

West Virginia University

2019-2021

Annual Campus Security & Fire Safety Report



Potomac State College

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## Annual Campus Security and Fire Safety Report

The University Police have the same law enforcement authority as deputy sheriffs on University property. WVU-PSC police officers have the authority to make arrests on West Virginia University owned, leased, or controlled property and on the property immediately adjacent to the WVU-PSC facilities. Our department is well-respected by all local, state, and federal law enforcement agencies and has developed very effective and cooperative working relations with these agencies. The department has entered written Memoranda of Understanding with agencies in the county to provide mutual aid when requested. WVU-PSC has established a Memorandum of Understanding with the Keyser Police Department, Mineral CO. Sheriff's Dept., and The West Virginia State Police to provide specialized investigative assistance upon request and other services when required. The University Police are charged with the responsibility for the investigation, follow-up, apprehension, and resolution of any incident reported to us. For the department to achieve its mission, it is critical that all members of the community report crimes promptly and accurately. In an emergency police can be contacted 24 hours a day, seven days a week by dialing 911. The Mineral County 911 Center will dispatch an officer. If a WVU-PSC Police Officer is not available an Officer from the Keyser Police Department, Mineral County Sheriff's Department or the State Police will be dispatched.

The University Police, through news releases, brochures and publications, presentations, and one-on-one encounters encourage the accurate and prompt reporting of not only crimes on campus, but any suspicious activity or security breach that may be witnessed by the public.

The University Police have adopted a philosophy of and practice Community-Based Policing. We believe that community involvement and support are critical to our success. We provide information concerning security to new employees during their orientation, to new students through Orientation Presentations.

### Crime Prevention Programs

We have a wide variety of Crime Prevention Programs from orientation training for new employees and students, Operation ID., Operation Lock-Out In-Residence Halls to "You Could Have Been Ripped Off" programs. We supply daily releases of all reported activities to the University's student newspaper and the local newspaper, and we supply a variety of Crime Prevention materials to many facilities, with emphasis on the Library systems, the Visitor Center, the Student Union, and the Residence Halls. All programs are ongoing and are incorporated into our patrol activities with insecure Premises Reporting, Crime Prevention briefings with incident reporting, and individual instruction by patrol officers to members of the public.

For additional information about crime prevention and education programming, contact the University Police Department at 304-788-6931 or stop by the police office located behind Davis Hall at 171 Fort Avenue, Keyser, West Virginia, 26726.

## Security Awareness Programs

The mission of the University Police Department is to provide a safe and secure environment for everyone at West Virginia University-Potomac State College. This publication is designed to provide you with information regarding the security awareness programs offered at this institution, and your responsibility to promote safety. The security awareness programs are designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others. West Virginia University has taken prudent steps to promote a safe and secure environment that is compatible with the University community's academic and co-curricular pursuits. We solicit your support in making our University community safe and secure by accepting responsibility for your actions and committing to participate in programs to assist others. No institution can guarantee the total safety and security of all its members. Only through community support and involvement can we be successful in achieving our goal. We ask you to help us by not taking unnecessary risks, by locking your door and securing the facilities when you leave and reporting any suspicious activity or crime immediately. Together, we can help make West Virginia University Potomac State College a more safe and secure environment for the community.

### Crime Reporting At West Virginia University Potomac State College

To report a crime in progress or an emergency, contact the University Police by dialing 911 from any University exchange. You can contact the non-emergency department Cell phone at (304) 813-0920 for non-emergencies. If you would like to stop by the department to file a report, the department is located behind Davis Hall at the corner of State St. and Fort Ave (171 Fort Avenue). Also, for your safety, we encourage the use of our LiveSafe app. We strongly encourage you to report all crimes or suspicious activities that you may witness while on campus. Crimes should be reported to the WVU-PSC PD for the purpose of making timely warning reports to the community and for annual statistical disclosure, even if the victim elects not to prosecute or pursue the investigation.

### Confidential Reporting

Crimes or other public safety-related incidents may be reported on a voluntary, anonymous basis for statistical inclusion in this report, by utilizing the LiveSafe App. This program empowers the campus community to expedite the identification and response of any actions in progress, safety concerns, or potential threats in order to ensure the safety for all members of the campus community. LiveSafe creates a two-way channel of communication between the community and WVU-PSC Police. The campus community is able to report a tip using photos, videos, or texts about suspicious activity, as well as notify WVU-PSC Police or 911 about emergency situations as well as notify friends or family in real-time of your location and safety through a monitoring system. For more information, please visit:

<https://studentexperience.potomacstatecollege.edu/university-police>.

WVU-PSC does encourage its licensed mental health professionals, only if and when they deem it appropriate, to verbally inform persons whom they are counseling of the University's procedures for reporting crimes on a voluntary, confidential basis for statistical inclusion in this report. However, licensed mental health professionals and pastoral counselors, when acting as such, are not considered to be a Campus Security

Authorities (“CSA”) for Clery Act purposes and are not required to report crimes for inclusion into the annual crime statistics contained in this report.

### WVU-PSC Response to Incident Reports

WVU-PSC PD will make every reasonable effort to promptly and professionally resolve any problem reported to the department. In response to a call, WVU-PSC PD will take the required action, either dispatching an officer or asking the victim to report to WVU-PSC PD Building to file an incident report. WVU-PSC PD incident reports involving violations of the law or the Campus Student Code are forwarded to the Office of Student Conduct and the Office of Housing and Residence Life for potential action, as deemed appropriate. Individuals may be arrested for violations of the law. If assistance is required from the Keyser Police or Fire Department, WVU-PSC PD will contact the appropriate unit. If a sexual assault or rape should occur, staff on the scene, including WVU-PSC PD, will offer the victim a wide variety of services. Cases involving Domestic Violence, Dating Violence, Stalking and Sex Offenses are shared with the Division of Diversity, Equity and Inclusion, which is responsible for Title IX compliance and equity assurance.

### Annual Disclosure of Crime Statistics

The University Police Department is charged with collecting statistics and preparing the Jeanne Clery Act Report. The department collects the data from various sources including the Office of Student Life, Housing and Residence Life, Athletics, Keyser Police Department, county law enforcement agencies. A written request for statistical information is made on an annual basis to all Campus Security Authorities (as defined by federal law).

### Timely Warning Notices

The Chief of Police, Clery Act Manager, or a designee writes the Crime Notices. The police staff sends the notices to the University Relations and they send the notices to the students and employees. They also distribute it to the local media. The timely warning notices are distributed to the WVU-PSC community using blast email systems. Crime notices are usually distributed for the following Uniformed Crime Reporting Program (UCR)/National Incident-Based Reporting System (NIBRS) classifications: criminal homicide and robbery. Instances of arson will be assessed on a case-by-case basis and a warning will be issued if there is an ongoing serious threat to the community. Aggravated assaults and sex offenses are considered on a case-by-case basis, depending on the facts of the case and the information known by the WVU-PSC PD. For example, if an assault occurs between two students who have a disagreement, there may be no on-going threat to other WVU-PSC community members, and a crime notice would not be distributed. Sexual Assault cases are reviewed and a decision to issue a warning is made on a case-by-case basis, depending on several factors, such as when the incident was reported versus when it occurred. Sexual assault cases are often reported weeks and months after the assault occurred, thus not affording the institution the opportunity to distribute a “timely” crime notice to the community. The WVU-PSC PD will also review the facts of each case and the amount of information known by the department, as these cases are often reported to WVU-PSC PD via a third party, and the specific facts surrounding the cases that would be included in a timely warning notice are often unknown. Timely Warning Notices may also be posted for other crime classifications, as deemed necessary, by the Chief of Police or their designee.

## Emergency Planning, Response, and Evacuation

West Virginia University Potomac State College has developed an emergency response plan that complies with the National Incident Management System and provides facility-specific planning assistance. We encourage all community members to become familiar with their building plans and campus plan. If officials order the evacuation of the campus, leave as soon as possible (preferably during daylight hours). Avoid flooded roads and watch for washed-out bridges. Roads and bridges frequently become crowded and traffic moves slowly. Evacuation will probably take longer than expected, so give yourself plenty of time.

If a fire occurs in a WVU-PSC building, community members should begin the evacuation process immediately and should call 911 as soon as it is safe to do so. Fire alarms alert community members of potential hazards and community members are required to heed their warning and evacuate buildings immediately upon hearing a fire alarm in a facility. Use the nearest stairwell and/or exit to leave the building immediately. Community members should familiarize themselves with the exits in each building. The Fire Marshal can levy fines and penalties to individuals who fail to evacuate a building promptly—but a more important reason for evacuating is for safety reasons! When a fire alarm is activated, the elevators in most buildings will stop automatically. Occupants should use the stairs to evacuate the building. If you are caught in the elevator, push the emergency phone button. The emergency phones in elevators on campus typically ring to the Mineral County 911 Center where a WVU-PSC PD officer is notified.

### Emergency Notification

WVU-PSC ALERT is one layer that sends mass communications to those subscribed. It is free, and signup can be found at <https://studentexperience.potomacstatecollege.edu/university-police>. Students are autoloading and must opt-out of the system if they chose. In the event of confirmation of a significant emergency or dangerous situation that poses an imminent threat to the health and safety of members of the WVU-PSC community, the University will notify the campus community. Various offices or personnel on campus could be able to confirm an emergency or incident that poses an imminent threat to the health and safety of members of the West Virginia University Potomac State College community.

The University employs a layered approach to an emergency notification. WVU-PSC has various systems in place, including: the WVU-PSC Alert System, which includes text messaging, email, and a direct link to the message boards located in strategic facilities across campus; phone trees; in-person communication; local media outlets; the local Radio Station (94.1FM); Fire Alarm systems; and the WVU-PSC website home page. WVU-PSC ALERT is free, and members of the WVU-PSC community can sign up at <https://studentexperience.potomacstatecollege.edu/university-police>. The WVU-PSC Alerts are written by the person who initiates the alert, and he/she determines the appropriate segment of the community to receive the alert. The alerts are typically initiated by the WVU-PSC Police Department Communications Center, with the approval of the Shift Supervisor or an administrator of the Police Department. The Communications/University Relations Department (UR) serves as a backup for initiating the WVU-PSC Alert System if the Police are unable to send the alert. UR initiates the communication with local media and manages the WVU-PSC website home page. The phone trees and in-person communication are typically initiated by the Police Department and/or Campus Administrators, Department Heads, or Building Supervisors. The fire alarm systems are used by the Police Department to evacuate campus buildings, when necessary, but the alarm system can also be activated by any building occupant, if necessary.

WVU-PSC will, without delay and considering the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the judgment of the first responders (including, but not limited to WVU-PSC PD, KPD, and KFD), compromise the efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency. Follow-up information is typically posted on the WVU-PSC website, and when emergency messages are sent to the community, community members are typically encouraged to go to this website for updates and additional information. Each student can sign up to two additional people in the WVU-PSC Alert system. One of those individuals can receive a text message, and the other can receive an email message. Parents, and other interested parties have access to the information provided by the local media outlets; the local Radio Station (94.1FM); and the WVU-PSC website home page. The University performs full-scale exercises, table-top exercises, and/or functional exercises on an annual basis to evaluate the emergency response and evacuation plan and training needs.

### Security, Access, and Facilities Maintenance

We strive to make our facilities available to students, faculty, and staff so they may pursue their educational goals and missions. This availability requires a balance with security needs. It is not our desire to lock down all our facilities, giving a military appearance to University facilities. For this reason, many of our academic and administrative buildings are accessible during all hours with appropriate clearance. Our Campus Police Department proactively patrols the campuses and property in Keyser. The residence halls are staffed 24 hours a day, seven days a week during the semester, by trained professional and student staff who serve as resource persons for each resident. The residence halls are open during the day from 8:00 a.m. to 8:00 p.m. The Night Staff supervises security and safety in the residence halls and the outside entrances are locked and the buildings are patrolled randomly until the residence hall staff unlocks them in the morning. No person may enter the residence halls after 8:00 p.m. without presenting a valid resident identification card. The University Police Department, Facilities Management, and others are committed to maintaining a safe environment by evaluating lighting, shrubs and bushes and facility design. We encourage you to report any hazards or concerns to our housing, facilities, or police department.

### Policy on Off-Campus Criminal Activity

The University does have some students that have housing facilities “off-campus”. The houses are not within the boundaries of the campus police’s jurisdiction. Keyser Police and WVU-PSC Police have entered into an agreement where UPD shall assist KPD. The Campus Student Code shall apply to conduct that occurs on University premises; at University sponsored activities; to conduct that does not occur on University premises but adversely affects or interferes with the educational or orderly operation of the University, its mission, or the pursuit of its objectives; to conduct that does not occur on University premises but, in light of all of the facts and circumstances, would endanger the health, safety, or property of the University, the University Community, or its neighboring communities; and to conduct that occurs on or off University premises or property which violates federal, state, or local laws, policies of the West Virginia University Board of Governors, institutional or campus rules or regulations, directives of University officials, including failing to observe standards of conduct which are appropriate for an academic institution.



## Policy on Alcoholic Beverages

West Virginia University Potomac State College is primarily concerned with the health, safety, and well-being of all students with the respect to the intelligent use and non-use of alcohol. The University expects those who are of legal age and use alcohol to do so responsibly and within the bounds of the laws of the State of West Virginia and the City of Keyser. WVU-PSC PD enforces compliance with West Virginia laws regarding the possession, use, and sale of alcohol. WVU-PSC BOG Rule 5.5, Use of University Facilities, provides that “[t]he possession or sale of Alcoholic Beverages is prohibited on or in University Facilities, including student housing, except” in limited circumstances.

### General State Laws

Possession, use, or consumption of alcoholic beverages, including beer, by anyone under the age of twenty-one is a violation of the West Virginia Alcohol Beverage Control Commission statute. It is also a violation of this same statute for anyone to buy for, give to, or sell to anyone under the age of twenty-one any alcoholic beverages, including beer or for anyone under the age of twenty-one to misrepresent his or her age, or who for such purpose presents or offers any written evidence of age which is false, fraudulent or not actually his or her own.

### Policy on Drugs

WVU-PSC PD enforces compliance with West Virginia laws and University policies regarding the possession, use, and sale of illegal drugs on campus.

Federal law requires that the University notify all faculty, staff, and students of certain information pertaining to unlawful possession, use, or distribution of illicit drugs and alcohol on its property or as part of its activity, as well as notify the campus of certain health risks associated with alcohol and other drug abuse and provide contact information for WVU’s programs available to students, staff, and faculty. The University accomplishes this by sending faculty, staff, and students an email containing, as an attachment, the Drug-Free Schools and Communities Act booklet. The booklet and additional information can be accessed electronically by visiting the following website:

<https://talentandculture.wvu.edu/employee-relations/drug-free-schools-and-communities>

Additionally, that booklet is attached as Appendix 1.

### Release of Disciplinary Outcomes to Certain Crime Victims

The University will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in Section 16 of Title 18, United States Code), the results of any disciplinary proceeding conducted by the University against a student who is the alleged perpetrator of the crime or offense. Typically, however, the alleged victim is involved in the process and will receive a copy of the notice of outcome in such cases. If the alleged victim is deceased as a result of such crime or offense, the next of kin of the victim may make the request.



## Drug-Free Workplace Policy

West Virginia University has established awareness programs for students, faculty, and staff through the Student Assistance Program (SAP) and the Faculty and Staff Assistance Program (FSAP). Drug and alcohol education programs are established by SAP and FSAP for the purpose of educating employees and students regarding the nature and consequences of alcohol and drug abuse. These two programs provide appropriate information, education, consultation, and referral, as well as addressing the dangers of alcohol and drug abuse in the workplace. The University Police enforce State and Federal laws as they may apply to violations occurring on West Virginia University Potomac State College property. Enforcement is measured against the best interest of society and the individual, and where treatment may serve the larger need, then treatment is preferred.

## Crime Reporting Statistics Collection and Reporting

WVU- PSC PD collects and reports statistics for murder, sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, manslaughter, arson, domestic violence, dating violence, stalking, theft, simple assault, intimidation, and destruction of property when the victim is intentionally selected because of actual or perceived race, gender, gender identity, religion, sexual orientation, ethnicity, or disability of the victim.

## Daily Crime Log

WVU-PSC PD maintains a Daily Crime and Fire Log of all incidents reported to it. This includes all crimes that occur on campus, in areas patrolled by WVU-PSC PD, in non-campus buildings or properties, on the public property running through or immediately adjacent to the campuses. Given it includes all incidents, it also includes fire information. The Crime and Fire Log will post the previous days approved incidents daily at 5:30 p.m., Monday – Friday. All weekend incidents will post on Monday. Case numbers with prefix “CSA” are incidents that are reported to a Campus Security Authority other than WVU-PSC PD.

The Daily Crime and Fire Log includes the incident type, date incident is reported, date and time of occurrence, and general location of each reported incident type, as well as the disposition of the incident, if this information is known. UPD posts specific incidents in the Daily Crime Log within two (2) business days of receiving a report of an incident and reserves the right to exclude reports from a log in certain circumstances as permitted by law. The most current 90 days of information is available online at the WVU-PSC PD web page, or at the WVU-PSC PD Building located at 171 Fort Avenue. The log can be found here:

<https://studentexperience.potomacstatecollege.edu/university-police/clery-act-3>

## Sexual Assault and Domestic/Dating Violence and Stalking

Sexual assault, domestic/dating violence, and stalking are prohibited and are taken very seriously by West Virginia University Potomac State College. The University encourages and offers educational programs to prevent such incidents and training to properly handle them should they occur. Prevention Programming and Information Sexual assault and domestic/dating violence and stalking can happen to anyone, no matter how prepared or cautious the person may be. Victims should not blame themselves or hesitate to report the incident. Whatever the circumstances, victims often fear being blamed, humiliated, or not believed. These feelings of

fear, guilt, and helplessness can lead to depression, illness, and trouble with academics and relationships. Remember, no one deserves or asks to be sexually assaulted or abused through domestic/dating violence and stalking. You are encouraged to report any incident to the WVU-PSC Police at (304) 788-4106. Victims of these crimes have the right to notify WVU-PSC PD personnel and will assist the student in notifying other authorities if the student requests our assistance. Individuals may also report the incident to the institution's Title IX coordinator. The Title IX Coordinator is responsible for coordinating the institution's compliance with Title IX and located at the Division of Diversity, Equity, and Inclusion, phone (304) 293-5600, 1085 Van Voorhees Road, Suite 250, West Virginia University, Morgantown, WV 26506-6202. The institution's sexual misconduct policy, which includes sexual harassment and sexual assault, can be found in Board of Governors Rule 1.6 at <https://policies.wvu.edu/finalized-bog-rules/bog-governance-rule-1-6-rule> .

A description of the grievance procedures and how complaints against students will be handled can found at the following address: <https://studentexperience.potomacstatecollege.edu/student-life/office-of-student-conduct> .

### Victims of Rape, Sexual Assault, Domestic/Dating Violence, or Stalking

#### **If you are raped or sexually assaulted, you should take the following steps:**

1. Get medical attention immediately.
2. Save your clothing.
3. Report the incident to the police even if you decide not to prosecute.
4. Take advantage of available support systems.
5. Try to preserve all physical evidence. Do not wash, use the toilet, or change clothing if you can avoid it. If you do change clothes, put all clothing you were wearing at the time of the attack in a paper, not plastic, bag.

#### **If you are the victim of a domestic/dating violence:**

1. Assess your immediate safety needs.
2. Call police or 911.
3. Take photographs of abuse and/or property damage.
4. Obtain a copy of your medical reports.
5. Obtain a copy of the police report.

#### **If you are being stalked:**

1. Documentation is needed – write down the details.
2. Keep email messages or social media posts, voicemails, texts, etc.
3. Report to the police.
4. Obtain restraining orders through the courts.
5. Monitor your behavior – don't act out against the stalker by committing an illegal act.

Victims of domestic/dating violence and stalking offenses are protected by law and should seek to report these incidents to the authorities, including the WVU-PSC PD. If you, your family, or a friend is in immediate danger, you should call 911 or go to your nearest police station as soon as possible. If you are suffering from a pattern of violence, you have the right to request a restraining order against the abuser. The police can assist you in this process.

When the restraining order comes into effect, the offender will be legally prohibited from coming near you. If you live with the abuser, they will be required to move out of the dwelling. The abuser will also be required to stay away from your place of work or your child's/children's school if you have children. Following this process will also introduce you to the networks that can help you recover and take control again. In

addition, the resources below are available to victims to obtain a medical examination and take advantage of available support systems.

### WVU-PSC Sexual Assault, Domestic Violence, Dating Violence, and Stalking Resources

**Medical:**

Potomac Valley Hospital  
100 Pin Oak Ln, Keyser, WV 26726  
304-597-3500  
(Within 96 hours of the assault, Rape Evidence Collection)

**Report (On-Campus):**

WVU- Potomac State Police Department  
304-788-4106 or 911

Division Diversity, Equity and Inclusion  
304-293-5600

**Report (Off-Campus):**

Keyser Police Department (City)  
304-788-1311

Sheriff's Office (County/State)  
304-788-4107

West Virginia State Police  
304-788-1101

**Support Services – (On-Campus):**

Student Health Service  
304-788-6913  
(Medical, psychiatric resources)

Dean of Students  
304-788-6820

WVU Student Legal Services  
304-293-4897  
(Legal information)

University Dean of Academics  
304-788-6861 (Academic advising)

WVU Carruth Counseling and Psychological Services Center  
304-293-4431

\*The Carruth Center is a confidential resource

Residence Life (resource for changes in living arrangements)

304-788-7406

Title IX 24hours hotline  
(304) 293-4431

### **Support Services (Off-Campus):**

Rape and Domestic Violence Information Center  
304-292-5100  
(hotline 24 hr. advocacy)

Mineral Co. Health Department  
304-788-1321  
(free, confidential testing for sexually transmitted diseases, incl. HIV)

### **Victim's Rights**

As required by law, in cases of sexual assault, other sex offenses, domestic/dating violence, and stalking offenses:

— A victim of sexual assault, domestic/dating violence, or stalking shall be provided a written explanation of his or her rights as defined below. Furthermore, the University shall inform the victim in writing of options and resources available to obtain assistance in changing academic, living, transportation, and working situations after an alleged sexual assault, other sex offenses, and domestic/dating violence and stalking offenses. The victim may contact the Dean of Student Life or the Director of Housing and Residence Life. Requested changes will be accommodated when reasonably available.

— The University shall provide information regarding how it will protect the confidentiality of victims, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the victim, to the extent permitted by law.

—The University shall inform the University community in writing about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community.

### **Possible Sanctions for Responsible Students**

Possible sanctions for sexual assault, other sex offenses, domestic/dating violence and stalking offenses by the institution following an on-campus disciplinary hearing are as follows:

a) **Expulsion:** Permanent separation of the student from the University. Permanent notification will appear on the student's transcript. The student may be denied access to University premises if such restrictions are stipulated in the Outcome Letter and bear a reasonable relationship to the violation. If a student is expelled, the student will not receive a refund of any tuition or fees that have been paid to the University.

b) **Suspension:** Separation of the student from the university for a specified period of time. Permanent notification will appear on the student's transcript. The student may be denied access to University premises and to all other University activities or privileges for which the student might otherwise be eligible if such

restrictions are stipulated in the Outcome Letter and bear a reasonable relationship to the violation. Suspended time will not count against any time limits for completion of a degree. If a student is suspended, the student will not receive a refund of any tuition or fees that have been paid to the University.

c) **Deferred Suspension:** The student will be officially suspended from the university for a definite interim time and given a certain set of expectations, but the suspension will be deferred and does not go into effect if the student complies with all requirements during the interim period. In those cases, where the student completes all expectations during the interim period, the student's record will show that the sanction was never imposed. If a student fails to comply with a sanction and the Office of Student Conduct has decided to impose a suspension, the student will be notified of the apparent failure to comply and of the intent to suspend and provided an opportunity to meet and explain the circumstances prior to a final decision.

d) **Probation:** A written reprimand for prohibited conduct that specifies a designated period and includes the probability of more severe disciplinary sanctions if, during the designated probationary period, the student violates any applicable law or fails to comply with the policies of the West Virginia University Board of Governors, with institutional or campus rules and regulations or with directives issued by any University official acting during his or her authorized duties.

e) **Warning:** A notice in writing to the student that the student is violating or has violated board of Governor's policies, institutional rules, and regulations, or the Student Code and that any further prohibited conduct may result in more severe disciplinary action. **Loss of Privileges:** Denial of specified privileges for a designated period.

f) **Restitution:** Students may be required to make payment to the University or to other persons, groups, or organizations for loss, damage, or injury incurred because of a violation of any Student Code. This may take the form of appropriate service and/or monetary or material replacement. Once restitution is satisfied, the student must provide documentation to the Office of Student Conduct.

g) **Revocation:** Admission to the University may be revoked for a violation of the Code if the violation was committed before the student arrives on campus. Likewise, a degree awarded from the university may be revoked for a violation of the Code if the violation was committed before the student graduates.

h) **Other Sanctions:** Other sanctions may be imposed instead of or in addition to those specified. For example, students may be subject to dismissal from University housing for disciplinary violations, which occur in the residence halls. Likewise, community service, educational classes, fines (if such fines are established by the Office of Student Conduct), and other work or research projects may also be assigned.

i) **No Contact Order:** Students may be issued a permanent no-contact order, which is a directive to refrain from any intentional contact, whether direct or indirect, with one or more designated persons or group(s) through any means, including, but not limited to, personal contact, e-mail, telephone, social media or third parties.

### Student Conduct Procedure

In cases of alleged Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, Retaliation handled through on-campus disciplinary hearings, the following apply:

—The complainant and respondent are entitled to simultaneous written notice of the charge and the hearing related to these offenses.

— The complainant and respondent are entitled to the same opportunities to have others present during the proceedings.

—The complainant and respondent are entitled to simultaneous written notification of any change to the results of the proceedings that occur prior to the results becoming final.

### Registered Sex Offender information

The State of West Virginia requires sex offenders to register with the State Police. The State makes this information available to law enforcement agencies. This information is available to the public at the following website: <https://apps.wv.gov/StatePolice/SexOffender>

### Missing Person Contact Registration and Missing Person Protocol

The University will request all new students residing in on-campus housing each year that they provide, on a voluntary basis, missing person contact information, in addition to general emergency contact information. The missing person contact information will be registered confidentially, and the information will be accessible only to authorized campus officials and law enforcement in the furtherance of a missing person investigation. You can fill in or update your Missing Persons Information by logging into your MIX account. If a West Virginia University Potomac State College student living in University-operated housing is suspected to be missing from campus, immediately report it to a residence hall staff member (i.e. residence hall coordinator, resident faculty leader, resident assistant) or the WVU-PSC PD. If a missing person is reported to a residence hall staff member, they are required to immediately report the missing person to the WVU-PSC PD. If the student resides off-campus, contact the University Police for assistance at 304-788-4106. All reports of missing students made to the residence hall staff and/or the UPD will be investigated. If the investigation determines that the student has been missing over 24 hours then within the next 24 hours the University will:

- Notify the individual identified as your missing person contact;
- If under 18 years of age and not emancipated, the University will notify a parent or guardian; and;
- If you are over 18 years of age, the University will notify the appropriate law enforcement agency that has jurisdiction in the area where the student is missing, including the West Virginia State Police.

**\*You can fill in or update your Missing Persons Information by logging into your MIX account.**

### WVU Fire Safety Right to Know Act Campus Fire Safety Annual Report

#### Overview

The Higher Education Opportunity Act (Public Law 110-315) became law on August 2008, requiring all United States academic institutions to produce an annual fire safety report outlining the fire safety practices, standards, and all fire-related on-campus housing statistics. The following public disclosure report details all information required by this law as it relates to West Virginia University Potomac State College.

## **General Statement**

West Virginia University Potomac State College is committed to providing a fire-safe environment for its faculty, staff, students, and visitors and to protecting the property through effective fire prevention, protection, and response program. All WVU-PSC residence halls have approved fire alarm, and fire suppression sprinkler systems that are inspected and tested annually per the National Fire Protection Association (NFPA). The fire alarm and suppression systems are electronically monitored 24 hours/day, seven days/week and notify the 911 system automatically upon actuation of an alarm situation.

## **Training**

WVU-PSC Residence Hall Coordinators receive comprehensive hands-on fire safety training at the beginning of each academic year by Environmental Health and Safety and the Keyser Fire Department. Additionally, each RHC and RA provide training to each student floor in their respective residence hall and. The emergency evacuation procedures are as follows:

### **If a Fire is detected, you should:**

- Activate the nearest alarm.
- Evacuate the building safely, and do not use the elevator. When a fire alarm sounds, you should:
- Turn on the overhead lights in your room.
- Close your windows.
- Close and lock your door.
- You must leave the building via the nearest stairway on your floor.
- Walk calmly to the exterior of the building. It is very important that you become familiar with this route of exit. If you are unable to leave the room, “Shelter in Place” and place a towel or clothing in the crack at the bottom of the door, move to the window, and alert rescue personnel by calling 911. Do not jump. Await rescue personnel. If possible, open the window at the top and bottom to let fresh air in and heat and smoke out. Keep your room door closed.
- Be sure the stairway door is closed behind you if no other residents are following you.
- Do not return to the building until the signal is given to reenter by the staff member in charge. If you are a person with a disability (even temporarily), notify your RA before a possible emergency; Contact rescue personnel by calling 911 during an emergency. Treat every fire alarm as though it is real. You will have no indication whether the alarm is real or a drill. If you detect even a minor fire, you must pull the nearest alarm and follow the procedures described above. All fires should be reported immediately by calling 911 so that a professional can make certain that the fire is out and will not recur, and so that the fire extinguisher can be refilled promptly. University officials take false alarms seriously. Persons found responsible for pulling false fire alarms are subject to removal from their University residence hall, suspension from WVU, and prosecution to the full extent of the law.

### **Emergency Evacuation Maps:**

Emergency evacuation maps are posted on each floor and in each student room to direct residents to approved exits. Resident Assistants conduct periodic floor meetings and discuss fire safety evacuation procedures. Additional training is conducted upon request.

### **Mandatory Fire Drills:**

Fire Drills are conducted twice per year, each academic semester, to familiarize students with our emergency system. This activity is initiated by the Residence Hall Coordinator in each dormitory and coordinated with



Mineral County 911, Keyser Fire Department, WVU Police, and Facilities Management group. The Residence Hall Coordinator maintains records of the dates and times of all fire drills.

### **Fire Prevention Policies:**

It is the policy of WVU-PSC to provide a fire-safe environment. WVU's goal is to recognize hazardous conditions and take appropriate action before such conditions result in a fire. This is accomplished by conducting annual safety inspections of all university buildings with the State Board of Risk Management, Environmental Health, and Safety and the Keyser Fire Department. Fire Investigations are coordinated by Environmental Health and Safety and conducted in conjunction with the WV State Fire Marshal, Keyser Fire Department and the State Board of Risk and Insurance Management. Violations are identified and corrective action is addressed. To minimize the potential fire fires, West Virginia University has specific policies and procedures that students are required to follow. Noncompliance with these measures will be considered a student conduct/disciplinary matter.

### **The following items are prohibited:**

- Toasters
- Electric Ovens
- Waffle irons
- Sandwich makers
- Crockpots
- Live trees – if the bulb is not attached – are prohibited
- Flammable or Combustible materials
- Portable heaters
- Electric grills
- Any appliance with an open flame heating element
- Candles
- Incense
- Microwave ovens (unless approved by the University)
- Electric and kerosene heaters
- Extension cords or multi-receptacle outlets (UL listed power strips with surge protectors are permitted)
- Gasoline, lighter fluid, or any combustible or flammable material
- Halogen lamps

### **Decorations**

Students who choose to decorate their room must adhere to the following rules:

- Use electrical decorations that are UL approved only;
- Do not use lights on metallic trees;
- Use decorations made from flame-retardant materials only;
- Do not place decorations on light fixtures, sprinklers, smoke detectors, etc.;
- Do not hang tapestries or other decorations from ceiling or doorway;
- Do not use live pine, extension cords, candles (oil or wax-based), candle, warmers, or incense;
- Do not use live Christmas trees;
- Do not hang items outside the window.

## **Room Safety**

- Use or possession of open flame (i.e., burning candles, burning incense) or open element appliances, including toasters, hot plates, and hot pots in residence hall rooms or other unauthorized areas is not permitted.
- Cooking in residence hall rooms or other unauthorized areas is prohibited.
- Residents and guests may not devise any unsafe situation in which a member of the residence hall community can be injured.

## **Smoking**

- Smoking nor vaping is not permitted in residence halls. WVU-PSC is designated a smoke-free area. This includes but is not limited to residence halls rooms, common areas, bathrooms, sidewalks, patios, stairways, and any other walkway that directly leads to a building entrance.

## **Explosive Devices**

- A student may not make, possess, or threaten to make or use a bomb, explosive, incendiary device or fireworks.
- If found responsible for such a violation, the student will be removed from University Housing

## **Fire Log**

- WVU maintains an incident fire log, including the nature, date, time, and general location of each fire in our residence halls.
- The University's fire incident log will be posted on WVU Environmental Health and Safety and University Police website for public viewing.

## **Plans for future improvements in fire safety**

- WVU will provide future improvements as needed.
- WVU continually work closely with occupants of our student housing facilities. From the students, and visitors, to the contractors and vendors working in the facility to assure the work being conducted, is monitored and the fire detection systems are checked and maintained.

## Clery Act Statistics

The statistics listed below reflect the number of certain types of crimes reported to Campus Security Authorities and police departments, as defined by the Clery Act on certain geography defined by the Clery Act. They do not reflect the outcome of investigations by the University or the pertinent police department.

OFFENSES	Year	On-Campus Clery Geography		Noncampus Property	Public Property	Total
		On-Campus Student Housing Facilities	On-Campus Total			
<b>Murder/Nonnegligent Manslaughter</b>	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
<b>Manslaughter by Negligence</b>	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
<b>Rape</b>	2021	1	1	0	0	1
	2020	2	3	0	0	3
	2019	1	1	0	0	1
<b>Fondling</b>	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
<b>Statutory Rape</b>	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
<b>Incest</b>	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
<b>Robbery</b>	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
<b>Aggravated Assault</b>	2021	0	0	0	0	0

	2020	0	0	0	0	0
	2019	0	0	0	0	0
<b>Burglary</b>	2021	0	1	0	0	1
	2020	0	0	0	0	0
	2019	1	2	0	0	2
<b>Motor Vehicle Theft</b>	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
<b>Arson</b>	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
<b>VAWA OFFENSES</b>		<b>On-Campus Clery Geography</b>		<b>Noncampus Property</b>	<b>Public Property</b>	<b>Total</b>
		<b>On-Campus Student Housing Facilities</b>	<b>On-Campus Total</b>			
<b>Domestic Violence</b>	2021	0	0	0	0	0
	2020	2	3	0	0	3 <sup>1</sup>
	2019	2	3	0	0	3
<b>Dating Violence</b>	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
<b>Stalking</b>	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
<b>ARRESTS</b>		<b>On-Campus Clery Geography</b>		<b>Noncampus Property</b>	<b>Public Property</b>	<b>Total</b>
		<b>On-Campus Student Housing Facilities</b>	<b>On-Campus Total</b>			
<b>Liquor Law Violation</b>	2021	13	13	0	0	13
	2020	12	12	0	0	12

<sup>1</sup> After review, two dating violence incidents from 2020 were moved into the domestic violence category.

	2019	16	20	0	0	20
<b>Drug Abuse Violation</b>	2021	1	1	0	6	7
	2020	12	15	0	0	15
	2019	9	20	0	0	20
<b>Weapon Law Violation</b>	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
<b>REFERRALS</b>		<b>On-Campus Clery Geography</b>		<b>Noncampus Property</b>	<b>Public Property</b>	<b>Total</b>
		<b>On-Campus Student Housing Facilities</b>	<b>On-Campus Total</b>			
<b>Liquor Law Violation</b>	2021	28	28	0	0	28
	2020	44	44	0	0	44
	2019	58	74	0	0	74
<b>Drug Abuse Violation</b>	2021	11	11	0	2	13
	2020	32	33	0	0	33
	2019	31	43	0	0	43
<b>Weapon Law Violation</b>	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0

## HATE CRIME REPORTING

- 2021: There were 0 reportable hate crimes.
- 2020: There were 0 reportable hate crimes.
- 2019: There were 0 reportable hate crimes.

## UNFOUNDED CRIME REPORTING

- 2021: There were 0 unfounded crimes.
- 2020: There were 0 unfounded crimes.
- 2019: There were 0 unfounded crimes.

WVU – PSC Residence Hall Fire Statistics

West Virginia University - Potomac State College - 2021						
Location	Occurrences	Date/Time	Injuries	Deaths	Damage Value	Cause of fire
Catamount Place -167 S Mineral Street	0	N/A	0	0	0	N/A
Davis Hall – 30 Campus Drive	0	N/A	0	0	0	N/A
Friend Hall – 165 Campus Drive	0	N/A	0	0	0	N/A
Memorial Hall -190 Campus Drive	0	N/A	0	0	0	N/A
Reynolds Hall – 145 Campus Drive	0	N/A	0	0	0	N/A
University Place -20 Arnold Street	0	N/A	0	0	0	N/A

West Virginia University - Potomac State College - 2020						
Location	Occurrences	Date/Time	Injuries	Deaths	Damage Value	Cause of fire
Catamount Place -167 S Mineral Street	0	N/A	0	0	0	N/A
Davis Hall – 30 Campus Drive	0	N/A	0	0	0	N/A
Friend Hall – 165 Campus Drive	0	N/A	0	0	0	N/A
Memorial Hall -190 Campus Drive	0	N/A	0	0	0	N/A
Reynolds Hall – 145 Campus Drive	0	N/A	0	0	0	N/A
University Place -20 Arnold Street	0	N/A	0	0	0	N/A

West Virginia University - Potomac State College - 2019						
Location	Occurrences	Date/Time	Injuries	Deaths	Damage Value	Cause of fire
Catamount Place -167 S Mineral Street	0	N/A	0	0	0	N/A
Davis Hall – 30 Campus Drive	0	N/A	0	0	0	N/A
Friend Hall – 165 Campus Drive	0	N/A	0	0	0	N/A
Memorial Hall -190 Campus Drive	0	N/A	0	0	0	N/A
Reynolds Hall – 145 Campus Drive	0	N/A	0	0	0	N/A
University Place -20 Arnold Street	0	N/A	0	0	0	N/A

WVU-PSC Residence Hall Fire Safety Equipment – 2021

<b>Building Name</b>	<b>Building Address</b>	<b>Fire Alarm Pull Stations</b>	<b>Fire Alarm Horns (or) Bells</b>	<b>Fire Alarm Strobe Lights</b>	<b>Illuminated Exit Signs</b>	<b>Emergency Lighting</b>
Catamount Place	167 S Mineral Street	YES	YES	YES	YES	YES
Davis Hall	30 Campus Drive	YES	YES	NO	YES	YES
Friend Hall	165 Campus Drive	YES	YES	NO	YES	YES
Memorial Hall	190 Campus Drive	YES	YES	NO	YES	YES
Reynolds Hall	145 Campus Drive	YES	YES	NO	YES	YES
University Place	20 Arnold Street	YES	YES	YES	YES	YES
<b>Building Name</b>	<b>Building Address</b>	<b>Fire Alarm Smoke Detectors</b>	<b>Fire Alarm Duct Detectors</b>	<b>Wet Sprinkler</b>	<b>Dry Sprinkler</b>	<b>Pre-action Sprinkler</b>
Catamount Place	167 S Mineral Street	YES	YES	NO	NO	YES
Davis Hall	30 Campus Drive	YES	NO	NO	NO	NO
Friend Hall	165 Campus Drive	YES	NO	NO	NO	NO
Memorial Hall	190 Campus Drive	YES	NO	NO	NO	NO
Reynolds Hall	145 Campus Drive	YES	NO	NO	NO	NO
University Place	20 Arnold Street	YES	YES	YES	YES	NO
<b>Building Name</b>	<b>Building Address</b>	<b>Wet Standpipe</b>	<b>Dry Standpipe</b>	<b>Combination Standpipe</b>	<b>Fire Pump</b>	<b>Emergency Generator</b>
Catamount Place	167 S Mineral Street	NO	NO	YES	YES	YES
Davis Hall	30 Campus Drive	NO	NO	NO	NO	NO
Friend Hall	165 Campus Drive	NO	NO	NO	NO	NO
Memorial Hall	190 Campus Drive	NO	NO	NO	NO	NO
Reynolds Hall	145 Campus Drive	NO	NO	NO	NO	NO
University Place	20 Arnold Street	YES	NO	NO	YES	YES
<b>Building Name</b>	<b>Building Address</b>	<b>Smoke Management System</b>	<b>Fire Doors and Walls</b>			
Catamount Place	167 S Mineral Street	YES	YES			
Davis Hall	30 Campus Drive	NO	YES			
Friend Hall	165 Campus Drive	NO	YES			
Memorial Hall	190 Campus Drive	NO	YES			
Reynolds Hall	145 Campus Drive	NO	YES			
University Place	20 Arnold Street	NO	YES			



# Appendix 1

# Drug-Free Schools and Communities Act Booklet

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Fall 2022



# Dear WVU Community,

West Virginia University, including its divisional campuses of Potomac State College of West Virginia University and West Virginia University Institute of Technology, considers the wellbeing of its University community to be essential to the success of the University and its mission. The misuse of alcohol and the use of illicit substances by members of the University community are incompatible with the goals of an academic institution. Substance misuse on campus hinders the learning process, jeopardizing the University's mission to educate students and prepare them for responsible participation in society. With a combination of education and counseling, students and employees can be made aware of the consequences that may arise from substance misuse and learn more about the support and recovery resources that are available.

As directed by federal law, the University is providing this information to explain its substance use policies for both students and employees. The unlawful possession, use, or distribution of alcohol and/or other substances on campus and at University functions is prohibited.

The University recognizes that substance use disorder is a disease which affects not only the student or employee, but also one's family, workplace, and community. Referral services for substance use counseling and treatment are provided by the University for students and employees. A list of support and treatment centers is provided in this booklet.

West Virginia University is committed to building a culture of health and wellbeing for everyone. As a part of the University's efforts to comply with state and federal law, we urge you to read the attached information. If you have any questions or comments about any of the information, please contact:

## ✓ **Division of Talent and Culture**

Employee Relations  
(304) 293-5700 (ext. 5)  
[EmployeeRelations@mail.wvu.edu](mailto:EmployeeRelations@mail.wvu.edu)

## ✓ **Division of Student Life**

Elizabeth Moore Hall  
(304) 293-5811  
[studentlife@mail.wvu.edu](mailto:studentlife@mail.wvu.edu)

Thank you for your cooperation in assuring that West Virginia University is a substance-free workplace and community.

**Sincerely,**

Cris DeBord  
*Vice President for Talent and Culture*

G. Corey Farris  
*Dean of Students*

*The purpose of this booklet is to comply with the applicable provisions of the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 8101 to 8106; 22 C.F.R. Part 513; 48 C.F.R. § 23.504; 48 C.F.R. § 52.223-6; the Drug-Free Schools and Communities Act Amendments of 1989 (20 U.S.C. § 1011i; 34 C.F.R. Part 86); the Drug-Induced Rape Prevention and Punishment Act of 1996 (21 U.S.C. § 841(b)(7)(A)-(B); see also 21 U.S.C. § 801); and the Federal Motor Carrier Safety Regulations (49 C.F.R. §§ 382.101 to 382.727).*

*Specifically, it sets forth the applicable standards of conduct for employees and students; the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit substances and alcohol; descriptions of the health risks associated with the use of illicit substances and the misuse of alcohol; a description of the substance use counseling, treatment, or rehabilitation or re-entry programs that are available to students and employees; provides a clear statement that the University will impose disciplinary sanctions on students and employees (consistent with local, State, and Federal law); and a description of those disciplinary sanctions.*

# **I. Standards of Conduct<sup>1</sup> & Policies of Maintaining a Drug & Alcohol-Free Workplace<sup>2</sup>**

## **A. Employees – Controlled Substances**

*Controlled Substances Prohibited.* The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited at West Virginia University, including on its property or as part of any of its programs or activities. Under the Drug Free Workplace Act, these properties also include the WVU Research Corporation and the WVU Innovation Corporation. Further, reporting to work or any University function under the influence of an illicit controlled substance is prohibited.

*Notice to University.* All employees must notify the University of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after the conviction.<sup>3</sup>

## **B. Students – Controlled Substances**

*Prohibited Drug Related Conduct.* As stated in the applicable Campus Student Code of Conduct, the University prohibits the following “drug related conduct.” Specifically, “[p]rohibited drug related conduct” means:

(1) possessing; (2) manufacturing; (3) producing; (4) distributing; (5) selling; (6) possessing with the intent to distribute or sell; or (7) being under the influence of any illicit drug, synthetic drug, or other controlled substance. It also means (8) using any prescribed drug in a manner inconsistent with the prescription; (9) driving or operating a vehicle while under the influence of any illicit drug,

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<sup>1</sup> 20 U.S.C. § 1011i(a)(1)(A).

<sup>2</sup> 41 U.S.C. § 8102 (a)(1)(A), (a)(1)(B)(ii); see generally 48 C.F.R. § 23.504(a).

<sup>3</sup> If the University is operating under a grant, it must notify the granting agency within ten (10) days after receiving notice from an employee. See 41 U.S.C. § 8103(a)(1)(D). See also 48 C.F.R. § 23.504(a)(4), (5).

synthetic drug, or other controlled substance; or (10) intentionally or recklessly inhaling, ingesting, or using in any manner inconsistent with its purpose any chemical, liquid, substance or other compound.

Failure to abide by these standards of conduct will result in disciplinary sanctions consistent with local, state, and federal law.

## **C. All Members of University Community - Alcoholic Beverages**

Section 4 of West Virginia University Board of Governors Rule 5.5, Use of University Facilities, addresses Alcoholic Beverages at the University. Specifically, the possession or sale of Alcoholic Beverages is prohibited on or in University Facilities, including student housing, except as provided below:

- / The possession or sale of Alcoholic Beverages is permissible on or in properly licensed property or Facilities.
- / Subject to other applicable laws, Alcoholic Beverages are permissible in dwellings occupied as private residences, including University-owned apartments.
- / The possession or sale of Alcoholic Beverages at a Facility may be authorized by the President on a case-by-case basis consistent with the following guidelines:
  - / Alcoholic Beverages shall never be the primary reason for a gathering.
  - / The majority of persons in attendance must be of legal drinking age.
  - / No person under the legal drinking age will be served.
  - / Non-alcoholic beverages and food must be served.
  - / No person under the age of eighteen (18) may serve Alcoholic Beverages. Servers of Alcoholic Beverages must be appropriately trained to adhere to all laws and regulations regarding the services thereof.
  - / No state funds may be used to purchase Alcoholic Beverages.

The entire BOG Rule can be found here: <https://policies.wvu.edu/finalized-bog-rules/bog-finance-and-administration-rule-5-5-use-of-university-facilities>

Failure by an employee to follow this Rule will subject them to discipline under the terms of the employee's appointment.

Failure by a student to follow this Rule will subject them to discipline under the applicable campus student code.

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<sup>4</sup>This provision is found in all three campus codes of conduct, which can be found at the following websites:

Morgantown: <https://studentresponsibility.wvu.edu/campus-student-code>

Potomac State College: <https://studentexperience.potomacstatecollege.edu/student-life/office-of-student-conduct>

WVU Tech: <https://students.wvutech.edu/bear-facts/student-code-of-conduct>



## II. Disciplinary Sanctions<sup>5</sup> & Penalties Imposed for Violations<sup>6</sup>

As required under 20 U.S.C. § 1011i(a)(1)(E), the University will impose sanctions on students and employees (consistent with local, State, and Federal law as well as University rules and policies) if it determines that violations of the standards governing the use of drugs and alcohol have occurred.

The sanctions imposed will be commensurate with the violation, based on the totality of the circumstances, and will take into consideration all of the relevant facts.

### A. Range of Sanctions

- i. Any employee found in violation of this provision shall be subject to appropriate disciplinary action, up to and including termination, and/or may be required to participate in a substance use assistance or rehabilitation program, and/or referred for criminal prosecution.
- ii. For students, sanctions range from requiring a reflection exercise to expulsion and referral for criminal prosecution. Under the applicable campus conduct code, specifically Section 7, the following sanctions are also available:

#### *Range of Sanctions for Students<sup>7</sup>*

##### **Expulsion**

Permanent separation of the student from the University. Permanent notification will appear on the student's transcript. The student may be denied access to University premises, provided that such restrictions are stipulated in the Outcome Letter and bear a reasonable relationship to the violation. If a student is expelled, the student will not receive a refund of any tuition or fees that have been paid to the University. This is reserved for persistent violations of the Campus Student Code or a single violation of marked severity.

##### **Suspension**

Separation of the student from the University for a specified period of time. Permanent notification will appear on the student's transcript. The student may be denied access to University premises and to all other University activities or privileges for which the student might otherwise be eligible, provided that such restrictions are stipulated in the Outcome Letter and bear a reasonable relationship to the violation. Suspended time will not count against any time limits for completion of a degree. If a student is suspended, the student will not receive a refund of any tuition or fees that have been paid to the University. Any student who is serving a suspension may be subject to a review and evaluation meeting prior to re-enrolling to ensure that all conditions of the suspension have been satisfied and that the student is prepared for return. This is reserved for persistent violations of the Campus Student Code or a single violation of marked severity that may not rise to the level of expulsion.

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<sup>5</sup> 20 U.S.C. § 1011i(a)(1)(E).

<sup>6</sup> 41 U.S.C. § 8102 (a)(1)(A), (a)(1)(B)(iv); *see generally* 48 C.F.R. § 23.504(a)(2)(iv).

<sup>7</sup> Additionally, please note that professional students may also be sanctioned pursuant to the professionalism standards of their programs, which may include additional programmatic sanctions.

**Deferred Suspension**

The student will be given a certain set of expectations, but any suspension will be deferred and does not go into effect as long as the student complies with all requirements during the interim period. In those cases where the student completes all expectations during the interim period, the student's record will show that the sanction was never imposed. In the event that a student fails to comply with a sanction and the Office of Student Conduct has decided to seek the suspension, the student will be given written notice of the apparent failure to comply and of the intent to suspend, and provided an opportunity to be heard prior to a final decision, consistent with this Code.

**Probation**

A written reprimand for prohibited conduct that specifies a designated period of time and includes the probability of more severe disciplinary sanctions if, during the designated probationary period, the student violates any applicable law or fails to comply with the policies of the West Virginia University Board of Governors, with institutional or campus rules and regulations, or with directives issued by any University official acting in the course of his or her authorized duties.

**Warning**

A notice in writing to the student that the student is violating or has violated Board of Governors policies, institutional rules and regulations, or the Campus Student Code, and that any further prohibited conduct may result in more severe disciplinary action.

**Loss of Privileges**

Denial of specified privileges for a designated period of time.

**Restitution**

Students may be required to make payment to the University or to other persons, groups, or organizations for loss, damage, or injury incurred as a result of a violation of any Campus Student Code. This may take the form of appropriate service and/or monetary or material replacement. Once restitution is satisfied, the student must provide documentation to the Office of Student Conduct.

**Other Sanctions**

Other sanctions may be imposed instead of or in addition to those specified. For example, students may be subject to dismissal from University housing for disciplinary violations which occur in the residence halls. Likewise, community service, educational classes, fines (if such fines are established by the Office of Student Conduct), and other work or research projects may also be assigned.

The exception being if a student qualifies for amnesty under the applicable campus student conduct code. In general, the codes provide as follows:

Bystander: Any student or student organization who, in good faith and in a timely manner, seeks emergency medical assistance for a person who reasonably appears to be experiencing an overdose from alcohol or drugs may not be held responsible for a violation of prohibited alcohol or drug related conduct only, as defined in this Code, if the student or student organization does all of the following:

- a) Remains with the person who reasonably appears to be in need of emergency medical assistance due to an overdose until such assistance is provided;
- b) Identifies himself or herself, if requested by emergency medical assistance personnel, law-enforcement officers, or University officials;



c) Cooperates with and provides any relevant information requested by emergency medical assistance personnel, law-enforcement officers, or University officials needed to treat the person reasonably believed to be experiencing an overdose; and

d) Completes any additional conditions imposed on the student or student organization by the Campus Student Code Administrator.

**Distressed Student:** If the person who reasonably appears to be experiencing an overdose from alcohol or drugs is also a student, he or she will not be held responsible for a violation of prohibited alcohol or drug related conduct, as defined in this Code, but may be required to complete additional conditions imposed by the Campus Student Code Administrator in order to receive amnesty.

Additional resources for alcohol and other drug education, can be found here: <https://safety.wvu.edu/safety-on-campus/medical-amnesty>

This provision only applies to violations of this Code. As it relates to any criminal prosecution, students should see the West Virginia Alcohol and Drug Overdose Prevention and Clemency Act, W. Va. Code §§ 16-47-1 to -6, which can be found here:

<http://www.legis.state.wv.us/wvcode/Code.cfm?chap=16&art=47#47>

## **III. Campus Programming and Resources for Students, Staff, and Faculty**

### *Resources for Students*

#### *i. Counseling and Treatment*

a. Student Assistance Program (SAP); (304) 293-4431

i. The purpose of SAP is to educate students about the nature and consequences of substance misuse. This is done through individual assessment, individual and group counseling, and educational activities. Self-referrals are welcomed.

#### *ii. Recovery Support*

a. Collegiate Recovery Program; (304) 293-2547

i. The CRP supports students in recovery by promoting a healthy, balanced, and meaningful life on campus. Through activities centered around health, wellness, adventure, community, service, and fun, the WVU CRP's goal is to provide the support and resources necessary for students to thrive in their recovery and develop meaning and purpose as they move forward in life.

#### *iii. Substance use education*

a. Voices for Change

i. Incoming first year and transfer students under the age of 24 are required to complete an

online education module entitled “Voices for Change”. This program covers safer substance use, sexual violence, hazing, bullying, identity, and inclusion.

ii. This program is facilitated by WELLWVU

iii. WVU requires students complete a second online training, “Alcohol & Other Drugs (AOD)” approximately 45 days after arriving on campus. This is provided by the same vendor.

b. ScreenU

i. ScreenU is a web-based, anonymous screening tool which helps to identify students who are at-risk of negative consequences from substance misuse. This is available through WELLWVU.

c. eCheckup To Go

i. Online prevention interventions for alcohol, cannabis, and tobacco. Programs provide students with personalized feedback regarding their substance use. Available through the SAP program and the Office of Student Conduct.

d. WELLWVU Substance Use Education

i. The department responsible for health promotion and education implements campus programming, presentations, and health communication campaigns. Campus programming includes hydration stations, a cannabis panel, TIPS training, Narcan training, and bartender school (standard drink size education).

### ***Resources for Staff and Faculty***

i. *Faculty and Staff Assistance Program (FSAP)*

a. West Virginia University has established awareness programs for faculty and staff through the Faculty and Staff Assistance Program (FSAP). Educational programs have been established by FSAP for the purpose of educating employees about the nature and consequences of substance misuse. This program informs individuals about the policy of maintaining a substance-free workplace and addresses the dangers of substance use in the workplace, as well as provide the appropriate education, consultation, and referral information. The Faculty and Staff Assistance Program (FSAP) may be reached at (304) 293-5590.

ii. *Effective March 17, 1989, the University will:*

1. Notify employees of the policy regarding a substance-free workplace;
2. Provide a copy of the policy and procedures as part of the award package on all grants received by the University;
3. Provide a copy of the policy to each new employee at the time of initial employment processing;
4. Notify the contracting agency or others, if required, within ten (10) days after receiving notice from an employee or otherwise receiving notice of a drug related conviction;
5. Impose sanctions as stated earlier within thirty (30) days of receiving notice from an employee of a criminal drug statute conviction in the workplace.

Below is a list of Support & Treatment Centers available to students and employees at West Virginia University:

**/ WVU Morgantown Campus<sup>8</sup>**

WVU Carruth Center for Counseling and Psychological Services: (304) 293-4431

Student Assistance Program (SAP)/ Substance Abuse: (304) 293-4431

WVU Faculty and Staff Assistance Program (FSAP): (304) 293-5590

Collegiate Recovery Program (CRP): (304) 293-2547

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**/ WVU HSC Charleston Division**

WVU Behavioral Medicine and Psychology Department: (304) 341-1500

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**/ WVU HSC Eastern Division**

WVU Medicine Behavioral Medicine and Psychiatry: (304) 264-1230

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*This list of treatment facilities and services is not intended to be exhaustive; it is merely a helpful list of some contacts in areas around West Virginia University campuses. West Virginia University is not affiliated with and does not accept liability for any services, treatment, or counseling provided by these third-parties or their employees for any acts of misfeasance, nonfeasance, or malfeasance by same. The individual and their family should conduct reviews of these facilities before accepting their services.*

**/ Potomac State College of WVU**

WVU Faculty and Staff Assistance Program (FSAP): (304) 293-5590

PSC Center for Counseling and Psychological Services: (304) 788-6976

PSC Student Health Center: (304) 788-6913

Alcohol and Other Drug (AOD) Prevention Office: (304) 788-6910

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**/ WVU Institute of Technology**

WVU Tech Counseling Services: (304) 929-1237

FMRS Health Systems, Inc. (Beckley): (304) 256-7100

Brian's Safehouse (Mount Hope): (304) 763-7655

Pyramid Counseling LLC (Beckley): (304) 256-0200

Appalachian Regional Healthcare (Beckley): (304) 255-300

FMRS Health Systems, Inc. (Fayetteville): (304) 574-2100

Charleston Treatment Center (Charleston): (304) 344-5924

Rea of Hope Fellowship Home (Charleston): (304) 344-5363

Thomas Behavioral Health (Charleston): (304) 766-3553

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<sup>8</sup> Programs offered to the WVU Morgantown Campus are also available to employees at the WVU Research Corporation and WVU Innovation Corporation

# IV. Health Risks Associated with the Misuse of Alcohol and Other Drugs (taken from the National Institute on Drug Abuse)<sup>9</sup>

SUBSTANCE	SHORT-TERM EFFECTS	LONG-TERM EFFECTS
<b>Alcohol</b>	Slurred speech; drowsiness; lowered inhibitions; impaired reactions; impaired judgment; blackouts; distorted vision and hearing; decreased perception and coordination; vomiting; difficulty breathing; passing out; blackouts; potential alcohol poisoning	Trouble learning; cirrhosis of the liver; high blood pressure; memory loss; diminished gray and white matter in the brain; sexual dysfunction; loss of attention span; cancer; cardiomyopathy; stroke; steatosis (fatty liver); Hepatitis; irregular heartbeat
<b>Cannabis (Marijuana)</b>	Slowed reaction time; problems with balance and coordination; increased heart rate; increased appetite; problems with learning and memory; anxiety; enhanced sensory perception and euphoria followed by drowsiness/relaxation	Mental health problems; chronic cough; frequent respiratory infections
<b>Central Nervous System Depressants (Benzos)</b>	Drowsiness; slurred speech; poor concentration; confusion; dizziness; problems with movement and memory; lowered blood pressure; slowed breathing  In Combination with Alcohol: Further slows heart rate and breathing, which can lead to death.	Unknown
<b>Cocaine</b>	Euphoria; dilated pupils; elevated body temperature; increased heart rate; increased energy, alertness; insomnia; restlessness; anxiety; erratic and violent behavior; increased blood pressure; heart attack; seizure; stroke; nausea	Loss of sense of smell; nosebleeds; nasal damage and problems with swallowing; infection and death of bowel tissue from decreased blood flow; poor nutrition and weight loss; lung damage from smoking

<sup>9</sup> National Institute on Drug Abuse, *Commonly Used Drug Charts*, <https://nida.nih.gov/research-topics/commonly-used-drugs-charts> (last visited Sept. 2, 2022).

SUBSTANCE	SHORT-TERM EFFECTS	LONG-TERM EFFECTS
<b>Gamma Hydroxy Butyrate (GHB)</b>	Euphoria, drowsiness; nausea; vomiting; confusion; memory loss; unconsciousness; slowed breathing decreased body temperature; lowered heart rate; lowered blood pressure; seizures; coma; death	Unknown
<b>Heroin</b>	Euphoria; dry mouth; itching; nausea; vomiting; analgesia; slowed breathing and heart rate	Collapsed veins; abscesses; infection of the lining and valves in the heart; constipation; stomach cramps; liver or kidney disease; pneumonia; higher risk of HIV, Hepatitis and other diseases from shared needle use
<b>Inhalants</b>	<p>Confusion; nausea; slurred speech; lack of coordination; dizziness; drowsiness; lowered inhibitions; lightheadedness; hallucinations/ delusions; headaches; sudden sniffing death; asphyxiation; suffocation; convulsions; seizures; coma; choking</p> <p>Nitrites: enlarged blood vessels; enhanced sexual pleasure; increased heart rate; brief sensation of heat and excitement; dizziness; headache</p>	<p>Liver and kidney damage; bone marrow damage; limb spasms; brain damage resulting in problems with thinking, movement, vision, and hearing</p> <p>Nitrites: increased risk of pneumonia</p>
<b>Ketamine</b>	Problems with attention, learning, and memory; hallucinations; confusion; loss of memory; raised blood pressure; unconsciousness; dangerously slowed breathing	Ulcers and pain in the bladder; kidney problems; stomach pain; depression; poor memory
<b>LSD</b>	Rapid mood swings; distortion of reality; hinders rational thinking; raised blood pressure; elevated heart rate; elevated body temperature; dizziness; loss of appetite; tremors; enlarged pupils	Frightening flashbacks; ongoing visual disturbances; disorganized thinking; paranoia; mood swings
<b>MDMA (Methylenedioxy-methamphetamine)</b>	Lowered inhibitions; enhanced sensory perception; increased heart rate; elevated blood pressure; muscle tension; nausea; faintness; chills or sweating; sharp rise in body temperature that could lead to kidney failure or death	Long-lasting confusion; depression; problems with attention, memory, and sleep; increased anxiety; increased impulsiveness; less interest in sex
<b>Mescaline (Peyote)</b>	Enhanced perception and feeling; hallucinations; euphoria; anxiety; increased body temperature; elevated heart rate and blood pressure; sweating; problems with movement	Unknown

SUBSTANCE	SHORT-TERM EFFECTS	LONG-TERM EFFECTS
<b>Methamphetamine</b>	Increased wakefulness and activity; decreased appetite; increased breathing rate; elevated heart rate; elevated blood pressure; elevated body temperature; irregular heartbeat	Anxiety; confusion; insomnia; mood problems; violent behavior; paranoia; hallucinations; delusions; weight loss; several dental problems; intense itching leading to skin sores
<b>Morphine/Opiates</b>	Pain relief; drowsiness; nausea; constipation; euphoria; slowed breathing; death	Increased risk of overdose or addiction if misused
<b>Over-the-Counter Medicines – Dextromethorphan (DXM)</b>	<p>Cough relief; euphoria; slurred speech; increased heart rate and blood pressure; dizziness; nausea; vomiting</p> <p>Other Health-Related Issues: Breathing problems, seizures, and increased heart rate may occur from other ingredients in cough/cold medicines</p>	Unknown
<b>PCP</b>	<p>Delusions; hallucinations; paranoia; problems thinking; anxiety; dissociative experiences</p> <p><u>Low doses:</u> slight increase in breathing rate; increased blood pressure and heart rate; shallow breathing; face redness and sweating; numbness of hands and feet; problems with movement.</p> <p><u>High doses:</u> nausea; vomiting; flicking up and down of the eyes; drooling; loss of balance; dizziness; violence; seizures; coma; death</p>	Memory loss; problems with speech and thinking; loss of appetite; anxiety
<b>Prescription Stimulants</b>	<p>Increased alertness, attention, and energy; increased blood pressure and heart rate; narrowed blood vessels; increased blood sugar; opened-up breathing passages</p> <p><u>High doses:</u> dangerously high body temperature and irregular heartbeat; heart disease; seizures</p>	Heart problems; psychosis; anger; paranoia

SUBSTANCE	SHORT-TERM EFFECTS	LONG-TERM EFFECTS
<b>Psilocybin</b>	<p>Hallucinations; altered perception of time; inability to tell fantasy from reality; panic; muscle relaxation or weakness; problems with movement; enlarged pupils; nausea; vomiting; drowsiness</p> <p>Other health-related issues: risk of poisoning if poisonous mushroom is accidentally used.</p>	Risk of flashbacks and memory problems
<b>Rohypnol (Roofies)</b>	<p>Drowsiness, sedation, sleep; amnesia, blackout; decreased anxiety; muscle relaxation; impaired reaction time and motor coordination; impaired mental functioning and judgment; confusion; aggression; excitability; slurred speech; headache; slowed breathing and heart rate</p> <p>In Combination with Alcohol: severe sedation, unconsciousness, and slowed heart rate and breathing, which can lead to death</p>	Unknown
<b>Salvia</b>	Short-lived but intense hallucinations; altered visual perception, mood, and body sensations; mood swings; feelings of detachment from one's body; sweating	Unknown
<b>Steroids</b>	Builds muscles; improved athletic performance; acne; fluid retention; oily skin; yellowing of the skin; infection	Kidney damage or failure; liver damage; high blood pressure; enlarged heart; changes in cholesterol leading to increased risk of heart attack or stroke; aggression; extreme mood swings; anger; extreme irritability; delusions; impaired judgment
<b>Synthetic Cannabinoids (K2/Spice)</b>	Increased heart rate; vomiting; agitation; confusion; hallucinations; anxiety; paranoia; increased blood pressure	Unknown



SUBSTANCE	SHORT-TERM EFFECTS	LONG-TERM EFFECTS
<b>Tobacco/Nicotine and Vaping</b>	<p>Increased blood pressure, breathing, and heart rate; exposes lungs to variety of chemicals; vaping exposes lungs to metallic vapors created by heating the coils in the device.</p> <p>Other health-related issues:            Nicotine: in teens it can affect brain circuitry development [circuitry that controls attention and learning]            Vaping products: some are mixed with the filler Vitamin E acetate and other chemicals, leading to serious lung illnesses and deaths</p>	Unknown

## V. Description of Applicable Legal Sanctions for Unlawful Possession & Distribution of Illicit Drugs & Alcohol<sup>10</sup>

### A. Local Ordinances

i. **Morgantown.** Intoxication or drinking in public places and illegal possession of alcoholic liquor or beer is prohibited by 521.06 of the Morgantown Municipal Code. A violation of this provision is a misdemeanor for a first offense. Section 529.03 of the Municipal Code addresses controlled substances and provides, in relevant part as follows: “Except as authorized by West Virginia Code Chapter 60A, no person shall manufacture, deliver or possess with intent to manufacturer or deliver, a controlled substance[.]” Notably, whoever violates this provision, since there is no specific penalty provided, shall be fined not more than five hundred dollars (\$500.00),<sup>11</sup> with the exception of possessing no more than 15 grams of marijuana, which, pursuant to Section 529.99, has a penalty of a fine of no more than fifteen (\$15.00).<sup>12</sup>

<sup>10</sup> 20 U.S.C. § 1011i(a)(1)(D) (2020).

<sup>11</sup> City Code of Morgantown, West Virginia, which can be found at the following website: [https://library.municode.com/wv/morgantown/codes/code\\_of\\_ordinances](https://library.municode.com/wv/morgantown/codes/code_of_ordinances)

<sup>12</sup> Agenda, Morgantown City Council (Feb. 4, 2020), the link to which can be found at the following website: [https://www.morgantownwv.gov/AgendaCenter/ViewFile/Agenda/\\_02042020-1270](https://www.morgantownwv.gov/AgendaCenter/ViewFile/Agenda/_02042020-1270)

ii. **Beckley.** Public intoxication, under Section 10-15 of the Beckley Code of Ordinances, is prohibited as well as underage possession under Section 10-56. Moreover, Section 10-32 of the Beckley Code of Ordinances provides that “[i]t shall be unlawful for any person knowingly or intentionally to possess an amount of marihuana, less than fifteen (15) grams in weight, unless the marihuana was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of such person’s professional practice.”<sup>13</sup> The penalties for violation of Beckley ordinances is set forth in Section 1-8 and generally provides “the violation of any such provision of this Code or of any such ordinance, resolution, rule, regulation or order shall be punished by a fine not exceeding two thousand dollars (\$2,000.00).”

iii. **Keyser.** The City of Keyser also prohibits the manufacture, delivery or possession with intent to manufacturer or deliver a controlled substance classified in Schedule V under West Virginia Code 60A-2-211 or 60A-2-212. If found guilty, Section 501.99 provides that the individual shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both.<sup>14</sup>

iv. **Charleston.** The City of Charleston makes it “unlawful for any person knowingly or intentionally to possess a controlled substance, specifically a drug, substance or immediate precursor in schedules I through V as set forth in W. Va. Code §§ 60A-2-204, 60A-2-206, 60A-2-208, 60A-2-210 and 60A-2-212 (W. Va. Code § 60A-2-204 et seq.), unless the substance was obtained directly from or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized.”<sup>15</sup> If convicted, a person will “be guilty of a misdemeanor and be fined not less than \$500.00 nor more than \$1,000.00 for the first offense and succeeding offenses. Each day that such violation shall continue shall be deemed a separate and distinct offense.”<sup>16</sup>

v. **Martinsburg.** Finally, the City of Martinsburg also prohibits the manufacture, delivery or possession with intent to manufacture or deliver, or knowingly or intentionally possession a controlled or counterfeit controlled substance, except as authorized by W. Va. law.<sup>17</sup> If violated, the penalty is a fine of not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both. Each day such violation continues shall constitute a separate offense.<sup>18</sup>

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<sup>13</sup> Beckley Code of Ordinances, [https://library.municode.com/wv/beckley/codes/code\\_of\\_ordinances](https://library.municode.com/wv/beckley/codes/code_of_ordinances).

<sup>14</sup> Codified Ordinances of Keyser, West Virginia, Part Five, Article 501, <https://codelibrary.amlegal.com/codes/keyserwv/latest/overview>

<sup>15</sup> Code of the City of Charleston, West Virginia § 78-373, which can be found at the following website: [https://library.municode.com/wv/charleston/codes/code\\_of\\_ordinances](https://library.municode.com/wv/charleston/codes/code_of_ordinances).

<sup>16</sup> *Id.* § 78-383.

<sup>17</sup> Codified Ordinances of the City of Martinsburg, West Virginia § 529.06, which can be found at the following website: [https://codelibrary.amlegal.com/codes/martinsburg/latest/martinsburg\\_wv/0-0-0-1](https://codelibrary.amlegal.com/codes/martinsburg/latest/martinsburg_wv/0-0-0-1).

<sup>18</sup> *Id.* § 501.99.

## B. West Virginia Law

Chapter 60A of the West Virginia Code sets forth the applicable state laws regarding controlled substances. It is known as the West Virginia Uniform Controlled Substance Act and is modeled after the Uniform Controlled Substance Act, which is similar to portions of the Federal Comprehensive Drug Abuse Prevention and Control Act, 21 U.S.C. § 801.<sup>19</sup>

In general, except as authorized by the Act, “it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance.” W. Va. Code § 60A-4-401(a).<sup>20</sup> Furthermore, “is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by” the Act. W. Va. Code § 60A-4-401(c).<sup>21</sup>

The punishment for violations of the Act range from imprisonment in a state correctional facility for not less than one year nor more than fifteen years, or fined not more than \$25,000, or both fined and imprisoned for Schedule I or II controlled substances to confinement in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both fined and confined for Schedule V controlled substances. Notably, W. Va. Code § 60A-4-415 prohibits the unlawful manufacture, delivery, transport into the state, or possession of fentanyl, and upon conviction thereof a person shall have committed a felony and be punished, depending on the weight, anywhere from imprisonment in a correctional facility for not less than two nor more than ten years, to potentially imprisoned in a correctional facility for not less than four nor more than twenty years for five (5) grams or more.

## C. Federal Statutes

The possession and distribution of illegal drugs under federal law is primarily governed by, among other statutes, 21 U.S.C. § 841 and 21 U.S.C. § 844. Under 21 U.S.C. § 841, it is unlawful for any person knowingly or intentionally “to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance” or “to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance,”<sup>22</sup> whereas 21 U.S.C. § 844 provides that is unlawful “for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice . . .”<sup>23</sup>

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<sup>19</sup> Chapter 60A, Notes to Decisions, Derivation of chapter (Lexis 2020).

<sup>20</sup> Under the Act, there are three types of prohibited acts, A, B, and C. For purposes of this booklet, prohibited acts A contains the prohibitions on possession and distribution, which is based on the schedule of drug involved. *See* W. Va. Code § 60A-4-402 and -403.

<sup>21</sup> This also applies to counterfeit and imitation controlled substances in some circumstances. *See* W. Va. Code § 60A-4-401(b), (d).

<sup>22</sup> 21 U.S.C. § 841(a)(1)-(2).

<sup>23</sup> 21 U.S.C § 844(a).

The penalties for violating federal laws governing controlled substances depends on a variety of factors, such as the controlled substances involved, the amount of controlled substances, where the alleged offense took place, and any other relevant factor under the United States Sentencing Guidelines.<sup>24</sup> The penalties range from probation/supervised release, to mandatory minimum sentences of not less than ten years or more, to life in prison. The mandatory minimum increases for factors such as whether death or serious bodily injury results, and whether there have been two or more prior convictions.<sup>25</sup>

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<sup>24</sup> See, e.g., U.S.S.G. §§ 2D1.1 to 2D3.2 (2018), <https://www.ussc.gov/guidelines/2018-guidelines-manual-annotated>.

<sup>25</sup> 21 U.S.C. § 841(b)(1); see also 21 U.S.C. § 844(a).