



# CLOVIS CAMPUS SECURITY REPORT

## 2017

### Reporting and Disclosure Procedures

All Wayland Baptist University (WBU) Campus Security Authorities (CSA) are required to report violations of federal, state and local laws. These violations as well as any public safety related incidents must be promptly reported to the Executive Director and Dean for investigation or disposition. Students and employees should report any criminal offense for the purpose of making timely warning notices (Crime Alerts) and annual statistical disclosure to the Executive Director and Dean, which includes incidents that occur at non-campus WBU property or locations. These incidents should immediately be reported to the law enforcement agency with jurisdiction for the location. Although statistical information is requested annually from these jurisdictions, Wayland Baptist University PD (UPD) requests notification of the incident for follow-up and documentation purposes. The Campus Security Authority guidelines and the CSA crime report form are available online to report Clery crimes and can be located at: <https://www.wbu.edu/about/university-police/index.htm> .

An annual training and campus-wide e-mail notification is sent from the Chief of Police to notify CSA's of their responsibility. Professional and pastoral counselors may encourage their clients to consider voluntarily and confidentially reporting crimes, when applicable. These and all such reports are compiled and coordinated through the University Police Department and the Office of the Vice President of Enrollment Management. The University requests, monitors, and records, through local police agencies, criminal activity at non-campus locations on behalf of student organizations and students attending WBU. Each incident, whether or not a formal police report is filed or an investigation ensues, counts as one offense and is reflected on the University's annual crime statistics report. This annual report includes statistics on reported crimes, arrests and referrals for violations that occur on campus, in residential facilities, on non-campus University property and on public property contiguous to campus boundaries. All reported violations that have taken place in these designated areas during the previous three years, whether or not a WBU student, faculty, or staff member was involved, are reflected in the report. The report is made available upon request to prospective students and employees as well as current students, faculty, and staff.

### Confidential Reporting

The University encourages anyone who is the victim or witness of any crime to promptly report the incident to the police. Because police reports are public records under state law. Confidential reports for

purposes of inclusion in the annual disclosure of crime statistics can generally be made to other WBU employees as they are trained and designated as campus security authorities. WBU will protect the confidentiality of victims to the extent permissible by law. Reports filed confidentially are counted and disclosed in the annual crime statistics for the University. The university will protect the identity of persons who report having been victims of sexual assault, domestic violence, dating violence, or stalking to the fullest extent permissible by law. When a complainant does not consent to the disclosure of his or her name or other identifiable information of the alleged perpetrator, the university's ability to respond to the complaint may be limited.

## Emergency Operations Plan

Wayland Baptist University officials take the safety of the campus community very seriously and are consistently evaluating the Emergency Operations Plan to ensure it is timely and effective. The EOP addresses both evacuation and shelter-in-place procedures. Emergency response procedures within the plan are tested annually. The University has implemented mass notification systems on campus to ensure campus members are kept informed of any emergencies, as well as performing regular drills to test the Plans' effectiveness. The University is involved in emergency management planning on all levels, including city, county and state, to address possible responses to disasters which may occur. Mutual aid agreements and contracts are in place to hasten the University's recovery from any type of emergency.

## Missing Students

Wayland Baptist University takes student safety seriously and will investigate any report received concerning a missing student, whether a residential or commuter student. Anyone who believes a student is missing should immediately report their concern to the Wayland Police Department and the Dean of Students Office.

Wayland Baptist University has specific procedures regarding missing students. Upon notification from any source that a student may be missing, Wayland personnel will attempt to locate the missing student, which may include:

1. Inspecting the student's assigned room
2. Conducting a search of campus locations to find the student (library, cafeteria, etc.)
3. Attempting to contact known friends or faculty members for last sighting or additional contact information
4. Reviewing email logs for last login and use of the Wayland email system.

If the university determines that a student is missing, the administration will (1) contact the student's parent or legal guardian if the student is a minor, (2) contact any person identified in the student's file as the emergency contact person and (3) notify external law enforcement agencies as appropriate.

## Timely Warning Notices/Crime Alert

The Wayland Baptist University (WBU) Executive Director and Dean will develop timely warning notices for the University community to notify members of the community about serious crimes against people that occur on campus or contiguous to campus, where it is determined that the incident may pose a serious or continuing threat to members of the WBU community. These warnings will be distributed if the incident is reported either to local PD directly or indirectly through a campus security authority or any local police agency. Crime Alerts may be issued on a case-by-case basis pending information received by the Executive Director and Dean. The Dean will determine if the release of the Crime Alert would compromise law enforcement efforts and determine the appropriate time for release to be made. The department issues/posts Crime Alerts for incidents of

1. Criminal Homicide
2. Aggravated assault (cases involving assaults among known parties, such as two roommates fighting which results in an aggravated injury, will be evaluated on a case by case basis to determine if the individual is believed to be an on-going threat to the larger WBU community)
3. Robbery involving force or violence (cases including pick pocketing and purse snatching will typically not result in the issuance of a Crime Alert, but will be assessed on a case by case basis)
4. Sexual Assault (considered on a case by case basis depending on the facts of the case, when and where the incident occurred, when it was reported, and the amount of information known by the Dean)
5. Major incidents of arson
6. Other crimes as determined necessary by the Dean, or his or her designee in his or her absence
7. A timely warning notice will typically include the following, unless issuing any of this information would risk compromising law enforcement efforts:
  8. Date and time or timeframe of the incident • A brief description of the incident
  9. Information that will promote safety and potentially aid in the prevention of similar crimes (crime prevention or safety tips).
  10. Suspect description(s) when deemed appropriate and if there is sufficient detail (see below)
  11. Police/Public Safety agency contact information
  12. Other information as deemed appropriate by the Dean or his/her designee

The description of subjects in a case will only be included in the alert if there is a sufficient amount of detail to describe the individual. If the only known descriptors are sex and race, that will not be included in the alert. An email containing the Crime Alert to the University community will be sent out as a blast email. Updates to the WBU community about any particular case resulting in a crime alert also may be distributed electronically via blast email or posted on the University's Web site. The university does not issue Crime Alerts for the above listed crimes if:

1. The department apprehends the subject(s) and the threat of imminent danger for members of the WBU community have been mitigated by the apprehension.

2. If a report was not filed with the local police agency or if a local police agency was not notified of the crime in a manner that would allow the department to post a “timely” warning for the community. A general guideline will include a report that is filed more than five days after the date of the alleged incident may not allow the university to post a “timely” warning to the community. This type of situation will be evaluated on a case by case basis.

## Emergency Notification

Wayland Baptist University (WBU) will develop an emergency notification for the University community to notify members of the community about a serious crime, a natural disaster or a manmade emergency that poses an immediate threat to the health and safety of the WBU community or a segment of the community. If the institution implements the procedures regarding notification of the WBU community for an immediate threat, the institution is not obligated to implement the timely warning notice procedures. The types of incidents that may cause an immediate threat to the WBU community could include but are not limited to emergencies such as: an active shooter on campus, hostage/barricade situation, a riot, suspicious package with confirmation of a device, a tornado, a fire/explosion, suspicious death, structural damage to a WBU owned or controlled facility, biological threat (anthrax, etc.), significant flooding, a gas leak, hazardous materials spill, etc. The notification will be distributed if the incident is reported through a campus security authority, any local police agency or other appropriate agency. WBU has various systems in place for communicating information quickly to the WBU community, including:

1. Network emails (Students, Faculty and Staff)
2. Pioneer Alert (text message)
3. Department of Communication and Marketing (media releases, social media, website notifications)

## Pioneer Alert

Students, Faculty and Staff are encouraged to sign up for the campus Pioneer Alert System, which alerts participants by email, pager and/or cell phone text of any emergency broadcast message. The campus can sign up for Pioneer Alert on the homepage of the WBU website or at:

<https://www.wbu.edu/about/university-police/pioneer-alert.htm> .

## Crime Report, Arrest and Referral Statistics

Wayland Baptist University’s crime statistics are categorized according to the Federal Bureau of Investigation’s uniform crime reporting standards without regard to guilt or innocence. Statistics reflect reports made to campus security authorities as well as University, local and requested police departments and are compiled according to Clery Act guidelines by the University Police Department. Hate Crimes According to Texas law, a hate crime is any criminal offense committed against a person or

property that is motivated, in whole or in part, by the offender's bias against race, gender, ethnicity, religion, national origin, disability, gender identity or sexual orientation.

1. 2014 – no hate crimes reported
2. 2015 – no hate crimes reported
3. 2016 – no hate crimes reported

CRIMINAL OFFENSES						
GEOGRAPIC LOCATION						
OFFENSE	YEAR	ON CAMPUS PROPERTY	NON CAMPUS PROPERTY	PUBLIC PROPERTY	TOTAL	CASES UNFOUNDED
<b>MURDER / NON-NEGLIGENT MANSALUGHTER</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0
<b>MANSLAUGHTER BY NEGLIGENCE</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0
<b>RAPE</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0
<b>FONDLING</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0
<b>INCEST</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0
<b>STATUTORY RAPE</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0
<b>ROBBERY</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0
<b>AGGRAVATED ASSAULT</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0
<b>BURGLARY</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0
<b>MOTOR VEHICLE THEFT</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0
<b>ARSON</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0
<b>Domestic Violence</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0
<b>Dating Violence</b>						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0

Stalking						
	2014	0	0	0	0	0
	2015	0	0	0	0	0
	2016	0	0	0	0	0

ARRESTS AND DISCIPLINARY REFERRALS					
GEOGRAPIC LOCATION					
OFFENSE	YEAR	ON CAMPUS PROPERTY	NON CAMPUS PROPERTY	PUBLIC PROPERTY	TOTAL
<b>ARRESTS: WEAPONS: CARRYING, POSSESING ETC.</b>					
	2014	0	0	0	0
	2015	0	0	0	0
	2016	0	0	0	0
<b>DISCIPLINARY REFERRALS: WEAPONS: CARRYING, POSSESING ETC.</b>					
	2014	0	0	0	0
	2015	0	0	0	0
	2016	0	0	0	0
<b>ARRESTS: DRUG ABUSE VIOLATIONS</b>					
	2014	0	0	0	0
	2015	0	0	0	0
	2016	0	0	0	0
<b>DISCIPLINARY REFERRALS: DRUG ABUSE VIOLATIONS</b>					
	2014	0	0	0	0
	2015	0	0	0	0
	2016	0	0	0	0
<b>ARRESTS: LIQUOR LAW VIOLATIONS</b>					
	2014	0	0	0	0
	2015	0	0	0	0
	2016	0	0	0	0
<b>DISCIPLINARY REFERRALS: LIQUOR LAW VIOLATIONS</b>					
	2014	0	0	0	0
	2015	0	0	0	0
	2016	0	0	0	0



## Non-Stranger Rape

A RAPIST IS NOT ALWAYS A STRANGER attacking late at night in an isolated place. A rapist may sit next to you in class, compete on your intramural team or belong to the same organization. Rape doesn't just conjure up thoughts of a crazed stranger in a dark alley anymore. Non-stranger rape is rape. If You Are Raped . . . Tell Someone Collect your thoughts, then call:

9-1-1 Or

### **Clovis**

Local Police Department 575-769-1921

Campus Executive Director/Dean, Dr. Gary Mitchell 575-763-0535

### **Clovis**

Patti Johnson, Victim Advocate Administrator 575-769-2246

Plains Regional Medical Center 575-769-2141

Clovis Counseling Center 575-762-0212

## Get Medical Care

As soon as possible, seek medical care from a hospital emergency room or a private physician. A general exam by a rape/sexual assault nurse at the Emergency Room is advised to collect information for documentation of evidence should you decide to prosecute. The exam may also include testing and treatment to help prevent sexually transmitted diseases.

## Report the Rape

It is your decision whether to report the rape; however, most rapists are repeat offenders and your report may prevent future attacks from occurring. University personnel will assist you in notifying the police if needed. If you plan to file a report, do not clean up the area or alter it in any way prior to law enforcement's arrival, and do not bathe, shower, douche or change clothes prior to the medical examination.

## Seek Counseling

The local Rape Crisis Hotline has well trained and compassionate counselors. They can assist you in dealing with the emotional trauma and pain associated with sexual assault. University officials will also help you change academic and living situations if that is your choice and such options are reasonably available.

## Non-Stranger Rape Prevention Checklist

Set sexual limits. You don't "owe" anyone sex. Communicate those limits. People can't read your mind.

Trust your feelings. If you feel pressured, you probably are.

Pay attention to behavior that doesn't seem right. Power stares, someone who grabs or pushes, someone who doesn't listen or disregards what you are saying, someone who blocks your way, or someone sitting or standing uncomfortably close are all clues that you should stay alert.

Be assertive. Get angry and act immediately with a negative response if things seem out of hand. Stand up for yourself. It's OK to make a scene or be rude if someone is pressuring you.

Control your environment. Decide whether you want to be in a particular place or not, and don't depend on casual acquaintances for money, helter, transportation, etc.

If you choose to drink alcohol, drink responsibly. Seventy-five percent of date and non-stranger rapes occur when one or both persons are under the influence of alcohol.

## Wayland Baptist University: A Drug-Free Campus

Alcoholic Beverages State and federal statutes concerning alcoholic beverages and underage drinking will be strictly enforced on the Wayland Baptist University campus and at off-campus WBU-sponsored events. In addition to these statutes, the University prohibits possession, use, and distribution of alcoholic beverages on campus or in University public buildings and public areas. Making alcohol available to a minor and possession of alcoholic containers is also prohibited.

## Drugs

According to state and federal laws, the possession, distribution, and/or use of illicit drugs or narcotics, or any hallucinatory agent or other substance not prescribed to the person by a licensed provider on University property or property under control of Wayland Baptist University or at any event sponsored by the University or any University student organization, whether or not conducted on University property, including student travel on behalf of the University, is prohibited. This rule applies to all paraphernalia utilized in conjunction with the possession, sale and/or use of the prohibited substances.

## High Risk Alcohol Intake

People who consume large amounts of alcohol over a short period of time can reach very high blood alcohol levels before they pass out. This can lead to decreased breathing and death. Vomiting associated with high levels of alcohol may also cause choking and death.

How to Help an Intoxicated Friend

### Do:

1. Keep calm and get lots of help. Individuals with high alcohol-blood levels can be unpredictable and violent.

2. Speak in a clear, firm, reassuring manner.
3. Stay with a person who is vomiting. If the victim is lying down, turn them on their side, keep the tongue from falling back into the throat and protect them from choking.
4. Monitor the person. If they become unconscious (will not wake up or talk to you) or if they appear to have problems breathing, seek medical help immediately. Call 911.

## Don't:

1. Don't try to walk, run or exercise the person. Don't try to keep them awake.
2. Don't force anything orally—food, liquid (coffee, etc.) or drugs—in an attempt to sober them up.
3. Don't give the person a cold shower; this can be very dangerous.
4. Don't try to restrain the person without lots of sober assistance.
5. Don't permit the person to drive.

## Health Risks of Alcohol

Health hazards associated with excessive use of alcohol or alcohol dependency include dramatic behavioral changes, retardation of motor skills, and impairment of reasoning and rational thinking. These factors result in a higher incidence of accidents and accidental death for such persons than for nonusers of alcohol. Nutrition also suffers, and vitamin and mineral deficiencies are frequent. Prolonged alcohol abuse causes bleeding from the intestinal tract, damage to nerves and the brain, psychotic behavior, loss of memory and coordination. Damage to the liver often results in cirrhosis. Other risks include impotence, severe inflammation of the pancreas, and damage to the bone marrow, heart, testes, ovaries and muscles. Damage to nerves and organs is usually irreversible.

## Health Risks of Other Drugs

Use of illicit drugs may lead to physiological and mental changes similar to those caused by alcohol, although changes are frequently more severe and more sudden. Death or coma resulting from overdose of drugs is also more frequent. Illicit drugs are commonly classified in seven categories: cocaine, amphetamines, heroin and other opiates, hallucinogens, solvent inhalants, steroids, and marijuana. In addition to adverse effects associated with use of a specific drug, intravenous-drug users who use unsterilized needles or who share needles with other drug users can develop AIDS, hepatitis, tetanus and infections in the heart. Brain damage may also result.

## Substance Abuse and Education

Wayland Baptist University strives to promote good physical health and safety of all students and employees and to provide an outlet for ensuring knowledge of the effects and physical cost of drug and alcohol abuse. All employees are notified of the WBU University System policy and regulation regarding drug and alcohol abuse upon hire and annually thereafter. Students are notified annually through the Campus Security and Fire Safety Report and at Alcohol and Other Drug (AOD) abuse prevention programming each year through departments within Student Affairs. Additional information is also

made available through the Wayland Baptist University Student Handbook, the Residential Living Handbook, and the Student Athlete Handbook.

## Violence Against Women Reauthorization Act of 2013

Wayland Baptist University does not discriminate on the basis of sex in its educational programs; and sexual harassment and sexual violence are types of sex discrimination. Other acts can also be forms of sex-based discrimination and are prohibited whether sexually based or not and include dating violence, domestic violence, and stalking. As a result, WBU issues this statement of policy to inform the campus community of our comprehensive plan addressing sexual misconduct, educational programs, and procedures that address sexual assault, domestic violence, dating violence, and stalking, whether the incident occurs on or off campus and when it is reported to a University official. In this context, WBU prohibits the offenses of domestic violence, dating violence, sexual assault and stalking and reaffirms its commitment to maintain a campus environment emphasizing the dignity and worth of all members of the university community.

## Sexual Harassment Reporting

Wayland Baptist University provides equal opportunity to all employees, students, applicants for employment, and the public regardless of race, color, religion, sex, national origin, disability, age, genetic information or veteran status. Wayland Baptist University will promptly and thoroughly investigate all complaints of discrimination, sexual harassment, and related retaliation in accordance with applicable federal and state laws, and university rules and/or procedures. Sexual harassment is a form of discrimination based on sex. It is defined as unwelcome conduct of a sexual nature, which includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence, which includes rape, sexual assault, sexual battery, and sexual coercion, is a form of sexual harassment that needs to be reported by calling the Dean, Dr. J. B. Boren 806-352-5207. Any member of the campus community or public who witnesses, is subjected to, or is informed about incidents of discrimination, sexual harassment, and/or related retaliation involving faculty, staff, or students should contact the Title IX Coordinators, Dr. Justin Lawrence (806)-291-1173 or Dr. Andy Pagel, (806) 291-3406.

## Definitions

### Federal Clery Act Definitions of Domestic Violence, Dating Violence, Sexual Assault and Stalking

**Domestic Violence:** The term “domestic violence” is defined

1. Felony or misdemeanor crimes of violence committed—
  - a. By a current or former spouse or intimate partner of the victim;
  - b. By a person with whom the victim shares a child in common;

- c. By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, not merely as roommates;
  - d. 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
  - e. 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.
2. For the purposes of complying with the requirements of this section and section §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

**Dating Violence:** The term “dating violence” is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

- 1. The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- 2. For the purposes of this definition---
  - a. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - b. Dating violence does not include acts covered under the definition of domestic violence.
- 3. For the purposes of complying with the requirements of this section and section §668.41, any Incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

**Sexual Assault (Sex Offenses):** “Sexual assault” is defined as any sexual act directed against another person, without consent of the victim, including instances where the victim is in capable of giving consent. Attempted Sexual Assaults are included in Clery Act statistics and the four types of Sexual Assault listed below.

- 4. **Rape** is defined as 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. This offense includes the rape of both males and females.
- 5. **Fondling** is defined as the touching of the private 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.
- 6. **Incest** is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- 7. **Statutory Rape** is defined as sexual intercourse with a person who is under the statutory age of consent.

**Stalking:** The term “stalking” is defined as:

1. Engaging in a 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. Suffer substantial emotional distress.
  
2. For the purposes of this definition—
  - a. *Course of conduct* means two or more acts, including, but not limited to, acts 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.
  - b. *Reasonable person* mean a reasonable person under similar circumstances and with similar identities to the victim.
  - c. *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
  
3. For the purposes of complying with the requirements of this section and section §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

## Jurisdictional Definitions of Domestic Violence, Dating Violence, Sexual Assault and Stalking

### Chapter 30 - Criminal Offenses

#### Article 9 - Sexual Offenses

#### Section 30-9-11 - Criminal sexual penetration.

**Universal Citation:** [NM Stat § 30-9-11 \(2016\)](#)

#### **30-9-11.** Criminal sexual penetration.

1. Criminal sexual penetration is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.
2. Criminal sexual penetration does not include medically indicated procedures.
3. Aggravated criminal sexual penetration consists of all criminal sexual penetration perpetrated on a child under thirteen years of age with an intent to kill or with a depraved mind regardless of human life. Whoever commits aggravated criminal sexual penetration is guilty of a first degree felony for aggravated criminal sexual penetration.
4. Criminal sexual penetration in the first degree consists of all criminal sexual penetration perpetrated:
  - a. on a child under thirteen years of age; or
  - b. by the use of force or coercion that results in great bodily harm or great mental anguish to the victim.

5. Whoever commits criminal sexual penetration in the first degree is guilty of a first degree felony.
6. Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated:
  - a. by the use of force or coercion on a child thirteen to eighteen years of age;
  - b. on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate;
  - c. by the use of force or coercion that results in personal injury to the victim;
  - d. by the use of force or coercion when the perpetrator is aided or abetted by one or more persons;
  - e. in the commission of any other felony; or
  - f. when the perpetrator is armed with a deadly weapon.
7. Whoever commits criminal sexual penetration in the second degree is guilty of a second degree felony. Whoever commits criminal sexual penetration in the second degree when the victim is a child who is thirteen to eighteen years of age is guilty of a second degree felony for a sexual offense against a child and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a minimum term of imprisonment of three years, which shall not be suspended or deferred. The imposition of a minimum, mandatory term of imprisonment pursuant to the provisions of this subsection shall not be interpreted to preclude the imposition of sentencing enhancements pursuant to the provisions of the Criminal Sentencing Act [31-18-12 NMSA 1978].
8. Criminal sexual penetration in the third degree consists of all criminal sexual penetration perpetrated through the use of force or coercion not otherwise specified in this section.
9. Whoever commits criminal sexual penetration in the third degree is guilty of a third degree felony.
10. Criminal sexual penetration in the fourth degree consists of all criminal sexual penetration:
  - a. not defined in Subsections D through F of this section perpetrated on a child thirteen to sixteen years of age when the perpetrator is at least eighteen years of age and is at least four years older than the child and not the spouse of that child; or
  - b. perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing services in or for a school that the child is a student in a school.
11. Whoever commits criminal sexual penetration in the fourth degree is guilty of a fourth degree felony.

**History:** 1953 Comp., 40A-9-21, enacted by Laws 1975, ch. 109, 2; 1987, ch. 203, 1; 1991, ch. 26, 1; 1993, ch. 177, 2; 1995, ch. 159, 1; 2001, ch. 161, 2; 2003 (1st S.S.), ch. 1, 3; 2007, ch. 69, 1; 2009, ch. 56, 1.

## **New Mexico Statutes**

### **Chapter 30 - Criminal Offenses**

## **Article 9 - Sexual Offenses**

### **Section 30-9-12 - Criminal sexual contact.**

**Universal Citation:** [NM Stat § 30-9-12 \(2016\)](#)

#### **30-9-12. Criminal sexual contact.**

1. Criminal sexual contact is the unlawful and intentional touching of or application of force, without consent, to the unclothed intimate parts of another who has reached his eighteenth birthday, or intentionally causing another who has reached his eighteenth birthday to touch one's intimate parts. Criminal sexual contact does not include touching by a psychotherapist on his patient that is:
  - a. inadvertent;
  - b. casual social contact not intended to be sexual in nature; or
  - c. generally recognized by mental health professionals as being a legitimate element of psychotherapy.
2. Criminal sexual contact in the fourth degree consists of all criminal sexual contact perpetrated:
  - a. by the use of force or coercion that results in personal injury to the victim;
  - b. by the use of force or coercion when the perpetrator is aided or abetted by one or more persons; or
  - c. when the perpetrator is armed with a deadly weapon.
3. Whoever commits criminal sexual contact in the fourth degree is guilty of a fourth degree felony.
4. Criminal sexual contact is a misdemeanor when perpetrated with the use of force or coercion.
5. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breast.

**History:** 1953 Comp., 40A-9-22, enacted by Laws 1975, ch. 109, 3; 1981, ch. 8, 1; 1991, ch. 26, 2; 1993, ch. 177, 3.

## **New Mexico Statutes**

### **Chapter 30 - Criminal Offenses**

#### **Article 9 - Sexual Offenses**

##### **Section 30-9-13 - Criminal sexual contact of a minor.**

**Universal Citation:** [NM Stat § 30-9-13 \(2016\)](#)

#### **30-9-13. Criminal sexual contact of a minor.**

1. Criminal sexual contact of a minor is the unlawful and intentional touching of or applying force to the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one's intimate parts. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breast.
2. Criminal sexual contact of a minor in the second degree consists of all criminal sexual contact of the unclothed intimate parts of a minor perpetrated:
  - a. on a child under thirteen years of age; or
  - b. on a child thirteen to eighteen years of age when:

- i. the perpetrator is in a position of authority over the child and uses that authority to coerce the child to submit;
    - ii. the perpetrator uses force or coercion that results in personal injury to the child;
    - iii. the perpetrator uses force or coercion and is aided or abetted by one or more persons; or
    - iv. the perpetrator is armed with a deadly weapon.
3. Whoever commits criminal sexual contact of a minor in the second degree is guilty of a second degree felony for a sexual offense against a child and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a minimum term of imprisonment of three years, which shall not be suspended or deferred. The imposition of a minimum, mandatory term of imprisonment pursuant to the provisions of this subsection shall not be interpreted to preclude the imposition of sentencing enhancements pursuant to the provisions of Sections 31-18-17, 31-18-25 and 31-18-26 NMSA 1978.
4. Criminal sexual contact of a minor in the third degree consists of all criminal sexual contact of a minor perpetrated:
  - a. on a child under thirteen years of age; or
  - b. on a child thirteen to eighteen years of age when:
  - c. the perpetrator is in a position of authority over the child and uses this authority to coerce the child to submit;
  - d. the perpetrator uses force or coercion which results in personal injury to the child;
  - e. the perpetrator uses force or coercion and is aided or abetted by one or more persons; or
  - f. the perpetrator is armed with a deadly weapon.
5. Whoever commits criminal sexual contact of a minor in the third degree is guilty of a third degree felony for a sexual offense against a child.
6. Criminal sexual contact of a minor in the fourth degree consists of all criminal sexual contact:
  - a. not defined in Subsection C of this section, of a child thirteen to eighteen years of age perpetrated with force or coercion; or
  - b. of a minor perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing services in or for a school that the child is a student in a school.
7. Whoever commits criminal sexual contact in the fourth degree is guilty of a fourth degree felony.

**History:** 1953 Comp., 40A-9-23, enacted by Laws 1975, ch. 109, 4; 1987, ch. 203, 2; 1991, ch. 26, 3; 2001, ch. 161, 3; 2003 (1st S.S.), ch. 1, 4.

**New Mexico Statutes**  
**Chapter 30 - Criminal Offenses**

## **Article 10 - Marital and Familial Offenses**

### **Section 30-10-3 - Incest.**

**Universal Citation:** [NM Stat § 30-10-3 \(2016\)](#)

#### **30-10-3. Incest.**

Incest consists of knowingly intermarrying or having sexual intercourse with persons within the following degrees of consanguinity: parents and children including grandparents and grandchildren of every degree, brothers and sisters of the half as well as of the whole blood, uncles and nieces, aunts and nephews.

Whoever commits incest is guilty of a third degree felony.

**History:** 1953 Comp., 40A-10-3, enacted by Laws 1963, ch. 303, 10-3.

## **New Mexico Statutes**

### **Chapter 30 - Criminal Offenses**

#### **Article 7 - Weapons and Explosives**

##### **Section 30-7-2.4 - Unlawful carrying of a firearm on university premises; notice; penalty.**

**Universal Citation:** [NM Stat § 30-7-2.4 \(2016\)](#)

#### **30-7-2.4. Unlawful carrying of a firearm on university premises; notice; penalty.**

1. Unlawful carrying of a firearm on university premises consists of carrying a firearm on university premises except by:
  - a. a peace officer;
  - b. university security personnel;
  - c. a student, instructor or other university-authorized personnel who are engaged in army, navy, marine corps or air force reserve officer training corps programs or a state-authorized hunter safety training program;
  - d. a person conducting or participating in a university-approved program, class or other activity involving the carrying of a firearm; or
  - e. a person older than nineteen years of age on university premises in a private automobile or other private means of conveyance, for lawful protection of the person's or another's person or property.
2. A university shall conspicuously post notices on university premises that state that it is unlawful to carry a firearm on university premises.
3. As used in this section:
  - a. "university" means a baccalaureate degree-granting post-secondary educational institution, a community college, a branch community college, a technical-vocational institute and an area vocational school; and
  - b. "university premises" means:
    - i. the buildings and grounds of a university, including playing fields and parking areas of a university, in or on which university or university-related activities are conducted; or

- ii. any other public buildings or grounds, including playing fields and parking areas that are not university property, in or on which university-related and sanctioned activities are performed.
4. Whoever commits unlawful carrying of a firearm on university premises is guilty of a petty misdemeanor.

**History:** Laws 2003, ch. 253, 1.

**New Mexico Statutes**

**Chapter 30 - Criminal Offenses**

**Article 3 - Assault and Battery**

**Section 30-3-12 - Assault against a household member.**

**Universal Citation:** [NM Stat § 30-3-12 \(2016\)](#)

**30-3-12.** Assault against a household member.

1. Assault against a household member consists of:
  - a. an attempt to commit a battery against a household member; or
  - b. any unlawful act, threat or menacing conduct that causes a household member to reasonably believe that he is in danger of receiving an immediate battery.
2. Whoever commits assault against a household member is guilty of a petty misdemeanor.

**History:** Laws 1995, ch. 221, 3.

**New Mexico Statutes**

**Chapter 30 - Criminal Offenses**

**Article 3 - Assault and Battery**

**Section 30-3-13 - Aggravated assault against a household member.**

**Universal Citation:** [NM Stat § 30-3-13 \(2016\)](#)

**30-3-13.** Aggravated assault against a household member.

1. Aggravated assault against a household member consists of:
  - a. unlawfully assaulting or striking at a household member with a deadly weapon; or
  - b. willfully and intentionally assaulting a household member with intent to commit any felony.
2. Whoever commits aggravated assault against a household member is guilty of a fourth degree felony.

**History:** Laws 1995, ch. 221, 4.

**New Mexico Statutes**

**Chapter 30 - Criminal Offenses**

**Article 3 - Assault and Battery**

**Section 30-3-14 - Assault against a household member with intent to commit a violent felony.**

**Universal Citation:** [NM Stat § 30-3-14 \(2016\)](#)

**30-3-14.** Assault against a household member with intent to commit a violent felony.

1. Assault against a household member with intent to commit a violent felony consists of any person assaulting a household member with intent to kill or commit any murder, mayhem, criminal sexual penetration in the first, second or third degree, robbery, kidnapping, false imprisonment or burglary.
2. Whoever commits assault against a household member with intent to commit a violent felony is guilty of a third degree felony.

**History:** Laws 1995, ch. 221, 5.

**New Mexico Statutes**

**Chapter 30 - Criminal Offenses**

**Article 3 - Assault and Battery**

**Section 30-3-15 - Battery against a household member.**

**Universal Citation:** [NM Stat § 30-3-15 \(2016\)](#)

**30-3-15.** Battery against a household member.

1. Battery against a household member consists of the unlawful, intentional touching or application of force to the person of a household member, when done in a rude, insolent or angry manner.
2. Whoever commits battery against a household member is guilty of a misdemeanor.
3. Upon conviction pursuant to this section, an offender shall be required to participate in and complete a domestic violence offender treatment or intervention program approved by the children, youth and families department pursuant to rules promulgated by the department that define the criteria for such programs.
4. Notwithstanding any provision of law to the contrary, if a sentence imposed pursuant to this section is suspended or deferred in whole or in part, the period of probation may extend beyond three hundred sixty-four days but may not exceed two years. If an offender violates a condition of probation, the court may impose any sentence that the court could originally have imposed and credit shall not be given for time served by the offender on probation; provided that the total period of incarceration shall not exceed three hundred sixty-four days and the combined period of incarceration and probation shall not exceed two years.

**History:** Laws 1995, ch. 221, 6; 2001, ch. 144, 1; 2007, ch. 221, 1; 2008, ch. 16, 2.

**New Mexico Statutes**

**Chapter 30 - Criminal Offenses**

**Article 3 - Assault and Battery**

**Section 30-3-16 - Aggravated battery against a household member.**

**Universal Citation:** [NM Stat § 30-3-16 \(2016\)](#)

**30-3-16.** Aggravated battery against a household member.

1. Aggravated battery against a household member consists of the unlawful touching or application of force to the person of a household member with intent to injure that person or another.
2. Whoever commits aggravated battery against a household member by inflicting an injury to that person that is not likely to cause death or great bodily harm, but that does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body, is guilty of a misdemeanor.
3. Whoever commits aggravated battery against a household member by inflicting great bodily harm or doing so with a deadly weapon or doing so in any manner whereby great bodily harm or death can be inflicted is guilty of a third degree felony.
4. Upon conviction pursuant to Subsection B of this section, an offender shall be required to participate in and complete a domestic violence offender treatment or intervention program approved by the children, youth and families department pursuant to rules promulgated by the department that define the criteria for such programs.
5. Notwithstanding any provision of law to the contrary, if a sentence imposed pursuant to the provisions of Subsection B of this section is suspended or deferred in whole or in part, the period of probation may extend beyond three hundred sixty-four days but may not exceed two years. If an offender violates a condition of probation, the court may impose any sentence that the court could originally have imposed and credit shall not be given for time served by the offender on probation; provided that the total period of incarceration shall not exceed three hundred sixty-four days and the combined period of incarceration and probation shall not exceed two years.

**History:** Laws 1995, ch. 221, 7; 2007, ch. 221, 2; 2008, ch. 16, 3.

## **New Mexico Statutes**

### **Chapter 30 - Criminal Offenses**

#### **Article 3A - Harassment and Stalking**

##### **Section 30-3A-3 - Stalking; penalties.**

**Universal Citation:** [NM Stat § 30-3A-3 \(2016\)](#)

#### **30-3A-3. Stalking; penalties.**

1. Stalking consists of knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, confinement or restraint of the individual or another individual.
2. As used in this section:
  - a. "lawful authority" means within the scope of lawful employment or constitutionally protected activity; and
  - b. "pattern of conduct" means two or more acts, on more than one occasion, in which the alleged stalker by any action, method, device or means, directly, indirectly or through third parties, follows, monitors, surveils, threatens or communicates to or about a person.

3. Whoever commits stalking is guilty of a misdemeanor. Upon a second or subsequent conviction, the offender is guilty of a fourth degree felony.
4. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted of stalking to participate in and complete a program of professional counseling at the person's own expense or a domestic violence offender treatment or intervention program.

**History:** 1978 Comp., 30-3A-3, enacted by Laws 1997, ch. 10, 3; 2009, ch. 21, 2.

## **New Mexico Statutes**

### **Chapter 30 - Criminal Offenses**

#### **Article 3A - Harassment and Stalking**

##### **Section 30-3A-3.1 - Aggravated stalking; penalties.**

**Universal Citation:** [NM Stat § 30-3A-3.1 \(2016\)](#)

##### **30-3A-3.1. Aggravated stalking; penalties.**

1. Aggravated stalking consists of stalking perpetrated by a person:
  - a. who knowingly violates a permanent or temporary order of protection issued by a court, except that mutual violations of such orders may constitute a defense to aggravated stalking;
  - b. in violation of a court order setting conditions of release and bond;
  - c. when the person is in possession of a deadly weapon; or
  - d. when the victim is less than sixteen years of age.
2. Whoever commits aggravated stalking is guilty of a fourth degree felony. Upon a second or subsequent conviction, the offender is guilty of a third degree felony.
3. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted of aggravated stalking to participate in and complete a program of professional counseling at his own expense.

**History:** Laws 1997, ch. 10, 4.

## WBU Title IX Co-Coordinators:

### **Dr. Andy Pagel**

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Wayland Baptist University is committed to providing a learning, working and living environment that promotes civility and mutual respect. Sexual misconduct is a serious issue that can result in the interference or prevention of victims of such behavior from having an equal opportunity to access education or employment. Sexual misconduct (including domestic violence, dating violence, sexual assault, and stalking) are serious offenses and a Title IX civil rights issue, as well as a potential crime and a violation of Wayland Baptist University policy. You have the right to file a complaint with the university and you have the right to file a separate criminal complaint with the local Police Department. Students and employees who violate Wayland's sexual misconduct, Title IX, and discrimination policies are subject to disciplinary actions up to and including expulsion and/or termination of employment status, and may be subject to criminal charges.

Students and employees are expected to comply with Wayland's policies that prohibit unlawful discrimination, sexual harassment, sexual misconduct, sexual assault, and stalking both on-campus and off-campus. Any student who witnesses or experiences such conduct on-campus or off-campus by someone who is a member of the Wayland Baptist University community is encouraged to report the matter to the Title IX Coordinator or a WBU representative listed below (in case of emergency call 911): Please also see the **WBU Title IX Responsible Employee Listing** for information regarding who you can share the information with and which employees you can speak with confidentially.

**It is important to remember that sexual misconduct is never the fault of the victim.**

# WBU Campus Sexual Misconduct Resources

## Clovis

Local Police Department 575-769-1921

Campus Executive Director/Dean, Dr. Gary Mitchell 575-763-0535

## Additional Local Resources

### Clovis

Patti Johnson, Victim Advocate Administrator 575-769-2246

Plains Regional Medical Center 575-769-2141

Clovis Counseling Center 575-762-0212

## How to be an Active Bystander

Bystanders play a critical role in the prevention of sexual and relationship violence. They are “individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it.”<sup>4</sup> We want to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help. Below is a list<sup>5</sup> of 5 some ways to be an active bystander. Further information regarding bystander intervention may be found. If you or someone else is in immediate danger, dial 911. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
2. Confront people who seclude, hit on, and try to make out with, or have sex with people who are incapacitated.
3. Speak up when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on or off campus resources listed in this document for support in health, counseling, or with legal assistance.

## Steps you can take to prevent sexual assault

Everyone has a role to play in preventing sexual assault. There are many different ways that you can step in or make a difference if you see someone at risk. This approach to preventing sexual assault is referred to as “bystander intervention.”

## How can I play a role in preventing sexual assault?

The key to keeping your friends safe is learning how to intervene in a way that fits the situation and your comfort level. Having this knowledge on hand can give you the confidence to step in when something isn't right. Stepping in can make all the difference, but it should never put your own safety at risk.

## Create a distraction

Do what you can to interrupt the situation. A distraction can give the person at risk a chance to get to a safe place.

1. Cut off the conversation with a diversion like, "Let's get pizza, I'm starving," or "This party is lame. Let's try somewhere else."
2. Bring out fresh food or drinks and offer them to everyone at the party, including the people you are concerned about.
3. Start an activity that draws other people in, like a game, a debate, or a dance party.

## Ask directly

Talk directly to the person who might be in trouble.

1. Ask questions like "Who did you come here with?" or "Would you like me to stay with you?"

## Refer to an authority

Sometimes the safest way to intervene is to refer to a neutral party with the authority to change the situation, like an RA or security guard.

2. Talk to a security guard, bartender, or another employee about your concerns. It's in their best interest to ensure that their patrons are safe, and they will usually be willing to step in.
3. Don't hesitate to call 911 if you are concerned for someone else's safety.

## Enlist others

It can be intimidating to approach a situation alone. Enlist another person to support you.

1. Ask someone to come with you to approach the person at risk. When it comes to expressing concern, sometimes there is power in numbers.
2. Ask someone to intervene in your place. For example, you could ask someone who knows the person at risk to escort them to the bathroom.
3. Enlist the friend of the person you're concerned about. "Your friend looks like they've had a lot to drink. Can you check on them?"
4. Burn, S.M. (2009). A situational model of sexual assault prevention through bystander intervention. *Sex Roles*, 60, 779-792.
5. Bystander intervention strategies adapted from Stanford University's Office of Sexual Assault & Relationship Abuse

## Your actions matter

Whether or not you were able to change the outcome, by stepping in you are helping to change the way people think about their role in preventing sexual assault. If you suspect that someone you know has been sexually assaulted, there are steps you can take to support that person and show you care.

## Risk Reduction, Warning Signs of Abusive Behavior and Future Attacks

No victim is ever to blame for being assaulted or abused. Unfortunately, a person who is the victim of sexual or dating violence is more likely to be re-victimized. Below are some tips to help reduce your risk, to recognize warning signs of abusive behavior and how to avoid potential attacks.

### Warning Signs of Abusive Behavior

Domestic and dating abuse often escalates from threats and verbal abuse of violence. And, while physical injury may be the most obvious danger, the emotional and psychological consequences of domestic and dating violence are also severe. Warning signs of dating and domestic violence include:

1. Being afraid of your partner.
2. Constantly watching what you say to avoid a “blow up.”
3. Feelings of low self-worth and helplessness about your relationship.
4. Feeling isolated from family or friends because of your relationship.
5. Hiding bruises or other injuries from family or friends.
6. Being prevented from working, studying, going home, and/or using technology (including your cell phone.)
7. Being monitored by your partner at home, work or school.
8. Being forced to do things you don’t want to do.

### What Consent Looks Like

The laws about consent vary by state and situation. It can make the topic confusing, but you don’t have to be a legal expert to understand how consent plays out in real life.

### What is consent?

Consent is an agreement between participants to engage in sexual activity. There are many ways to give consent, and some of those are discussed below. Consent doesn’t have to be verbal, but verbally agreeing to different sexual activities can help both you and your partner respect each other’s boundaries.

## How does consent work in real life?

When you're engaging in sexual activity, consent is about communication. And it should happen every time. Giving consent for one activity, one time, does not mean giving consent for increased or recurring sexual contact. For example, agreeing to kiss someone doesn't give that person permission to remove your clothes. Having sex with someone in the past doesn't give that person permission to have sex with you again in the future.

## You can change your mind at any time.

You can withdraw consent at any point if you feel uncomfortable. It's important to clearly communicate to your partner that you are no longer comfortable with this activity and wish to stop. The best way to ensure both parties are comfortable with any sexual activity is to talk about it.

## Positive consent can look like this:

1. Communicating when you change the type or degree of sexual activity with phrases like "Is this OK?"
2. Explicitly agreeing to certain activities, either by saying "yes" or another affirmative statement, like "I'm open to trying."
3. Using physical cues to let the other person know you're comfortable taking things to the next level

## It does NOT look like this:

1. Refusing to acknowledge "no"
2. Assuming that wearing certain clothes, flirting, or kissing is an invitation for anything more
3. Someone being under the legal age of consent, as defined by the state
4. Someone being incapacitated because of drugs or alcohol
5. Pressuring someone into sexual activity by using fear or intimidation
6. Assuming you have permission to engage in a sexual act because you've done it in the past

## Help Reduce Your Risk and Avoid Potential Attacks

If you are being abused or suspect that someone you know is being abused, speak up or intervene.

4. Get help by contacting the Counseling Center or Medical Services for support services.
5. Learn how to look for "red flags" in relationships so you can learn to avoid some of those characteristics in future partners.
6. Consider making a report with the University Police and/or the Title IX Coordinator and ask for a "no contact" directive from the University to prevent future contact.
7. Consider getting a protective order – talk to UPD or the Victim Assistance Coordinator
8. Learn more about what behaviors constitute dating and domestic violence, understand it is not your fault, and talk with friends and family members about ways you can be supported.

9. Trust your instincts – if something doesn't feel right in a relationship, speak up or end it.

## Sexual Assault Prevention (from Rainn.org)

Be aware of rape drugs

Try not to leave your drink unattended

Only drink from unopened containers or from drinks you have watched being made and poured

Avoid group drinks like punch bowls

Cover your drink. It is easy to slip in a small pill even while you are holding your drink. Hold a cup with your hand over the top, or choose drinks that are contained in a bottle and keep your thumb over the nozzle

If you feel extremely tired or drunk for no apparent reason, you may have been drugged. Find your friends and ask them to leave with you as soon as possible

If you suspect you have been drugged, go to a hospital and ask to be tested

Keep track of how many drinks you have had

Try to come and leave with a group of people you trust

Avoid giving out your personal information (phone number, where you live, etc.) If someone asks for your number, take his/her number instead of giving out yours

## Alcohol Safety

Like many other substances, alcohol can inhibit a person's physical and mental abilities. In the context of sexual assault, this means that alcohol may make it easier for a perpetrator to commit a crime and can even prevent someone from remembering that the assault occurred.

## What can I do to stay safe?

You can take steps to increase your safety in situations where drinking may be involved. These tips can help you feel safer and may reduce the risk of something happening, but, like any safety tips, they are not foolproof. It's important to remember that sexual assault is never the victim's fault, regardless of whether they were sober or under the influence of drugs or alcohol when it occurred.

- **Keep an eye on your friends.** If you are going out in a group, plan to arrive together and leave together. If you decide to leave early, let your friends know. If you're at a party, check in with them during the night to see how they're doing. If something doesn't look right, step in. Don't be afraid to let a friend know if something is making you uncomfortable or if you are worried about their safety.
- **Have a backup plan.** Sometimes plans change quickly. You might realize it's not safe for you to drive home, or the group you arrived with might decide to go somewhere you don't feel comfortable.

Download a rideshare app, like Uber, or keep the number for a reliable cab company saved in your phone and cash on hand in case you decide to leave.

- **Know what you're drinking.** Don't recognize an ingredient? Use your phone to look it up. Consider avoiding large-batch drinks like punches or "jungle juice" that may have a deceptively high alcohol content. There is no way to know exactly what was used to create these drinks.
- **Trust your instincts.** If you feel unsafe, uncomfortable, or worried for any reason, don't ignore these feelings. Go with your gut. Get somewhere safe and find someone you trust or call law enforcement.
- **Don't leave a drink unattended.** That includes when you use the bathroom, go dancing, or leave to make a phone call. Either take the drink with you or throw it out. Avoid using the same cup to refill your drink.
- **Don't accept drinks from people you don't know or trust.** This can be challenging in some settings, like a party or a date. If you choose to accept a drink from someone you've just met, try to go with the person to the bar to order it, watch it being poured, and carry it yourself.
- **Check in with yourself.** You might have heard the expression "know your limits." Whether you drink regularly or not, check in with yourself periodically to register how you feel.
- **Be aware of sudden changes in the way your body feels.** Do you feel more intoxicated than you should? Some drugs are odorless, colorless and/or tasteless, and can be added to your drink without you noticing. If you feel uncomfortable, tell a friend and have them take you to a safe place. If you suspect you or a friend has been drugged, call 911, and be upfront with healthcare professionals so they can administer the right tests.
- **Ask yourself, "Would I do this if I was sober?"** Alcohol can have an effect on your overall judgment. You wouldn't drive, make medical decisions, or ride a bike while intoxicated. Many professionals, such as doctors, teachers, and pilots, cannot be drunk while doing their jobs. Given this context, is what you're about to do a good idea? Will you be comfortable with your decision the next day?

## Traveling around campus (walking)

1. Make sure your cell phone is easily accessible and fully charged
2. Be familiar with where emergency phones are installed on the campus
3. Be aware of open buildings where you can use a phone

4. Keep some change accessible just in case you need to use a pay phone
5. Take major, public paths rather than less populated shortcuts
6. Avoid dimly lit places and talk to UPD or the Physical Plant if lights need to be installed in an area
7. Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone
8. Walking back from the library very late at night is sometimes unavoidable, try to walk with a friend or call UPD for an escort
9. Carry a noisemaker (like a whistle) on your keychain
10. Carry a small flashlight on your keychain
11. If walking feels unsafe, call UPD at

## Staying safe on Campus (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.

## Increasing on-campus safety

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 publicly share your location. 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

It's possible to relax and have a good time while still making safety a priority. Consider these tips for staying safe and looking out for your friends in social settings.

- **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 drunker 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 "needing 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.

## Meeting Offline

More and more people are seeking online connections that turn into offline encounters. According to a report from the Pew Research Center, 38% of single American adults have used online dating sites or mobile dating apps. There are also many ways to meet people online beyond dating sites, such as networking platforms, social media, gaming sites, and activity forums.

Talking to someone online can build a strong connection with someone you've never met in person, but that connection shouldn't overshadow your commitment to safety. Consider these tips to enhance your safety when you plan to meet someone offline.

- **Pick a public place.** The first time you meet someone in person, choose a public setting that is easy to find. Give the person time to earn your trust before you meet in a private location, like their home.
- **Do some research.** A quick online search can help you confirm details this person has shared in previous exchanges and may give you a better visual to help you recognize them in person. You can also run a search on the National Sex Offender Public Website (NSOPW) <https://www.nsopw.gov>, a national resource that pulls data from state, territory, and tribal sex offender registries.
- **Go in with an exit strategy.** Be prepared to return home safely. Meet the person at the destination instead of accepting a ride. Have cash on hand and a number for a taxi company or ride sharing app. This way, if something goes wrong or doesn't feel right during the meeting, you can be responsible for your own ride home. If you start to feel uncomfortable, you can leave at any time. You may find it helpful to tell the person you are meeting that you have plans directly following your date.
- **Tell someone about your plans.** Let a friend know where you're going, when you're going, and how long you plan to be there. You can arrange for them to check in with you via text at a certain point, giving you the opportunity to leave the meeting if needed.
- **Hold off on revealing personal information.** Don't offer up too much personal information or history on the first encounter. Be wary of someone who asks for details that seem too personal, such as questions about your finances or your home address.
- **You're allowed to be skeptical.** If you start to feel uncomfortable or uneasy, acknowledge these feelings. Don't feel pressured to push aside your concerns for the sake of giving someone a chance. Trust your gut.

- **It's OK to lie.** If you want to exit the situation immediately and are concerned about raising flags or upsetting the other person, it's okay to lie. Tell them you have an appointment to make, you're not feeling well, or that you have a family member to tend to. You are never obligated to remain in a situation that makes you feel uncomfortable, scared, or threatened.

- **Take extra steps when traveling a long distance.** Traveling safely is always a priority, but there are a few additional safety aspects to consider when you're traveling to meet someone in person for the first time. Before you book travel, you can ask the person to video chat to get a better sense of how they communicate in a face-to-face situation. If you don't know someone in the area you're visiting, consider bringing a friend along. Plan to stay in your own lodging, like a hotel or a friend's house, and keep this address to yourself. Be responsible for your own transportation throughout the trip. Let someone from home know where you're going and when they should expect you back.

## Discipline Policy

### Introduction

The purpose of the university discipline policy and system is to encourage appropriate behavior, discourage inappropriate behavior and ensure a safe, comfortable and educationally sound campus environment. The system is not primarily punitive, but rather educational in intent, although sanctions on certain behaviors will be imposed if these behaviors violate university standards of conduct.

### JUDICIAL COUNCIL

1. The Judicial Council shall be made up of a student to be appointed by the Dean, five faculty members to be chosen by the faculty assembly and two staff members to be appointed by the Vice President of Enrollment Management. The Dean will be an ex-officio member of the council and will not have a vote in disciplinary decisions but will be available to the council for reference. Alternates for each position will be selected at the same time and in the same fashion as the members.
2. Hearing times will be scheduled by the Dean.
3. The council shall rule on all matters referred by the Dean. It is the intent of this policy that disciplinary matters be resolved at the lowest appropriate administrative level possible. Referral to the next higher level for ruling will be at the discretion of university officials. Students may request that rulings and sanctions be appealed through the administration as stated in the section of this document entitled "Appeals."
4. Votes will be taken by secret ballot of "guilty" or "not guilty." A guilty verdict will require a 75% vote of members present. Decision will be made based on the greater weight of credible evidence. E. The council will render a verdict and recommend appropriate sanctions to the Dean of Students. The Dean will notify the student of the council's decision and enforce the sanction(s) with or without modification.

### JURISDICTION

1. Any student enrolled at Wayland Baptist University for any number of hours, face-to-face or online, is subject to this policy, and by enrolling is agreeing to abide by the standards set forth in this document. B. In the case of a student charged with a violation of the city, county, state or federal criminal or civil code, disciplinary actions by the university need not be delayed until such charges are resolved. The university may sanction a student although charges have been dropped or the student has been acquitted through the legal system.
2. Students who are registered or pre-registered for attendance at Wayland are subject to possible disciplinary actions by the university although they may not be in actual attendance at the time of the violation. Prospective students may have enrollment blocked for serious violations prior to actual enrollment or attendance.
3. Students in violation of the university's standards of conduct while off campus may be subject to disciplinary action by the university if deemed appropriate by university officials. Violations related to or in conjunction with university activities or functions will be considered on-campus violations.
4. All cases of academic dishonesty, cheating or plagiarism will be handled by the academic division and the Executive Vice President. Cases may be referred to the Dean of Students if deemed necessary by the Executive Vice President.

### **CONDUCT STANDARDS**

The following behaviors may be grounds for probation, suspension or expulsion from the university:

1. Alcohol or illegal drug use, possession or distribution as outlined in the Student Substance Abuse Policy
2. Premarital, extra-marital or homosexual relations or activities or cohabitation on university property or in conjunction with university activities or functions
3. Theft, destruction or vandalism of property
4. Unauthorized use of university property
5. Unauthorized visitation in residence halls
6. Unauthorized possession of university keys, or other security breach
7. Physical threat or assault, verbal threat or assault, bullying
8. Gambling
9. Possession of firearms on campus. Prohibited items include, but are not limited to: air guns, blow guns, paint guns and other devices which deliver dangerous projectiles. This provision also includes hunting knives and other such instruments.
10. Possession of drug paraphernalia
11. Cheating, plagiarism or academic dishonesty
12. Failure to comply with other conduct standards as set forth in university publications or by university officials. Examples include the university catalog, class syllabus, dorm rules, etc.
13. Recurrence of lesser offenses
14. Other behaviors which may be deemed as harmful or disruptive to the university community or the educational process

### **SANCTIONS**

1. The University allows for a wide range of possible disciplinary sanctions including, but not limited to reprimand, fines, loss of privileges, restitution, informal probation, formal probation, loss of scholarship, suspension and expulsion. Sanctions for alcohol, illegal drug or inhalant use will be imposed in accordance with the Student Substance Abuse Policy.
2. Students have the right to plead innocence, and this will not be held against the student in the case of a guilty verdict. Students will, however, be expected to cooperate fully with university officials and the Judicial Council and comply with their requests. Lack of cooperation and compliance may have bearing on sanctions imposed.
3. Each disciplinary issue will differ in circumstance, severity and situation. Accordingly, differing sanctions may be imposed in similar cases at the discretion of university officials if such sanctions are considered by university officials to be appropriate and without arbitrary discrimination.
4. Sanctions may be appealed through the appeals process as outlined in the section of this document entitled "Appeals."
5. The Dean has authority to temporarily sanction a student, if deemed necessary for the well-being of the university community and the educational process, pending the outcome of a judicial council hearing or a criminal or civil prosecution. Sanctions under appeal will be considered "in effect" until appeal is upheld and sanctions are over-ruled.
6. Fines may be levied by the Dean, or judicial council. Fines are a reminder that further violation of university rules and regulations may result in more stringent disciplinary action. A list of fines is available in the Deans' Office.
7. Informal Disciplinary Probation entails the following sanctions: Informal probation is a stern warning that any further violation of university rules and regulations during the probationary period could result in disciplinary probation, suspension or expulsion.
8. Disciplinary Probation entails the following sanctions:
  - a. Restriction from representing the university in any fashion. This sanction includes all public performances or appearances under the auspices of the University.
  - b. Restriction from any university-sponsored travel.
  - c. Restriction from holding offices in any university organizations.
  - d. Restriction from receipt of any university scholarship assistance (federal financial aid, state aid, or gifts directly to students from outside entities are not affected by this sanction).
9. Disciplinary Suspension entails the following sanctions:
  - a. The student will be restricted from enrollment during the period of suspension.
  - b. Re-enrollment after disciplinary suspension will be contingent upon the approval of the Dean of Students or the Vice President for of Enrollment Management and acceptance through the Admissions Committee process.
10. Disciplinary Expulsion permanently restricts the student from enrollment in the University.
11. Students who are suspended or expelled from the university are expected to leave immediately.

## **PROCESS**

1. Administrative Summons

2. A student accused of a violation will be issued an administrative summons from the Dean within seven working days of report of the incident to the Dean. The student will be directed to appear before the Dean for a preliminary hearing. Response to an administrative summons takes precedence over all other commitments or activities. Failure to respond will render the student liable, resulting in disciplinary action.
3. Preliminary Hearing
  - a. The preliminary hearing will be an informative meeting between the Dean and the accused student. The Dean will present possible charges and consequences and the student will be allowed to respond. After this hearing the Dean may: - dismiss the case - postpone charges pending acquisition of evidence - rule on the case - refer the case to the Judicial Council
  - b. If the case is dismissed, no further action will be taken.
  - c. If the Dean chooses to rule on the case, a written account of charges, rationale and sanctions will be given to the student within five working days of the preliminary hearing. The student will then submit a written response of acceptance or request for appeal (see section titled "Appeals.")
  - d. If a decision is postponed the student will receive notification within 10 working days to re-appear for continuation of the preliminary hearing.
  - e. If the case is referred to the Judicial Council the student will be sent notification within 5 working days of the preliminary hearing. This notification will be sent to the student at least 10 days prior to the date of the Judicial Council hearing. Notification will contain a brief description of the matter to be considered, a list of council members, and a date, time and place of hearing. Challenges to council members must be made to the Dean within 2 days of receipt of such notification. Copies of complaints or disciplinary reports will be made available to the accused student at time of notification.
  - f. The time requirements outlined above are considered ideal and may be modified in situations as deemed necessary by university officials.
  - g. The preliminary hearing will be taped for the record.
4. Judicial Council Hearing
  - a. This hearing is to elicit relevant facts, determine verdict and recommend appropriate sanctions. Students may have legal counsel present for advice only and should keep in mind that the council does not function as a court of law. Rules of evidence that apply in a criminal proceeding do not necessarily apply in a college disciplinary proceeding.
  - b. Students will have the following rights:
    - a. An opportunity to make oral presentation to the council
    - b. An opportunity to present evidences and/or witnesses
    - c. An opportunity to question witnesses
  - c. If a student does not appear for the hearing, the council may proceed without the student if reasonable attempts have been made to notify and contact the student. The council may recommend that a case be immediately referred to the appropriate law enforcement authorities if deemed necessary. The council may recommend that appropriate law enforcement authorities be brought in to help with the investigation.

- d. The council will meet as long as necessary to reach a decision. The council may postpone the decision if there is reason to believe pertinent evidence is forthcoming. The Dean or the accused student may request a re-hearing if pertinent evidence is disclosed after the council's decision has been made. Such a request must be approved by the Judicial Council. VI.

#### **APPEALS**

1. Students found guilty of a violation by the Judicial Council may appeal the decision in writing to the President (or a designee appointed by the president). Appeals must be filed in the Dean of Students' office within three days of receipt of the council's decision. The Dean will present the appeal to the President (or designee) who will make a ruling on the basis of the record. The President (or designee) will notify the Dean, who will notify the student of the decision. The student will be notified of the decision within a reasonable time, not to exceed 30 days from receipt of the appeal. The decision of the President or his designee is final and no further appeal may be made.
2. Sanctions may be appealed by the same process as detailed above. Rulings, which are made by the Dean without referral to the Judicial Council, may be appealed by the same process.

## **Sexual Misconduct**

In all disciplinary procedures, Wayland Baptist University will seek to be redemptive in the lives of the individuals involved and to witness to the high moral standards of the Christian faith. Wayland will be guided by the understanding that human sexuality is a gift from the creator God and that the purpose of this gift includes (1) the procreation of human life and (2) the uniting and strengthening of the marital bond in self-giving love.

These purposes are to be achieved through heterosexual relationships within marriage. Misuses of God's gift will be understood to include, but not be limited to, sexual abuse, sexual harassment, sexual assault, incest, adultery, pre-marital sex, and homosexuality. (Sexual harassment is discussed in more detail elsewhere in this manual).

Wayland will strive to deal in a constructive and redemptive manner with all who fail to live up to this high standard. Nothing will be done to encourage abortions or other drastic actions that might bring great harm to those involved. Dealing individually with each case, efforts will be made to counsel and assist those involved. The sanctions the university may impose against a student for an act of sexual misconduct range from reprimand to expulsion.

## **Sexual Misconduct, Title IX and Discrimination Notification of Rights**

Wayland Baptist University is committed to providing a learning, working and living environment that promotes civility and mutual respect. Sexual misconduct is a serious issue that can result in the interference or prevention of victims of such behavior from having an equal opportunity to access education or employment. Sexual misconduct (including domestic violence, dating violence, sexual assault, and stalking) are serious offenses and a Title IX civil rights issue, as well as a potential crime and a violation of Wayland Baptist University policy. Employees and students of Wayland Baptist University have the right to file a complaint with the university and have the right to file a separate criminal complaint with the local Police Department. Students and employees who violate Wayland's sexual misconduct, Title IX, and discrimination policies are subject to disciplinary actions up to and including expulsion and/or termination of employment status, and may be subject to criminal charges.

Filing a report will not obligate prosecution, but it will help the university take steps to provide a safer campus for everyone. With a filed report, the university can keep a more accurate record of the number of incidents; determine whether there is a pattern of crime with regard to a particular location, method, or assailant; alert the campus community to potential danger; and better provide training and preventive education programs.

Students and employees are expected to comply with Wayland's policies that prohibit unlawful discrimination, sexual harassment, sexual misconduct, sexual assault, domestic/dating violence and stalking both on-campus and off-campus. Any student who witnesses or experiences such conduct on-campus or off-campus by someone who is a member of the Wayland Baptist University community is encouraged to report the matter to the Title IX Coordinator or a WBU representative listed on the University website at <https://www.wbu.edu/about/university-police/title-ix/confidentiality.htm> .

Students reporting potential violations have the option of remaining anonymous.

Please also see the WBU Title IX Responsible Employee Listing (<https://www.wbu.edu/about/university-police/titleix/responsible-employees.htm> ) for information regarding who information can be shared with and which employees retain confidentiality.

All individuals participating in the university investigation, including but not limited to making an initial report, are expected to tell the truth. Federal and state laws prohibit the taking of retaliatory measures against any individual who files a complaint in good faith.

The following attachments from University Policy 1.5.5 (<http://www.wbu.edu/policy>) are supplied as resources related to complaints and rights under US federal law:

Attachment A – Definitions of Sexual Misconduct

Attachment B – WBU Sexual Misconduct Complaint Form

Attachment C – Acquaintance Rape

Attachment D – US Office of Civil Rights Questions and Answers on Title IX and Sexual Violence

## **CONFIDENTIALITY STATEMENT**

Wayland Baptist University understands that many victims have a strong desire for their report of sexual misconduct to be treated confidentially. If a person requests that his/her name not be disclosed to the accused person or that the university not investigate or take disciplinary action against the accused person, university officials will carefully consider the request and honor it if possible.

If the university determines that it can keep the report confidential, all reasonable steps will still be taken to respond to the complaint consistent with the request. For example, it may be helpful to make changes to housing situation, class schedule, etc. Any request for confidentiality can be withdrawn at any time, and the university will proceed to investigate the report fully and take appropriate action.

However, honoring a request not to reveal a victim's name to the accused person, not to conduct an investigation, or not to punish the accused person will limit the university's ability to respond fully to the assault and take any appropriate disciplinary action. There are situations in which the university must override a request for confidentiality in order to meet its obligations under federal law to provide an educational environment which is safe and free from sexual violence. If the person accused has been accused before of committing similar acts or if the circumstances indicate that the accused person is likely to harm others, the university may have to investigate the report and take appropriate action to make the campus safe. If an investigation must take place, the information reported will be shared only on a need-to-know basis.

If the complainant wants to be assured that the report will be kept confidential, he/she can report the assault to a therapist, doctor, or attorney who is legally obligated to maintain patient or client confidentiality. If this option is chosen, the complainant should consider asking a doctor, therapist, or attorney to make a confidential report of the assault without including facts that would reveal the person's identity. While the university will probably not be able to take any disciplinary action against the person who assaulted the complainant, university officials will have a better picture of crime on the campus and may be able to warn the campus community about methods or patterns of attacks.

### **Appeal Process**

Sanctions imposed by the Title IX Office or the Office of the President can be appealed by any party according to the grounds below. Post-hearing, any party may appeal the findings and/or sanctions only under the grounds described below.

All sanctions imposed by the original hearing body will be in effect during the appeal. A request may be made to the University President for special consideration in exigent circumstances, but the presumptive stance of the institution is that the sanctions will stand. Graduation, study abroad, internships/externships, etc. do NOT in and of themselves constitute exigent circumstances, and students or employees may not be able to participate in those activities during their appeal. In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the student or employee to their prior status, recognizing that some opportunities lost may be irretrievable in the short term. The decision of the Title IX Office may be appealed by petitioning a Title IX Coordinator. Accused students or complainants must petition within 5 business days of receiving the written decision for a review of the decision or the sanctions imposed. Any party who files an appeal must do so in writing to the Title IX Office. The Title IX Office will share the appeal with the other party (e.g., if the accused appeals, the appeal is shared with the complainant, who may also wish to file a response), and then the Title IX Office will draft a response memorandum (also shared with all parties). All appeals and responses are then forwarded to the appeals officer/committee for

initial review to determine if the appeal meets the limited grounds and is timely. The original finding and sanction will stand if the appeal is not timely or substantively eligible, and the decision is final. If the appeal has standing, the documentation is forwarded for consideration. The party requesting appeal must show error as the original finding and sanction are presumed to have been decided reasonably and appropriately. The ONLY grounds for appeal are as follows:

1. A procedural or substantive error occurred that significantly impacted the outcome of the investigation (e.g. substantiated bias, material deviation from established procedures, etc.);
2. To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
3. The sanctions imposed are substantially disproportionate to the severity of the violation.

If the appeals officer or committee determines that new evidence should be considered, it will return the complaint to the original investigative body to reconsider in light of the new evidence, only. The reconsideration of the investigative body is not appealable. If the appeals officer or committee determines that a material procedural [or substantive] error occurred, it may return the complaint to the original investigative body with instructions to reconvene to cure the error. In rare cases, where the procedural [or substantive] error cannot be cured by the original investigative officers (as in cases of bias), the appeals officers or committee may order a new investigation on the complaint with a new body of investigative officers. The results of a reopened investigation cannot be appealed. The results of a new investigation can be appealed, once, on the three applicable grounds for appeals.

If the appeals officer or committee determines that the sanctions imposed are disproportionate to the severity of the violation, the appeals officer or committee will return the complaint to the Title IX Office, which may then increase, decrease or otherwise modify the sanctions. This decision is final.

**The procedures governing the hearing of appeals include the following:**

1. All parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
2. Every opportunity to return the appeal to the original hearing body for reconsideration (remand) should be pursued;
3. Appeals are not intended to be full re-hearings of the complaint (de novo). In most cases, appeals are confined to a review of the written documentation or record of the original investigation, and pertinent documentation regarding the grounds for appeal;
4. This is not an opportunity for appeals officers to substitute their judgment for that of the original hearing body merely because they disagree with its finding and/or sanctions. Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so;
5. Sanctions imposed are implemented immediately unless the University President stays their implementation in extraordinary circumstances, pending the outcome of the appeal;

6. The appeals committee or officer will render a written decision on the appeal to all parties within seven (7) business days from hearing of the appeal. The committee's decision to deny appeal requests is final.

## Substance Abuse Policy

Wayland Baptist University adheres to a high standard of moral conduct which includes prohibition of the use, possession, or distribution of alcohol or illegal drugs by students on university owned or controlled property or in conjunction with any university activity. The university may take action against students for off-campus use, possession or distribution of alcohol or controlled substances if deemed appropriate by university officials.

## University Sanctions Involving Substance Abuse

Any cases involving alcohol, drugs or substances may be referred to the Judicial Council, which will enforce the standard stated above by implementation of sanctions as outlined below:

1. Students found to possess alcohol on university owned or controlled property or in conjunction with any university activity will be (at minimum) placed on disciplinary probation for a period of two long semesters. The university reserves the right to use discretion in determining duration of sanction.
2. Students found to distribute alcohol on university owned or controlled property or in conjunction with any university activity will be (at minimum) suspended for a period of one long semester. The university reserves the right to use discretion in determining duration of sanction.
3. Students found to possess controlled substances, other than alcohol, on university owned or controlled property or in conjunction with any university activity will be (at minimum) suspended from the university for a period of two long semesters.
4. Students found to manufacture or distribute controlled substances, other than alcohol, on university owned or controlled property or in conjunction with any university activity will be expelled from the university.
5. Students found to use any type of inhalant as an intoxicant will be (at minimum) placed on disciplinary probation for a period of two long semesters.
6. Students found to be intoxicated by alcohol or controlled substances are considered to be in possession of that substance for disciplinary purposes.

These sanctions and their duration are to be imposed at the discretion of university officials upon recommendation of the Judicial Council. Recurrence of offenses will incur more stringent sanctions. Completion of a rehabilitation program may be required as a part of a sanction at any level. University officials in the context of the university's disciplinary system will make imposition of sanctions. The university may report any violations as outlined above to the proper law enforcement authorities for prosecution.

# Criminal Sanctions

## **State of New Mexico Legal Sanctions – Controlled Substances**

A person who possesses marijuana is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars or more than one thousand dollars or by imprisonment for a definite term less than one year or both. The seriousness increases with marijuana when distribution is involved.

Distribution is defined as transfer to another or possession with the intent to transfer to another.

Possession of cocaine and heroin are fourth degree felonies. Trafficking of either of them is a second degree felony, punishable by up to nine years in the State Penitentiary and/or a \$10,000 fine. Second offenses are first degree felonies punishable by up to 18 years and/or a \$15,000 fine.

## **State of New Mexico Legal Sanctions - Alcohol It is unlawful for any person who:**

a. Is under the influence of liquor to drive any vehicle within the State of New Mexico. Is under the influence of any drug to a degree, which renders him incapable of safely driving a vehicle to drive any vehicle within this state.

b. Has one-tenth of one percent or more by weight of alcohol in his blood to drive any vehicle within this state.

## **18 Federal Penalties and Sanctions for Possession of a Controlled Substance 21 U.S.C. 844(a)**

1st conviction: Up to one year imprisonment and fined at least \$1,000 but not more than \$100,000 or both. After one prior conviction: At least 15 days in prison, not to exceed two years and fined at least \$2,500 but not more than \$250,000 or both. After two or more prior drug convictions: At least 90 days in prison, not to exceed three years and fined at least \$5000 but not more than \$250,000 or both.

Special sentencing provisions for possession of crack cocaine: mandatory at least five years in prison, not to exceed 20 years and fined up to \$250,000 or both if:

- a) First conviction and the amount of crack exceeds 5 grams
- b) Second crack conviction and the amount of crack possessed exceeds 3 grams
- c) Third or subsequent crack conviction and the amount possessed exceeds 1 gram

## **21 U.S.C. 853 (a) (2) and 881 (a) (7)**

Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than 1-year imprisonment. (See special sentencing provisions re: crack)

## **881(a)(4)**

Forfeiture of vehicles, boats, aircraft or any other conveyance used to transport or conceal controlled substances.

## **21 U.S.C. 844a**

Civil fine of up to \$10,000 (pending final regulations).

**21 U.S.C. 853a**

Denial of Federal benefits, such as student loans, grants, contracts and professional and commercial licenses, up to 1 year for the first offense, up to five years for second and subsequent offenses.

**18 U.S.C. 922(g)**

Ineligible to receive or purchase a firearm.

**Miscellaneous**

Revocation of certain federal licenses and benefits, e.g., pilot licenses, public housing tenancy, etc., are vested within the authorities of individual Federal agencies.

## (FERPA) Family Educational Rights & Privacy Act

### ANNUAL NOTIFICATION OF RIGHTS

The Family Educational Rights and Privacy Act (FERPA) affords students certain rights with respect to their education records. They are:

1. The right to inspect and review the student's education records within 45 days of the day the University receives a request for access.
  - a. Students should submit to the University Registrar, Campus Executive Director/Dean, Dean of the Academic School, or other appropriate official, written requests that identify the record(s) they wish to inspect. The University official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the University official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.
2. The right to request the amendment of the student's education records that the student believes is inaccurate or misleading.
  - a. Students may ask the University to amend a record that they believe is inaccurate or misleading. They should write the University official responsible for the record, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading
  - b. If the University decides not to amend the record as requested by the student, the University will notify the student of the decision and advise the student of his or her right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student.
3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.
  - a. One exception which permits disclosure without consent is disclosure to school officials with legitimate educational interest. A school official is a person employed by the University in an administrative, supervisory, academic or research, or support staff

position (including law enforcement unit personnel and health staff); a person or company with whom the University has contracted (such as an attorney, auditor, or collection agent); or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

- b. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.
  - c. Upon request, the University discloses education records without consent to officials of another school in which a student seeks or intends to enroll.
4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the University to comply with the requirements of FERPA. The name and address of the office that administers FERPA is: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Ave., SW, Washington, DC 20202-4605.