### **Director of Campus Safety**

ASL is committed to operating with integrity and honor in full compliance with all applicable federal and state laws and regulations and Law School policies. In 2014, ASL established the position of Campus Safety Coordinator in support of this commitment. In 2020, ASL established the position of Director of Campus Safety to replace the position of Campus Safety Coordinator.

The Director of Campus Safety works closely with the Campus Security Officers, Administrators, and other individuals or departments as the Director desires to:

- promote campus compliance with applicable laws, regulations, and policies;
- keep the campus community informed of compliance information and resources;
- support the coordination of campus compliance activities and ongoing training;
- provide updates to the campus community regarding required guidelines and mandates;

- promote a campus culture of ethical conduct and commitment to compliance;
- facilitate and participate in the Individualized Assessment and Response Team process to assess and to intervene, as necessary, regarding any individual whose behavior may potentially pose a threat to self, others, or the campus community;
- assist all members of the community in providing for their wellbeing, safety, and security.

Information about the Director of Campus Safety and available resources may be obtained by calling 276-244-1230.

### **Campus Facilities: Safety, Access, and Maintenance**

ASL wants to maintain a safe and secure environment for its students, faculty, staff, and community members who use its facilities. While the Campus Security Office is assigned a variety of security-related functions, individual organizations or departments also have responsibility for the security of facilities designated for their use. Members of the faculty, staff, and student body should report all crimes, hazards, emergencies, or dangerous situations to the Campus Security Office or the Director of Campus Safety.

Normally, ASL's Main Classroom and Office Building and Law Library will be open to students, employees, contractors, guests, and visitors during business hours. During non-business hours, access to all Law School facilities is restricted to only authorized individuals. Individuals who need access during non-business hours may request such by making arrangements with Campus Security during business hours. During periods of extended closing, the Law School will admit only those with prior notice to the Campus Security Office to any facility.

Law students at ASL have limited card access to the Law Library and the Main Classroom and Administrative Building after regular business hours. The exterior door access to these buildings may be altered during specific times (i.e., exams, holidays, evenings, and weather-related events). Persons entering the buildings via card access should do so only with their own cards. Students and employees must not permit others to use their cards for entry and must not help persons without cards enter the buildings. ASL staff members or Campus Security Officers may ask to see a student's ID card at any time. Anyone who refuses to produce an ASL ID card will be asked to leave immediately. The act of propping-open any external or internal door in a fashion that allows unauthorized access to any ASL facility is considered to be a violation of ASL's Student Conduct and Academic Integrity.

<https://www.asl.edu/wp-content/uploads/2023/08/8-Ch.-6-Student-Conduct-and-Academic-Integrity.8.22.23.Approved-by-Faculty.pdf>

Persons who are not authorized to be on campus (for example, people who disrupt ASL sponsored/sanctioned activities or loiter on campus will be escorted to the edge of ASL's property and informed of the Code of Virginia Trespass Ordinance **or** they will be taken into custody by appropriate authorities if their behavior warrants an arrest.

ASL's facilities and landscaping are maintained in a manner to reduce hazardous and unsafe conditions. ASL Campus Security Officers patrol facilities daily. These patrols allow Security Officers to respond to and report any safety and security concerns such as nonworking lights, malfunctioning locks, and other unsafe physical conditions to the Maintenance Supervisor for repair. Individuals recognizing unsafe physical conditions or issues should report them to a Campus Security Officer or the Director of Campus Safety.



### **ASL's Campus Security Office**

The mission of ASL's Campus Security Office is to serve and protect the Law School community and to enhance the quality of life on campus. This is achieved in conjunction with the campus community by enforcing laws or Law School rules, crime prevention activities, education, and community awareness. The foundation of our Office is community service. All people within our jurisdiction are served with respect and fairness.

The Campus Security Officers are committed to preventing crime, assisting as necessary in the investigation of issues and/or incidents, preserving security, and enforcing all laws and Law School rules. Services of the Campus Security Office are oriented to produce an environment that enables ASL to implement its mission of education and public service.

Campus Security Officers maintain a Daily Crime Log, which is available in the Campus Security Office for public inspection during regular business hours, located in Room 130 of the Main Administration and Classroom Building, near the Lions Lounge. The most recent 60-day period of the crime log is available upon request; portions requested of the log older than 60 days will be available within two (2) business days upon request. This log contains information about all crimes reported to Campus Security, including the date the crime was reported; the date and time the crime occurred; the nature of the crime; the general location of the crime; and the disposition of the complaint if known.

## **Authority and Jurisdiction**

In the past, ASL employed contract Campus Security Officers who maintained business hours seven-days-a-week. The Security Officers are responsible for the safety and security of all visitors, students, faculty, and staff, as well as a full range of public safety services, including all crime reporting, assisting with investigations, medical and fire emergency response, and traffic control. In November 2020, the Campus Security Officers were employed by ASL.

These officers have the authority to ask persons for identification and to determine whether individuals have a lawful business on campus. In addition, campus security officers have the authority to issue parking tickets, which are billed to the financial accounts of faculty, staff, and students.

The Officers are state-certified through DCJS, and have full powers of arrest if they see a crime being committed on campus or perceive a threat to the campus community. Each officer continually undergoes training to maintain state certification and professional skills. The Office is responsible for enforcing all laws within the Commonwealth of Virginia and ASL's rules or policies.

The Campus Security Officers and the Town of Grundy Police Department share jurisdiction on campus. The Security Office maintains a highly professional relationship with the Town of Grundy's Police Department and the Buchanan County Sheriff's Office. ASL has a Memorandum of Understanding with the Virginia State Police. This includes, but is not limited to, assisting one another with criminal investigations, emergency response, training, and information sharing.

## **Reporting a Crime, Incident, or Emergency**

ASL encourages prompt notification so that it may be proactive in preventing crime as well as responsive to incidents after they occur. All members of the ASL community and visitors and victims of crime are encouraged to accurately and promptly report all crimes, safety-related incidents, suspicious activities, or other emergencies occurring on campus to a Campus Security Officer and appropriate law enforcement agencies. Reports received by Campus Security are assessed for a timely warning notice and for inclusion in the annual disclosure of crime statistics.

### **Contact Information to Report a Crime, Incident, or Emergency:**

**Campus Security Office** at ASL: Main Administration and Classroom Building, near the Lions Lounge area. Officers may be reached during regular business hours at: (C) 276-312-3989 (accepts text messages/calls) or (O) 276-244-1295 (receives calls only)



**Director of Campus Safety:** Main Classroom Administration Building, Room 130: (C) 276-312-4918 or (O) 276-244-1230

**Town of Grundy Police Department:** 276-935-1993

**Buchanan County Sheriff's Office:** 276-935-2313

**Virginia State Police:** (Vansant Field Office): 276-597-7440

**All Emergencies:** 911

### **Campus Security Authorities (CSAs)**

While ASL recommends that all crimes and incidents be reported to Campus Security and local law enforcement, it is recognized that reports may go to other individuals instead. The Clery Act defines individuals at colleges and universities that may typically receive such reports as Campus Security Authorities (CSAs). CSAs are individuals in functions related to campus law enforcement or security, responsibility for monitoring access to facilities or serving as event security, or significant responsibility for student and campus activities. CSAs may be full-time, part-time, or volunteer. Employees and students may serve in these roles. CSAs are trained annually to forward to Campus Security and/or the Director of Campus Safety in a timely manner reports of crimes or incidents they receive.

At ASL, Campus Security Authorities include individuals in these areas:

- Campus Security Officers: (C) 276-312-3989 or (O) 276-244-1295
- Director of Campus Safety: (C) 276-312-4918 or (O) 276-244-1230
- Title IX Coordinator: 276-244-1228
- Registrar: 276-244-1229
- Senior Director of Admissions: 276-244-1281
- Grievance Coordinator: 276-244-1231
- Director of Information Services: 276-244-1267
- Dean of Students: 276-244-1239
- Designated Representatives of Student Organizations recognized by the Student Bar Association
- Director of Student Services 276-244-1215

### **Notifications and Alerts**

#### **Timely Warnings:**

All members of the campus community and visitors are encouraged to report all crimes, public-safety incidents, or emergencies to a Campus Security Officer, the Director of Campus Safety, or local law enforcement in a timely manner to aid in providing accurate and timely warning notices to the community, when appropriate, and to ensure inclusion in the annual disclosure of crime statistics.

In the event that a situation arises that constitutes a serious or on-going threat for the Clery Act crimes in our Clery geography, a campus-wide timely warning will be issued that withholds the names of victims as confidential, and that will aid in the prevention of similar occurrences. If circumstances warrant, ASL may include a suspect's personally identifiable information in a timely warning. FERPA regulations (34 CFR § 99.36) outline disclosure of information concerning health and safety emergencies.

The decision to issue a timely warning will be considered on a case-by-case basis depending on when and where the incident occurred, when it was reported, and the amount of information known at the time. Timely warnings are typically issued for the following crime classifications: criminal homicide, sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In certain instances, a timely warning may not be issued. For example, a disagreement between two students may result in an assault, but there may not be an on-going threat to other ASL community members; therefore, a timely warning would not be issued. Further, a sexual assault may be reported long after the incident occurred, limiting ASL's ability to issue a warning in a "timely" fashion.

Upon receipt of a Clery crime report that indicates that a serious, on-going threat may be present, the Campus Security Officer, the Director of Campus Safety, and/or the Dean will convene the Individualized Assessment & Response Team to assess the situation on a case by case basis, in accordance with the Individualized Assessment & Response Team Guidelines, and the Clery Act.

Typically, the Director of Campus Safety or designee will compose and disseminate the warning. In instances of sexual or prohibited conduct, the Title IX Coordinator or designee will compose and disseminate the warning, which will withhold as confidential the names and any other identifying information of the victim(s). The timely warning will include tips or information designed to aid in the prevention of similar crimes.

There are some other crime classifications and instances that do not require dissemination of a timely warning notice under the Clery Act, but in the interest of promoting public safety, a community alert may be issued to keep the campus community informed and aware of safety-related incidents.

If a timely warning is necessary, notification is accomplished by communicating to the ASL community by one or more of the following methods: email notification, text messaging, webpage notification, or face-to-face communications.



## **Emergency/Immediate Notifications:**

ASL will immediately distribute emergency notifications to the campus community upon confirmation of a significant emergency or dangerous situation on campus involving an immediate threat to the health or safety of students, employees, or visitors. The Dean typically confirms emergencies on campus in consultation with Campus Security Officers, the Director of Campus Safety, other administrative offices, local law enforcement or first responders, and/or the National Weather Service. Examples of emergencies that would warrant such a notification include but are not limited to: an active shooter on campus, hostage/barricade situation, a riot, bomb threat, a tornado, a fire/explosion, suspicious death, structural damage to a law school-owned or controlled facility, biological threat, significant flooding, a gas leak or a significant hazardous materials release

The Dean or designee and the Director of Campus Safety make the initial recommendation for activating immediate notification systems for any threats to the campus community, or the appropriate segment of the campus community. The Director of Campus Safety or designee, in consultation with the Dean, will determine what information to release and is typically responsible for developing the content of the emergency messages based upon available information, and for initiating the systems to communicate those messages, without delay, and taking into account the safety of the community. Members of the ASL Individualized Assessment and Response Team and Campus Security will assist in the appropriate notification process. The Director of Campus Safety will withhold an emergency notification only if issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

Emergency/Immediate Alert Notification systems include the use of one or more of the following:

- ✓ Voice paging system in classrooms, library, and staff offices;
- ✓ Email notification;
- ✓ Other Cell phone notification or text messaging;
- ✓ Webpage notification;
- ✓ Private two-way radio communications system on campus;
- ✓ Face-to-Face communications

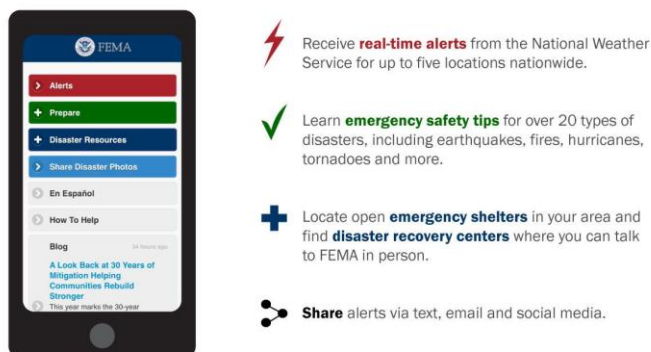
All emergency notifications will typically include two parts — an initial notification, which is followed by adequate follow-up information, such as issuing an “all clear” when the threat or danger is over.

**ASL encourages and provides an opportunity for students and employees to furnish their mobile phone number to the Registrar or the Director of Information Services so that they are automatically registered to receive ASL Safety Notifications via text message.**

A valuable outside resource tool is the Virginia Department of Emergency Management,



which provides guidance on emergency preparedness and planning. The VDEM website may be accessed at: <https://www.vaemergency.gov/>. Also, you may access the FEMA mobile App at: <https://www.fema.gov/mobile-app>.



## Emergency Response Planning and Evacuation

ASL has an Emergency Response Plan that outlines the institutional response to serious incidents impacting the campus, including plans for evacuation, performance expectations, and operations continuity. Key administrators and other personnel have been identified as members of the Individualized Assessment and Response Team. Campus Security Officers and other designated individuals have received training in order to understand roles in the emergency response plan.

The ASL's Director of Campus Safety conducts announced and unannounced drills, exercises, and follow-through activities annually as part of the Law School's comprehensive emergency operation plan. All exercises are documented and completed with appropriate after-action reports. After-action reports include detailed lessons learned, and follow-up items, if any, are identified, and responsibilities are assigned to appropriate campus entities.

The purpose of evacuation drills is to prepare building occupants for an organized evacuation in case of an emergency and/or fire. Employees and students learn the emergency exits' locations in the buildings and are given guidance about their direction when exiting each facility. Evacuation drills are used as a way to educate and train occupants on issues specific to their building.

During the drill, occupants practice drill procedures and familiarize themselves with the exits' location and the fire alarm's sound. In addition, the process also provides the law school an opportunity to test the operation of fire alarm system components.

Evacuation drills are monitored by the Director of Campus Safety, the Maintenance Department, and ASL's Security Office to evaluate egress and behavioral patterns. ASL contracts an outside vendor to inspect and maintain equipment and identify deficient

equipment to make repairs immediately. Recommendations for improvements are also submitted to the appropriate departments for consideration.

**Campus-Wide Notification of Emergencies:** In the event, an imminent and significant threat to individuals or property on campus arises, the following means of notification are available:

1. **Evacuation:** Sound the fire alarm; Alert others by word of mouth; Exit building and go to the evacuation site.
2. **Secure-In-Place:** Secure room; Call 911; Campus Security at extension 1295; and/or Use the campus security radios to communicate. (Security radios are maintained by the Dean; the Director of Campus Safety; Campus Security Office; Library personnel; Title IX; Registrar; the Business Office; and the Director of Information Services.)
3. **Shelter-in-Place:** Alert others by word of mouth; Call 911; Campus Security at extension 1295 or 1230; and/or use the campus security radios or cell phone to communicate.

**Shelter-In-Place Policy & Procedure:** some emergencies may arise that do not allow individuals the opportunity to evacuate. Shelter-in-place events are usually weather-related emergencies. When it is necessary to shelter-in-place, you will be safest by moving inside to a building space that protects you from the external danger. When this occurs, remain calm and immediately seek shelter inside the closest sturdy building. Do not wait until you physically see an event to react. Resist the temptation to go outside and check the conditions yourself. Once inside, stay away from windows, glass, and unsecured objects that may fall. Seek shelter in interior rooms and corridors. Avoid large free-standing expanses such as auditoriums and gymnasiums. Do not use elevators. Await further instruction from ASL and emergency personnel. Do not leave until an "All Clear" is received.

**Secure-In-Place Policy & Procedure:** during some emergencies, such as an active shooter event, it may be necessary for you to secure-in-place by securing a locked door or barricade between you and the associated violence or danger. During Secure-In-Place events, students are to remain in the classroom. They are to take direction from their professor or instructor. No one is to leave his or her class until the "all clear" signal has been given. If not in a class, go to the nearest class even if it is not the one you are assigned to. If you are outside during a secure-in-place emergency, remain calm. Seek cover in the nearest unlocked building. If the buildings in the immediate area have exterior doors that have been locked, continue to move away from the danger, seek cover, move to another building, or leave campus if it is safe to do so. Once inside, find an interior room and lock or barricade the doors. To minimize vulnerability, turn off lights, silence phones, draw blinds, and move away from windows. Await further instruction from ASL and/or emergency personnel. Do not leave until an "All Clear" is received.

On an annual basis, the Law School provides information about the institution's Emergency Response Plan as part of ASL's Clery compliance efforts.

## **Privacy and Confidentiality**

ASL is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under the Sexual Harassment and Grievance policy. ASL also is committed to providing assistance to help students, employees, and third parties make informed choices. With respect to any report under this policy, the Law School will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the report and to take steps to eliminate prohibited conduct, prevent its recurrence and remedy its effects.

ASL does **not** employ confidential, Pastoral, or Counselors, who are generally not required to report crimes. However, ASL has a close working relationship with the Judges and Lawyers Assistance Program (JLAP) and Dr. Rick Carroll.

Virginia Judges and Lawyers Assistance Program  
24/7 helpline 1-877-545-4682

Rick Carroll, Ph.D., LPC, ACS  
Licensed Professional Counselor  
Phone: (423)383-1960  
Email: [rwcarroll@bvu.net](mailto:rwcarroll@bvu.net)

Brian Moore  
Southwest Virginia Program Manager  
Phone: (276) 920-8133  
Email: [bmoore@vjlap.org](mailto:bmoore@vjlap.org)

## **Crime Prevention Programs**

Crime prevention programs and campus security procedures are explained to incoming students during the first week of Orientation. Campus safety information is distributed electronically to all students, faculty, and staff each year, and crime prevention and awareness information is periodically posted throughout the campus. For example, all employees and students received an email with a link to a presentation entitled, "Safety Tips: Sexual Harassment and Interpersonal Violence." Ongoing prevention and awareness and training activities are conducted for employees and students.

ASL has a Memorandum of Understanding (MOU) with People, Inc. of Virginia to provide training opportunities and other collaborative assistance with regard to victims of domestic violence and sexual assault. With the assistance of People, Inc., ASL sponsored live educational events on campus.

ASL utilizes Vector LMS Solutions to conduct online training modules for employees and students. Various training topics included Title IX and Clery crime reporting, Sexual Misconduct, Sexual Harassment, and Diversity Awareness. Select employees, who may participate in a hearing or appeals process, also received additional online training that involves investigations and adjudications or other relevant topics.

All student organizations are required to designate a Campus Safety Authority/Mandatory Reporter to be on duty during events or activities sponsored by the organization. The

Campus Safety Authority/Mandatory Reported must attend a training session prior to taking on the role. Contact information for the designated “CSA/Mandatory Reported” must be posted on all advertisements or information posted about the event.

## **Resource Directory**

### **Immediate Assistance Following an Incident of Sexual Misconduct:**

If you or someone you know is the victim of any form of Sexual Misconduct, you are strongly urged to seek assistance. If you are the victim of any form of *Sexual Violence*, you are strongly urged to seek **immediate assistance from police and healthcare providers**.

The following resources in the area can provide 24-hour assistance:

#### **If you are in immediate danger, dial 911.**

Town of Grundy Police Department (276) 935-1993

Buchanan County Sheriff’s Office (276) 935-2313

Buchanan General Hospital (276) 935-1000 (Grundy, Virginia)

Clinch Valley Medical Center (276) 596-6000; Access to a SANE Nurse; (Richlands, Virginia)

**Additional Resource: ASL Campus Security** – Office Location: Main Administration and Classroom Building Room 130 for the Director of Campus Safety. M-F 8 am to 5 pm.:

Mr. Michael Kirkpatrick

Cell Phone (276)312-4918. Office Phone: (276)244-1230;

Sun-Sat. 8:00 a.m.–9:00 PM.; Officer Kenny Keen and Officer Corbitt “Chuck” Mullins. \*Cell Phone: (276) 312-3989 (accepts calls or text messages);

Office Phone: (276) 244-1295 (accepts calls only).

**If you contact the Security Officers by text message, please indicate your specific location on campus so that they can respond to all matters in a timely fashion.**

During business hours (8:00 AM to 5:00 PM, Monday through Friday), you are also strongly urged to contact the Title IX Coordinator regarding any violations of this Policy (by phone 276-244-1228 or email [titleixcoordinator@asl.edu](mailto:titleixcoordinator@asl.edu) or in person at Room 133, Main Classroom and Office Building, Appalachian School of Law; 1169 Edgewater Drive; Grundy, Virginia 24614). The Title IX Coordinator is also available to assist you with notifying the police.

### **Extended Assistance:**

\*The following are services available in the areas surrounding ASL. This directory is included for informational purposes only and is not an endorsement of a specific service provider.

## **Confidential Advice, Counseling Services, and Advocacy:**

Virginia Judges and Lawyers Assistance Program  
Brian Moore, Southwest Virginia Program Manager  
Phone: (276) 920-8133  
Email: [bmoore@vjlap.org](mailto:bmoore@vjlap.org)  
24/7 helpline 1-877-545-4682

Rick Carroll, Ph.D., LPC, ACS  
Licensed Professional Counselor  
Phone: (423)383-1960  
Email: [rwcarroll@bvu.net](mailto:rwcarroll@bvu.net)

### **Healing Waters Counseling Center**

Phone: (276) 963-0111  
Program Type: Psychological Evaluation, Individual Counseling, Group Counseling, Child and Adolescent Counseling, Family and Marriage Counseling  
Website: <https://healingwaterscc.com/>  
Address: 1113 Cedar Valley Drive, Cedar Bluff, VA 24609

### **Buchanan County Victim/Witness Assistance Program**

**Latasha Hagerman**, Program Director  
Phone: 276-935-5806  
Buchanan County Victim/Witness Program Director  
Mailing Address: Post Office Box 90; Vansant, Virginia 24656  
Physical Address: 1327 Lover's Gap Road; Vansant, Virginia 24656  
<https://www.facebook.com/BuchananVicWit/>

### **Cumberland Mountain Community Services**

Program Type: Mental Health Services, Substance Abuse Services, Intellectual Disability Services, Prevention Services  
Office Phone: (276) 935-7154 (Grundy)  
After Hours: (800)-286-0586  
Address: 1014 Stillhouse Road, Grundy, VA 24614

### **People, Inc. of Virginia**

Program Type: Sexual and Domestic Violence Agency - Provides temporary emergency shelter, supportive services, and advocacy to help victims of domestic violence and/or sexual assault. A 24-hour crisis hotline offers immediate counseling and support.  
24 HR Hotline: (276) 935-5485 or (877) 697-9444  
Office Phone: (276) 889-8477  
Website: [www.peopleinc.net](http://www.peopleinc.net)  
Address: 1173 W. Main Street, Abingdon, VA 24210

Ms. Mary Beth Burkes  
Domestic Violence Advocate  
People, Inc. of Virginia  
20694 Riverside Drive  
Grundy, VA 24614  
276-935-3262 (Office)  
276-623-3764 (Cell)

Ms. Melissa Whited  
Sexual Assault Victims' Advocate  
People, Inc. of Virginia  
20694 Riverside Drive  
Grundy, VA 24614  
276-935-3274 (Office)  
276-206-3571 (Cell)

### **Family Crisis Support Services**

Program Type: Sexual and Domestic Violence Agency.



*Sexual Violence services* include Confidential Crisis and Supportive Counseling, Sexual Assault Response Team (SART) Services, Transportation Assistance, Personal Accompaniment & Advocacy for Medical Exams, Investigations, and Court Processes, and more. *Domestic Violence Services* include: Emergency Shelter, Children's Services, Emergency Transportation, Hospital & Court Accompaniment, Confidential Crisis & Supportive Counseling, Criminal Justice Information, Support Groups, and more.

24 HR Hotline: (877) 348-3416 (Sexual Violence) or (800) 572-2278 (Domestic Violence)

Office Phone: (276) 679-7240

Address: 701 Kentucky Ave. SE, Norton, VA 24273-2811

### **Other Emergency Hotlines:**

Virginia Family Violence & Sexual Assault Hotline 1-800-838-8238; 24 hours a day; Text (804) 793-9999

National Sexual Assault Hotline 1-800-656-HOPE (4673); 24 hours a day;

National Domestic Violence Hotline 1-800-799-SAFE (7233); 24 hours a day;

LGBTQ Partner Abuse & Sexual Assault Helpline 1-866-356-6998; Monday-Friday 8am-8pm

### **Medical Assistance and Evidence Preservation:**

Any victim of sexual violence (e.g., rape, acquaintance rape, dating violence, domestic violence, or stalking) is encouraged to ***seek immediate assistance from police and healthcare providers*** for his/her physical safety, emotional support, and medical care. It is important that an individual who has been a victim of sexual assault, domestic or dating violence, or stalking take steps to preserve and collect evidence to safeguard the full range of options available to them through ASL's administrative complaint procedures and/or criminal prosecution, including protective orders. An individual who has been sexually assaulted should seek medical attention immediately and take reasonable steps to preserve evidence (don't shower, bathe, change clothing, or bedding, etc.). These steps are important to help preserve evidence for possible use in legal actions or requests for a civil no-contact order and/or an order of protection.

**Clinch Valley Medical Center** (access to Sexual Assault Nurse Examiner, "SANE")

Office Phone: (276) 596-6000

Address: 6801 Gov. George C. Peery Highway, Richlands, VA 24641

**Buchanan General Hospital**

Office Phone: (276) 935-1000

Address: 1535 Slate Creek Rd, Grundy, VA 24614

You can also search through your health insurance provider for other services in the area.

### **Legal Assistance:**

**Virginia Department of Criminal Justice Services (VDCJS)** 1-888-887-3418

The INFO-Line provides victims of crime with information and supports **Mon - Thurs 8:30 a.m. to 4:30 p.m.**

**Protective Orders:** There is no cost to obtain a protective order, and the order may be obtained at the Buchanan General and Juvenile and Domestic Relations District Combined Courts, 29th Judicial District of Virginia; Office Phone: (276) 935-6526; Mon-Fri 8 AM – 4 PM; Address: 4447 Slate Creek Road; Grundy, VA 24614; For assistance filling out protective order petition forms online: Go to [www.courts.state.va.us](http://www.courts.state.va.us) and click Online Services, then Assistance with Protective Orders (I-CAN!).

**Legal Aid Hotline** 1-866-LEGLAID (1-866-534-5243)

**Southwest Virginia Legal Aid Society-Castlewood Office**  
16932 West Hills Drive  
P.O. Box 670  
Castlewood, VA 24224  
Phone: 276-762-9354  
Toll-Free: 1-866-455-8716  
Fax: 276-762-9356  
Website: <http://www.svlas.org>

**Virginia Poverty Law Center** (Family & Sexual Violence) 1-866-534-5243

**Virginia State Bar Lawyer Referral Service** 1-800-552-7977

**Family Crisis Support Services** 24 HR Hotlines: (877) 348-3416 (Sexual Violence) or (800) 572-2278 (Domestic Violence);

**Buchanan County Magistrate's Office:** 1327 Lovers Gap Road Vansant, Virginia 24656; Phone: 276-935-6578; Fax: 276-935-6510/2456

### **Online Resources:**

- Know Your IX: <http://knowyourix.org/title-ix/title-ix-the-basics/>
- Clery Center: <https://www.clerycenter.org/resource-library>
- Office on Violence Against Women, US Department of Justice: <https://www.justice.gov/ovw>
- The Center for Changing Our Campus Culture: <http://changingourcampus.org/>
- End Violence Against Women International: [www.evawintl.org](http://www.evawintl.org)
- National Sexual Violence Resource Center: [www.nsvrc.org](http://www.nsvrc.org)
- Human Rights Campaign: <https://www.hrc.org/>

### **Monitoring and Recording Off-Campus Crime**

It is ASL's policy to collect and publish crime statistics in order to inform the ASL community about campus safety fully. These statistics are reported in the annual disclosure of crime statistics submitted to the U.S. Department of Education. ASL officials are in

contact with the Sheriff's Office in Buchanan County, the Town of Grundy Police, and the Virginia State Police office located in Vansant. Illegal incidents involving ASL students, faculty, and staff may be transmitted by these agencies to Law School officials. ASL does **not** own, control or maintain non-campus locations for student organizations, even for those organizations officially recognized by ASL's Student Bar Association.

### **Policies on the Use of Alcohol and Drugs**

In accordance with the Drug-Free Schools & Communities Act, ASL publishes information regarding the Law School educational programs related to drug and alcohol abuse prevention; sanctions for violations of federal, state and local laws and ASL policy; a description of associated health risks; and available treatment programs and resources for all students and employees. More information about these topics, as provided in the annual notification to students and employees, and is also available at:

<https://www.asl.edu/current-students/student-resources/compliance-resources-and-nondiscrimination/>.

Notification of such a policy will be sent to all ASL students and employees on a semiannual basis. It is the policy of the ASL to provide a drug-free, healthful, safe, and secure work and educational environment. Employees and students are required and expected to report to their class or student activities in appropriate mental and physical condition to meet the requirements and expectations of their respective roles.

ASL prohibits the unlawful manufacture, distribution, dispensation, possession, or use of narcotics, drugs, other controlled substances, including marijuana, LSD, cocaine, prescription medications, or alcohol at the workplace and in the educational setting. Unlawful for these purposes means in violation of federal/state/local regulations, policy, procedures, and rules, as well as legal statutes. Workplace means either on Law School premises or while conducting Law School business away from ASL premises. The educational setting includes both institutional premises and approved educational sites off-campus. This includes sanctioned institutional-sponsored or student organization-sponsored on or off-campus activities such as field trips, social events, professional meetings, and activities abroad.

It is a condition of employment and admission that all employees and students must abide by the policy on alcohol and other drug use as well as related procedures, statements, laws, and guidelines. Students must report any personal conviction under a criminal alcohol and/or drug statute to the Dean or Dean's designee. Further, students have a duty to continually report on any personal charges to include the final disposition to the Dean or the Dean's designee. Employees must report any personal conviction under a criminal alcohol and/or drug statute to the Dean or Dean's designee within five days. Violation of any provision shall result in disciplinary action up to and including termination or expulsion and may have further legal consequences consistent with federal and state laws and regulations. In addition, the administrator may require an employee or student to enter

an employee/student assistance or drug rehabilitation program as a condition of employment or enrollment. Re-enrollment or re-employment will be handled on a case-by-case basis determined by the Dean or the Dean's designee.

### **Health and Behavioral Issues:**

ASL recognizes that chemical dependency, through the use of controlled or uncontrolled substances, including alcohol, is a treatable illness. ASL supports and recommends employee and student rehabilitation and assistance programs and encourages employees and students to use such programs.

ASL will also implement drug-free awareness programs for employees and students. Such programs will annually ensure that employees and students are aware that:

Alcohol and other drug abuse at the workplace and in the educational setting are dangerous because it leads to physical impairment, loss of judgment, safety violations and the risk of injury, poor health, or even death.

Alcohol and other drug abuse can also significantly lower performance on the job and in the classroom, thus impacting ASL and its mission as well as adversely affecting the student's educational and career goals. Any student violation of the Drug and Alcohol Abuse Prevention Program (DAAPP) will be addressed in accordance with ASL's Academic Standards Section II(A). Any employee violation of the DAAPP will be addressed in accordance with the Personnel Policies for faculty and staff members.

### **Penalties: Federal and Commonwealth of Virginia**

The federal and state penalties vary based on many factors, including the type and amount of the drug involved and whether there is intent to distribute. The following below are links to access specific information about both federal and state penalties.

The use of illicit drugs is illegal under both state (<https://law.lis.virginia.gov/vacodefull/title18.2/chapter7/>) and federal ([https://www.dea.gov/sites/default/files/2020-04/Drugs%20of%20Abuse%202020-Web%20Version-508%20compliant-4-24-20\\_0.pdf](https://www.dea.gov/sites/default/files/2020-04/Drugs%20of%20Abuse%202020-Web%20Version-508%20compliant-4-24-20_0.pdf)) statutes. The use of alcohol by persons under 21 years of age is illegal under state law (<https://law.lis.virginia.gov/vacode/title4.1/chapter3/section4.1-305/>).

### **ASL Drug and Abuse Education Programs**

ASL seeks to provide its students, faculty, and staff with a safe place to learn and work. The Law School believes that illegal drugs and the abuse of alcohol have no place in the workplace. ASL publishes information, electronically and in printed materials, about the

dangers of drug and alcohol abuse. The Law School maintains a listing of available off-campus private and public agencies that deal with alcohol and drug abuse problems and support groups or counseling services. The Student Services Coordinator maintains a list of outside agencies that provide mental health and substance abuse services for the Law School's students, faculty, and staff. For more information, please see ASL's DAAPP at <https://www.asl.edu/wp-content/uploads/2023/08/3-Ch.-1-General-Information.8.24.23.pdf>

### **Drug-Free Workplace**

ASL believes that illegal drugs and the abuse of alcohol have no place in the workplace. The Law School seeks to provide its students, faculty, and staff with a safe place to learn and work. The Law School will prosecute violators of local, state, and federal laws inappropriate state and federal courts.

**Prohibited Conduct.** The unauthorized and/or unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance or alcohol is strictly prohibited in all Law School facilities, on all Law School property, and at any Law School-sponsored activity. As a condition of employment, all employees must abide by this prohibition. Violation of any provision may result in disciplinary action up to and including termination or expulsion and may have further legal consequences consistent with federal and state laws and regulations.

**Employee Obligations.** All employees must notify the Dean or her designee in writing of any criminal drug or alcohol conviction for a violation occurring in the workplace.

**The Law School Obligations.** Within thirty days of receiving notice of any employee's conviction as described above, the Law School must:

- a. Take appropriate action against such employee, up to and including termination of employment; or
- b. Require such employee to participate satisfactorily in a drug or alcohol abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

**Good-Faith Efforts to Remain Drug-Free.** ASL will make a good faith effort to continue to maintain a drug-free environment through the implementation of this policy and ensure that all new employees are informed of the policy.

### **Campus Weapons Policy**



**Policy:** The possession, display, wearing, carrying, transporting, storage, or use of a weapon anywhere on the campus is prohibited. “Weapons” include, without limitation: shotguns, rifles, pistols, or other firearms; explosives or ammunition; switchblade knives or fixed blade knives with a blade length of five inches or greater; flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely (i.e., nunchucks); any disc having at least two points or pointed blades designed to be thrown or propelled (i.e., throwing star); bows and arrows or similar devices; paintball guns; stun guns; or any weapon of like kind.

**Applicability:** This policy applies to all faculty, staff, and students of ASL and all visitors. This policy applies regardless of whether the person in question has acquired a valid government-issued license or permit to carry or possess the weapon.

**Consequences of violation:** Violation of this policy is considered a serious offense and subjects to the violator to disciplinary action, up to and including expulsion for students and termination of employment for faculty and staff. Visitors who violate this policy will be required to leave the ASL campus immediately and may not be permitted to return.

**Exceptions to this policy:** This policy does not apply to official law enforcement officers who are on active duty. The policy does not prohibit the transitory storage, in a locked vehicle, of: bows and arrows; unloaded, broken-down rifles or shotguns designed to be used for legal hunting purposes; or other unloaded, lawfully-possessed firearms. This policy does not prohibit the lawful possession and use of pepper spray for purely defensive purposes.

### **Results of Disciplinary Proceedings**

Appropriate legal, disciplinary or remedial actions may be taken against any persons or groups alleged to have or found to be responsible for engaging in crimes of interpersonal violence, to include rape, acquaintance rape, or other sex offenses. The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding, and the accuser and accused shall be informed of the outcome of any institutional disciplinary proceeding alleging a sex offense or crime of violence (as that term is defined Appendix A to Part 99 Title 34, United States Code of Federal Regulations). If the alleged victim is deceased as a result of the crime or offense, the Law School will, upon written request, provide the results of the disciplinary hearing to the victim’s next of kin.

### **Release of Data**

The provisions of the Family Education Right to Privacy Act (“FERPA”) allow ASL to report substance violations to parents of students under 21, to disclose the results of Law School disciplinary proceedings in cases of violent crimes, and to release student records to the courts in the case of a parent/student lawsuit against the School.

### **Sex Offender Registration**

The Federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, requires institutions of higher education to issue a statement advising the campus community of how to locate information concerning registered sex offenders as provided by law enforcement agencies. It also requires sex offenders already required to register in a State to provide notice, as required under state law, of each institution of higher education in that State at which the person is employed, carries on a vocation, volunteers services, or is a student.

For more information about the Virginia sex offender registration process, contact the Buchanan County Sheriff’s Office. In addition, the Virginia State Police maintains the Sex Offender and Crimes against Minors Registry. Convicted sex offenders must register with the Virginia State Police. This information is available at <http://sex-offender.vsp.virginia.gov/sor>.

### **Missing Student Notification**

The Higher Education Act Reauthorization with Higher Education Opportunity Act – 2008 Section 485(j) requires all institutions of Higher Education that participate in any Title IV program and provide on-campus housing for students to establish both a Missing Student Notification Policy and Official Notification procedure for handling reports of missing students who reside on campus. ASL does **not** maintain on-campus residence halls or on-campus student housing. However, ASL does encourage employees and students to provide contact information to the Registrar or Director of Information Services for use in case of an emergency.

### **ASL’s Individualized Assessment and Response Team Mission, Purpose, and Responsibilities**

General campus safety and security at Appalachian School of Law (“ASL”) is a shared responsibility. The best protection against violence or crimes is an informed and alert campus community. The prevention of violence on campus depends largely upon information provided by the campus community, which includes students, employees and visitors (a “Referral”).

**Mission:** The mission of ASL’s Individualized Assessment & Response Team (the “Team”) is to evaluate any such Referrals to: 1.) promote the health and safety of the campus community; 2.) identify any individual who may pose or is reasonably believed to pose a threat to self or other members of the ASL community; 3.) intervene or respond to a potential threat or any act of

violence by making appropriate referrals to law enforcement or mental health professionals; and 4.) coordinate information and develop support plans for people of concern.

The Team serves as the coordinating hub for Referrals of persons whose behavior is concerning to other members of the campus community. Such Referrals may include reports of a community member experiencing distress, engaging in harmful or disruptive behaviors, or other emergency situations. The Team will conduct a triage evaluation of all such Referrals for purposes of determining whether an imminent danger of harm to self or others exists. The Team will make appropriate referrals to law enforcement, as necessary, and/or referrals to a mental health professional, for any evaluation or threat assessment the professional deems necessary in his/her discretion. The Team will regularly review and assess these situations and recommend actions in accord with existing policies. As an example, information referred to the Team that implicates sexual misconduct will also be subject to the Title IX/Sexual Misconduct Policy; the Title IX Coordinator will coordinate the processes to ensure thorough but non-duplicative evaluation and action.

#### **Responsibilities of the Individualized Assessment & Response Team:**

- Receive, review, and catalogue information about community concerns regarding community member behavior;
- Serve as ASL's Sexual Violence Review Committee (SVRC) (Note: the SVRC is a subcommittee of the Team, and may not require the participation of all members of the Team; the Title IX Coordinator is responsible for designating those members of the Team who will serve on the SVRC subcommittee for any given act of sexual violence referred to the SVRC);
- Perform initial triage evaluations for the likelihood that a community member is in imminent danger to self or others based on information provided by Referrals, and to respond accordingly, as set forth in the Protocols below;
- Work with the Security Director to ensure issuance of appropriate Timely Warnings or Emergency Notifications;
- Serve as an extension of and support to the Dean and the Chair in the event of an emergency situation;
- Develop specific strategies to manage potentially harmful or disruptive behavior to protect the safety and rights of both the individual and the campus community;
- Make recommendations to ASL officials on appropriate actions consistent with campus policies and procedures;
- Engage in ongoing refinement of Team guidelines, procedures and protocols to foster optimal Team functioning and interface with the campus community;

- Maintain records of Referrals made to the Team, actions taken by the Team, Individualized Plans, and credentials and training records of Team members;
- Engage in continuing education and training on matters concerning the Team, such as suicide and threat assessment training, multicultural mental health assessment and awareness;
- Identify campus policy and procedural issues that warrant further examination and refer such matters to appropriate administrators; and
- Be fair, reasonable, objective, and timely in evaluating the information provided to the Team and taking action on that information.

### **Individualized Assessment & Response Team Members (IART)**

<b>Chair/ Interim Dean</b>	DJ Western, <a href="mailto:dwestern@asl.edu">dwestern@asl.edu</a>
<b>Chief Academic Officer:</b>	Laura Wilson, <a href="mailto:lwilson@asl.edu">lwilson@asl.edu</a>
<b>Assistant Dean of Students:</b>	Shelly James, <a href="mailto:sjames@asl.edu">sjames@asl.edu</a>
<b>Title IX Coordinator:</b>	Jina Sauls, <a href="mailto:jsauls@asl.edu">jsauls@asl.edu</a>
<b>Security Director/LEO:</b>	Michael Kirkpatrick, <a href="mailto:mirkpatrick@asl.edu">mirkpatrick@asl.edu</a>
<b>Director of Information Services:</b>	Brian Presley, <a href="mailto:bpresley@asl.edu">bpresley@asl.edu</a>
<b>Senior Director of Administration</b>	Glenna Owens, <a href="mailto:gowens@asl.edu">gowens@asl.edu</a>
<b>Associate General Counsel to ASL:</b>	Dawn Figueiras, <a href="mailto:dfigueiras@asl.edu">dfigueiras@asl.edu</a>
<b>External Counseling Services/LPC:</b>	Dr. Rick Carroll, <a href="mailto:rwcarrroll@bvu.net">rwcarrroll@bvu.net</a>
<b>Director of Student Admin Services/ Registrar</b>	Peggy Street, <a href="mailto:pstreet@asl.edu">pstreet@asl.edu</a>

The telephone number for the **ASL Security Officer on-duty** is 276-312-3989. The telephone number for **Michael Kirkpatrick, Security Director/LEO** is 276-312-4918 (cell) or 276-244-1230 (office).

**For immediate threats after business hours, dial 911.**

Town of Grundy Police Department (276) 935-1993

Buchanan County Sheriff's Office (276) 935-2313

## Individualized Assessment & Response Team Protocols

1. A meeting of the Team may be in-person or by electronic means. A meeting may be called by any Team member. All members of the Team who are readily available should respond to an emergency request for a Team meeting. Although the Team may consist of up to twelve individual members, the members participating in any meeting may take action without the existence of a quorum.
  - a. In the absence of the Chair, the Vice Chair may fulfill the Chair's responsibilities.
  - b. In the absence of both the Dean and the Chair during an emergency situation, the available members of the Team may take actions ordinarily performed by the Dean or Chair.
2. When a Referral is made to the Team, the Team should conduct a triage evaluation based on the Referral information to determine whether there is a likelihood of an imminent danger of harm to self or others. This initial triage evaluation may be performed by available members of the Team, based on the information available to the Team members at the time.
  - a. Red/High Risk. In the event of a determination or confirmation of the likelihood of imminent danger or other emergency situation by the Team, the Team shall notify law enforcement (if law enforcement is not already aware of the situation), ensure issuance of any necessary Emergency Notifications, and notify the mental health professional Team member (if that Team member is not already aware of the situation). The Team shall also begin development of an Individualized Plan for the affected community member. (Step 3 below). If an Emergency Notification is issued, it shall be the Team's responsibility to ensure issuance of an "all clear" notification upon conclusion of the imminent danger or emergency situation.
  - b. Orange/Moderate Risk. If the Team determines that there is not a likelihood of imminent danger of harm to self or others based on the information available to the Team, but there are still concerns about the potential for such a situation, the Team shall refer the affected community member to a mental health professional. The mental health professional will be asked to exercise his/her professional discretion to provide a fuller evaluation or threat assessment of the person of concern, focusing on issues such as levels of support available to the person, previous mental health issues and level of services, substance abuse, means and methods of lethality if suicide or violence to others is an identified issue, and presence of delusions, psychosis or thought disorders. The mental health professional may use a tool such as that found at <https://cams-care.com/suicide-status-form/>

The mental health professional will be asked to advise the Team whether the person of concern poses a higher risk of violence or self-harm, such that immediate action is needed. Such immediate action may include referral to law enforcement, issuance of timely warnings/emergency notifications, etc.



- c. Yellow/Low Risk. If the Team determines that, based on the information available to the Team, there is not a likelihood of an imminent danger situation or potential for such situation, but there are still concerns about the well-being of the affected community member, the Team shall develop an Individualized Plan for responding to the affected community member.
  3. An Individualized Plan should be developed and documented by the Team whenever there are continuing concerns about the affected community member. This may be following notification of law enforcement for emergency action, after referral to a mental health professional for threat assessment/evaluation, or where concerns about the individual persist at a lower level.
    - a. The Plan may include a wide variety of elements, including but not limited to continued monitoring of the situation, watchful waiting, engagement by one or more Team members directly with the person of concern to de-escalate the situation, involvement of an ally or trusted friend\* to monitor or engage the person of concern, family notification\*, law enforcement intervention, disciplinary action, behavioral contracts, referral for mental health evaluation/treatment (voluntary or mandatory), referral for involuntary hospitalization, leave of absence, separation (expulsion or withdrawal) from ASL, reasonable accommodations to modify the environment of the person, and/or work with any identified target/victim to decrease vulnerability.
    - b. \*Caution must be exercised when communicating with any person outside of ASL, to avoid violations of FERPA. A “health and safety emergency” may exist that would allow disclosure of a student’s condition to someone outside of ASL. Further, the student may have granted permission for the Team to contact someone outside of ASL. Any determination of an emergency exemption or permission should be thoroughly documented in the Team’s records.
  4. The final step is to close and document the case, once the Team determines that the situation no longer warrants continuing concern. The case may remain open for an extended period of time, pending criminal charges, psychological evaluation/treatment, leaves of absence, or other situations that warrant leaving the case open for monitoring.
    - a. Documentation shall be maintained by the Chair of the IART Team, and shall be protected as investigative records under FERPA.
- Additional Action: Any member of the IART Team may make a referral to Dr. Rick Carroll, to contact a student for possible counseling services. Referrals may be made by email to [rwcarroll@bvuu.net](mailto:rwcarroll@bvuu.net). The referring Team member should advise all other team members of the referral.

## **Grievance Policy for Addressing Formal Complaints of Sexual Harassment Under the Title IX Regulations**

The health, safety, and well-being of all members of the ASL community are a priority. In accordance with Title IX of the Education Amendments of 1972 ("Title IX") and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act"), as amended by the Violence Against Women Act/Campus Sexual Violence Act ("Campus SaVE Act"), and other applicable state, federal and local laws, the Law School is committed to maintaining a community free from all forms of sex discrimination, including sexual misconduct. In accordance with Title IX, the School does not discriminate on the basis of sex in its educational programs and activities. Under Title IX, discrimination on the basis of sex includes sexual harassment and sexual violence.

Questions regarding Title IX and the Campus SaVE Act may be referred to as ALS's Title IX Coordinator, or to the U.S. Department of Education's Office for Civil Rights.

Sexual harassment includes a broad range of behaviors that will not be tolerated in the School's education programs or activities. The School strictly prohibits sexual harassment and sexual violence, including the offenses of sexual assault, sexual coercion, sexual exploitation, dating violence, domestic violence, and stalking. Sexual misconduct can occur between strangers, acquaintances, or people who know each other well, including those who are involved in an intimate or sexual relationship and can be committed by anyone regardless of sex, gender, or gender identity. The Law School does not tolerate any form of sexual misconduct and will take prompt and equitable action to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. The full text of ASL's policy on Sexual Harassment is available at: <https://www.asl.edu/wp-content/uploads/2023/08/11-Appendix-C-Title-IX-Sexual-Harassment-Grievance-Policy-2021.pdf>

### **Victim's Rights**

All victims of SEXUAL HARASSMENT have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the investigation and hearing process and/or criminal justice process free from pressure from ASL;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from ASL courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the complainant is at fault when these crimes and violations are committed or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident with as few ASL representatives as practicable and not be required

- to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by ASL, any student, the respondent, and or their friends, family, and acquaintances within the jurisdiction of ASL;
  9. Access to at least one level of appeal of a determination;
  10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, or respondent throughout the judicial or conduct process, including during all meetings and hearings related to such process, if applicable;
  11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice or judicial or conduct process of ASL;
  12. Be informed of the outcome of ASL's investigation;
  13. Be provided with information about health, counseling, and other support services from local resources.

All members of the Law School community may obtain information about resources from the Law School's Title IX Coordinator regarding any violations of this Policy (by phone 276-244-1228 or email [titleixcoordinator@asl.edu](mailto:titleixcoordinator@asl.edu) or in person at Room 133, Main Classroom and Office Building, Appalachian School of Law; 1169 Edgewater Drive; Grundy, Virginia 24614). The Title IX Coordinator is also available to assist you with notifying the police.

### **Standard of Evidence**

ASL uses the preponderance of the evidence standard for investigations and determinations regarding the responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Policy occurred, to a neutral decision-maker.

### **Anti-Retaliation Policy**

ASL will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under this Title IX Grievance Policy.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Title IX Grievance Policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment.

Complaints alleging retaliation may be filed according to the Code of Student Conduct/Grievance Policy.

<https://www.asl.edu/wp-content/uploads/2023/08/8-Ch.-6-Student-Conduct-and-Academic-Integrity.8.22.23.Approved-by-Faculty.pdf>

Retaliation in any form against a student who participates in upholding the Code of Student Conduct or the Code of Academic Integrity is prohibited. Any student who engages in such retaliation shall be considered to have violated the Code of Academic Integrity.

### **Scope of Policy**

The Sexual Harassment Policy governs sexual misconduct involving students and applies to such students regardless of sex, race, national origin, disability, part-time/full-time status, sexual orientation, gender identity, or other protected status. The policy also applies to employees.

The Sexual Harassment Policy applies to any allegation of sexual harassment that takes place on Law School property or any other property on which a Law School educational programs take place. This policy also covers conduct that takes place off of Law School property, as long as it pertains to the education programs and activities of the ASL.

Complaints of discrimination or harassment on the basis of sex that do not involve sexual misconduct are governed by the School's Grievance Policy contained in the School's Catalog & Handbook.

<https://www.asl.edu/wp-content/uploads/2023/08/8-Ch.-6-Student-Conduct-and-Academic-Integrity.8.22.23.Approved-by-Faculty.pdf>

### **Definitions within ASL's Sexual Harassment Policy**

#### **Covered Sexual Harassment**

For the purposes of this Title IX Grievance Policy, "covered sexual harassment" includes any conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity;

3. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent;
4. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
5. Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under Virginia domestic or family violence laws or by 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 Virginia.
6. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in the course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

Note that conduct that does not meet one or more of these criteria may still be prohibited under the Code of Student Conduct/Statement on Nondiscrimination.

<https://www.asl.edu/wp-content/uploads/2023/08/8-Ch.-6-Student-Conduct-and-Academic-Integrity.8.22.23.Approved-by-Faculty.pdf>

## **Consent**

For the purposes of this Title IX Grievance Policy, Consent must be affirmative. Consent means a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

## **Education Program or Activity**

For the purposes of this Title IX Grievance Policy, Appalachian School of Law (ASL) "education program or activity" includes:

- Any on-campus premises
- Any off-campus premises that ASL has substantial control over.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of ASL's programs and activities over which ASL has substantial control.



## **Formal Complaint**

For the purposes of this Title IX Grievance Policy, “formal complaint” means a document – including an electronic submission - filed by a complainant with a signature or other indication that the complainant is the person filing the formal complaint, or signed by the Title IX Coordinator, alleging sexual harassment against a respondent about conduct within an ASL education program or activity and requesting initiation of the procedures consistent with the Title IX Grievance Policy to investigate the allegation of sexual harassment.

## **Complainant**

For the purposes of this Title IX Grievance Policy, Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy.

## **Relevant evidence and questions**

“Relevant” evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.

“Relevant” evidence and questions do not include the following types of evidence and questions, which are deemed “irrelevant” at all stages of the Title IX Grievance Process:

- Evidence and questions about the complainant’s sexual predisposition or prior sexual behavior unless:
  - They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
  - They concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent. 34 C.F.R. § 106.45(6)(i).
- Evidence and questions that constitute or seek disclosure of information protected under a legally-recognized privilege, such as attorney-client privilege, doctor-patient privilege, ministerial privilege, or mental health professional-client privilege.
- Any party’s medical, psychological, and similar records unless the party has given voluntary, written consent. 85 Fed. Reg. 30026, 30294 (May 19, 2020).

## **Respondent**

For the purposes of this Title IX Grievance policy, Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this policy.

## **School Days**

A school day is a day in which regularly-scheduled classes or exams are held.

## Privacy vs. Confidentiality

Consistent with the Code of Student Conduct, references made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to *privacy* mean ASL offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. ASL will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

## Definitions of Gender-Based Misconduct

The **Code of Virginia** defines Sexual Harassment and related crimes as follows:

### VA § 18.2-67.10. General Definitions:

**"Complaining witness"** means the person alleged to have been subjected to rape, forcible sodomy, inanimate or animate object sexual penetration, marital sexual assault, aggravated sexual battery, or sexual battery.

**"Intimate parts"** means the genitalia, anus, groin, breast, or buttocks of any person, or the chest of a child under the age of 15.

**"Mental incapacity"** means the condition of the complaining witness existing at the time of an offense under this article, which prevents the complaining witness from understanding the nature or consequences of the sexual act involved in such offense and about which the accused knew or should have known.

**"Physical helplessness"** means unconsciousness or any other condition existing at the time of an offense under this article, which otherwise rendered the complaining witness physically unable to communicate an unwillingness to act and about which the accused knew or should have known.

The complaining witness's **"prior sexual conduct"** means any sexual conduct on the part of the complaining witness, which took place before the conclusion of the trial, excluding the conduct involved in the offense alleged under this article.

**"Sexual abuse"** means an act committed with the intent to sexually molest, arouse, or gratify any person, where:

- a. The accused intentionally touches the complaining witness' intimate parts or material directly covering such intimate parts;

b. The accused forces the complaining witness to touch the accused's, the witness' own, or another person's intimate parts or material directly covering such intimate parts;

c. If the complaining witness is under the age of 13, the accused causes or assists the complaining witness to touch the accused's, the witness's own, or another person's intimate parts or material directly covering such intimate parts; or

d. The accused forces another person to touch the complaining witness's intimate parts or material directly covering such intimate parts.

#### **VA § 18.2-61. Rape.**

A. If any person has sexual intercourse with a complaining witness, whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in sexual intercourse with any other person and such act is accomplished (i) against the complaining witness's will, by force, threat or intimidation of or against the complaining witness or another person; or (ii) through the use of the complaining witness's mental incapacity or physical helplessness; or (iii) with a child under age 13 as the victim, he or she shall be guilty of rape.

**Similar to Statutory Rape:** Statutory rape is nonforcible sexual intercourse with a person who is under the statutory age of consent. Virginia has no direct criminal statute defining consent. Refer to "Statutory Rape" below for information on Virginia Code 18.2-63 - Carnal knowledge of a child between thirteen and fifteen years of age.

#### **VA § 18.2-63. Carnal knowledge of a child between thirteen and fifteen years of age.**

A. If any person carnally knows, without the use of force, a child thirteen years of age or older but under fifteen years of age, such person shall be guilty of a Class 4 felony.

B. If any person carnally knows, without the use of force, a child thirteen years of age or older but under fifteen years of age who consents to sexual intercourse and the accused is a minor and such consenting child is three years or more the accused's junior, the accused shall be guilty of a Class 6 felony. If such consenting child is less than three years the accused's junior, the accused shall be guilty of a Class 4 misdemeanor.

**VA 18.2-67.1. Forcible sodomy:** An accused shall be guilty of forcible sodomy if he or she engages in cunnilingus, fellatio, analingus, or anal intercourse with a complaining witness who is not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person, and (i) the complaining witness is less than thirteen years of age, or (ii) the act is accomplished against the will of the complaining witness, by force, threat or intimidation of or against the complaining witness or another person, or through the use of the complaining witness's mental incapacity or physical helplessness.

**Incest** is defined as non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**VA 18.2-366. Adultery and fornication by persons forbidden to marry; Incest; Penalties.**

- A. Any person who engages in sexual intercourse with any person whom he or she is forbidden by law to marry shall be guilty of a Class 1 misdemeanor except as provided by subsection B.
- B. Any person who engages in sexual intercourse with his daughter or granddaughter, or with her son or grandson, or her father or his mother, shall be guilty of a Class 5 felony. However, if a parent or grandparent engages in sexual intercourse with his or her child or grandchild, and such child or grandchild is at least thirteen years of age but less than eighteen years of age at the time of the offense, such parent or grandparent shall be guilty of a Class 3 felony.
- C. For the purposes of this section, the parent includes step-parent, grandparent includes step-grandparent, child includes a step-child, and grandchild includes a step-grandchild.

**Stalking** occurs when a person engages in the course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress. The 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 action, 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 means significant mental suffering or anguish. (This includes "cyber-stalking," a form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

**VA § 18.2-60.3. Stalking;**

A. Any person, except a law-enforcement officer, as defined in § [9.1-101](#), and acting in the performance of his official duties, and a registered private investigator, as defined in § [9.1-138](#), who is regulated in accordance with § [9.1-139](#) and acting in the course of his legitimate business, who on more than one occasion engages in conduct, either in person or through any other means, including by mail, telephone, or an electronically transmitted communication, directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member is guilty of a Class 1 misdemeanor. If the person contacts or follows or attempts to contact or follow the person at whom the conduct is directed after being given actual notice that the person does not want to be contacted or followed, such actions shall be prima facie evidence that the person intended to place that other person, or reasonably should have known that the other person was placed, in reasonable fear of death, criminal sexual assault, or bodily injury to himself or a family or household member.

B. Any person who is convicted of a second offense of subsection A occurring within five years of a prior conviction of such an offense under this section or for a substantially similar offense under the law of any other jurisdiction is guilty of a Class 6 felony.

C. A person may be convicted under this section in any jurisdiction within the Commonwealth wherein the conduct described in subsection A occurred, if the person engaged in that conduct on at least one occasion in the jurisdiction where the person is tried or in the jurisdiction where the person at whom the conduct is directed resided at the time of such conduct. Evidence of any such conduct that occurred outside the Commonwealth may be admissible, if relevant, in any prosecution under this section.

D. Upon finding a person guilty under this section, the court shall, in addition to the sentence imposed, issue an order prohibiting contact between the defendant and the victim or the victim's family or household member.

E. The Department of Corrections, sheriff or regional jail director shall give notice prior to the release from a state correctional facility or a local or regional jail of any person incarcerated upon conviction of a violation of this section, to any victim of the offense who, in writing, requests notice, or to any person designated in writing by the victim. The notice shall be given at least 15 days prior to release of a person sentenced to a term of incarceration of more than 30 days or, if the person was sentenced to a term of incarceration of at least 48 hours but no more than 30 days, 24 hours prior to release. If the person escapes, notice shall be given as soon as practicable following the escape. The victim shall keep the Department of Corrections, sheriff or regional jail director informed of the current mailing address and telephone number of the person named in the writing submitted to receive notice.

All information relating to any person who receives or may receive notice under this subsection shall remain confidential and shall not be made available to the person convicted of violating this section.

For purposes of this subsection, "release" includes a release of the offender from a state correctional facility or a local or regional jail (i) upon completion of his term of incarceration or (ii) on probation or parole.

No civil liability shall attach to the Department of Corrections nor to any sheriff or regional jail director or their deputies or employees for a failure to comply with the requirements of this subsection.

### **Similar to Domestic Violence:**

**VA § 18.2-57.2. Assault and Battery against a family or household member.**

A. Any person who commits an assault and battery against a family or household member is guilty of a Class 1 misdemeanor.

B. Upon a conviction for assault and battery against a family or household member, where it is alleged in the warrant, petition, information, or indictment on which a person is convicted, that such person has been previously convicted of two offenses against a family or household member of (i) assault and battery against a family or household member in violation of this section, (ii) malicious wounding or unlawful wounding in violation of § 18.2-51, (iii) aggravated malicious wounding in violation of § 18.2-51.2, (iv) malicious bodily injury by means of a substance in violation of § 18.2-52, (v) strangulation in violation of § 18.2-51.6, or (vi) an offense under the law of any other jurisdiction which has the same elements of any of the above offenses, in any combination, all of which occurred within a period of 20 years, and each of which occurred on a different date, such person is guilty of a Class 6 felony.

#### **VA 18.2-67.4. Sexual Battery:**

A. An accused is guilty of sexual battery if he sexually abuses, as defined in § [18.2-67.10](#), (i) the complaining witness against the will of the complaining witness, by force, threat, intimidation, or ruse, (ii) within a two-year period, more than one complaining witness or one complaining witness on more than one occasion intentionally and without the consent of the complaining witness, (iii) an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail, and the accused is an employee or contractual employee of, or a volunteer with, the state or local correctional facility or regional jail; is in a position of authority over the inmate; and knows that the inmate is under the jurisdiction of the state or local correctional facility or regional jail, or (iv) a probationer, parolee, or a pretrial defendant or posttrial offender under the jurisdiction of the Department of Corrections, a local community-based probation services agency, a pretrial services agency, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial services or agency and the accused is an employee or contractual employee of, or a volunteer with, the Department of Corrections, a local community-based probation services agency, a pretrial services agency or a local or regional jail; is in a position of authority over an offender; and knows that the offender is under the jurisdiction of the Department of Corrections, a local community-based probation services agency, a pretrial services agency or a local or regional jail.

B. Sexual battery is a Class 1 misdemeanor.

**Virginia has no separate criminal code violation relating to Dating Violence.**

#### **VA § 18.2-67.6. Proof of physical resistance is not required.**

The Commonwealth need not demonstrate that the complaining witness cried out or physically resisted the accused in order to convict the accused of an offense under this

article, but the absence of such resistance may be considered when relevant to show that the act alleged was not against the will of the complaining witness.

### **Supportive Measures**

Complainants (as defined above) and Respondents (as defined above), who report allegations that could constitute covered sexual harassment under this policy, have the right to receive supportive measures from ASL regardless of whether they desire to file a complaint. Supportive measures are non-disciplinary and non-punitive.

As appropriate, supportive measures may include, but not be limited to:

- Referral to Counseling Services
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Restrictions on contact between the parties (no contact orders)
- Changes in work locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus

### **Orders of Protection/No Contact Orders**

The School is not able to assist an eligible complainant in acquiring an order of protection; however, the Title IX Coordinator may provide the necessary information and support to assist a victim in filing for a protective order. Emergency Protective Orders (EPO) can be obtained from a Buchanan County Magistrate's office, or a petition for Preliminary Protective orders (PPO) can be obtained from the Juvenile and Domestic Relations Court Clerk. Both an EPO and PPO require filing under oath. There are employees of the 29<sup>th</sup> Judicial Court Services Unit who may be able to assist with filling out the PPO petition that can be reached at (276)935-8549. Alternatively, a complainant may call the Department of Social Services at (276)935-8106 during regular business hours or 911 outside of regular business hours for an on-call service worker to be dispatched to their home; however, this option will require the notification of law enforcement since a Sheriff's Deputy may accompany the worker.

If an order of protection is granted, the requesting individual will have the right to receive a copy of the order of protection when the order is received by the Law School. The Complainant will also have the opportunity to have an appropriate Law School employee explain the order, the consequences for violating the order, and answer any questions about the order. Additionally, if the Respondent violates the order of protection, the no-contact order is violated, and the Complainant may receive assistance from the Law School in calling local law enforcement to inform them of the violation.

When the Respondent is a Law School student and is determined to present a continuing threat to the health and safety of the school community, the Respondent may be subject to interim suspension pending the outcome of the hearing resolution process described



herein. In the event the School imposes an interim suspension on the Respondent, the Complainant or Respondent may request a review of the need for an interim suspension, including potential modification, and may submit evidence in support of his or her request. Upon such a request, the Law School will conduct a prompt review.

Requests for accommodations in connection with incidents of sexual misconduct should be made to the School's Title IX Coordinator. The School will provide information about the student's request for accommodations only to those having a need to know such information in order to implement the accommodations. Both the Complainant and the Respondent may ask the School to review the need for and terms of any interim measures or accommodations that directly affect him or her and may submit evidence in support of his or her request. Upon such a request, the School will conduct a prompt review.

### **Intake Meeting with Complainant**

Upon notice of any allegation of sexual misconduct, the Title IX Coordinator or designee will schedule an individual intake meeting with the Complainant. At the intake meeting, the Title IX Coordinator or designee will provide the Complainant with a general understanding of this policy for reports of student sexual misconduct and identify forms of support or immediate assistance available to the Complainant (e.g., referrals to appropriate law enforcement agencies; referrals for medical treatment at local hospitals, trauma centers, and supportive measures). The Title IX Coordinator or designee will also provide the Complainant with a written explanation of his or her rights and options with respect to his or her report of sexual harassment. The intake meeting may also involve a discussion of any interim accommodations that may be appropriate concerning the Complainant's academic schedule, School housing, and/or School employment arrangements. Additional information regarding interim accommodations is set forth below.

At the initial intake meeting or at a subsequent time, the Title IX Coordinator or designee will seek to determine how the complainant wishes to proceed, i.e., whether the complainant wishes to pursue Formal Resolution, Informal Resolution, or does not wish to pursue resolution of any kind. Regardless of how the complainant chooses to proceed, the Law School seeks to resolve every report of sexual misconduct within 90 school days of the initial report, excluding any appeal. The School may extend any time frame for good cause, provided the complainant and respondent are given a written explanation as to the reason for such extension.

The timeframe for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) school days after the filing of the Formal Complaint, provided that the Process may be extended for a good faith reason, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or an accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal

Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of ASL, including as an employee. For complainants who do not meet these criteria, ASL will utilize existing policy in the Statement on Nondiscrimination and Grievance Policy, available at: <https://www.asl.edu/wp-content/uploads/2023/08/11-Appendix-C-Title-IX-Sexual-Harassment-Grievance-Policy-2021.pdf>

If a complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. ASL will inform the complainant of this decision in writing, and the complainant need not participate in the process further but will receive all notices issued under this Policy and Process.

Nothing in the Title IX Grievance Policy or Code of Student Conduct prevents a complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process. A complainant who files a Formal Complaint may elect to, at any time, address the matter through the Institution's Informal Resolution Process. All Parties to a Formal Complaint must agree to enter the Informal Resolution Process through informed written consent. Information about this process is available here: <https://www.asl.edu/wp-content/uploads/2023/09/Informal-Resolution-Policy-Title-IX-09.2023.pdf>

If the complainant does not wish to pursue Formal Resolution or Informal Resolution, and either request that his or her complaint remain confidential, or refuses to participate in the initial intake meeting with the Title IX Coordinator, the Title IX Coordinator will inform the complainant that the Law School's ability to respond may be limited. In such scenarios, Title IX nevertheless requires the Law School to evaluate the complainant's request(s) for no action in the context of the Law School's commitment to providing a reasonably safe and non-discriminatory environment for the entire School community.

### **Effect of Criminal Proceedings**

Sexual harassment may constitute a violation of both law and ASL policy. The Law School encourages students to report alleged sexual harassment promptly to local law enforcement agencies. Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. The standards for finding a violation of criminal law are different from the standards for finding a violation of this policy. Therefore, criminal investigations or reports are not determinative of whether sexual misconduct under this Policy has occurred. In other words, conduct may constitute sexual misconduct under this Policy even if law enforcement agencies lack sufficient evidence of a crime and decline to prosecute.

The filing of a complaint of sexual misconduct under this policy is independent of any criminal investigation or proceeding. The Law School will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or to take any necessary interim measures to protect the complainant and the Law School community. However, the Law School may temporarily delay its investigation to enable law

enforcement to gather evidence and to engage in a preliminary investigation of sexual misconduct matters that may also violate the state criminal code.

## **Formal Resolution Process Investigation**

### **Notice of Allegation**

The Title IX Coordinator will draft and provide the Notice of Allegations to any party to the allegations of sexual harassment. Such notice will occur as soon as practicable, but no more than five (5) school days after the institution receives a Formal Complaint of the allegations if there are no extenuating circumstances.

The parties will be notified by their institutional email accounts if they are students or employees and by other reasonable means if they are neither.

The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above and will issue a Notice of Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with or in separate correspondence after the Notice of Allegations.

### **Contents of Notice**

The Notice of Allegations will include the following:

- Notice of the institution's Title IX Grievance Process and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, as required under 34 C.F.R. § 106.45(b)(5)(iv);
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source, as required under 34 C.F.R. § 106.45(b)(5)(vi);

- A statement reminding students of the ASL Community Standards Statement, which prohibits making false accusations or knowingly submitting false information, and the Code of Academic Integrity provisions on Truthfulness and Candor toward Instructors, Truthfulness, and Candor toward Other Students, and Upholding the Code of Academic Integrity, all of which require honesty in all student actions.

## **Ongoing Notice**

If in the course of an investigation, the institution decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise covered "sexual harassment" falling within the Title IX Grievance Policy, the institution will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means.

The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

## **Investigation**

### **General Rules of Investigations**

An investigator designated by the Title IX Coordinator will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations.

ASL and not the parties have the burden of proof and the burden of gathering evidence, i.e., the responsibility of showing a violation of this Policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from ASL and does not indicate responsibility.

ASL cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. ASL will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence (i.e., evidence that tends to prove and disprove the allegations) as described below.

### **Inspection and Review of Evidence**

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party an equal opportunity to meaningfully respond to the evidence prior to the conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

1. Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility;
2. Inculpatory or exculpatory evidence (i.e., evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

All parties must submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

The institution will send the evidence made available for each party and each party's advisor, if any, to inspect and review through an electronic format or a hard copy. The Institution is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining the format and any restrictions or limitations on access.

The parties will have ten (10) school days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing the Investigative Report. Parties may request a reasonable extension as their designated extension request.

ASL will provide copies of the parties' written responses to the investigator to all parties and their advisors, if any. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

The parties and their advisors agree not to photograph or otherwise copy the evidence, if any. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

### **Inclusion of Evidence Not Directly Related to the Allegations:**

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will not be disclosed or may be appropriately redacted before the parties' inspection to avoid disclosure of personally identifiable information of a student. Any evidence obtained in the investigation that is kept from disclosure or appropriately redacted will be documented in a "privilege log" that may be reviewed by the parties and their advisors. See, 85 Fed. Reg. 30026, 30438 (May 19, 2020).

### **Investigative Report**

The Investigator designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence and will provide that Report to the parties at least

ten (10) school days prior to the hearing in an electronic or hard copy format for each party's review and written response. A hard copy of the Investigative Report will be kept on file in the Title IX Coordinator's Office.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e., tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant. See, 85 Fed. Reg. 30026, 30304 (May 19, 2020).

### **Hearing Committee**

Formal Resolution involves a hearing before a Hearing Officer. The Hearing Officer is appointed by the Dean and is a member of the Law School Administrators. The Hearing Officer will receive training, at least annually, on the issues relating to sexual misconduct, including sexual harassment, dating violence, domestic violence, sexual assault, and stalking. They will also be trained regarding how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

## **The Hearing**

ASL will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing unless otherwise resolved through an informal resolution process.

The live hearing may be conducted with all parties physically present in the same geographic location, or, at ASL's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through Zoom conferencing. This technology will enable participants simultaneously to see and hear each other. At its discretion, ASL may delay or adjourn a hearing based on technological errors, not within a party's control.

All proceedings will be recorded through audiovisual recording. That recording or transcript will be made available to the parties for inspection and review.

Prior to obtaining access to any evidence, the parties and their advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

### **Conduct of the Hearing**

For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- Decision-maker will open and establish rules and expectations for the hearing;
- The Parties will each be given the opportunity to provide opening statements;
- Decision-maker will ask questions of the Parties and Witnesses;
- Parties will be given the opportunity for live cross-examination after Decision-maker conducts its initial round of questioning; During the Parties' cross-examination, the decision-maker will have the authority to pause cross-examination at any time for the purposes of asking decision-maker's own follow-up questions; and any time necessary in order to enforce the established rules of decorum.
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Decision-maker. A Party's waiver of cross-examination does not eliminate the ability of the Decision-maker to use statements made by the Party.



## **Live Cross-Examination Procedure**

Each party's advisor will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination, the advisor will ask the other party or parties and witnesses' relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real-time.

Before any cross-examination question is answered, the decision-maker will determine if the question is relevant. Virginia Rules of Evidence shall apply to questions of relevance. <https://inns.innsofcourt.org/media/59249/nov.2011programva.rulesevidence9-12-11.pdf>

Cross-examination questions that are duplicative of those already asked, including by the decision-maker, may be deemed irrelevant if they have been asked and answered.

## **Review of Recording**

The recording of the hearing will be available for review by the parties within ten (10) school days unless there are any extenuating circumstances. The recording of the hearing will not be provided to parties or advisors of choice.

## **Determination**

### **Standard of Proof**

ASL uses the preponderance of the evidence standard for investigations and determinations regarding the responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Policy occurred, to a neutral decision-maker.

### **General Considerations for Evaluating Testimony and Evidence**

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part or entirely on the documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision-maker.

Decision-makers shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a complainant, respondent, or witness, nor shall it base its judgments on stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a party or witness' testimony is non-linear or incomplete or if the party or witness is displaying stress or anxiety.

Decision-makers will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that

occurred. Both inculpatory and exculpatory (i.e., tending to prove and disprove the allegations) evidence will be weighed in an equal fashion.

Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

The Final Rule requires that ASL allow parties to call "expert witnesses" for direct and cross-examination. ASL does not provide for expert witnesses in other proceedings. While the expert witness will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross-examination and regardless of whether all parties present experts as witnesses.

The Final Rule requires that ASL allow parties to call character witnesses to testify. ASL does not provide for character witnesses in other proceedings. While the character witnesses will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford very low weight to any non-factual character testimony of any witness.

The Final Rule requires that ASL admit and allow testimony regarding polygraph tests ("lie detector tests") and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

Where a party or witness' conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Decision-maker may draw an adverse inference as to that party or witness' credibility.

### **Components of the Determination Regarding Responsibility**

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institution email account or other reasonable means as necessary. The Determination will include:

1. Identification of the allegations potentially constituting covered sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;

4. Conclusions regarding which section of the Code of Student Conduct, Statement on Nondiscrimination, or Grievance Policy, if any, the respondent has or has not violated.
5. For each allegation:
  - a. A statement of, and rationale for, a determination regarding responsibility;
  - b. A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the respondent; and
  - c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
6. The recipient's procedures and the permitted reasons for the complainant and respondent to appeal (described below in "Appeal").

### **Timeline of Determination Regarding Responsibility**

If there are no extenuating circumstances, the determination regarding responsibility will be issued by ASL within ten (10) school days of the completion of the hearing.

### **Finality**

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in "Appeals" below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

### **Appeals**

Each party may appeal (1) the dismissal of a formal complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal within five (5) school days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e., a failure to follow the institution's own procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter;
- The Title IX Coordinator, the investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
- The reasons for appeal set forth in the Code of Student Conduct/Code of Academic Integrity.

The submission of an appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a party appeals, the institution will, as soon as practicable, notify the other party in writing of the appeal. However, the time for an appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals may be no longer than ten (10) pages (including attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12 point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by the Appeal Decision-maker, who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decision-maker in the same matter.

The outcome of the appeal will be provided in writing simultaneously to both parties and include the rationale for the decision.

### **Sanctions**

The Decision-maker may consider suspending or expelling any student found responsible for sexual misconduct; however, he or she may impose any of the following sanctions that are determined to be fair and proportionate to the violation:

- Reprimand or warning
- Transcript Notation
- Changing the respondent's academic schedule
- Disciplinary probation
- Revocation of honors or awards
- Additional Training
- Restricting the respondent's access to School facilities or activities
- Issuing a "no-contact" order to the respondent or requiring that such an order remain in place
- Mandatory Counseling (at their cost)
- Dismissal from or restricting or reassignment of School employment
- Suspensions (limited time or indefinite)
- Expulsion

In determining appropriate sanctions, the Decision-maker will consider any record of past violations of School policies, as well as the nature and severity of such past violation(s). The Decision Maker will consider as part of the deliberations whether the respondent poses a continuing risk to the complainant and/or the Law School community. Any sanction imposed will be explained and supported in the written decision of the Decision-maker.

## **Transcript Notation**

This Policy sets forth Appalachian School of Law's ("ASL") policies and procedures regarding transcript notations.

ASL uses transcript notations to officially denote: (i) academic honors and awards such as Dean's List or graduation cum laude, (ii) completion of an ASL certification program such as the Natural Resources Law Certificate or the Criminal Law Certificate, (iii) academic probation or academic dismissal, (iv) compliance or noncompliance with ASL's community service requirements, (v) good standing, (vi) the results of any student disciplinary process that results in the student's Suspension or Expulsion/Dismissal, and (vii) withdrawal of a student from ASL during the pendency of a complaint against him/her pursuant to ASL's Grievance Policy for Addressing Complaints of Sexual Harassment under Title IX (the "Title IX Policy").

A student who is found to be responsible for violating an ASL policy and receives Suspension from ASL as a disciplinary sanction will have a notation placed on his/her transcript that says "Suspended for a violation of ASL policy on [Date] through [Date]." If the student serves the suspension time and is later returned to good standing at ASL, this notation will be removed from his/her transcript.

A student who is found to be responsible for violating an ASL policy and receives Expulsion or Dismissal from ASL as a disciplinary sanction will have a notation placed on his/her transcript that says "Expelled/Dismissed for a violation of ASL policy on [Date]." The student shall be given an opportunity to apply for expungement of the transcript notation after a period of three years for "good cause" shown. It is within the discretion of ASL as to what constitutes "good cause."

A student who withdraws from ASL while a complaint is pending against him/her that is subject to the Title IX Policy will have a notation placed on his/her transcript that says "Withdrew while under Investigation for violation of an ASL Policy on [Date]." The transcript notation shall remain unless the student returns to ASL and the complaint process is finally adjudicated. If the result is that the student is found "not responsible" for violating the Title IX Policy, the notation shall be removed from his/her transcript. If the result is that the student is found to be responsible for violating the Title IX Policy and the disciplinary sanction includes Suspension or Expulsion/Dismissal from ASL, the notation shall be revised to reflect the appropriate disciplinary sanction as outlined above. If the result is that the student is found to be responsible for violating the Title IX Policy and the disciplinary sanction is anything other than Suspension or Expulsion/Dismissal, the notation shall be removed from his/her record.

## **Informal Resolution**

A complainant who wishes to file a complaint but who does not wish to pursue Formal Resolution may request a less formal proceeding, known as “Informal Resolution.”

While the Informal Resolution process is not as structured as the Formal Resolution process, it can be an effective and appropriate means to deal with the complaint. The Informal Resolution procedure is not available for complaints of sexual violence.

If the complainant wishes to proceed with Informal Resolution, the Title IX Coordinator will ascertain the name of the respondent, and the date, location, and nature of the alleged sexual misconduct, and, within two business days, will schedule an individual intake meeting with the respondent in order to provide him or her with a general understanding of the policy.

The complainant and the respondent each may bring an advisor to the Informal Resolution. Advisors are subject to the same restrictions for advisors in Formal Resolution, as set forth above. The Title IX Coordinator or designee will preside over the Informal Resolution and may elect to be assisted by another member of the senior staff of the School or outside expert.

If, in the course of the Informal Resolution, the respondent admits to violating the School’s Policy and Procedures for Reports of Student Sexual Misconduct, that admission will serve as a finding of responsibility that is final and cannot be appealed. The Decision Maker will recommend one or more sanctions, which the respondent can accept or reject. The sanctions that may be imposed as the result of the Informal Resolution process are the same as those outlined in the Formal Resolution process above. If the Decision Maker recommended sanction is accepted, the process is concluded. If it is rejected, the complaint will proceed to the Formal Resolution process.

Informal Resolution may result in the imposition of protective actions agreed upon by the parties, or (with or without such agreement) based on information derived from the Informal Resolution taken together with any other relevant information known to the School at the time of the Informal Resolution.

The School may, at any time, elect to end such proceedings and initiate Formal Resolution instead. Statements or disclosures made by the parties in the course of the Informal Resolution may be considered in the Formal Resolution.

## **SEXUAL VIOLENCE REVIEW COMMITTEE**

Following the initial assessment of a report regarding “sexual violence” (a physical, sexual act perpetrated against a person’s will or where a person is incapable of giving consent),

the Title IX Coordinator will promptly forward such a report to the members of ASL's Sexual Violence Review Committee (the "SVRC"). The SVRC is a sub-committee of ASL's Individualized Assessment and Response Team. All information known about the incident of sexual violence, including information identifying the parties, witnesses, or third parties with information about the incident, shall be shared with members of the SVRC.

**Sexual Violence Review Committee:** The SVRC will evaluate every report of sexual violence. SVRC will convene (in person, by telephone, or by teleconference) within **72 hours** of receiving information from the Title IX Coordinator, as described above, and will convene again, as necessary, to review new information as it becomes available. SVRC, a sub-committee of the ASL's Individualized Assessment & Response Team, is appointed by the Title IX Coordinator and shall, at a minimum, include the following members: (1) the Title IX Coordinator or designee, (2) a representative of the Campus Security Office, (3) the Student Services Coordinator or designee, and (4) the Dean or Associate Dean. ASL's SVRC operates pursuant to Va. Code §23.1-806 and has access, under Virginia law, to certain otherwise confidential information, including law enforcement records, criminal history record information, as provided in Va. Code §§19.2-389 and 19.2-389.1; health records, as provided in Va. Code §32.1-127.1:03; ASL disciplinary, academic and/or personnel records; and any other information or evidence known to ASL or to law enforcement.

#### **The SVRC has two primary responsibilities:**

1. Determine whether the disclosure of personally identifiable information is necessary to protect the health or safety of the alleged victim or other individuals and, if so, to disclose the information to law enforcement; and
2. Determine whether the alleged act of sexual violence would constitute a felony under certain provisions of Virginia law and, if so, to disclose the information to the Office of the Commonwealth's Attorney.

#### **Health and Safety Threat Assessment & Determination:**

**Risk Factors:** The SVRC will determine whether the reported information and any other available information provides a rational basis for concluding that there is an articulable and significant threat to the health or safety of the alleged victim (the "Complainant") or to any other member of the ASL community. The team will make this determination based upon a review of the totality of the known circumstances and will be guided by a consideration of the following factors:

- a. Whether the alleged perpetrator of the sexual violence (the "Respondent") has prior arrests, is the subject of prior reports and/or complaints related to any form of sexual misconduct under the School's Title IX/Sexual Misconduct Policy, or has any history of violent behavior;
- b. Whether the Respondent has a history of failing to comply with any ASL no-contact order, other ASL protective measures, and/or any judicial protective order;



- c. Whether the Respondent has threatened to commit violence or any form of sexual misconduct;
- d. Whether the sexual misconduct involved multiple Respondents;
- e. Whether the sexual misconduct involved physical violence. “Physical violence” means exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon;
- f. Whether the report reveals a pattern of sexual violence (e.g., by the Respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location);
- g. Whether the sexual misconduct was facilitated through the use of “date-rape” or similar drugs or intoxicants;
- h. Whether the sexual misconduct occurred while the Complainant was unconscious, physically helpless, or unaware that the sexual misconduct was occurring;
- i. Whether the Complainant is (or was at the time of the sexual misconduct) a minor (under 18); and/or
- j. Whether any other aggravating circumstances or signs of predatory behavior are present.

### **Disclosure of Information regarding the alleged act of Sexual Violence:**

Pursuant to **Virginia Code § 23.1-806**, the SVRC is *required* to disclose information about alleged sexual violence to law enforcement in the following circumstances:

a) If the SVRC (or, in the absence of consensus within the team, the Campus Security Officer) concludes that there is a significant and articulable threat to the health or safety of the Complainant or to any other member of the ASL community and that disclosure of available information (including the names and any other information that personally identifies the Complainant, the Respondent, any witnesses, and/or any other third parties with knowledge of the reported incident) is necessary to protect the health or safety of the Complainant or other individuals, the Campus Security Officer will immediately disclose the information to the law enforcement agency that would be responsible for investigating the alleged act of sexual violence. SVRC will make this determination based upon a review of the totality of the known circumstances and consideration of the list of Risk Factors. The Title IX Coordinator will promptly notify the Complainant whenever such disclosure has been made.

b) If the alleged act of sexual violence, if proven, would constitute a felony violation of Article 7 (§18.2-61 *et seq.*) of Chapter 4 of title 18.2 of the Code of Virginia, the Campus Security Officer will so inform the other members of the SVRC and will, within 24 hours, (i) consult with the appropriate Commonwealth’s Attorney or other prosecutors who would be responsible for prosecuting the alleged act of sexual violence, and (ii) disclose to the prosecuting authority the information then known to SVRC. Such disclosure will exclude the names and any other information that personally identifies the Complainant, the

Respondent, any witnesses, and/or any other third parties with knowledge of the reported incident unless the identifying information was disclosed to law enforcement under the health and safety exception described in paragraph (a) above, in which case the identifying information also will be disclosed to the prosecuting authority. If the Campus Security Officer declines to consult with the prosecuting authority, any member of the SVRC who individually concludes that the alleged act of sexual violence would constitute such a felony violation may consult with the prosecuting authority and make the required disclosure(s) in the manner and within the timeframe set forth above.

c) SVRC will reconvene as necessary to continue to evaluate whether any new or additional information received triggers any further obligation(s) under the Clery Act or with respect to any child protective service agency, and will direct the Title IX Coordinator to take such further actions, as necessary.

## **RECOGNIZING AND RESPONDING TO STUDENTS IN DISTRESS**

### **Violence Prevention & individualized Assessment Policy**

Law school is inherently stressful. Many students manage that stress well and adequately copes, while others are not able to manage the stress, and it may interfere with their academic performance. In some instances, these students may disrupt the academic performance of others.

General campus safety and security at ASL is a shared responsibility. The best protection against violence or crimes is an informed and alert campus community. The prevention of violence on campus depends largely upon information reported by the campus community, which includes students, employees, and visitors (a “referral”).

It is the responsibility of faculty, staff, and students to immediately refer to any situation that could result in harm to anyone connected to ASL.

### **How do I know if this is something I should refer?**

The following list is non-exclusive but provides examples of the types of behavior that should be referred to:

- Expression of violence/extreme hostility/aggression
- Suicide threats or statements
- Stalking behavior
- Unusual interest in terrorist activities/materials
- Threats to harm others
- Unusual interest in previous campus shooting situations
- Conduct that disrupts the class or any other activity of ASL
- Verbal or written abuse of others
- Possession of a weapon on campus or unusual fascination with weapons

But there are also other situations that should be referred to, especially when more than one situation is present:

- Changes in preparedness or participation in class
- Listlessness, falling asleep in class, lack of energy
- Dependency (e.g., the student who hangs around or makes excessive appointments during office hours and doesn't really engage in course-related conversation)
- Repeated requests for special consideration (extended deadlines, etc.)
- Appearance of excessive anxiety (beyond the normal law school anxiety)
- Tearfulness
- Excessive absences, tardiness, leaving class early

Don't worry about reporting something that turns out to be "nothing." It is the job of the Individualized Assessment & Response Team to evaluate the information and determine if there is a threat to the health or safety of the ASL community. It's always better to refer to something that turns out to be nothing than to ignore something that turns out to be something bad.

### **How do I refer something?**

Referrals may be submitted in person or by email to any member of the IART Team:

Chair/Interim Dean: DJ Western, [dwestern@asl.edu](mailto:dwestern@asl.edu)

Chief Academic Officer: Laura Wilson [lwilson@asl.edu](mailto:lwilson@asl.edu);

Assistant Dean of Students: Shelly James, [sjames@asl.edu](mailto:sjames@asl.edu)

Title IX Coordinator: Jina Sauls, [jsauls@asl.edu](mailto:jsauls@asl.edu)

Security Director/LEO: Mike Kirkpatrick, [mkirkpatrick@asl.edu](mailto:mkirkpatrick@asl.edu)

Director of Information Services: Brian Presley, [bpresley@asl.edu](mailto:bpresley@asl.edu)

Senior Director of Admissions: Glenna Owens, [gowens@asl.edu](mailto:gowens@asl.edu)

Associate General Counsel to ASL: Dawn Figueiras, [dfigueiras@asl.edu](mailto:dfigueiras@asl.edu)

Director of student Admin Servicer/Registrar, [pstreet@asl.edu](mailto:pstreet@asl.edu)

In the event of an imminent emergency, dial 911 and alert the ASL Campus Security Officer on duty (Cell #: (276) 312-3989; Office #: (276) 244-1295)."

### **What happens once something is referred?**

The Individualized Assessment & Response Team will evaluate the information received to determine whether an emergency situation exists or whether a non-emergent situation nevertheless poses a potential for violence or self-harm. The Team is specially trained to evaluate this kind of information, to recognize serious threats, and to take action to intervene, prevent, and respond.

Records that are created as part of an Individualized Assessment & Response Team inquiry are maintained by the Security Officers in the Office of Campus Safety and are protected as investigative records.

### **Risk Reduction**

The following are some strategies to reduce the risk of victimization as recommended by the Rape, Abuse, & Incest National Network (RAINN) at <https://www.rainn.org/>:

College campuses can give you a sense of security—a feeling that everyone knows each other and watches out for one another. There are perpetrators who take advantage of this feeling of safety and security to commit acts of sexual violence.

We can all take steps to increase safety on college campuses. As bystanders, students can learn ways of stepping in to prevent crimes like sexual assault from occurring. When it comes to personal safety, there are steps you can take as well, and some of those tips are outlined below. No tips can absolutely guarantee safety—sexual violence can happen to anyone, and it's not the only crime that can occur on a college campus. It's important to remember that if you are sexually assaulted on campus, it is not your fault—help and support are available.

The following tips may reduce your risk for many different types of crimes, including sexual violence.

**Know your resources.** Who should you contact if you or a friend needs help? Where should you go? Locate resources such as the campus health center, campus police station, and a local sexual assault service provider. Notice where emergency phones are located on campus, and program the campus security number into your cell phone for easy access.

**Stay alert.** When you're moving around on campus or in the surrounding neighborhood, be aware of your surroundings. Consider inviting a friend to join you or asking campus security for an escort. If you're alone, only use headphones in one ear to stay aware of your surroundings.

**Be careful about posting your location.** Many social media sites, like Facebook and Foursquare, use geolocation to share your location publicly. Consider disabling this function and reviewing other social media settings.

**Make others earn your trust.** A college environment can foster a false sense of security. They may feel like fast friends, but give people time to earn your trust before relying on them.

**Think about Plan B.** Spend some time thinking about back-up plans for potentially sticky situations. If your phone dies, do you have a few numbers memorized to get help? Do you have emergency cash in case you can't use a credit

card? Do you have the address to your dorm or college memorized? If you drive, is there a spare key hidden, gas in your car, and a set of jumper cables?

**Be secure.** Lock your door and windows when you're asleep and when you leave the room. If people constantly prop open the main door to the dorm or apartment, tell security or a trusted authority figure.

**Safety in social settings:** Consider these tips for staying safe and looking out for your friends in social settings as recommended by the Rape, Abuse, & Incest National Network (RAINN) at <https://www.rainn.org/>:

- **Make a plan.** If you're going to a party, go with people you trust. Agree to watch out for each other and plan to leave together. If your plans change, make sure to touch base with the other people in your group. Don't leave someone stranded in an unfamiliar or unsafe situation.
- **Protect your drink.** Don't leave your drink unattended, and watch out for your friends' drinks if you can. If you go to the bathroom or step outside, take the drink with you or toss it out. Drink from unopened containers or drinks you watched being made and poured. It's not always possible to know if something has been added to someone's drink. In drug-facilitated sexual assault, a perpetrator could use a substance that has no color, taste, or odor.
- **Know your limits.** Keep track of how many drinks you've had, and be aware of your friends' behavior. If one of you feels extremely tired or more drunk than you should, you may have been drugged. Leave the party or situation and find help immediately.
- **It's okay to lie.** If you want to exit a situation immediately and are concerned about frightening or upsetting someone, it's okay to lie. You are never obligated to remain in a situation that makes you feel uncomfortable, pressured, or threatened. You can also lie to help a friend leave a situation that you think may be dangerous. Some excuses you could use are that you need to take care of another friend or family member, an urgent phone call, not feeling well, and having to be somewhere else by a certain time.
- **Be a good friend.** Trust your instincts. If you notice something that doesn't feel right, it probably isn't. Learn more about how to keep your friends safe in social settings.

## Clery Act Requirements

### Clery Act Reporting and Disclosure of Crime Statistics

As required by the federal Clery Act, the ASL Annual Security Report contains information regarding campus security, personal safety, and other matters of importance related to security on campus, as well as crime statistics for the previous three (3) calendar years concerning reported crimes that occurred on campus; in certain off-campus buildings or property owned or controlled by the College; and on public property within, or immediately adjacent to and accessible from the campus.

Crime statistics are gathered, compiled, and reported by the Campus Safety Coordinator and are provided on a calendar year (January to December) basis. Crime statistics are reported in accordance with Department of Education guidelines, and it is the policy of the Appalachian School of Law to promptly and accurately report crime statistics to the Department. Printed copies of these statistics are available upon request from the Campus Safety Coordinator. The Clery Act defines each institution's specific geography for the purposes of reporting its crime statistics.

Please note that the Department of Education released an updated Handbook for Campus Safety & Security Reporting in June 2016.

### Clery Geography



The Clery Act defines each institution's specific geography for the purposes of reporting its crime statistics. It includes the following properties in the following categories:

**On-campus** – Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of or in a manner related to the institution's educational purposes, including residence halls; and any building or property that is within or reasonably contiguous that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes.

At ASL, the on-campus property includes the Main Administrative and Classroom Building, the Law Library, and certain areas controlled by ASL in the Booth Center. The Booth Center is situated behind ASL's two (2) main buildings, and use is controlled by an agreement with Southwest Virginia Community College. Specifically, ASL controls the use of the Booth

Center Classroom, ASL's Business Office, IT Department, Career Services, a conference room, and an office suite on the second (2<sup>nd</sup>) floor of the Booth Center. In 2020, ASL began using two office suites on the third floor (Registrar's Office). Statistics would also include areas of public access to these areas, such as stairwells, elevators, and parking garages.

**Non-campus** – Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students and is not within the same reasonably contiguous geographic area of the institution.

**Public Property**–All public property that is within the same reasonably contiguous geographic area of ASL, such as sidewalks, a street, another thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by ASL if the facility is used by ASL in direct support of, or a manner related to ASL's educational purposes. The property in question must satisfy all three following conditions: 1) public (e.g., publicly-owned); 2) within or adjacent to campus; and 3) accessible from the campus.

At ASL, the public property includes the public sidewalk and streets immediately in front of the Main Administrative, the Dean's residence and Classroom Building and the Law Library, and the parking lot of the Grundy Baptist Church.

## **Crime Classifications**

The Clery Act requires that institutions disclose four (4) general categories of crime statistics: 1.) Criminal Offenses, 2.) Hate Crimes, 3.) VAWA Offenses, and 4.) Arrests and Referrals for Disciplinary Action, using the FBI's Uniform Crime Reporting Handbook and for sex offenses, the FBI's National Incident-Based Reporting System. Institutions are required to disclose reported offenses for these categories, not the findings of a court, coroner, or jury or the decision of a prosecutor. The specific Clery Act-defined reportable crimes include:

### **I. Criminal Offenses:**

- **Murder & Non-Negligent Manslaughter:** The willful (non-negligent) killing of one human being by another.
- **Manslaughter by Negligence:** The killing of another person through gross negligence.
- **Sex Offenses:** Any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent.

**Rape:** The 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 victim.

**Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

**Incest:** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory rape:** Non-forcible sexual intercourse with a person who is under the statutory age of consent.

- **Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- **Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. It is not necessary that injury results from an aggravated assault when a gun, knife, or other weapon is used that could have caused a serious potential injury if the crime were successfully completed.
- **Burglary:** The unlawful entry of a structure to commit a felony or theft. For reporting purposes, this definition includes: unlawful entry with intent to commit a larceny or a felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.
- **Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by a person not having lawful access even though the vehicles are later abandoned, including joyriding.)
- **Arson:** The willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another kind.

**II. Hate Crimes:** A hate or bias-related crime is not a separate, distinct crime but is a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. Bias is a preformed negative opinion or attitude toward a group of persons based on their race, religion, sexual orientation, gender, gender identity, ethnicity, national origin, or disability.



### **III. VAWA Offenses: Violence Against Women Act** (sexual assault is covered above in the Criminal Offenses Category)

- **Dating Violence:** Violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such relationship shall be based on the reporting party's statement and with consideration of the following factors: (i) length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of domestic violence.
- **Domestic Violence:** A felony or misdemeanor crime of violence committed by: a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; 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 by 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. The relationship between the perpetrator and the victim must be more than just two (2) people living together as roommates.
- **Stalking:** Engaging in the course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) to suffer substantial emotional distress. The course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.

### **IV. Arrests and Disciplinary Referrals for Violation of Weapons, Drug Abuse, and Liquor Laws:**

- **Weapons Law Violations:** The violations of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; all attempts to commit any of the aforementioned.
- **Drug Law Violations:** The violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and the making of narcotic drugs.

- **Liquor Law Violations:** The violations of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; all attempts to commit any of the aforementioned. (Public drunkenness and driving under the influence are not included in this definition.)

## Unfounded Crimes:

ASL must also provide crime statistics for **Unfounded Criminal Incidents**, which means that sworn or commissioned law enforcement have fully investigated the incident and, based on the results of this full investigation and evidence, a formal determination has been made that a crime report is false or baseless. An offense or incident cannot be "unfounded" just because the stolen property was recovered, refusal of a victim to prosecute, or an arrest was not made.

## Clery Crime Statistics

*\*ASL did NOT maintain any on-campus student housing facilities or any non-campus buildings or property used to directly support or in relation to ASL's educational purposes, frequently used by students, during the 2022 Calendar Year. However, in 2020 ASL starting using a non-campus building for Education Programs and Activities.\**

### Criminal Offenses - On campus

Criminal offense	Total Occurrences on Campus		
	2020	2021	2022
a. Murder/Non-negligent manslaughter	0	0	0
b. Manslaughter by Negligence	0	0	0
c. Sex offenses	0	0	0
Rape	0	0	0
Fondling	0	0	0
Incest	0	0	0
Statutory rape	0	0	0
e. Robbery	0	0	0
f. Aggravated assault	0	0	0
g. Burglary	0	0	0
h. Motor vehicle theft (Do not include theft <i>from</i> a motor vehicle)	1	0	0
i. Arson	0	0	0

### Criminal Offenses - Public Property

Criminal offense	Total occurrences on Public Property		
	2020	2021	2022
a. Murder/Non-negligent manslaughter	0	0	0
b. Manslaughter by Negligence	0	0	0
c. Sex offenses	0	0	0
Rape	0	0	0
Fondling	0	0	0
Incest	0	0	0
Statutory rape	0	0	0
e. Robbery	0	0	0
f. Aggravated assault	0	0	0
g. Burglary	0	0	0
h. Motor vehicle theft (Do not include theft <i>from</i> a motor vehicle)	0	0	0
i. Arson	0	0	0

### \*VAWA Offenses – On Campus

VAWD offense	Total occurrences on Campus		
	2020	2021	2022
a. Domestic Violence	0	0	0
b. Dating Violence	0	0	0
c. Stalking	0	0	0

### VAWA Offenses – Public Property

VAWA offense	Total occurrences on Public Property		
	2020	2021	2022
a. Domestic Violence	0	0	0

<b>b. Dating Violence</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>c. Stalking</b>	<b>0</b>	<b>0</b>	<b>0</b>

#### **Arrests - On campus**

<b>Crime</b>	<b>Number of Arrests</b>		
	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>a. Weapons: carrying, possessing, etc.</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>b. Drug abuse violations</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>c. Liquor law violations</b>	<b>0</b>	<b>0</b>	<b>0</b>

#### **Arrests - Public Property**

<b>Crime</b>	<b>Number of Arrests</b>		
	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>a. Weapons: carrying, possessing, etc.</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>b. Drug abuse violations</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>c. Liquor law violations</b>	<b>0</b>	<b>0</b>	<b>0</b>

#### **Disciplinary Actions - On Campus**

<b>Crime</b>	<b>Number of persons referred for Disciplinary Action</b>		
	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>a. Weapons: carrying, possessing, etc.</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>b. Drug law violations</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>c. Liquor law violations</b>	<b>0</b>	<b>0</b>	<b>0</b>

#### **Disciplinary Actions - Public Property**

**Number of persons referred for  
Disciplinary Action**

Crime	2020	2021	2022
a. Weapons: carrying, possessing, etc.	0	0	0
b. Drug law violations	0	0	0
c. Liquor law violations	0	0	0

#### **Hate Crimes:**

**2020**--There were no reported Hate Crimes for the year 2020.

**2021**-- There were no reported Hate Crimes for the year 2021.

**2022**--There were no reported Hate Crimes for the year 2022.

#### **Unfounded Crimes:**

**2020**--There were no unfounded crimes for the year 2020

**2021**-- There were no unfounded crimes for the year 2021.

**2022**--There were no unfounded crimes for the year 2022.



#### **Internal Contact**

Campus Safety Director: Mr. Michael Kirkpatrick; Main Classroom Building, Room 130; 276-244-1230.

### **External Contact**

If you desire to file a complaint alleging that ASL is in noncompliance with the campus security regulations, you should contact the U.S. Department of Education, Office of Student Financial Assistance; 400 Maryland Avenue SW; Washington, DC 20202; 1-800-USA-LEARN (1-800-872-5327).