



## Minors on Campus

POLICY No.:

Responsible Executive: VP, Finance

Responsible Office: Risk & Compliance

Effective: October 29, 2014

Revised: March 1, 2017

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### PURPOSE

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To provide guidelines for appropriate protection and supervision of minors participating in University-sponsored programs, in programs operated by outside entities held at University facilities, and/or programs and activities housed in University facilities in which minors will be physically present and/or participating.

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### SCOPE

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All programs, camps and activities that involve the participation of minors fall under the scope of this Policy, including: programs operated by the university or third-party entities, programs taking place on campus and programs under the direction and authority of the university at locations off campus. This policy applies to programs whether they are limited to daily activities or involve overnight accommodations of minors in University residence halls.

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### DEFINITIONS

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**Background Check** - According to Act 153 of 2014 (Criminal Background Checks for School Employees), any school employee (18 years of age or older) or Volunteer who has "direct contact" with a minor are required to provide proof of the following clearances:

- 1) a Pennsylvania State Police criminal background check;
- 2) a certification from the Department of Public Welfare as to whether the applicant is named in the statewide database as an alleged perpetrator in a pending, indicated or founded child abuse investigation; and
- 3) a report of the Federal Criminal History Record Information obtained by the submission of a full set of fingerprints to the Pa. State Police for the purpose of a record check.

**Care, Custody and Control** - In the absence of a parent/guardian and for the purpose of this policy, Program Staff will be considered to have care, custody and control of a minor when the individual has the responsibility for supervising and directing a minors' activities while participating in a Program.

**ChildLine** – An organizational unit of the Commonwealth of Pennsylvania's Department of Public Welfare which operates a statewide toll-free system for receiving reports of suspected child abuse refers such reports for investigation and maintains the reports in the appropriate. The Intake Unit (800-932-0313) is available 24 hours to receive reports of suspected child abuse.

**Direct contact with children** - the care, supervision, guidance or control of children, or routine interaction with children.

**Matriculated Student** - a student who is enrolled in an Institution of higher education and pursuing a program of study that results in a postsecondary credential, such as a certificate, diploma or degree.

**Minor** – A person under the age of eighteen (18). This term shall not apply to:

- A. Prospective students visiting a campus operated by the University; or
- B. Matriculated students who are enrolled with the University.

**Minor Supervision Ratio** - In accordance with the American Camp Association, the ratio of program staff to program participants must reflect the gender distribution of the participants, and should, at a minimum, meet the following:

Standards for day program are:

- One Program Staff for every six minors ages 4 and 5
- One Program Staff for every eight minors ages 6 to 8
- One Program Staff for every ten minors ages 9 to 14
- One Program Staff for every twelve minors ages 15 to 17

Standards for resident (overnight) programs are:

- One Program Staff for every five minors ages 4 and 5
- One Program Staff for every six minors ages 6 to 8
- One Program Staff for every eight minors ages 9 to 14
- One Program Staff for every ten minors ages 15 to 17

**One-On-One Contact** –Interaction between any Program Staff and a minor without at least one other Program Staff, Parent or Legal Guardian present. One-on-one interactions are prohibited unless authorized by the Program Director. Approved one-on-one interactions may only take place in open, well-illuminated spaces or rooms observable by other adults from the activity or program with minors.

**Parent(s) or Legal Guardian(s)** - Although a parent or legal guardian may supervise their own minor children and their guests who are Minors while visiting the campus or using campus facilities, a parent or legal guardian may not act as Program Staff in a Program (including one in which his or her Minor participates) unless they are in compliance with the requirements outlined within this policy.

**Programs** – Programs, camps, services and activities which are approved by the University and offered by any academic or administrative unit of the University, or by non-University groups using University facilities.

**Program Director** – An Individual (employee, student, third party, etc.) responsible for sponsoring and administering the Program(s) using University facilities. In addition to any administrative functions the University may require, the Program Director must undergo the training and background checks required for Program Staff at least once every five (5) years. It is the responsibility of the Program Director to maintain the appropriate skills necessary to make decisions relevant to program staffing and implementation.

**Program Staff** – An individual, age 18 and older, paid or unpaid, who is authorized to interact with, supervise, chaperone, or otherwise oversee minors in program activities, or recreational and/or residential facilities. This includes but is not limited to faculty, staff, volunteers, graduate and undergraduate students, interns, employees of temporary employment agencies, and independent contractors/consultants. Program Staff are considered to be Mandated Reporters as defined by Pennsylvania law. This definition does not include temporary guest speakers, presenters and other individuals who have no direct contact with program participants other than short term activities supervised by program staff.

**Mandated Reporters** – (as defined in 23 Pa. Cons. Stat. § 6303) Persons who, in the course of their employment, occupation, or practice of their profession, come into contact with children, including all Program Staff, are required to report suspected child abuse. Additionally, any person may make such a report if that person has reasonable cause to suspect that a child is an abused child. Wilkes University considers all employees, students, independent contractors and volunteers to be Mandated Reporters.

**Routine interaction** - Regular and repeated contact [with minors] that is integral to a person's employment or volunteer responsibilities.

**School employee:** an individual who is employed by a school or who provides a program, activity or service sponsored by a school. The term excludes an individual who has no direct contact with children.

**Sponsoring Unit** – The academic or administrative unit/department of the University that offers a program or sponsors a third parties program.

**University Facilities** – Property owned by, or under the control of, the University.

**Volunteer** - Any individual 14 years or older, authorized by an appropriate University appointing authority or designee of an appointing authority, who provides services to the University without remuneration from the university.

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## POLICY & PROCESS

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In order to promote the safety and general welfare of all minors participating in programs at the University, it is the policy of Wilkes University that all minors participating in programs must be reasonably and appropriately supervised by Program Staff who comply with the conduct requirements established by the University and in this policy.

### I. Notification Requirements

All Wilkes University employees, students, independent contractors and volunteers (collectively “Mandated Reporters”) have a personal responsibility to report any instances of known or suspected abuse, molestation or neglect relating to children.

**If a minor is in imminent danger, the discoverer must:**

- 1. Make all reasonable efforts to remove the minor from dangerous or potentially dangerous situations, irrespective of any other limitation or requirement**
- 2. Contact the police at 911 to obtain immediate protection for the child.**
- 3. Contact the Commonwealth of Pennsylvania’s ChildLine (800-932-0313)**

All individuals serving as Program Staff in University-sponsored programs should be aware that they are considered Mandated Reporters under Pennsylvania Mandatory Reporting Requirements Regarding Children and must report to the Commonwealth of Pennsylvania’s ChildLine (800-932-0313) all instances where they have reasonable cause to believe a child is suffering physically or emotionally from abuse, including sexual abuse, or neglect. All such employees should also contact the Wilkes University Department of Public Safety (x4999) immediately in the event they become aware of or concerned about such abuse or neglect for assistance in making all required reports under Pennsylvania law.

Upon receipt of a report of suspected abuse, Public Safety will immediately notify the Vice President, Finance & General Counsel and the Chief Risk and Compliance Officer. Within 48 hours, Public Safety will make a written report on forms provided by the Pennsylvania Department of Public Welfare to the county agency with jurisdiction in the County where the suspected child abuse occurred.

In addition, all individuals serving as Program Staff in University-sponsored programs are "Campus Security Authorities" under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 1092(f)) (the "Clery Act") and should review the University Policy on Crime Reporting found in the Annual Security and Fire Safety Report.

Notwithstanding this policy, any person must report suspected child abuse or neglect by contacting ChildLine (800-932-0313).

The University does not retaliate against any individual who has a reasonable cause to suspect that a minor has been subject to assault, abuse or neglect and who reported such an incident. (Whistleblower Policy)

## **II. Procedures for Handling Allegations of Child Abuse**

In the event that the Department of Public Safety receives a report of alleged abuse of a minor, the on-shift Public Safety Supervisor will notify the Director of Public Safety who will take the following action:

- a. If the abuse happened on campus or on property owned or leased by the University or off campus while a member of the University staff, faculty or student body was participating in a University connected activity, the Director of Public Safety shall:
  - a. Confirm that immediate steps to prevent further harm to the alleged victim or other minors have occurred, including, where appropriate, removing the alleged abuser from the program or activity or limiting his or her contact with minors pending resolution of the matter.
  - b. Confirm that the Wilkes-Barre Police Department or appropriate agencies have already been notified.
  - c. Notify the Vice President, Finance & General Counsel and/or the President of the University.
  - d. If the parents or guardians of the victim have not been involved in the reporting and are not the alleged abusers, notify the parents or guardians of the minor involved.
  - e. If the alleged abuser;
    - i. is a faculty member, notify the Provost of the allegations.
    - ii. is a student, notify the Vice President of Student Affairs.
    - iii. is a staff member, notify the Chief Human Resource Officer.
  - f. Conduct an investigation in conjunction with the Office of Human Resources, the Provost's office or Student Affairs, depending on whether the alleged abuser is a member of the staff, faculty or student body. The investigation may include interviews of the reporting party, program staff, the alleged abuser, and any person(s) whom the reporting party, the victim, the victim's parents or guardians, or the alleged abuser believe have relevant information.
  - g. Report the findings of the investigation to the Vice President in charge of the department where the alleged abuser is employed if the alleged abuser is a staff member, to the Provost if the alleged abuser is a faculty member, or to the Vice President for Student Affairs if the alleged abuser is a student, along with a

recommendation as to any sanction which should be imposed, up to and including dismissal.

- h. Facilitate the University's cooperation with any investigation conducted by the Wilkes-Barre Police Department or other governmental agency.
- b. If the alleged abuser is not employed by or enrolled as a student of the University but the alleged abuse happened on campus or on property owned or leased by the University, in addition to the above procedures, the Director of Public Safety:
  - a. May request that a "no trespass" letter be sent to the alleged abuser pending the outcome of the investigation.
  - b. May, if the alleged abuser is present on the campus as a result of working for someone or some entity with authorization to be on campus, notify that person or entity of the allegations.
  - c. Will (if the investigation confirms that the abuse occurred) request that a permanent "no trespass" letter be sent and notify the person or entity with whom the alleged abuser is employed of the results of the investigation and the permanent ban of the alleged abuser from campus.

### **III. Program Requirements**

All Programs covered by this Policy must meet the following requirements:

#### **A. Program Registration and Documentation**

The Program Director must submit an approved Program Registration/Approval Form to the Office of Risk & Compliance Management no less than forty-five (45) days prior to the start date of the Program. Failure to register will result in denial of the Program. Based on the registration and other relevant information, the University may refuse to participate in or make University property or facilities available for the Program.

If the registration information changes before or during the Program, the Program Director, or his or her designee, must immediately notify the Office of Risk & Compliance Management of any such changes via telephone or email.

After registration of the program, the Program Director must provide a list of all program participants and a directory of program staff to the Office of Risk & Compliance Management prior to the start of the program. This list shall include each participant's:

- Name;
- Campus Housing room assignment (if applicable);
- Gender;
- Age;
- Name(s) of parent(s) or legal guardian(s); and
- Emergency contact information, including cell phone number(s).

Program Director must obtain the following forms from each participant's parent/legal guardian as part of the program registration process (Alternate forms may be approved by the Chief Risk & Compliance Officer):

- Release of Liability Form
- Media, Photo & Video Release Form
- Medical Information and Release Form
- Self-Administration of Prescription Medication Form
- Certificate of Insurance (Non-University Sponsors only)

All data collected shall be strictly confidential, is subject to records retention guidelines, and shall not be disclosed, except as provided by law.

## **B. Criminal Background Check Requirement**

Pennsylvania's Child Protective Services Act (Act 153 of 2014) requires all school employees and volunteers who have direct, routine contact with minors be background screened every five (5) years. The law now excludes from the background check the requirement that employees at institutions of higher education whose direct contact with children (defined as under 18 years of age), in the course of employment, is limited to either:

1. Prospective students visiting a campus; or
2. matriculated students who are enrolled at the institution.

Effective December 31, 2014, all new employees not excluded above, are required to obtain three Pennsylvania clearances listed as follows:

- Pennsylvania State Police Criminal Record Check (PATCH);
- Pennsylvania Dept. of Human Services Child Abuse History Clearance; and
- FBI Federal Criminal History Record Information (Fingerprinting)

Additionally, all Program Staff who will stay overnight with minors must have a background investigation prior to the event. It is the responsibility of the Program Director to ensure these investigations are completed prior to the start of the program.

The Department of Human Resources will coordinate and maintain a roster of University employees who have been cleared to participate and the dates on which a new background check will be required. The cost for individuals other than faculty/staff/students/volunteers will be the responsibility of the individual.

Clearances are not transferrable for employment purposes. New clearances are required for individuals who previously obtained clearances for another organization (i.e., an individual with clearances for working or volunteering with a school district could not use those clearances for purposes of working at Wilkes University).

If, after proper verification, a person's background investigation is determined to indicate an arrest or conviction of one or more of the following offenses, the Program Director will be notified that the person is not eligible to participate as program staff:

- Any sexual offense;
- Any offense against children, including but not limited to child abuse, child sexual abuse, or other crime involving the endangerment of a minor;
- Battery or assault, including but not limited to domestic violence related offenses;
- Any drug distribution offense or felony drug possession;
- Homicide;
- Kidnapping; or
- Any other felony or crime involving moral turpitude.

If other offenses are revealed by such a background investigation, a decision not to permit an individual to participate in a program or activity covered by this Policy will be made by will be made by the appropriate Vice President(s), in consultation with others including the Director of Public Safety, the Office of Compliance & Risk Management, and the Office of Human Resources as needed.

## C. Training Requirement

Program Staff are required to attend annual training (online or in-person) on the practices and conduct requirements of this policy, on protecting minors from abusive emotional and physical treatment, and on appropriate or required reporting of incidents of improper conduct (including, but not limited to, appropriate law enforcement authorities). Training must be taken every three (3) years.

## D. Behavioral Expectations for Adults

Program Directors must review the following “Codes of Conduct” with all Program Staff.

Program Staff are prohibited from:

- a. One-on-one interactions are prohibited unless authorized by the Program Director. Approved one-on-one interactions may only take place in open, well-illuminated spaces or rooms observable by other adults from the activity or program with minors.
- b. Entering a minor's room, bathroom facility, or similar area where that minor is staying overnight in University housing without another Program Staff in attendance, except under emergency circumstances.
- c. Sharing accommodations with minors with the exception of minors' parents or guardians sharing accommodations with their own children.
- d. Allowing visitors by minors or Program Staff during overnight stays.
- e. Engaging in abusive conduct of any kind toward, or in the presence of, a minor.
- f. Striking, hitting, administering corporal punishment to, physically restraining or touching in an inappropriate or illegal manner, any minor.
- g. Hazing of any kind.
- h. Bullying, including verbal, physical, and cyber bullying.
- i. Use of a Program Staff member's personal vehicle to transport minors participating in the Program unless the parent or legal guardian of the minor has provided written permission.
- j. Use of a Program Staff member's home for program activities.
- k. Providing alcohol or illegal drugs to any minor.
- l. Providing or administering prescription drugs or any medication to a minor.
- m. Use of tobacco, in any form, is prohibited in all University owned, managed or leased buildings, vehicles, shuttles and vans.
- n. Providing gifts to a minor.
- o. Possession or use of fireworks, guns and other weapons.
- p. Providing or allowing sexual materials in any form to be available to minors participating in programs.
- q. Taking photographs or videos of minors or posting photographs or videos on a digital, electronic, hosted media, web-based service or any other medium without first obtaining a Media, Photo & Video Release from the minor's parent or legal guardian.
- r. Engaging in or communicating with minors through e-mail, text messages, social networking websites, internet chat rooms, or other forms of social media at any time, except and unless there is an educational or programmatic purpose and the content of the communication is consistent with the purpose of the program.
- s. Engaging in intimate displays of affection towards others in the presence of minors.
- t. Failing to report abuse, harassment or exploitation of minors by other minors participating in the program.



## **E. Staffing and Supervision**

All programs involving minors (with the exception of academic classroom activities) will be supervised by at least the minimum number of Program Staff as defined in the “Minor Supervision Ratio”. The Program Director is responsible for determining if additional supervision is necessary. Some of the factors to consider in determining adequate supervision are: the number and age of participants; the activity(ies) involved; type of housing, if applicable; and the age and experience of the supervising Program Staff.

The following must be established prior to the start of the program:

- Adequate number of program staff for supervision of minors.
- Contact information for parents and a duly executed emergency medical authorization to be given to the Program Director or delegate.
- The program must comply with all security measures and procedures specified by the Wilkes University Residence Life Office and Wilkes University Public Safety.
- Pre-enrollment visit programs for High School students housed overnight in residence halls must be registered with the Wilkes University Residence Life Office, Admissions and Public Safety.

If the program utilizes University residential housing, Program Directors must also ensure that program participants abide by all rules and regulations established by the Office of Residence Life.

## **F. Use of Volunteers**

Any volunteer (including student volunteers) who will have direct contact with minors while participating in a Wilkes University sponsored or facilitated program or activity designed primarily to serve minors is required to complete three (3) criminal background checks, except as noted below:

- Pennsylvania State Police Criminal Record Check (PATCH);
- Pennsylvania Dept. of Human Services Child Abuse History Clearance; and
- FBI Federal Criminal History Record Information (Fingerprinting)\*

Direct volunteer contact is defined as both the care, supervision, guidance, or control of minors and the routine interaction with minors.

\*If a volunteer has been a continuous resident of Pennsylvania for ten (10) years or more, they do not have to complete the FBI fingerprinting clearance, but instead can submit a signed Unpaid Volunteer Affidavit affirming that they are not disqualified from service in the program or under Pennsylvania Law. Please note that off-site programs or activities involving minors may have additional requirements that must be met.

## **G. Emergency and Safety Protocols**

Program Director must establish a procedure for the notification of the minor’s parent/legal guardian in case of an emergency, including medical or behavioral problems, natural disasters or other significant program disruptions. Program Staff, as well as participants and their parents/legal guardians, must be advised of this procedure in writing prior to the participation of the minors in the program.

The following measures to address medical & emergency situations involving minors applies to all programs:

- Program Directors must arrange for access to emergency medical services at all locations used by the program. Medical care appropriate for the nature of the events, expected attendance and other variables should be taken into consideration when arranging for emergency medical services. Consultation may be obtained from Wilkes University Health and Wellness Services.
- Wilkes University employees MAY NOT administer or distribute medication to any minor participant.
- Incident/Accident Report Forms should be completed as soon as possible after the occurrence and submitted to the Office of Risk & Compliance Management.

## **H. Rules and Disciplinary Measures**

Program Director will make available to participants the rules and disciplinary measures applicable to all University programs. Program participants and staff must abide by all University rules and regulations and may be removed from the program for non-compliance with rules and regulations.

### **I. Missing Minors**

The safety of minors is the highest priority at all times both on and off campus. Every attempt is made through carrying out the program procedures to ensure that the safety and security of children is maintained at all times. In the unlikely event of a child going missing, the following procedures shall be followed:

1. As soon as it is noticed that a child is missing the Program Director/designee shall alert the Department of Public Safety by calling (X4999) or 570-408-4999.
2. When responding to the report of a missing child, the Public Safety Officer(s) shall conduct a preliminary investigation and document the results on the initial report. The responding officer will:
  - a. Make personal contact with the complainant and immediately determine if:
    - i. The missing child has NOT been the subject of any prior missing (runaway) report.
    - ii. Determine if any special circumstances are involved that would increase the child's risk of being missing.
    - iii. The complainant has reason to believe that the missing child may have been abducted either by a family member or a non-family member.
  - b. If the responding officer feels that any of the above exists then Law Enforcement shall be contacted to respond to the situation.
  - c. Obtain a detailed description of the missing child and have disseminated to Law Enforcement, other Security Officers, and others involved in the search.
  - d. Initial Search procedures should include but not limited to:
    - i. Thorough check of the Facility/residential areas.
    - ii. Search of immediate area.
    - iii. Check areas where other children of the same age of the missing child might congregate or locations the child is known to frequent.
    - iv. Contact friends and/or relatives.
    - v. Campus neighborhood canvas.

- vi. Obtain a recent photograph of the child
3. The program roster is checked by the Program Director to make sure no other child has also gone astray.
  4. Once the child has been found, a full written report of the incident shall be prepared, and an investigation into the incident will be carried out by the Department of Public Safety. The incident report will detail:
    - a. The date and time of the incident.
    - b. Program staff/participants in the group where the missing child belonged.
    - c. When the missing child was last seen.
    - d. The estimated time that the child went missing.
    - e. Circumstances surrounding the child's disappearance – what was the child doing/saying prior to going missing.

Upon completion of the investigation, the incident report will be submitted to the Vice President, Finance and General Counsel.

#### **J. Programs Involving Minors Operated by Outside Parties on Wilkes University Property**

Any program involving minors operated by outside parties on Wilkes University property shall be operated consistent with the guidelines of this Policy. All contracts for the use of University facilities by outside parties for programs involving minors shall reference this requirement and this Policy.

Authorized personnel/signatories for non-University groups using University facilities must provide to the Sponsoring Unit satisfactory evidence of compliance with all of the requirements of this Policy at least forty-five (45) days prior to the scheduled use of University facilities, and they must sign and approve the agreement for use of University facilities, if applicable.

Non-University groups must provide separate Abuse and Molestation insurance in the amount of \$1,000,000 each occurrence and \$2,000,000 general aggregate. A Certificate of Insurance must be provided prior to the event and name Wilkes University as an "additional insured." The certificate should be forwarded to Wilkes Compliance & Risk Management prior to the event.

Coverage can be provided either by endorsement to the Commercial General Liability (CGL) Policy or under a separate policy and must be specifically referenced on the Certificate of Insurance noted below. Coverage for such claims must not be subject to any exclusion, restriction, or sub-limit.

If coverage for abuse and molestation is not specifically included in the CGL coverage, a separate policy or rider shall be required as evidence of said insurance.

All insurance policies shall be on an occurrence basis only. Wilkes University must be named as an additional named insured on the policy.

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## EXCEPTIONS

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Exceptions to this policy include: (1) events on campus which are open to the general public and which minors attend at the sole discretion of their parents or guardians; (2) campus tours, orientations or visits by minors considered to be prospective students; and (3) other programs as may be designated from time to time by the appropriate university official in advance and in writing as exempted from this policy.

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## FORMS

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Program Registration/Approval Form, Program Staff Code of Conduct, Release of Liability Form, Media Photo & Video Release Form, Medical Information & Release Form, Self-Administration of Prescription Medication Form, Incident/Accident Report Form, Third Party Non-University Sponsor Certification Form, Unpaid Volunteer Affidavit

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## CROSS REFERENCE

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Employment Procedures and Guidelines (HR), Whistleblower Policy (HR), Undergraduate Handbook

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## RESPONSIBILITY

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The leadership of the university is responsible for this policy with departmental leadership responsible for ensuring their programs and activities involving minors are compliant with this policy. Any questions regarding clarification of this policy should be directed to the office of Compliance & Risk Management.

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## RESOURCES

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Pennsylvania ChildLine and Abuse Registry Intake Unit - <http://www.dpw.state.pa.us/forchildren/childwelfareservices/calltoreportchildabuse/>

Pennsylvania Access To Criminal History (PATCH) - <https://epatch.state.pa.us/Home.jsp>

Department of Public Welfare (DPW) Child Abuse History Clearance Forms - <http://www.dpw.state.pa.us/provider/childwelfareservices/childabusehistoryclearanceforms/index.htm>

Federal Bureau of Investigation (FBI) Criminal History Summary – <http://www.fbi.gov/about-us/cjis/criminal-history-summary-checks/criminal-history-summary-checks>

Student Code of Conduct – Ref. current Wilkes University Undergraduate Student Handbook.

The National Center for Missing & Exploited Children - <http://www.missingkids.com/home>

Pennsylvania State Police Megan's Law Website - <http://www.pameganslaw.state.pa.us/>

American Camp Association - <http://www.acacamps.org/>

