



# **2023 Nebraska Wesleyan University Annual Security Report and Fire Safety Report**

containing information for the 2023-2024 Academic Year  
and crime statistics for 2020-2022



NEBRASKA  
WESLEYAN  
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# Section I: Introduction, Clery-Reportable Crime Definitions, and Geography

## To Wesleyan community members (students, employees, prospective students, prospective employees, and guests)

Nebraska Wesleyan University's primary concern is the safety and security of all students, employees, prospective students, prospective employees, and campus guests. The Nebraska Wesleyan University Annual Campus Security and Fire Safety Report is published each year to provide crime and fire statistics and information on safety and security-related services offered by Nebraska Wesleyan University (NWU), in compliance with the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act. This Annual Security Report (ASR) summarizes NWU campus safety and security programs. The report contains policies and procedures designed to enhance personal safety and contains statistics, policies and programs related to dating violence, domestic violence, sexual assault and stalking, as well as other safety concerns.

The information provided in this report is designed to be a resource and to alert the campus community of the current programs, policies, and procedures related to crime awareness and reporting at NWU for the current academic year. This report also includes statistics for the previous three years concerning Clery-reportable crimes that occurred on-campus, on property owned or controlled by NWU, and on public property within or immediately adjacent to, and accessible from, the campus.

We encourage all members of the NWU community to use this report as a guide and to take an active role in maximizing your personal safety, both on-campus and off-campus.

The ASR addresses Clery-reportable crimes that occur within a specific and designated geography for the University's campuses. NWU has designated the following individuals\* as the campus Clery Compliance Administrators who are responsible for maintaining the Daily Crime Log and analyzing and classifying crimes on campus, on public property, within or immediately adjacent to the campus, and in non-campus buildings or on property that NWU owns or controls. This also includes the identification of Clery crimes for off-campus locations for school-sponsored trips. Clery Compliance Administrators include:

- \*James Ruzicka, director of the physical plant
- \*Roxanne Styskal, assistant director of the physical plant
- \*Maria Harder, assistant vice president of human relations and director of Title IX services
- \*Natasha Moreno, Title IX coordinator

Documentation of the Daily Crime Logs and Clery geography are kept in the Physical Plant security office and a secured SharePoint site. NWU does not have sworn law enforcement on its campus, and instead utilizes a firm with security personnel to assist with campus security. The security personnel are directed by the assistant director of the physical plant, including annual training and daily assignments. The security personnel are not sworn officers, but may detain individuals and will coordinate with local and state police who are legally authorized to make arrests. The security personnel have jurisdiction within NWU's campus Clery geography for the campus.

## Clery-Reportable Crimes

**Murder & Non-Negligent Manslaughter:** The willful (non-negligent) killing of one human being by another.

**Negligent Manslaughter:** The killing of another person through gross negligence.

**Sexual Assault:** Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.

**Rape:** The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.

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

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

**Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

**Robbery:** Taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault:** Unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

**Burglary:** Unlawful entry of a structure to commit a felony or a theft.

**Motor Vehicle Theft:** Theft or attempted theft of a motor vehicle.

**Arson:** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

**Weapon Law Violations:** The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices or other deadly weapons. This classification encompasses weapons offenses that are regulatory in nature.

**Drug Abuse Violations:** The violation of laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws,

specifically, those relating to the unlawful possession, sale, growing, manufacturing, making, and use of narcotic drugs.

**Liquor Law Violations:** The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages, not including driving under the influence and drunkenness.

**Referrals for Disciplinary Action:** The referral of any person to any official who initiates a disciplinary action of which a record is kept, and which may result in the imposition of a sanction. Only referrals that are alleged violations of law and are not campus policy are put on the Clery report. The institution maintains a daily crime report where all crimes and incidents are recorded.

**Domestic Violence:** A felony or misdemeanor crime of violence committed by:

- a current or former spouse or intimate partner of the victim,
- a person with whom the victim shares a child in common,
- a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving monies (under VAWA) in which the crime of violence occurred, or
- any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition—

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- fear for his or her safety or the safety of others; or
- suffer substantial emotional distress

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Hate Crimes:** Any of the above crimes plus the four crimes listed below that manifest evidence that the victim/victims were intentionally selected because of the perpetrator's bias.

- Larceny/Theft: The unlawful taking, carrying, leading or riding away of property from the possession or constructive possession of another.
- Simple Assault: The unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
- Intimidation: To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
- Destruction/Damage/Vandalism of Property: To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

### **Categories of Bias:**

**Race:** A preformed negative attitude toward a group of persons who possess common physical characteristics, e.g., color of skin, eyes, and/or hair; facial features, etc., genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind, e.g., Asians, blacks or African Americans, whites.

**Religion:** A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being, e.g., Catholics, Jews, Protestants, atheists.

**Sexual Orientation:** A preformed negative opinion or attitude toward a group of persons based on their actual or perceived sexual orientation. Sexual Orientation is the term for a person's physical, romantic, and/or emotional attraction to members of the same and/or opposite sex, including lesbian, gay, bisexual, and heterosexual (straight) individuals.

**Gender:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.

**Gender Identity:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals. Gender non-conforming describes a person who does not conform to the gender-based expectations of society, e.g., a woman dressed in traditionally male clothing or a man wearing makeup. A gender non-conforming person may or may not be a lesbian, gay, bisexual, or transgender person but may be perceived as such.

**Ethnicity:** A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry. The concept of ethnicity differs from the closely related term “race” in that “race” refers to a grouping based mostly upon biological criteria, while “ethnicity” also encompasses additional cultural factors.

**National Origin:** A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth. This bias may be against people that have a name or accent associated with a national origin group, participate in certain customs associated with a national origin group, or because they are married to or associate with people of a certain national origin.

**Disability:** A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness

## **Nebraska State Laws/Definitions of VAWA Crimes** (<https://nebraskalegislature.gov>)

### **Chapter 79-2,140. Dating Violence.**

For purposes of the Lindsay Ann Burke Act, unless the context otherwise requires:

- (1) Dating partner means any person, regardless of gender, involved in an intimate relationship with another person primarily characterized by the expectation of affectionate involvement whether casual, serious, or long-term;
- (2) Dating violence means a pattern of behavior where one person uses threats of, or actually uses, physical, sexual, verbal, or emotional abuse, to control his or her dating partner;
- (3) Department means the State Department of Education; and
- (4) School district has the same meaning as in section [79-101](#).

### **Chapter 28-323. Domestic assault; penalties.**

- (1) A person commits the offense of domestic assault in the third degree if he or she:
  - (a) Intentionally and knowingly causes bodily injury to his or her intimate partner;
  - (b) Threatens an intimate partner with imminent bodily injury; or
  - (c) Threatens an intimate partner in a menacing manner.
- (2) A person commits the offense of domestic assault in the second degree if he or she intentionally and knowingly causes bodily injury to his or her intimate partner with a dangerous instrument.
- (3) A person commits the offense of domestic assault in the first degree if he or she intentionally and knowingly causes serious bodily injury to his or her intimate partner.
- (4) Violation of subdivision (1)(a) or (b) of this section is a Class I misdemeanor, except that for any subsequent violation of subdivision (1)(a) or (b) of this section, any person so offending is guilty of a Class IIIA felony.
- (5) Violation of subdivision (1)(c) of this section is a Class I misdemeanor.
- (6) Violation of subsection (2) of this section is a Class IIIA felony, except that for any second or subsequent violation of such subsection, any person so offending is guilty of a Class IIA felony.
- (7) Violation of subsection (3) of this section is a Class IIA felony, except that for any second or subsequent violation under such subsection, any person so offending is guilty of a Class II felony.
- (8) For purposes of this section, intimate partner means a spouse; a former spouse; persons who have a child in common whether or not they have been married or lived together at any time; and persons who are or were involved in a dating relationship. For purposes of this subsection, dating relationship means frequent, intimate associations primarily characterized by the expectation of



affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context.

**Chapter 42-903. Protection from Domestic Abuse Act [Definition of “Household member”]**

(3) Family or household members includes spouses or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common whether or not they have been married or have lived together at any time, other persons related by consanguinity or affinity, and persons who are presently involved in a dating relationship with each other or who have been involved in a dating relationship with each other. For purposes of this subdivision, dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context.

**Chapter 28-318. Terms, defined [Sexual Assault and Consent]**

As used in sections [28-317](#) to [28-322.05](#), unless the context otherwise requires:

- (1) Actor means a person accused of sexual assault;
- (2) Intimate parts means the genital area, groin, inner thighs, buttocks, or breasts;
- (3) Past sexual behavior means sexual behavior other than the sexual behavior upon which the sexual assault is alleged;
- (4) Serious personal injury means great bodily injury or disfigurement, extreme mental anguish or mental trauma, pregnancy, disease, or loss or impairment of a sexual or reproductive organ;
- (5) Sexual contact means the intentional touching of the victim's sexual or intimate parts or the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts. Sexual contact also means the touching by the victim of the actor's sexual or intimate parts or the clothing covering the immediate area of the actor's sexual or intimate parts when such touching is intentionally caused by the actor. Sexual contact includes only such conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification of either party. Sexual contact also includes the touching of a child with the actor's sexual or intimate parts on any part of the child's body for purposes of sexual abuse by a school employee under section [28-316.01](#) or sexual assault of a child under sections [28-319.01](#) and [28-320.01](#);
- (6) Sexual penetration means sexual intercourse in its ordinary meaning, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the actor's or victim's body or any object manipulated by the actor into the genital or anal openings of the victim's body which can be reasonably construed as being for nonmedical, non-health, or nonlaw enforcement purposes. Sexual penetration shall not require emission of semen;
- (7) Victim means the person alleging to have been sexually assaulted;

**(8) Without consent means:**

- (a)(i) The victim was compelled to submit due to the use of force or threat of force or coercion, or
- (ii) the victim expressed a lack of consent through words, or
- (iii) the victim expressed a lack of consent through conduct, or
- (iv) the consent, if any was actually given, was the result of the actor's deception as to the identity of the actor or the nature or purpose of the act on the part of the actor;
- (b) The victim need only resist, either verbally or physically, so as to make the victim's refusal to consent genuine and real and so as to reasonably make known to the actor the victim's refusal to consent; and
- (c) A victim need not resist verbally or physically where it would be useless or futile to do so; and

**(9) Force or threat of force means**



- (a) the use of physical force which overcomes the victim's resistance or
- (b) the threat of physical force, express or implied, against the victim or a third person that places the victim in fear of death or in fear of serious personal injury to the victim or a third person where the victim reasonably believes that the actor has the present or future ability to execute the threat.

### **Chapter 28-311.03. Stalking.**

Any person who willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.

### **Chapter 28-1204. Unlawful possession of a handgun; exceptions; penalty.**

- (1) Any person under the age of eighteen years who possesses a handgun commits the offense of unlawful possession of a handgun.
- (2) This section does not apply to the issuance of handguns to members of the armed forces of the United States, active or reserve, National Guard of this state, or Reserve Officers Training Corps, when on duty or training, or to the temporary loan of handguns for instruction under the immediate supervision of a parent or guardian or adult instructor.
- (3) Unlawful possession of a handgun is a Class I misdemeanor.

### **Chapter 28-1201. Terms, defined [Weapons].**

For purposes of sections 28-1201 to 28-1212.04, unless the context otherwise requires:

- (1) Case means (a) a hard-sided or soft-sided box, container, or receptacle intended or designed for the primary purpose of storing or transporting a firearm or (b) the firearm manufacturer's original packaging. This definition does not apply to section 28-1204.04;
- (2) Concealed handgun means a handgun that is entirely obscured from view. If any part of the handgun is capable of being seen or observed by another person, it is not a concealed handgun;
- (3) Firearm means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or frame or receiver of any such weapon;
- (4) Fugitive from justice means any person who has fled or is fleeing from any peace officer to avoid prosecution or incarceration for a felony;
- (5) Handgun means any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand;
- (6) Juvenile means any person under the age of eighteen years;
- (7) Knife means:
  - (a) Any dagger, dirk, knife, or stiletto with a blade over three and one-half inches in length and which, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury;
  - or
  - (b) Any other dangerous instrument which is capable of inflicting cutting, stabbing, or tearing wounds and which, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury;
- (8) Knuckles and brass or iron knuckles means any instrument that consists of finger rings or guards made of a hard substance and that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles;
- (9) Machine gun means any firearm, whatever its size and usual designation, that shoots automatically more than one shot, without manual reloading, by a single function of the trigger;
- (10)(a) Minor means a person who is under twenty-one years of age.
- (b) Minor does not include a person who is eighteen years of age or older if the person is (i) a member of the armed forces of the United States, active or reserve, National Guard of this state, or Reserve Officers' Training Corps or (ii) a peace officer or other duly authorized law enforcement officer;

(11)(a) Prohibited person means:

(i) A person prohibited from possessing a firearm or ammunition by state law, including, but not limited to, section 28-1206; or

(ii) A person prohibited from possessing a firearm or ammunition by 18 U.S.C. 922(d) or (g), as such section existed on January 1, 2023.

(b) This definition does not apply to the use of the term prohibited person in section 28-1206;

(12) Qualified law enforcement officer and qualified retired law enforcement officer have the same meanings as in 18 U.S.C. 926B and 926C, respectively, as such sections existed on January 1, 2023;

(13) School means a public, private, denominational, or parochial elementary, vocational, or secondary school, a private postsecondary career school as defined in section 85-1603, a community college, a public or private college, a junior college, or a university;

(14) Short rifle means a rifle having a barrel less than sixteen inches long or an overall length of less than twenty-six inches; and

(15) Short shotgun means a shotgun having a barrel or barrels less than eighteen inches long or an overall length of less than twenty-six inches.

### **Chapter 53-180. Prohibited acts relating to minors and incompetents.**

No person shall sell, furnish, give away, exchange, or deliver, or permit the sale, gift, or procuring of, any alcoholic liquors to or for any minor or to any person who is mentally incompetent.

### **Chapter 53-180.05. Prohibited acts relating to minors and incompetents; violations; penalties; possible alcohol overdose; actions authorized; false identification; penalty; law enforcement agency; duties.**

(1) Except as provided in subsection (2) of this section, any person who violates section 53-180 shall be guilty of a Class I misdemeanor.

(2) Any person who knowingly and intentionally violates section 53-180 shall be guilty of a Class IIIA felony and serve a mandatory minimum of at least thirty days' imprisonment as part of any sentence he or she receives if serious bodily injury or death to any person resulted and was proximately caused by a minor's (a) consumption of the alcoholic liquor provided or (b) impaired condition which, in whole or in part, can be attributed to the alcoholic liquor provided.

(3) Any person who violates any of the provisions of section 53-180.01 or 53-180.03 shall be guilty of a Class III misdemeanor.

(4)(a) Except as otherwise provided in subdivisions (b), (c), and (d) of this subsection, any person older than eighteen years of age and under the age of twenty-one years violating section 53-180.02 is guilty of a Class III misdemeanor.

(b) Subdivision (a) of this subsection shall not apply if the person:

(i) Made a good faith request for emergency medical assistance in response to the possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent after such violation of section 53-180.02;

(ii) Made the request for medical assistance under subdivision (b)(i) of this subsection as soon as the emergency situation is apparent after such violation of section 53-180.02; and

(iii) When emergency medical assistance was requested for the possible alcohol overdose of another person:

(A) Remained on the scene until the medical assistance arrived; and

(B) Cooperated with medical assistance and law enforcement personnel.

(c) The exception from criminal liability provided in subdivision (b) of this subsection applies to any person who makes a request for emergency medical assistance and complies with the requirements of subdivision (b) of this subsection.

(d) Subdivision (a) of this subsection shall not apply to the person experiencing a possible alcohol overdose if a request for emergency medical assistance in response to such possible alcohol overdose was made by another person in compliance with subdivision (b) of this subsection.

(e) A person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance with subdivision (b), (c), or (d) of this subsection.

(5) Any person eighteen years of age or younger violating section 53-180.02 is guilty of a misdemeanor as provided in section 53-181 and shall be punished as provided in such section.

(6) Any person who knowingly manufactures, creates, or alters any form of identification for the purpose of sale or delivery of such form of identification to a person under the age of twenty-one years shall be guilty of a Class I misdemeanor. For purposes of this subsection, form of identification means any card, paper, or legal document that may be used to establish the age of the person named thereon for the purpose of purchasing alcoholic liquor.

(7) When a minor is arrested for a violation of sections 53-180 to 53-180.02 or subsection (6) of this section, the law enforcement agency employing the arresting peace officer shall make a reasonable attempt to notify such minor's parent or guardian of the arrest.

#### **Chapter 28-416. Prohibited acts; violations; penalties [Controlled Substances].**

(1) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person knowingly or intentionally: (a) To manufacture, distribute, deliver, dispense, or possess with intent to manufacture, distribute, deliver, or dispense a controlled substance; or (b) to create, distribute, or possess with intent to distribute a counterfeit controlled substance.

(2) Except as provided in subsections (4), (5), (7), (8), (9), and (10) of this section, any person who violates subsection (1) of this section with respect to: (a) A controlled substance classified in Schedule I, II, or III of section 28-405 which is an exceptionally hazardous drug shall be guilty of a Class II felony; (b) any other controlled substance classified in Schedule I, II, or III of section 28-405 shall be guilty of a Class IIA felony; or (c) a controlled substance classified in Schedule IV or V of section 28-405 shall be guilty of a Class IIIA felony.

(3) A person knowingly or intentionally possessing a controlled substance, except marijuana or any substance containing a quantifiable amount of the substances, chemicals, or compounds described, defined, or delineated in subdivision (c)(25) of Schedule I of section 28-405, unless such substance was obtained directly or pursuant to a medical order issued by a practitioner authorized to prescribe while acting in the course of his or her professional practice, or except as otherwise authorized by the act, shall be guilty of a Class IV felony. A person shall not be in violation of this subsection if section 28-472 applies.

(4)(a) Except as authorized by the Uniform Controlled Substances Act, any person eighteen years of age or older who knowingly or intentionally manufactures, distributes, delivers, dispenses, or possesses with intent to manufacture, distribute, deliver, or dispense a controlled substance or a counterfeit controlled substance (i) to a person under the age of eighteen years, (ii) in, on, or within one thousand feet of the real property comprising a public or private elementary, vocational, or secondary school, a community college, a public or private college, junior college, or university, or a playground, or (iii) within one hundred feet of a public or private youth center, public swimming pool, or video arcade facility shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of this section, depending upon the controlled substance involved, for the first violation and for a second or subsequent violation shall be punished by the next higher penalty classification than that prescribed for a first violation of this subsection, but in no event shall such person be punished by a penalty greater than a Class IB felony.

(b) For purposes of this subsection:

- (i) Playground means any outdoor facility, including any parking lot appurtenant to the facility, intended for recreation, open to the public, and with any portion containing three or more apparatus intended for the recreation of children, including sliding boards, swingsets, and teeterboards;
- (ii) Video arcade facility means any facility legally accessible to persons under eighteen years of age, intended primarily for the use of pinball and video machines for amusement, and containing a minimum of ten pinball or video machines; and
- (iii) Youth center means any recreational facility or gymnasium, including any parking lot appurtenant to the facility or gymnasium, intended primarily for use by persons under eighteen years of age which regularly provides athletic, civic, or cultural activities.

(5)(a) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person eighteen years of age or older to knowingly and intentionally employ, hire, use, cause, persuade, coax, induce, entice, seduce, or coerce any person under the age of eighteen years to manufacture, transport, distribute, carry, deliver, dispense, prepare for delivery, offer for delivery, or possess with intent to do the same a controlled substance or a counterfeit controlled substance.

(b) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person eighteen years of age or older to knowingly and intentionally employ, hire, use, cause, persuade, coax, induce, entice, seduce, or coerce any person under the age of eighteen years to aid and abet any person in the manufacture, transportation, distribution, carrying, delivery, dispensing, preparation for delivery, offering for delivery, or possession with intent to do the same of a controlled substance or a counterfeit controlled substance.

(c) Any person who violates subdivision (a) or (b) of this subsection shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of this section, depending upon the controlled substance involved, for the first violation and for a second or subsequent violation shall be punished by the next higher penalty classification than that prescribed for a first violation of this subsection, but in no event shall such person be punished by a penalty greater than a Class IB felony.

(6) It shall not be a defense to prosecution for violation of subsection (4) or (5) of this section that the defendant did not know the age of the person through whom the defendant violated such subsection.

(7) Any person who violates subsection (1) of this section with respect to cocaine or any mixture or substance containing a detectable amount of cocaine in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(8) Any person who violates subsection (1) of this section with respect to base cocaine (crack) or any mixture or substance containing a detectable amount of base cocaine in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(9) Any person who violates subsection (1) of this section with respect to heroin or any mixture or substance containing a detectable amount of heroin in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(10) Any person who violates subsection (1) of this section with respect to amphetamine, its salts, optical isomers, and salts of its isomers, or with respect to methamphetamine, its salts, optical isomers, and salts of its isomers, in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

- (b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or
- (c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.
- (11) Any person knowingly or intentionally possessing marijuana weighing more than one ounce but not more than one pound shall be guilty of a Class III misdemeanor.
- (12) Any person knowingly or intentionally possessing marijuana weighing more than one pound shall be guilty of a Class IV felony.
- (13) Any person knowingly or intentionally possessing marijuana weighing one ounce or less or any substance containing a quantifiable amount of the substances, chemicals, or compounds described, defined, or delineated in subdivision (c)(25) of Schedule I of section 28-405 shall:
- (a) For the first offense, be guilty of an infraction, receive a citation, be fined three hundred dollars, and be assigned to attend a course as prescribed in section 29-433 if the judge determines that attending such course is in the best interest of the individual defendant;
- (b) For the second offense, be guilty of a Class IV misdemeanor, receive a citation, and be fined four hundred dollars and may be imprisoned not to exceed five days; and
- (c) For the third and all subsequent offenses, be guilty of a Class IIIA misdemeanor, receive a citation, be fined five hundred dollars, and be imprisoned not to exceed seven days.
- (14) Any person convicted of violating this section, if placed on probation, shall, as a condition of probation, satisfactorily attend and complete appropriate treatment and counseling on drug abuse provided by a program authorized under the Nebraska Behavioral Health Services Act or other licensed drug treatment facility.
- (15) Any person convicted of violating this section, if sentenced to the Department of Correctional Services, shall attend appropriate treatment and counseling on drug abuse.
- (16) Any person knowingly or intentionally possessing a firearm while in violation of subsection (1) of this section shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of this section, but in no event shall such person be punished by a penalty greater than a Class IB felony.
- (17) A person knowingly or intentionally in possession of money used or intended to be used to facilitate a violation of subsection (1) of this section shall be guilty of a Class IV felony.
- (18) In addition to the existing penalties available for a violation of subsection (1) of this section, including any criminal attempt or conspiracy to violate subsection (1) of this section, a sentencing court may order that any money, securities, negotiable instruments, firearms, conveyances, or electronic communication devices as defined in section 28-833 or any equipment, components, peripherals, software, hardware, or accessories related to electronic communication devices be forfeited as a part of the sentence imposed if it finds by clear and convincing evidence adduced at a separate hearing in the same prosecution, following conviction for a violation of subsection (1) of this section, and conducted pursuant to section 28-1601, that any or all such property was derived from, used, or intended to be used to facilitate a violation of subsection (1) of this section.
- (19) In addition to the penalties provided in this section:
- (a) If the person convicted or adjudicated of violating this section is eighteen years of age or younger and has one or more licenses or permits issued under the Motor Vehicle Operator's License Act:
- (i) For the first offense, the court may, as a part of the judgment of conviction or adjudication, (A) impound any such licenses or permits for thirty days and (B) require such person to attend a drug education class;
- (ii) For a second offense, the court may, as a part of the judgment of conviction or adjudication, (A) impound any such licenses or permits for ninety days and (B) require such person to complete no fewer than twenty and no more than forty hours of community service and to attend a drug education class; and
- (iii) For a third or subsequent offense, the court may, as a part of the judgment of conviction or adjudication, (A) impound any such licenses or permits for twelve months and (B) require such

person to complete no fewer than sixty hours of community service, to attend a drug education class, and to submit to a drug assessment by a licensed alcohol and drug counselor; and

(b) If the person convicted or adjudicated of violating this section is eighteen years of age or younger and does not have a permit or license issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, the court may, as part of the judgment of conviction or adjudication, (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until thirty days after the date of such order and (B) require such person to attend a drug education class;

(ii) For a second offense, the court may, as part of the judgment of conviction or adjudication, (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until ninety days after the date of such order and (B) require such person to complete no fewer than twenty hours and no more than forty hours of community service and to attend a drug education class; and

(iii) For a third or subsequent offense, the court may, as part of the judgment of conviction or adjudication, (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until twelve months after the date of such order and (B) require such person to complete no fewer than sixty hours of community service, to attend a drug education class, and to submit to a drug assessment by a licensed alcohol and drug counselor.

A copy of an abstract of the court's conviction or adjudication shall be transmitted to the Director of Motor Vehicles pursuant to sections 60-497.01 to 60-497.04 if a license or permit is impounded or a juvenile is prohibited from obtaining a license or permit under this subsection.

### **Clery Geography**

The Clery Compliance Administrators review the Clery geography on an annual basis. Per the Clery Act regulations, NWU discloses statistics for reported Clery Act crimes that occur (1) on campus, (2) on public property within or immediately adjacent to the campus, and (3) in or on non-campus buildings or property that NWU owns or controls. Please see Figure 1. for NWU's Clery Geography map.

**“Controlled by”** means NWU directly or indirectly rents, leases or has some other type of written agreement (including an informal agreement, such as a letter or an e-mail) for use of a building or property, or a portion of a building or property for use in educational activities.

### **Other Considerations for Clery Geography regarding Trips to Off-Campus Locations**

**Field trips:** NWU is not required to include statistics for crimes that occur on field trips at locations that NWU does not own or control.

**Overnight, school-sponsored trips:** When NWU sponsors students on an overnight trip, for example to see a play or for an athletic game, and rents hotel rooms, NWU must review the location under two criteria to determine if it meets Clery geography rules.

**Repeated use of a location for school-sponsored trips:** If NWU sponsors students on an overnight trip every year and the students stay in the same hotel each year, NWU must include portions of the hotel in NWU's non-campus geography. For example, students on an athletic team take a trip to Wartburg College and stay at the same hotel every year. NWU must include statistics for any crimes that occur in the rooms used by NWU students and any common areas used to access the rooms (lobby, elevators, etc.) for the times and dates at the hotel.



**Short-stay “away” trips:** If NWU sponsors short-stay “away” trips of more than one night for its students, all locations used by students during the trip, controlled by the institution during the trip, and used to support educational purposes should be treated as non-campus property.

An example is a three-week study trip to New York. Any classroom or housing space specified in an agreement between NWU and a third-party providing the space would be considered a non-campus property.

If NWU entered into a written agreement with a third-party contractor to arrange housing and/or classroom space for a school-sponsored trip or study program (either domestic or foreign), it is assumed that the contractor is operating on behalf of NWU as an agent, putting NWU in control of this space.

If NWU (or a contracted third party) does not have an agreement for the space used, NWU is not in control of the space and NWU is not required to count the incidence in the ASR.

Another example, there are some situations, such as sports tournaments, for which the host institution makes all the housing arrangements for visiting students. In these situations, the visiting institutions do not have a written agreement for the use of space and are not required to disclose crime statistics for the housing in which their students are located. However, if NWU was the host institution, NWU would be responsible for disclosing crime statistics for the housing since they hold the agreement for the housing.

**Study abroad programs:** If NWU sends students to study abroad at a location or facility that NWU does not own or control, NWU does not have to include statistics for crimes that occur in those facilities.

However, if NWU rents or leases space for students in a hotel or student housing facility, NWU is in control of that space for the time period covered by the agreement. Host family situations do not normally qualify as non-campus locations unless NWU has a written agreement with the family which gives NWU some significant control over space in the family home.

## 2023 Nebraska Wesleyan University Clery Map

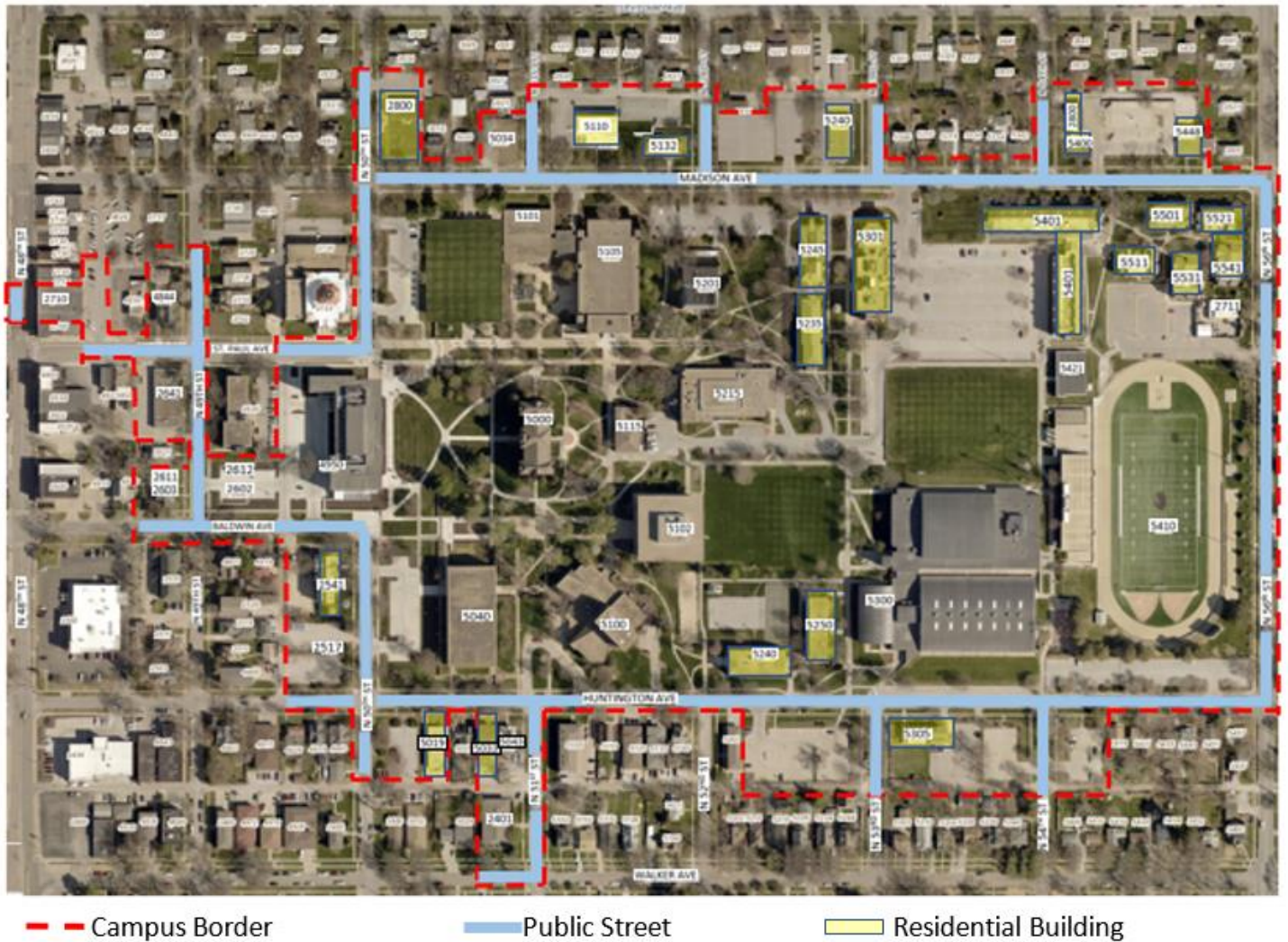


Figure 1.

## Section II: Collection of Crime Statistics

The Clery Act requires NWU to collect and count crime statistics for Clery crimes in a Daily Crime Log. Daily Crime Logs and crime statistics are kept in the Physical Plant security office, in paper form and electronically on a secured SharePoint site. The log is overseen by the Clery Compliance Administrators:

- James Ruzicka, director of the physical plant
- Roxanne Styskal, assistant director of the physical plant
- Maria Harder, assistant vice president of human resources and director of Title IX services
- Natasha Moreno, Title IX coordinator

Crimes that are reported to the Clery Compliance Administrators are documented in the Daily Crime Log and used for the purpose of timely warning reports and in the annual statistical disclosure. Anonymous reports of crime using the 'Report of Concern' feature (found at the bottom of every page on NWU's website) is forwarded to the Core Threat Assessment Team, which includes: Clery

Compliance Administrators, chief of staff, vice president of student life, vice president of finance and administration, vice president of enrollment, provost, and communications manager and are also used for the purpose of timely warning reports and included in the ASR. The Clery Act requires that NWU discloses crime statistics for a 3-year period of time for a complete overview. NWU maintains all crime statistics in accordance with the Clery handbook for the ASR.

This report identifies all crimes committed during the calendar years of 2022, 2021, and 2020.

After all possible locations are reviewed for inclusion in the Clery geography, NWU identifies all possible law enforcement agencies that may have crime statistics that are to be included in the report. Various methods are used to request or collect crime statistics including letters to law enforcement agencies, crime look up website research, and local law enforcement crime logs for campus addresses or property that is reasonably contiguous to NWU campus property.

NWU also submits the crime statistics from the ASR to the United States Department of Education, via an annual web-based data collection. Since NWU has on-campus student housing facilities, NWU will also submit the fire statistics for campus, which are included as a part of this report.

## **Section III: About Campus Security Authorities**

Campus Security Authorities (CSAs) are identified on a semester-by-semester basis to include designated campus officials in these four categories:

- Campus Security Administrators
- Individuals responsible for monitoring the entrance into institutional properties including, but not limited to front desk workers at the Weary Center, the library, or admissions.
- Individuals to whom students and employees might report criminal offenses, including, but not limited to, student clubs or activity advisors, athletic coaches, athletic trainers, academic advisors, residential education coordinators, and peer assistants.
- Officials of our institution with significant responsibilities for student and campus activities who have the authority and duty to take action or respond to incidents on behalf of the institution.

Examples of CSAs include, but are not limited to:

Assistant Dean  
Assistant Director  
Athletic Staff  
Campus Security  
Chief of Staff  
Clery Compliance Administrator  
Club Advisor  
Club President  
Confidential Resource  
Dean  
Department Chair  
Director  
Diversity and Inclusion Resource Coordinator

Executive Assistant  
Front Desk Workers  
Field Director  
Greek Life Chapter Advisor  
Greek Life Chapter President  
Human Resources  
Intersectionality Resource Center Coordinator  
Peer Assistant  
Peer Educator  
Program Director  
Residential Education Coordinator  
Student Organization Advisor  
Study Abroad Supervisor  
Title IX Coordinator  
Title IX Investigator  
University President  
Vice Presidents

The University's clinical counselors, campus advocate, and minister inform their student clients of the voluntary and confidential procedure to report crimes to the Clery Compliance Administrators in statistical format to be included in the ASR.

The Clery Compliance Administrators review the list of CSAs and update the list each semester. The list of CSAs is located on the NWU Clery SharePoint site.

All employees have been notified via "All Employee" emails on how to report crimes to campus security, the CSAs or the Clery Compliance Administrators. NWU sends an email of official notification to employees identified as CSAs that contains their responsibilities each semester. NWU provides annual online training through D. Stafford and Associates to all Campus Security Authorities.

As campus crimes are reported and collected in the NWU Physical Plant security office and documented in the Daily Crime Log, each incident is reviewed and analyzed for proper crime classification for Clery purposes, as well as the need for a Timely Warning or Emergency Notification.

## **Section IV: Collaboration with Law Enforcement Agencies**

NWU makes a good-faith effort to collect crime statistics for all Clery Act crimes committed in applicable geographic locations from all law enforcement agencies with jurisdiction.

Lincoln law enforcement provides regular crime reports for all on-campus, non-campus locations, and public property adjacent to the campus to the Physical Plant security office. The NWU Security Office reviews the Lincoln crime reporting website for applicable dates, and cross-referencing campus incident reports against police crime reports. All crime reports that occur at non-campus locations or student organizations recognized by the institution are recorded on the Daily Crime Log.

Clery Compliance Administrators collaborate with University departments to compile a list of all possible addresses and locations that could be identified as relevant Clery geography, based on students traveling off-campus.

The Clery Compliance Administrators analyze the list to determine if each location should be included within the University's Clery geography.

The Clery Compliance Administrators identify all possible law enforcement agencies that have jurisdiction over those locations and send a minimum of two letters per year requesting crime statistics for the appropriate addresses that have been identified as a University Clery geography location.

## **Section V: The Daily Crime Log Requirements**

NWU maintains a Daily Crime Log in the Physical Plant security office in paper and electronic versions. Each incident or crime reported is included in the daily log detailing the nature of the crime, the date and time the crime occurred, the general location of the crime and the disposition of the complaint, if known.

Information entered in the Daily Crime Log is without inclusion of Personally Identifiable Information (PII). PII is defined as individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including:

- A first and last name;
- a home or other physical address;
- contact information (including a postal, e-mail, or Internet protocol address, or telephone or facsimile number);
- a social security number, driver license number, passport number, or student identification number; and
- any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual.

NWU maintains paper copies of the Daily Crime Log and maintains a back-up of the Daily Crime Log in SharePoint.

The Daily Crime Log is overseen and administered by the assistant director of the physical plant. To assist with proper crime documentation within 48 hours, multiple CSAs have been trained to enter daily crime statistics in the crime log. Trained CSAs who enter data on the crime log include personnel in residential education, Title IX, and student conduct.

The public is notified of their access to the Daily Crime Log through information provided in the ASR, Physical Plant security office, and on the NWU website.

Any member of the public who would like access to the most recent 60-day period of the Daily Crime Log may request access to the log from the assistant director of the physical plant upon request during normal business hours. The assistant director of the physical plant will also make

any portion of the log that is older than 60 days available within 2 business days of a request by the public.

NWU has the right to temporarily withhold information from entry on the Daily Crime Log only if there is clear and convincing evidence that the release of information would jeopardize an on-going investigation, jeopardize the safety of an individual, cause a suspect to flee or evade detection, or result in destruction of evidence.

## **Section VI: Emergency and Non-Emergency Reporting of Crimes, Response, and Evacuation Procedures**

### **How to Report Crime**

Campus crime, incidents involving crime, and arrests and referral statistics are to be reported to the Clery Compliance Administrators by CSAs. The following information will include both emergency and non-emergency reporting, including confidential reporting methods to report crime on campus. All employees have been notified via “All Employee” emails regarding how to report crimes to campus security, the CSAs or the Clery Compliance Administrators.

### **Emergency and Non-Emergency Reporting of a Crime/Incident**

NWU advises all students, employees, campus guests and community members to report whenever they observe anything suspicious, believe they have discovered a crime, or come across a hazard which could cause harm to themselves or others to a Clery Compliance Administrator or CSA. Whether a victim or a witness of a crime, everyone has the responsibility to report criminal activity. If a crime occurs on or around campus, report it immediately to law enforcement or the Physical Plant security office. The Lincoln Police Department has jurisdiction over reported crimes.

When calling to report a crime or incident, a reporter should be ready to give information such as a brief description of what occurred, when and where the incident occurred, if the suspect(s) have a weapon, the last known location of the suspect(s), what did the suspect(s) look like (gender, race, age, height, weight, hair color/length, clothing, facial hair, tattoos/scars, etc.) and any other relevant information.

Individuals may report alleged criminal actions or emergencies that occur on the campus through any of the following means:

- **Emergency**
  - Lincoln Police Department emergency: Dial 9-1-1.
  - Call campus security, (402) 432-9238, available 24 hours per day
  - Report in-person to the Physical Plant security office.
  - Report to an identified Clery Compliance Administrator or CSA
- **Non-Emergency**
  - LPD Non-emergency at (402) 441-6000
  - Report a Concern: This is a confidential procedure is available of use around the clock, seven days a week to anonymously capture crime statistics disclosed confidentially. This link is available to students, employees, parents, and community members to report concerns. The Report a Concern link is located at the bottom of



every Nebraska Wesleyan webpage and can also be found at this url:

<https://www.nebrwesleyan.edu/inside-nwu/report-concern>

- NWU Campus Conduct Hotline: The Campus Conduct Hotline® system is available for use around the clock, seven days a week by calling this number: 1-866-943-5787. The hotline is operated by an independent organization, any calls made through this hotline are confidential and anonymous.
- Clery Compliance Administrator:
  - James Ruzicka, director of the physical plant, (402) 219-1334, [jruzicka@nebrwesleyan.edu](mailto:jruzicka@nebrwesleyan.edu)
  - Roxanne Styskal, assistant director of the physical plant, (402) 499-9815, [rrs@nebrwesleyan.edu](mailto:rrs@nebrwesleyan.edu)
  - Maria Harder, assistant vice president for human resources and director of Title IX services (402) 465-2117, [mharder@nebrwesleyan.edu](mailto:mharder@nebrwesleyan.edu)
  - Natasha Moreno, Title IX coordinator, (402) 465-2356, [nmoreno@nebrwesleyan.edu](mailto:nmoreno@nebrwesleyan.edu)

Clery Compliance Administrators are required to record all crimes and incidents on the University's Daily Crime Log within 48 business hours. Reported crimes and incidents that meet the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act are disclosed in the ASR. Employees are required under the Act to report to the Physical Plant security office all crimes or incidents they witness or learn of. The University minister, the clinical counselors and campus advocate will report aggregate crime numbers to include in the ASR statistics.

### **Confidential Reporting Procedures**

If you are the victim of a crime and/or incident and do not want to pursue action within the University system or the criminal justice system, you may still want to consider making a confidential report. With your permission, the Clery Compliance Administrators can file a report on the details of the crime and/or incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. With such information, the University can keep an accurate record of the number of crimes/incidents, determine where there is a pattern of crimes and/or incidents regarding a specific location, method, or assailant and alert the campus community of potential danger. Confidential reports filed are counted and disclosed in the ASR for the University.

### **Confidential Reporting for Students:**

- Voices of Hope Campus Advocate: available by appointment; [advocate@nebrwesleyan.edu](mailto:advocate@nebrwesleyan.edu); Voices of Hope 24/7 Support: (402) 475-7273.
- Counseling services: located at 2641 N. 49th Street (49th & St. Paul Avenue). Counseling services serves traditional undergraduate students and is open Monday-Friday from 8:00 a.m. to 5:00 p.m.; [counseling@nebrwesleyan.edu](mailto:counseling@nebrwesleyan.edu); (402) 465-2464.
- University ministries: located in Old Main - Room 105; [minister@nebrwesleyan.edu](mailto:minister@nebrwesleyan.edu); (402) 465-2398.

### **Confidential Resources for Employees:**

- Directions EAP (Employee Assistance Program): located at 3930 South St, Ste. 101 in Lincoln, NE 68506; [directionseap@directionseap.com](mailto:directionseap@directionseap.com); (402) 434-2900.
- University ministries: located in Old Main – Room 105; [minister@nebrwesleyan.edu](mailto:minister@nebrwesleyan.edu); (402) 465-2398.

- Voices of Hope: located at 2545 N St., Lincoln, NE 68510; [info@voicesofhopelincoln.org](mailto:info@voicesofhopelincoln.org); Office phone: (402) 476-2110; Voices of Hope 24/7 Support: (402) 475-7273.

### **Anonymous Reporting Students and Employees:**

- Anonymous reporting to the University: Individuals may report security concerns to the University through the University website by clicking on the link “Report a Concern”, located at the bottom of every webpage. Reporting parties may choose to remain anonymous.
- Campus Conduct Hotline©, via phone 866-943-5787.

### **Emergency Response and Evacuation Procedures**

After a crime or incident has been reported to the Physical Plant security office, the director of the physical plant or the assistant director of the physical plant will notify NWU’s Threat Assessment Core Team.

NWU Threat Assessment Core Team includes the vice president of finance and administration, the vice president of student life, Provost, vice president of enrollment management, chief of staff, assistant vice president of human resources, the director of the physical plant, the assistant director of the physical plant, and the director of public relations.

NWU’s Threat Assessment Core Team will cooperate with local law enforcement to address problems as they arise in order to help assess the need for a timely warning or emergency notifications. This team is responsible for initiating the execution of an emergency security and notification plan.

NWU has a Memorandum of Understanding (MOU) with Voices of Hope (VOH), the City of Lincoln on behalf of the Police Department (LPD), and Securitas Security Services USA, Inc. (Securitas), all located in Lincoln, Nebraska to implement a coordinated community response and to collaborate on developing an ongoing education and prevention program for emergency situations. The MOUs were developed specifically to address issues of gender-based violence.

In the event a crime or incident is determined to be an imminent threat, an emergency notification will be issued by the director of public relations through the **Wesleyan Alert System\*** without delay. Wesleyan Alert System notifications are sent to students and employees. Other methods of communication that may be used in conjunction with the Wesleyan Alert System include e-mail, posters, social media, and phone calls. In consultation with the Threat Assessment Core Team, the director of public relations will determine methods of communication to the larger community, such as social media. The Threat Assessment Core Team works in cooperation with the Lincoln Police Department to develop messages about situations that may warrant an emergency notification.

Please note an emergency notification may be withheld if it could compromise efforts for law enforcement involvement. The campus will receive continued updates via the Wesleyan Alert System until the crisis concludes.

### **Emergency Evacuation Plan**

NWU has an immediate emergency evacuation plan. If there is an immediate threat to the health and safety of students or employees, the Lincoln Police Department plus NWU campus security will manage the evacuation of people off campus. Evacuation procedures will include the use of

the Wesleyan Alert System and the deployment of key individuals such as residential education, the Physical Plant personnel, and the Risk Management Team.

### **\*Wesleyan Alert System**

The Wesleyan Alert System is NWU's urgent notification system that is used to communicate emergency notifications and responses, evacuations, timely warnings, and suspicious activities to all faculty, staff and students. The Wesleyan Alert System can also send email messages to NWU email addresses. The Wesleyan Alert System will send text messages to students who have their cell phone numbers on file at the Registrar's Office and employees who have their cell phone numbers on file with the Human Resources Office. Students who need to add or update their cell phone number should update their information on WebAdvisor. Employees who need to add or update their cell phone number will make changes to their personal information in Ellucian Self-service. To unsubscribe from receiving Wesleyan Alert System text messages, simply text "stop" to the Wesleyan Alert System message that is received. If someone opted out of the Wesleyan Alert System and wants to opt back into the system, they can text "NWUAlert" to 79516. Questions and concerns can be directed to the director of public relations, at (402) 465-2185. More information on the Wesleyan Alert System and security issues can be found on NWU's safety webpage at <http://www.nebrwesleyan.edu/about-nwu/campus-safety>

The Wesleyan Alert System is tested once each semester, using a randomized method of announced versus unannounced messaging. The director of public relations schedules and documents each test. Messages are developed so that reporting parties are not personally identified. The Threat Assessment Core Team works in cooperation with the Lincoln Police Department to develop messages about situations that may warrant an emergency notification. If an emergency notification was issued, NWU is not required to issue a timely warning based on the same circumstances. However, NWU will provide adequate follow-up information to the campus community through the Wesleyan Alert System and via email and, as needed, through social media.

### **Fire Safety and Evacuation Drill Procedures**

Once each semester, NWU's Physical Plant Team initiates an unannounced emergency evacuation drill for all academic buildings. A Physical Plant team member calls Per Mar (a fire protection company that monitors Nebraska Wesleyan's fire panels from off-site) and Lincoln Fire Station #5 to notify them of the drill. Fire alarms are pulled at the same time when team members are instructed to do so (through communication via handheld radios). Physical Plant Team members pull the alarms, then leave the building. Once people start exiting the buildings, the Physical Plant team members re-enter to ensure everyone left the building and that all fire equipment is working properly. When buildings have been cleared, the fire systems are reset, and people are allowed back in the buildings. When the drill is over, Per Mar and Lincoln Fire Station #5 are notified again. NWU evacuation plans and capabilities are reviewed by the NWU Risk Management Team annually. If any issues arise, they are noted and reported to the proper authorities so they can be rectified. All information about the drills are recorded and kept in the Physical Plant security office.

## **Section VII: Criteria for Timely Warnings**

### **Timely Warning Procedures**

In the event a Clery crime (arson, aggravated assault, criminal homicide, robbery, sex offenses, illegal weapons possession, burglary, motor vehicle theft, or any crime determined to be a hate crime) that has already occurred is reported to the University or Lincoln Police Department, and that report has been determined to constitute a serious and continuing threat to the campus community, a timely warning will be issued through the Wesleyan Alert System. The timely warning will be communicated through email and text to all students, faculty, and staff as pertinent information is available. Timely warnings will withhold the names of victims as confidential and provide relevant information that will aide in the prevention of similar occurrences. Persons reporting an incident warranting a timely warning are never identified.

A hard copy of the timely warning can be requested from the human resources office and the electronic copy of the assessment report explaining why the timely warning was issued is stored on the Threat Assessment Core Team SharePoint site.

### **Decision to Issue a Timely Warning**

The decision to issue a timely warning is made by the director of public relations and Threat Assessment Core Team. Timely warnings written by the director of public relations and are sent through the Wesleyan Alert System or by email, dependent upon the circumstance. A timely warning must be issued when both of the following conditions are met: (1) the incident or crime is classified as a Clery crime, and (2) the incident or crime is considered by the University to represent a continuing threat to the safety of students or employees. The Threat Assessment Core Team works in collaboration with the Lincoln Police Department to assess the ongoing safety of campus based on crime in surrounding areas that may warrant timely warnings. The University is not required to issue a timely warning with respect to crimes reported to a confidential resource.

The University uses a standardized threat assessment form with all incidents, crimes, risks, and threats to determine the need to issue a timely warning, and enhance consistency in documentation.

## **Section VIII: Annual Security Report Distribution Requirements**

The ASR is prepared by the Clery Compliance Administrators in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (20 USC 1092(f)). This report is prepared in cooperation with Clery Compliance Administrators, campus security, risk management committee members, Title IX coordinators, human resources, law enforcement agencies, various divisions of Student Life, and the Threat Assessment Core Team. Each entity contributes data, processes, and information from their campus perspective to demonstrate NWU's efforts and programs to comply with the act. The ASR includes information about our campus geography, three years of crime statistics, information about how to report crimes, as well as our emergency response procedures, notification to campus stakeholders, and all relevant campus policies.

The ASR report can be found on the NWU's Campus Security webpage at <https://www.nebrwesleyan.edu/inside-nwu/campus-safety>. Each year, on or before October 1st, an e-mail notification containing the university URL to access the online ASR and PDF copy of the ASR is sent to all enrolled students, faculty, and staff. New employees receive a paper copy of the report as a part of new hire orientation, along with the university URL to access the online ASR. A paper copy of the ASR will be provided to employees who do not have access to a computer as their regular job duties.

All prospective students, their parents, and prospective employees can obtain a paper copy of the report from the admissions office or the human resources office in the Smith-Curtis Administration Building. All prospective students and employees can access a link to the report on the NWU's "How to Apply" and "Employment Opportunities" webpages.

NWU complies with the Clery Act providing information on how to access the ASR electronically and provides paper copies when requested to the following groups:

- Prospective employees receive notice of the ASR and the URL to the document during the on-campus interview process.
- New employees receive the ASR and the URL to the document during the New Hire Orientation.
- Current employees receive annual electronic notification. Paper copies are provided to employees who do not have access to a computer as part of their regular job duties.
- Prospective students receive notice of the ASR and the URL during the admission process.
- Current students receive annual electronic notification of the ASR.
- Visitors, guests, and community members have public access to the online copy of the ASR or may ask for a paper copy from the human resources office.

# Section IX: Related Campus Policies and Procedures

## NEBRASKA WESLEYAN UNIVERSITY

### **Sexual Misconduct Policy addressed under the 2020 Final Rule for Federal Title IX Regulations**

This policy applies to sexual harassment and sexual misconduct of all forms, including sexual and gender-based harassment/bullying, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation within the jurisdictions of the 2020 Final Rule for Federal Title IX Regulations.

Sexual harassment, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation are broad terms intended to capture a spectrum of behavior labeled sexual misconduct. These terms are specifically defined in Section V – Prohibited Conduct, of this document.

This policy is based on the 2020 Final Rule for Title IX of the Education Amendments of 1972 (Title IX), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), and corresponding guidance from the Department of Education.

#### **I. Statement of Intent**

Nebraska Wesleyan University (“University”) is committed to establishing and maintaining a community that is free from all forms of discrimination and illegal harassment. The University seeks to create an environment in which the greatest academic potential of students and professional potential of employees may be realized. In order to create and maintain such an environment, the University recognizes that all who work and learn at the University are responsible for ensuring that the community is free from illegal discrimination based on sex, gender, gender identity, or sexual orientation, including sexual harassment, sexual assault, stalking, sexual exploitation, dating violence, and domestic violence. These behaviors threaten our learning, living, and work environments and are considered prohibited conduct for all University Students and Employees.

When the Title IX Coordinator (or designee) has actual knowledge of allegations of sexual harassment and sexual misconduct, it will take prompt action while ensuring fundamental fairness for all parties. The Title IX Coordinator oversees the University’s response to all allegations of sexual harassment and sexual misconduct which fall under the 2020 Final Rule for Federal Title IX Regulations. To make a report, contact [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu) or connect with the appropriate staff member:

- Director of Title IX services: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, [mharder@nebrwesleyan.edu](mailto:mharder@nebrwesleyan.edu)



- Title IX Coordinator: Natasha Moreno, Nebraska Wesleyan University, Burt Hall 112, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2356, [nmoreno@nebrwesleyan.edu](mailto:nmoreno@nebrwesleyan.edu) or [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)

The Title IX Coordinator, or designee, will manage reports and complaints for Employees and Students. All reports and complaints of sexual harassment and sexual misconduct made to a Title IX Coordinator, or any official who has authority to institute corrective measures on behalf of the University, will trigger the mandatory response of the University.

## II. Jurisdiction

This policy applies to:

- **Employees:** Any person who works for the University in return for financial or other compensation. This includes full-time and part-time faculty, full-time and part-time staff, adjunct faculty, visiting faculty, and student employees.
- **Students:** Any person enrolled in courses at the University, both full-time and part-time, pursuing undergraduate or graduate studies, including those who audit courses.
- **Student Organizations:** Any group of persons who have complied with the formal requirements for University recognition as an organization or University-sponsored team.
- **Third Parties:** Any person or entity providing services for the University or visiting the University. This includes, but is not limited to, contractors, vendors, visitors, guests, volunteers, or other third parties within the University's control.

This policy follows the 2020 Final Rule for Federal Title IX Regulations and pertains to acts of Prohibited Conduct (defined in Section V – Prohibited Conduct, of this document) when:

- The conduct occurs on University grounds or other property owned or controlled by the University;
- The conduct occurs in the context of University employment or an education program or University-sponsored activity within the United States, including, but not limited to, school trips, research, on-line classes or meetings, or internship programs;
- The University has substantial control over both the respondent and the context in which the sexual harassment or sexual misconduct occurs; or
- The conduct occurs on property owned or in buildings controlled by any officially-recognized student organization.

All Formal Complaints under this policy must be made and resolved while the parties are participating in or attempting to participate in the education program, employment, or activity of the University. Furthermore, the University retains jurisdiction over students who have withdrawn from courses or who have been temporarily separated from the University due to sanctions imposed by the University; their status is categorized as a student attempting to participate in an education program or activity of the University.

The University retains jurisdiction over students who graduated for misconduct that occurred prior to graduation through the NWU Sexual Misconduct Outside of Federal Title IX Regulations Policy. Misconduct, if determined to have occurred, may result in a hold placed on the graduated student's ability to obtain official transcripts and/or graduate, and all sanctions must be satisfied prior to re-enrollment eligibility. The University also may elect to retain jurisdiction over students who are not currently enrolled, or are not attempting to participate in NWU's education programs if deemed necessary to protect a student's access to educational services and resources.

Additionally, sexual harassment and sexual misconduct by an Employee prior to a leave of absence and/or misconduct that falls outside of the 2020 Final Rule for Federal Title IX Regulations will be addressed using the NWU Sexual Misconduct Outside of Federal Title IX Regulations Policy and related procedures in consultation with the Staff and Faculty Handbooks.

### **III. Notice of Non-Discrimination**

Nebraska Wesleyan provides equal opportunity to all qualified persons in all areas of University operation, including education, employment, and decisions regarding faculty appointment, promotion or tenure, without regard to race, religion, age, sex, creed, color, disability, marital status, parenting and pregnant status national or ethnic origin, ancestry, sexual orientation, gender identity, genetic material, or any other legally protected class under city, state, or federal law.

### **IV. Privacy and Confidentiality**

The University is committed to protecting the privacy of all individuals involved in a report of sexual harassment and sexual misconduct, whenever possible. A report to a confidential employee will remain confidential and will not be deemed "actual knowledge" by the University. Once a report is made to the Title IX Coordinator (or designee), however, reasonable efforts will be made to protect the privacy of all individuals involved in a manner consistent with the need for a thorough review of the reported information. Privacy means that once the Title IX Coordinator has received a report of sexual harassment or sexual misconduct, information related to the report of sexual harassment or sexual misconduct will only be shared with individuals who "need to know" in order to assist in the assessment, investigation, and resolution process. Individuals who are involved in the University's Title IX response receive specific training and guidance about safeguarding private information. Annual training programs include, but are not limited to, the definition of sexual harassment, the scope of the University's education program or activity, how to conduct an investigation and resolution process including hearings, appeals, and how to serve impartially, including to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Moreover, any materials used to train Title IX Coordinators, investigators, and hearing decision-makers do not rely on sex stereotypes and promotes impartial investigations and adjudications of formal complaints of sexual harassment. Training materials can be found on the NWU Title IX website.

While the privacy of Student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), as outlined in the University's FERPA policy, 2020 Final Rule of Federal Title IX regulations and related procedures may outweigh FERPA protections.

Confidentiality exists in the context of laws that protect certain relationships, including relationships with mental health providers (and those who provide administrative services related to the provision of mental health care), counselors, victim advocates, and ordained clergy, all of whom may engage in confidential communications under Nebraska law. The University has designated individuals able to have confidential communications as "Confidential Employees." A report to these "Confidential Employees" will not be considered actual knowledge, or notice to the University, of the alleged occurrence, but will allow the harmed party to proceed as they so choose. Confidential Employees are further defined in Section VI – Reporting, of this document.

The University has the right to share appropriate information with Law Enforcement to ensure campus safety. All employees, including Confidential Employees, are mandatory reporters of suspected abuse or neglect of a vulnerable adult or abuse of a minor by an adult, including sexual/physical assault, witness to domestic violence, dating/intimate partner violence, and stalking. In Nebraska, minors are considered all persons under the age of 19.

## V. Prohibited Conduct

The 2020 Final Rule for Federal Title IX Regulations identifies three types of misconduct that constitute **Sexual Harassment**:

1. quid pro quo harassment by any University Employee;
2. any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal employment or educational access; and
3. any instance of sexual assault (as defined in the Clery Act), dating violence/domestic violence, or stalking (as defined in the Violence Against Women Act (VAWA)).

### **Clery Act Definitions of Violence Against Women Act Crimes**

**Sexual assault**, as defined in 20 U.S.C. § 1092(f)(6)(A)(v), means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation:

1. Sex Offenses, Forcible—Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.
  - a. Rape—(Except Statutory Rape) The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving

consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

- b. Sodomy—Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity
  - c. Sexual Assault With An Object—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity
  - d. Fondling—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity
2. Sex Offenses, Non-forcible—(Except Prostitution Offenses) Unlawful, non-forcible sexual intercourse.
- a. Incest—Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law
  - b. Statutory Rape—Non-Forcible sexual intercourse with a person who is under the statutory age of consent
3. Dating violence, as defined in 34 U.S.C. § 12291(a)(10), which means violence committed by a person—
- a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - i. The length of the relationship.
    - ii. The type of relationship.
    - iii. The frequency of interaction between the persons involved in the relationship.
4. Domestic violence, as defined in 34 U.S.C. § 12291(a)(8), which includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a

person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

A **Crime of Violence** is an offense that has an element of the use, attempted use, or threatened use of physical force against the person or property of another, or any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

5. Stalking, as defined in 34 U.S.C. § 12291(a)(30), which means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - a. fear for his or her safety or the safety of others; or
  - b. suffer substantial emotional distress.

### **Elements of Consent as it relates to Prohibited Conduct**

Consent is an affirmative and willing agreement to engage in specific forms of sexual contact with another person. Consent requires an outward demonstration, through mutually understandable words or actions, indicating that an individual has freely chosen to engage in sexual contact. Consent cannot be obtained through the use of **coercion** or **force** or by taking advantage of the **incapacitation** of another individual.

Silence, passivity, or the absence of resistance does not constitute consent for sexual activity. If confusion or ambiguity arises during a sexual interaction, it is essential that each participant stop and clarify the other's willingness to continue.

Consent can be withdrawn at any time. When consent is withdrawn, sexual activity must cease. Prior consent does not imply current or future consent; even in the context of an ongoing relationship, consent must be sought and freely given for each instance of sexual contact.

Consent is not present when there is sexual contact with someone who is known, or should have been known, to be **incapacitated** or otherwise mentally or physically incapable of resisting or appraising the nature of conduct. Likewise, consent is not present if the use of **force** or **coercion** of another person to engage in sexual contact against their will has occurred.

**Coercion:** the use of pressure to compel someone to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they inhibit another individual's freedom of will and ability to choose whether or not to engage in sexual activity.

**Force:** the use or threat of physical violence or intimidation to overcome an individual's freedom to choose whether or not to participate in sexual activity. There is no requirement that a party physically resists the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.

**Incapacitation:** the inability, temporarily or permanently, to give consent because the individual's mental and/or physical ability is diminished, and/or the individual is asleep, unconscious, or unaware that sexual activity is occurring. A person who is incapacitated lacks the ability to make informed, rational judgments and cannot consent to sexual activity.

Incapacitation may result from the use of alcohol and/or drugs. The impact or impairment from alcohol and other drugs vary from person to person (e.g., vomiting, sleeping, blacking out, unconsciousness). Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual assault or harassment in any form and does not diminish the responsibility to obtain informed and freely given consent.

**Intentional Falsification:** Intentional falsification, distortion, or misrepresentation of information as part of the Sexual Harassment and Sexual Misconduct resolution process is a violation of University policy. Any person who abuses the University conduct processes in this way may face disciplinary charges for that violation.

**Retaliation:** any act or attempt to seek retribution from any individual or group of individuals involved in the report, investigation, and/or resolution of a sexual harassment or sexual misconduct allegation. Retaliation can take many forms, including, but not limited to, continued abuse or violence, threats, exclusion, and intimidation. Any individual or group of individuals can engage in retaliation. Acts of Retaliation will be addressed under University policies and related procedures, just as a complaint of sexual harassment is handled.

**Non-compliance with a No/Limited Contact Order:** Failure to comply with the directives of a No/Limited Contact Order administered by the Title IX Office, will also be addressed as a separate violation of University policies.

\*Please Note: As permitted by the 2020 Final Rule for Federal Title IX Regulations, the University recognizes additional forms of sexual harassment and sexual misconduct that fall outside the scope of the 2020 Final Rule in a separate University policy. Refer to the NWU Sexual Misconduct Policy Outside the 2020 Final Rule for Federal Title IX Regulations to reference further definitions of sexual harassment and sexual misconduct recognized by the University as Prohibited Conduct.

## VI. Reporting

There are multiple channels for reporting sexual harassment and sexual misconduct. An individual may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. An individual may simultaneously pursue a criminal investigation and the University sexual harassment and sexual misconduct resolution process.



The Title IX Coordinator will support all parties involved in understanding and assessing all options. Questions should be directed to a Title IX Coordinator.

**Reporting to the University:** The University encourages anyone who becomes aware of an incident of sexual harassment or sexual misconduct to promptly report the incident to a Title IX Coordinator. Any Campus Security Authority (CSA) identified by the University who receives a disclosure of sexual harassment or sexual misconduct by a harmed party or witness is required to report to the Title IX Office. While there is no time limit for reporting sexual harassment or sexual misconduct to the University, the University's ability to respond may diminish over time, as evidence may erode, memories fade, and individuals may no longer be affiliated with the University. If an individual is no longer affiliated with the University, the University will provide reasonably appropriate supportive measures, assist individuals in identifying external and/or other internal reporting options, and take reasonable steps to eliminate sexual harassment and sexual misconduct, prevent its recurrence, and remedy its effects.

**Anonymous Reporting to the University:** Individuals may report sexual harassment and sexual misconduct concerns anonymously to the University through the University website by clicking on the link [Report a Concern](#), located at the bottom of every webpage. Please note, the University may be limited in its ability to respond to concerns reported anonymously or reports without sufficient details.

### **Making a Report vs. Filing a Formal Complaint:**

**Making a Report** is the notification of an incident of sexual harassment or sexual misconduct to a Title IX Coordinator by any Reporting Party. A report may be accompanied by a request for any of the following: resources, no further action, supportive measures, and/or initiation of the Formal Complaint process. The University recognizes that not every individual will be prepared to request supportive measures or to file a Formal Complaint; therefore, Reporting Parties may pursue these options any time in the future. Individuals are not expected or required to pursue any specific course of action.

The University will make a reasonable effort to respect the wishes of the person who experienced sexual harassment or sexual misconduct.

The University reserves the right to file a formal complaint over the complainant's objection if the University deems it in the University's best interest to do so, including without limitation in order to render the respondent eligible for potential disciplinary sanction following the completion of a resolution process that complies with Section 106.45 of the 2020 Final Rule for Federal Title IX Regulations. This is done by the Title IX Coordinator signing a Formal Complaint, on behalf of the University, and can be done with or without consent/permission of the original Complainant. Upon the filing of the Formal Complaint, the Title IX Coordinator will not become a party to the procedure.

To ensure the harmed party of sexual harassment or sexual misconduct is informed of their rights and options, Campus Security Authorities (excluding Confidential Employees) will be

required to report the relevant details about an incident of sexual harassment or sexual misconduct that involves any Student or Employee as a Complainant, Respondent, and/or Witness. This includes dates, times, locations, and names of parties and witnesses, if known. The Title IX Coordinator will contact the harmed party to provide information and ask how they wish to proceed.

**Filing a Formal Complaint** is a request to initiate either the University's formal Title IX investigative and resolution process or informal resolution process. A **Formal Complaint** is a signed, written formal allegation against an individual for violation of the University's sexual harassment and sexual misconduct policies that is submitted by the Harmed Party, parent of the Harmed Party or the Title IX Coordinator. The decision to file a Formal Complaint may be made at any time during Title IX jurisdictional time frames. A Report or Formal Complaint can be made at any time via email, phone, physical mail, or in person during regular business hours.

**Title IX Coordinators:** Nebraska Wesleyan University has two Title IX Coordinators, each responding to specific members of the campus community. The Coordinators oversee Nebraska Wesleyan University's processes regarding the review, investigation, and resolution of reports of sexual harassment and sexual misconduct. A report can be made at any time via email, phone, or physical mail, or in person during regular business hours.

- Director of Title IX services: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, [mharder@nebrwesleyan.edu](mailto:mharder@nebrwesleyan.edu)
- Title IX Coordinator: Natasha Moreno, Nebraska Wesleyan University, Burt Hall 112, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2356, [nmoreno@nebrwesleyan.edu](mailto:nmoreno@nebrwesleyan.edu) or [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)

The Title IX Coordinator, or designee, will manage reports and complaints for Employees and Students. All reports and complaints of sexual harassment and sexual misconduct made to a Title IX Coordinator, or any official who has authority to institute corrective measures on behalf of the University, will trigger the mandatory response of the University.

A "**Confidential Employee**" is an individual designated by the University to provide support to Students and Employees without being required to report to a Title IX Coordinator. The University has identified the Voices of Hope Campus Advocate, the University Minister, Counselors within NWU Counseling Services (for Students), and the Employee Assistance Program (for Employees) as Confidential Employees.

When an individual shares information with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee cannot reveal the information to any third party except when an applicable law or court order requires or permits disclosure of such information. For example, information will be disclosed when:

1. The individual gives written consent for the disclosure;
2. There is concern that the individual will likely cause serious physical harm to self or others; or

3. The information concerns conduct involving suspected abuse or neglect of a vulnerable adult or abuse of a minor by an adult. In Nebraska, minors are considered anyone under the age of 19.

Additionally, Confidential Employees must share non-identifying statistical information related to crimes found in the Annual Security Report with a Clery Compliance Officer, as required by the Clery Act.

**Campus Security Authorities** are required to report to a Title IX Coordinator all relevant details about an incident of sexual harassment or sexual misconduct, including dates, times, locations, and names of parties and witnesses, if known. Disclosure at public awareness events (e.g., "Take Back the Night") and certain research-based disclosures (e.g., where a Student is a subject in an Institutional Review Board-approved human subjects research project) will not trigger an individual investigation. Further, disclosures which occur as part of a classroom assignment will not require faculty or staff to report to a Title IX Coordinator, unless there is abuse or neglect of a vulnerable adult or abuse of a minor by an adult. Faculty and staff members are required to share reporting options with all students.

**Reporting to Law Enforcement:** Individuals have the right to notify or decline to notify law enforcement. Police have legal authority to criminally investigate reports of sexual assault, dating violence, domestic violence, and stalking, collect evidence, make arrests, and assist in seeking emergency protective measures. In keeping with its commitment to take all appropriate steps to address and to prevent sexual harassment and sexual misconduct, the University encourages individuals to promptly report sexual harassment and sexual misconduct to preserve potential evidence. The University will assist individuals in notifying law enforcement if they choose to do so.

**To Contact Lincoln or Omaha Police:**

- 911 (for emergencies)
- Lincoln Police Department: To make a non-emergency police report, call the non-emergency line or visit a team station Monday-Friday between 8:00 AM and 4:00 PM.
  - LPD Non-Emergency Line: (402) 441-6000
- Omaha Police Department: To make a non-emergency police report, visit the Omaha Police Department Headquarters 24/7 or a precinct office Monday-Friday between 8:00 AM and 5:00 PM.
  - Omaha Police Department Headquarters: 505 S. 15th Street, Omaha, NE 68102

**Anonymous Reporting to Law Enforcement:**

There are options to report a sexual assault or other crimes to law enforcement anonymously. These processes vary depending on the police department receiving the report. Please note, law enforcement may be limited in their ability to respond to anonymous reports or reports without sufficient details.

**Lincoln Police Department:**

- To make an anonymous report of sexual assault to the Lincoln Police Department, visit <https://lincoln.ne.gov/city/police/anonfrm.htm> or call (402) 441-3866. Individuals can choose to report as much information as they would like.
- Victims who choose to receive a forensic examination by a sexual assault nurse examiner may request that the evidence be collected anonymously, meaning they can choose whether to report their name and other information to law enforcement.

#### **Omaha Police Department:**

- Victims who choose to receive a forensic examination by a sexual assault nurse examiner may request that the evidence be collected anonymously, meaning they can choose whether to report their name and other information to law enforcement.

## **VII. Confidential Resources**

As indicated in Section VI, a Confidential Employee or other confidential resource will not disclose information about sexual harassment or sexual misconduct without the Reporting Party's permission. Confidential Employees must share non-identifying statistical information related to crimes found in the Annual Security Report, as required by the Clery Act. A report to these "Confidential Employees" will not be considered Actual Knowledge, or notice to the University, of the alleged occurrence, but will allow the harmed party to proceed as they so choose.

#### **Confidential Resources for Students:**

- **Voices of Hope Campus Advocate:** provides free and confidential support to students, staff, and faculty to empower those who have experienced relationship violence, sexual assault, or abuse; and can also support an individual who chooses to report to the Title IX Coordinator. The Voices of Hope Campus Advocate is available by appointment. Voices of Hope is located at 2545 N St., Lincoln, NE 68510; [advocate@nebrwesleyan.edu](mailto:advocate@nebrwesleyan.edu); or [info@voicesofhopelincn.org](mailto:info@voicesofhopelincn.org); Office Phone: (402) 476-2110; Voices of Hope 24/7 Support: (402) 475-7273.
- **NWU Counseling Services:** serves traditional undergraduate students. Counseling Services is located at 2641 N. 49th Street (49th & St. Paul Avenue) and is open Monday-Friday from 8:00 a.m. to 5:00 p.m.; [counseling@nebrwesleyan.edu](mailto:counseling@nebrwesleyan.edu); (402) 465-2464.
- **University Minister:** can help students, faculty and staff and is located in Old Main - Room 105; [minister@nebrwesleyan.edu](mailto:minister@nebrwesleyan.edu); (402) 465-2398.

#### **Confidential Resources for Employees:**

- **Directions EAP (Employee Assistance Program):** can help faculty and staff and is located at 1919 S. 40<sup>th</sup> Street, Ste. 212 in Lincoln, NE 68506; [directionseap@directionseap.com](mailto:directionseap@directionseap.com); (402) 434-2900.
- **University Minister:** can help students, faculty and staff and is located in Old Main – Room 105; [minister@nebrwesleyan.edu](mailto:minister@nebrwesleyan.edu); (402) 465-2398.
- **Voices of Hope Campus Advocate:** provides free and confidential support to students, staff, and faculty to empower those who have experienced relationship violence, sexual assault, or abuse; and can also support an individual who chooses to report to the Title IX

Coordinator. The Voices of Hope Campus Advocate is available by appointment. Voices of Hope is located at 2545 N St., Lincoln, NE 68510; [advocate@nebrwesleyan.edu](mailto:advocate@nebrwesleyan.edu); or [info@voicesofhopelincn.org](mailto:info@voicesofhopelincn.org); Office Phone: (402) 476-2110; Voices of Hope 24/7 Support: (402) 475-7273.

## **VIII. Supportive Measures**

The University offers a wide range of resources for Students and Employees to provide support and guidance throughout the initiation, investigation, and resolution of a report of sexual harassment or sexual misconduct. Upon receipt of Actual Knowledge, of an alleged occurrence of sexual harassment or sexual misconduct, the University will offer supportive measures to the alleged victim (“Complainant”). These offered measures will be reasonable and appropriate measures to facilitate continued access to University employment or education programs and activities for all involved parties. Non-disciplinary, non-punitive individualized services will be offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a report or formal complaint.

The University will keep private any supportive measures provided under this policy to the extent practicable and will promptly address any violation of the supportive measures. The Title IX Coordinator has the discretion to determine the appropriateness of any supportive measure based on all available information and is available to meet with all involved parties to address any concerns about the provision of supportive measures. Supportive measures may include but are not limited to: facilitation of connections to on- and off-campus resources, issuance of a No Contact/Limited Contact Order, change of work or class assignment/location/schedule, change of living space, change of class schedule, and/or security escort.

## **IX. Resolution**

The University has the responsibility to address sexual harassment and sexual misconduct that violates Federal Title IX and Clery Act regulations through the University’s formal and informal resolution procedures for current Students and Employees. The resolution procedures are guided by the principle of fundamental fairness and respect for all parties, which requires notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a Formal Complaint under this policy. All parties involved with the University’s sexual harassment and sexual misconduct resolution processes, including investigators and adjudicators, receive regular and ongoing training. Annual training programs include, but are not limited to, how to conduct an investigation and all resolution processes including informal resolution where applicable, hearings, appeals, and how to serve impartially, including how to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Training materials can be found on the NWU Title IX website. Training will include, among other topics required under Title IX, the fact that Title IX requires a presumption that the accused is not responsible, and that presumption applies throughout the resolution process (including the investigation, through the live hearing); and that the culmination of a formal complaint is to occur in a live

hearing which allows cross examination. See 34 CFR 106.45(b)(1). For additional information about resolving Title IX Complaints, refer to the Resolution Procedures for Addressing Complaints of Sexual Misconduct under the 2020 Final Rule for Federal Title IX Regulations.

Any question of interpretation of this policy will be referred to the Title IX Coordinator. The Title IX Coordinator will consult with the University President, whose interpretation is final.

## **X. Additional Information**

This document is thoroughly reviewed on an annual basis and may be updated periodically for accuracy and clarity. The most current version can be found on the Sexual Harassment and Sexual Misconduct Prevention and Response Page of the University's website.

The NWU Board of Governors approved this policy on September 9, 2022. All incidents of sexual harassment and sexual misconduct reported on or after this date will be subject to this policy. However, the University will apply sexual harassment and sexual misconduct definitions in effect at the time of the incident.

# NEBRASKA WESLEYAN UNIVERSITY

## **Resolution Procedures for Addressing Complaints of Sexual Misconduct under the 2020 Final Rule for Federal Title IX Regulations**

This procedure applies to sexual harassment and sexual misconduct of all forms, including sexual and gender-based harassment/bullying, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation within the jurisdictions of the 2020 Final Rule for Federal Title IX Regulations.

Sexual harassment, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation are broad terms intended to capture a spectrum of behavior labeled sexual misconduct. These terms are specifically defined in Section V - Prohibited Conduct of the Sexual Misconduct Policy addressed under the 2020 Final Rule for Federal Title IX Regulations. All behavior referenced as sexual harassment and sexual misconduct that falls under the 2020 Final Rule for Federal Title IX jurisdiction guidelines will be addressed utilizing this procedure.

Hereinafter, Nebraska Wesleyan University will be referred to as “the University”.

### **I. To Whom This Procedure Applies and Jurisdiction**

This procedure follows the 2020 Final Rule for Federal Title IX Regulations and pertains to acts of Prohibited Conduct when:

- The conduct occurs on University grounds or other property owned or controlled by the University;
- The conduct occurs in the context of University employment or an education program or University-sponsored activity within the United States, including, but not limited to, school trips, research, on-line classes or meetings, or internship programs;
- The University has substantial control over both the respondent and the context in which the sexual harassment or sexual misconduct occurs; or
- The conduct occurs on property owned or in buildings controlled by any officially-recognized student organization.

All Formal Complaints under this procedure must be made and resolved while the parties are participating in or attempting to participate in the education program, employment, or activity of the University. The University retains jurisdiction over students who choose to take a leave of absence, withdraw or have graduated for misconduct that occurred prior to the leave, withdrawal or graduation through the NWU Sexual Misconduct Outside of Federal Title IX Regulations Policy.



This set of procedures is only applicable to Student and Employee complaints falling within Title IX jurisdiction. The University also will investigate allegations of sexual harassment or sexual misconduct reported against groups of individuals or student organizations under its Sexual Misconduct Outside of the 2020 Final Rule for Federal Title IX Regulations Policy.

**Group Violations:**

A Student Organization or University-sponsored team, and its officers and membership, may be held collectively and individually responsible when violations of this policy by the organization or its member(s):

- Take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or tacit;
- Have received the consent or encouragement of the organization or of the organization's leadership; or
- Were known or should have been known to the membership or its officers.

Complaints filed involving individual members of a Student Organization will be resolved through this procedure. The University reserves the right to resolve complaints in order to render a Student Organization eligible for potential disciplinary sanction through the procedures that address conduct that falls outside of the 2020 Final Rule for Federal Title IX Regulations.

There is no minimum number of members who must be involved in a violation of University Policy for disciplinary action to be taken against the Student Organization. In order to decide whether the Student Organization is accountable for the misconduct of individual members, it must be determined whether it is likely that the individuals would have acted if they were not members of the group; if the group, either directly or indirectly, encouraged the behavior; or if the behavior was intentionally ignored.

## II. Definitions of Key Terms

**Actual Knowledge:** the standard of notice the University must have of an alleged occurrence of sexual harassment or sexual misconduct, which occurs when notice of, or allegations of, sexual harassment or sexual misconduct is received by a University Title IX Coordinator or an employee with authority to institute corrective measures.

**Advisor of Choice:** an individual selected by a Complainant or Respondent to assist them during any part of the Formal Resolution process addressed under Title IX, including the Reporting, Assessment, Investigation, Hearing, and Appeal process. An Advisor of Choice may be a staff member, student, parent, community member, or an attorney. A University-selected Advisor of Choice will be provided for the Hearing, for the purpose of cross-examination of the Complainant or Respondent, if the complainant or respondent has not appointed one for themselves. The University will not bear the expense of an attorney acting as an Advisor of Choice retained by any involved party. Any involved party may change their Advisor of Choice at any point. The Advisor of Choice may also serve as the Support Person.

**Campus Security Authority (CSA):** employees or officials who have been identified as having significant responsibilities for student and campus activities to whom students and employees should report criminal offenses. CSAs are required to report crimes to campus administrators, which include Title IX offenses, to the Title IX Coordinator, as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

**Complainant:** an individual who is alleged to be the victim of conduct that could constitute sexual harassment or sexual misconduct.

**Confidential Employee:** an individual designated by the University to provide support to Students and Employees without being required to report to a Title IX Coordinator. A report to a Confidential Employee will not be considered actual knowledge, or notice to the University, of the alleged occurrence of sexual harassment or sexual misconduct, and will not trigger the University's mandatory response obligations.

**Day:** University working day, not including Saturday, Sunday, or University holidays. The University will make all reasonable efforts to comply with all time frames set forth in these procedures, but all applicable timelines may be extended depending on the complexity of the circumstances of each case.

**Employee:** any person who works for the University in return for financial or other compensation. This includes full-time and part-time faculty, full-time and part-time staff, adjunct faculty, visiting faculty, and student employees.

**Formal Complaint:** is a signed, written formal allegation against an individual for violation of the University's sexual harassment and sexual misconduct policies that is submitted by the Harmed Party, parent of the Harmed Party or the Title IX Coordinator.

The 2020 Final Rule for Federal Title IX Regulations states that there are three situations in which the Formal Complaint may be signed.

1. The Harmed Party may sign the Formal Complaint
2. The parent of the harmed student may sign the Formal Complaint in the event a harmed student does not wish to file the Formal Complaint
3. The Title IX Coordinator may sign the Formal Complaint
  - a) In the event a Harmed Party does not wish to file the Formal Complaint
  - b) When the misconduct presents an imminent threat to campus safety or the safety of an individual on campus

The University reserves the right to file a formal complaint over the Complainant's objection if the University deems it in the University's best interest to do so, including without limitation in order to render the respondent eligible for potential disciplinary sanction following the completion of a resolution process that complies with §106.45 of the federal regulations.

When the parent of the harmed student or the Title IX Coordinator signs the Formal Complaint, neither becomes the Complainant, and the University must comply with the requirements of

the 2020 Final Rule for Federal Title IX Regulations. Only the Harmed Party is allowed to become the Complainant.

At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in the University's employment or education program or activity. Please note: the resolution process set forth herein is different than other policies involving matters outside the jurisdiction of Title IX.

**Formal Resolution:** involves an investigation, live hearing, and a Hearing Decision Maker determining whether or not a Respondent has violated the sexual harassment and sexual misconduct policy. Sanctions may be assigned if the Respondent is found in violation of the Policy. The Complainant and Respondent both have the right to appeal the determination of the outcome and/or the sanctions assigned.

**Harmed Party:** an individual or group of individuals who experienced an alleged occurrence of sexual harassment or sexual misconduct. Once a Harmed Party makes a report, or files a complaint, alleging an occurrence of sexual harassment or sexual misconduct, they are referred to as a "Complainant" as defined herein.

**Hearing Decision Maker:** manages and leads the Hearing Process, communicates Hearing protocol, oversees cross-examination questioning, and determines relevancy of each question during cross-examination. The Hearing Decision Maker also makes final decisions of the resolution outcome and, if necessary, sanctions, and communicates the Notification of Determination to the University Administrator. The Hearing Decision Maker will be a person independent from either Title IX Coordinator, any investigator, or any other administrator considered as "Title IX Personnel" (including the facilitator of the Informal Resolution Process).

**Informal Resolution:** involves a facilitated resolution that is voluntary, agreed upon, and acceptable to, the Complainant, Respondent, and the University. The Complainant, Respondent, or the University may withdraw from Informal Resolution at any point up to the time the resolution is completed. If any of the parties choose to withdraw from the Informal Resolution process prior to its completion, the University will immediately begin using the Formal Resolution processes in place.

**Investigator:** one or more trained University-appointed individuals who conduct an investigation and prepare the official written reports (Preliminary and Final Investigative Reports) after a Formal Complaint is filed.

**Mandatory Reporter:** all Employees, including Confidential Employees, are mandatory reporters of abuse or neglect of a vulnerable adult or abuse of a minor by an adult (sexual/physical assault, witness to domestic violence, dating/intimate partner violence, stalking). In Nebraska, minors are considered all persons under the age of 19.

**Officials with Authority:** University administrators who are given specific authority to institute corrective measures on behalf of the University (i.e., university president and vice presidents).

**Reporting Party:** an individual, or group of individuals, who reports information to the Title IX Coordinator. All members of the NWU community are encouraged to report any incident of sexual harassment and sexual misconduct to the Title IX Coordinator. Reporting Parties can include, but are not limited to the person who experienced the sexual harassment or sexual misconduct, a Campus Security Authority, a friend of someone who has experienced sexual harassment or sexual misconduct, parents, bystanders, witnesses, instructors, friends, other community members, or someone who has otherwise been made aware of an incident of sexual harassment or sexual misconduct.

**Respondent:** an individual who has been reported to have engaged in conduct that could constitute sexual harassment or sexual misconduct.

**Student:** any person enrolled in courses at the University, both full-time and part-time, pursuing undergraduate or graduate studies, including those who audit courses.

**Student Organization:** any group of persons who have complied with the formal requirements for University recognition as an organization or University-sponsored team.

**Support Person:** an individual selected by a Complainant or Respondent to assist them during any part of the Formal or Informal Resolution processes addressed within Title IX or Outside of Title IX Procedures, including the Reporting, Assessment, Informal Resolution, Investigation, Hearing, and Appeal process. A Support Person may be a staff member, student, parent, community member, or an attorney. The University will not bear the expense of an attorney acting as a Support Person retained by any involved party. Any involved party may change their Support Person at any point. The Support Person may also serve as the Advisor of Choice.

**Title IX Assessment Report:** a record of the relevant details as reported to the Title IX Coordinator during the Title IX Assessment, including factors related to any threat of imminent danger or ongoing safety concerns for the campus and whether the matter falls within the definitions and jurisdiction of Title IX.

**University Administrator:** this role is filled by the Vice President for Student Life, or designee, for instances of Formal Complaints involving only students. The Director of Title IX services, or designee, will fill this role for instances of Formal Complaints involving Employees.

**Witness:** an individual who personally sees or perceives a detail or event and is willing to attest to that detail. Information from witnesses whose sole purpose is to provide character information will not be considered as part of an investigation.

### III. Supports

#### Title IX Coordinators

The Title IX Coordinators oversee the University's assessment, investigation, and resolution of reports of sexual harassment and sexual misconduct ensuring compliance with Title IX and

other relevant state and federal laws. A Report can be made at any time via email, phone, or physical mail, or in person during regular business hours.

Director of Title IX services: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, [mharder@nebrwesleyan.edu](mailto:mharder@nebrwesleyan.edu)

Title IX Coordinator: Natasha Moreno, Nebraska Wesleyan University, Burt Hall 112, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2356, [nmoreno@nebrwesleyan.edu](mailto:nmoreno@nebrwesleyan.edu) or [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)

The Title IX Coordinator, or designee, will manage reports and complaints for Employees and Students.

### **The Title IX Coordinators are:**

- Responsible for oversight of the assessment, investigation, and resolution of all reports of sexual harassment or sexual misconduct;
  - These responsibilities include making the determination of whether the complaint regarding the alleged occurrence of sexual harassment or sexual misconduct is within the definition of the Final Rule, or will be handled by the procedures governing alleged occurrences outside of the definition of the Final Rule.
- Knowledgeable and trained in relevant state and federal laws and University policy and procedures.
  - Annual training programs include, but are not limited to, the definition of sexual harassment, the scope of the University's education program or activity, how to conduct an investigation and resolution process including hearings, appeals, and how to serve impartially, including to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Moreover, any materials used to train Title IX Coordinators, investigators, and hearing decision-makers does not rely on sex stereotypes and promotes impartial investigations and adjudications of formal complaints of sexual harassment. Training materials can be found on the NWU Title IX website.
- Available to provide information to any individual, including a Complainant, a Respondent, or a Third Party, about the courses of action available at the University, both informally and formally;
- Available to assist any University community member regarding how to respond appropriately to reports of sexual harassment or sexual misconduct;
- Responsible for oversight of sexual violence prevention education and employee training;
- Responsible for monitoring full compliance with all requirements and timelines specified in the reporting and Formal Complaint procedures;
- Responsible for ensuring resolution procedures, including the hearing and appeal process, are in compliance with Federal and University policies and regulations;
- Responsible for ensuring the implementation, and timely completion, of any remedies or sanctions, and;
- Responsible for compiling annual reports.

### **Confidential Resources**

A Confidential Employee or other confidential resource will not disclose information about sexual harassment or sexual misconduct without the Reporting Party's permission. Confidential Employees must share non-identifying statistical information related to crimes found in the Annual Security Report (ASR), as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

There are three exceptions when a Confidential Resource must disclose information to University officials or Law Enforcement as required by law:

1. The individual gives written consent for the disclosure;
2. There is concern that the individual will likely cause serious physical harm to self or others; or
3. The information concerns conduct involving suspected abuse or neglect of a vulnerable adult or abuse of a minor by an adult. In Nebraska, minors are considered anyone under the age of 19.

### List of Confidential Resources:

- **Voices of Hope Campus Advocate:** provides free and confidential support to students, staff, and faculty to empower those who have experienced relationship violence, sexual assault, or abuse; and can also support an individual who chooses to report to the Title IX Coordinator. The Voices of Hope Campus Advocate is available by appointment. Voices of Hope is located at 2545 N St., Lincoln, NE 68510; [advocate@nebrwesleyan.edu](mailto:advocate@nebrwesleyan.edu); or [info@voicesofhopelincn.org](mailto:info@voicesofhopelincn.org); Office Phone: (402) 476-2110; Voices of Hope 24/7 Support: (402) 475-7273.
- **NWU Counseling Services:** serves traditional undergraduate students. Counseling Services is located at 2641 N. 49th Street (49th & St. Paul Avenue) and is open Monday-Friday from 8:00 a.m. to 5:00 p.m.; [counseling@nebrwesleyan.edu](mailto:counseling@nebrwesleyan.edu); (402) 465-2464.
- **University Minister:** can help students, faculty and staff, and is located in Old Main – Room 105; [minister@nebrwesleyan.edu](mailto:minister@nebrwesleyan.edu); (402) 465-2398.
- **Directions Employee Assistance Program:** can help faculty and staff and is located at 1919 S. 40<sup>th</sup> Street, Ste. 212, Lincoln, NE 68506; [directionseap@directionseap.com](mailto:directionseap@directionseap.com); (402) 434-2900.

### Support Person

A Complainant or Respondent can select a Support Person to assist them during any part of the Formal or Informal Resolution processes addressed within Title IX or Outside of Title IX Procedures, including the Reporting, Assessment, Informal Resolution, Investigation, Hearing, and Appeal process. A Support Person may be a staff member, student, parent, community member, or an attorney.

In the event that the Complainant or Respondent would like a Support Person to assist them and is unable to identify someone, the Title IX Office will provide a list of people who are committed to providing support for either party.

### Advisor of Choice

A Complainant or Respondent can select an Advisor of Choice to assist them during any part of the process, including the Reporting, Assessment, Investigation, Hearing, and Appeal process.

An Advisor of Choice is required at the Hearing for both the Complainant and Respondent for the purpose of cross-examination. In the event that the Complainant or Respondent does not identify an Advisor of Choice for the Hearing, the University will provide an Advisor of Choice for them, as neither party is permitted to personally perform cross examination at the hearing.

An Advisor of Choice may be a staff member, student, parent, community member, or an attorney. The University will not bear the expense of an attorney acting as an Advisor of Choice retained by any involved party.

## IV. Reporting

There are multiple channels for reporting sexual harassment and sexual misconduct. An individual may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. An individual may simultaneously pursue a criminal investigation and the University sexual harassment and sexual misconduct resolution process. The Title IX Coordinator will support all parties involved in understanding and assessing all options. Questions should be directed to a Title IX Coordinator.

**Reporting to the University:** The University encourages anyone who becomes aware of an incident of sexual harassment or sexual misconduct to promptly report the incident to a Title IX Coordinator. Any Campus Security Authority (CSA) identified by the University who receives a disclosure of sexual harassment or sexual misconduct by a harmed party or witness is required to report to the Title IX Office. While there is no time limit for reporting sexual harassment or sexual misconduct to the University, the University's ability to respond may diminish over time, as evidence may erode, memories fade, and individuals may no longer be affiliated with the University. If an individual is no longer affiliated with the University, the University will provide reasonably appropriate supportive measures, assist individuals in identifying external and/or other internal reporting options, and take reasonable steps to eliminate sexual harassment and sexual misconduct, prevent its recurrence, and remedy its effects.

**Anonymous Reporting to the University:** Individuals may report sexual harassment and sexual misconduct concerns anonymously to the University through the University website by clicking on the link [Report a Concern](#), located at the bottom of every webpage. Please note, the University may be limited in its ability to respond to concerns reported anonymously or reports without sufficient details.

### **Making a Report vs. Filing a Formal Complaint:**

**Making a Report** is the notification of an incident of sexual harassment or sexual misconduct made to a Title IX Coordinator, or an Official with Authority, by any Reporting Party. A report may be accompanied by a request for any of the following: resources, no further action,



supportive measures, and/or initiation of the Formal Complaint process. The University recognizes that not every individual will be prepared to request supportive measures or to file a Formal Complaint; therefore, Reporting Parties may pursue these options any time in the future. Individuals are not expected or required to pursue any specific course of action.

The University will make a reasonable effort to respect the wishes of the person who experienced sexual harassment or sexual misconduct.

The University reserves the right to file a formal complaint over the complainant's objection if the University deems it in the University's best interest to do so, including without limitation in order to render the respondent eligible for potential disciplinary sanction following the completion of a grievance process that complies with §106.45 of the federal regulations.

To ensure the harmed party of sexual harassment or sexual misconduct is informed of their rights and options, Campus Security Authorities (excluding Confidential Employees) will be required to report the relevant details about an incident of sexual harassment or sexual misconduct that involves any Student or Employee as a Complainant, Respondent, and/or Witness. This includes dates, times, locations, and names of parties and witnesses, if known. The Title IX Coordinator will contact the harmed party to provide information and ask how they wish to proceed.

**Filing a Formal Complaint** initiates a resolution process by the University. The University offers both formal and informal resolution processes, upon the filing of a Formal Complaint. The decision to file a Formal Complaint may be made at any time during Title IX jurisdictional time frames. A Report or Formal Complaint can be made at any time via email, phone, or physical mail, or in person during regular business hours.

**To make a Report or file a Complaint, please contact:**

Director of Title IX services: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, [mharder@nebrwesleyan.edu](mailto:mharder@nebrwesleyan.edu)

Title IX Coordinator: Natasha Moreno, Nebraska Wesleyan University, Burt Hall 112, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2356, [nmoreno@nebrwesleyan.edu](mailto:nmoreno@nebrwesleyan.edu) or [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)

**Amnesty:**

- **For Complainants:** The University provides amnesty to harmed parties who may be hesitant to report to University officials because they fear that they themselves may be accused of lower-level policy violations, such as alcohol violations.
- **For Those Who Offer Assistance:** To encourage Students and Employees to offer help and assistance to others, the University pursues a policy of amnesty for lower-level violations when Students or Employees offer help to others in need. At the discretion of the Student Conduct System Administrator, Assistant Vice President of Human Resources, or designee, amnesty may also be extended on a case-by-case basis to the person receiving assistance.

- **For Those Who Report Serious Violations:** Students or Employees who are engaged in lower-level violations but who choose to bring related serious violations by others to the attention of the University may be offered amnesty for their lower-level violations.
- **For Those Who Witness Serious Violations:** Students or Employees who witness serious violations by others are offered amnesty for any lower-level violations if they are called on as a witness to a serious violation but will not be provided amnesty if they participated in, facilitated or condoned the misconduct through a failure to act.

In any of the circumstances listed above, an educational conference or coaching opportunity related to the lower-level violations may occur, but no conduct proceedings will result.

Abuse of amnesty requests can result in a decision by the Student Conduct System Administrator, Assistant Vice President of Human Resources, or designee, not to extend amnesty to the same person repeatedly.

**Reporting to Law Enforcement:** Individuals have the right to notify or decline to notify law enforcement. Police have legal authority to criminally investigate reports of sexual assault, dating violence, domestic violence, and stalking, collect evidence, make arrests, and assist in seeking emergency protective measures. In keeping with its commitment to take all appropriate steps to address and to prevent sexual harassment and sexual misconduct, the University encourages individuals to promptly report sexual harassment and sexual misconduct to preserve potential evidence. The University will assist individuals in notifying law enforcement if they choose to do so.

#### **To Contact Lincoln or Omaha Police:**

- 911 (for emergencies)
- Lincoln Police Department: To make a non-emergency police report, call the non-emergency line or visit a team station Monday-Friday between 8:00 AM and 4:00 PM.
  - LPD Non-Emergency Line: (402) 441-6000
- Omaha Police Department: To make a non-emergency police report, visit the Omaha Police Department Headquarters 24/7 or a precinct office Monday-Friday between 8:00 AM and 5:00 PM.
  - Omaha Police Department Headquarters: 505 S. 15th Street, Omaha, NE 68102

#### **Anonymous Reporting to Law Enforcement:**

There are options to report a sexual assault or other crimes to law enforcement anonymously. These processes vary depending on the police department receiving the report. Please note, law enforcement may be limited in their ability to respond to anonymous reports or reports without sufficient details.

#### **Lincoln Police Department:**

- To make an anonymous report of sexual assault to the Lincoln Police Department, visit <https://lincoln.ne.gov/city/police/anonfrm.htm> or call (402) 441-3866. Individuals can choose to report as much information as they would like.

- Victims who choose to receive a forensic examination by a sexual assault nurse examiner may request that the evidence be collected anonymously, meaning they can choose whether to report their name and other information to law enforcement.

**Omaha Police Department:**

- Victims who choose to receive a forensic examination by a sexual assault nurse examiner may request that the evidence be collected anonymously, meaning they can choose whether to report their name and other information to law enforcement.

## **V. Supportive Measures**

The University offers a wide range of resources for Students and Employees to provide support and guidance throughout the initiation, investigation, and resolution of a report of sexual harassment or sexual misconduct. The University will offer reasonable and appropriate measures to facilitate continued access to University employment or education programs and activities for all involved parties. Non-disciplinary, non-punitive individualized services will be offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a report or formal complaint.

The University will keep private any supportive measures provided under this policy to the extent practicable and will promptly address any violation of the supportive measures. The Title IX Coordinator has the discretion to determine the appropriateness of any supportive measure based on all available information and is available to meet with all involved parties to address any concerns about the provision of supportive measures. Supportive measures may include but are not limited to: facilitation of connections to on- and off-campus resources, issuance of a No Contact/Limited Contact Order, change of work or class assignment/location/schedule, change of living space, change of class schedule, and/or security escort.

## **VI. Title IX Assessment**

Upon receipt of a report, the Title IX Coordinator will conduct an initial Title IX Assessment. The first step of the assessment will typically include a preliminary meeting between the Reporting Party and the Title IX Coordinator. The purpose of this meeting is to gain a basic understanding of the nature and circumstances of the report; it is not intended to be a full investigative interview. The Reporting Party will also receive information about resources, rights, procedural options, and supportive measures. Furthermore, requests for supportive measures can be made to the Title IX Coordinator.

The Reporting Party may bring up to two people to this meeting: (1) Support Person and/or (1) Advisor of Choice. When either the Support Person or the Advisor of Choice is an attorney, the Title IX Coordinator must be given 2 days advance notice. Neither the Support Person nor the Advisor of Choice can direct questions or comments to the Title IX Coordinator, but they may consult with the person they are assisting. The Title IX Coordinator will not allow the presence of a Support Person or Advisor of Choice to inhibit their ability to provide information.

**During the Title IX Assessment, the Title IX Coordinator will:**

- Assess the nature of the reported misconduct to determine if the conduct is a violation of University policy and whether it falls within the jurisdiction of Title IX;
- Address the immediate physical safety and emotional well-being of the Reporting Party and University community;
- Notify the Reporting Party of the range of supportive measures;
- Provide the Reporting Party with information about on- and off-campus resources;
- Determine if concerns exist for discrimination or harassment based on other protected classes;
- Explain the University's policy for prohibiting retaliation;
- Explain the difference between privacy and confidentiality;
- Explain the difference between confidential and non-confidential resources;
- Assess the reported conduct for the need of a timely warning notice as required under federal law;
- Determine if a pattern of evidence or other similar conduct by the Respondent exists;
- Determine if any issues of academic freedom exist, which may be reviewed by the Provost or designee;
- Enter non-identifying statistical information about the report into the University's daily crime log;
- Explain the University's Title IX resolution process, including the evidentiary standard - preponderance of evidence;
- Record the Reporting Party's preferred course of action; and
- Provide the Reporting Party with a written explanation of their rights and options.

The Title IX Coordinator will document all information provided by the Reporting Party during a Title IX Assessment in a Title IX Assessment Report. The purpose of this Report is to record the relevant details as reported to the Title IX Coordinator. This Assessment Report will be shared with the Investigator(s) and University Administrator should a Title IX Formal Complaint be filed.

The University will make a reasonable effort to respect the wishes of the person who experienced sexual harassment or sexual misconduct. However, the University reserves the right to file a formal complaint over the complainant's objection if the University deems it in the University's best interest to do so, including without limitation in order to render the respondent eligible for potential disciplinary sanctions following the completion of a grievance process that complies with §106.45 of the federal regulations. In making this decision, the Title IX Coordinator will consider, but is not limited by, the following factors: whether the person who experienced sexual harassment or sexual misconduct has requested that no formal action be taken; whether they are willing to participate in additional steps; whether the University can undertake any action without their participation; the severity and impact of the sexual harassment or sexual misconduct; whether there exists a pattern of sexual harassment or sexual misconduct; the existence of independent evidence; the existence of relational power differentials; and any legal obligation to proceed based on the nature of the conduct, including sexual harassment and sexual misconduct involving vulnerable adults or abuse of a minor by

an adult. The Title IX Coordinator, upon receipt of a report of an alleged occurrence of sexual harassment or sexual misconduct, may determine within their discretion to sign a Formal Complaint, and commence the Formal Resolution Process (after taking account of the aforementioned factors), with or without approval of the original Reporting Party.

Where a Reporting Party requests that a name or other identifiable information not be shared with the Respondent and/or that no formal action be taken, the University may be limited in its ability to fully respond to the matter.

During the Title IX Assessment, the Title IX Coordinator will discuss the availability of supportive measures. Following the Assessment, the Title IX Coordinator will determine if a Formal Complaint will be filed by the University. The University will balance the Reporting Party's requests with its responsibility to provide a safe and non-discriminatory environment for all University community members. Participation in the sexual harassment and sexual misconduct resolution process is voluntary and supportive measures are available at any time for all involved parties.

The Title IX Coordinator will document each report of sexual harassment or sexual misconduct and will review and retain copies of all reports or documentation as per the University's Record Retention Policy. These records will be kept private to the extent permitted by law.

## **VII. Interim Action**

At times, the University may take action to ensure the physical or emotional safety and well-being of the University community. The 2020 Final Rule for Federal Title IX Regulations, in accordance with the §106.44(c) emergency removal provision, expressly authorizes the University to remove a Respondent from the University's employment or education programs or activities on an emergency basis, with or without a resolution process pending, as long as the Respondent has the opportunity to challenge the University's decision immediately following the removal.

Sexual harassment or sexual misconduct reports or Formal Complaints presenting a risk to the physical health or safety of a person may justify emergency removal of a Respondent, which could include a no-trespass or other no-contact order issued.

## **VIII. Sexual Harassment and Sexual Misconduct Formal Complaint**

### **Notice of Complaint**

Upon receipt of a Formal Complaint, the Title IX Coordinator is required to send a written notice of the allegations, and notice of the University's resolution processes, as well as provide notice of the availability of supportive measures, simultaneously to the Complainant and Respondent.

The University offers two options to resolve a Formal Complaint: Informal Resolution and Formal Resolution. Within these resolution methods, there are timeframes for application of the resolution options. Parties may:

- Begin a Formal Resolution process immediately after the filing of a Formal Complaint.
- Begin an Informal Resolution process immediately after the filing of a Formal Complaint.
- Transition to an Informal Resolution process after a Formal Resolution process has begun, up until the beginning of the Title IX Hearing.
- Transition to a Formal Resolution process from the Informal Resolution process when the Complainant, Respondent, or University no longer agrees to the terms of the Informal Resolution process.

### **Informal Resolution Process**

The Informal Resolution process involves a facilitated resolution that is voluntary and acceptable to the Complainant, Respondent, and the University after the filing of a Formal Complaint. All parties must voluntarily agree in writing to participate in the Informal Resolution process.

A full investigation of the Formal Complaint filed is not conducted in the Informal Resolution process. Informal Resolution is a voluntary option that allows parties to resolve disputes in a forum that is separate and distinct from the institution's live-hearing process. It is also discretionary, based on the assessment of the Title IX Coordinator, whether to offer Informal Resolution at all, or only in certain cases. The University will generally allow only one Informal Resolution per Respondent. Informal Resolution will not be offered as a resolution strategy when the Formal Complaint involves both Students and Employees.

For some types of reported sexual harassment and sexual misconduct, Informal Resolution may offer parties resolution in a timeframe that is shorter than the Formal Resolution in a confidential, non-adversarial manner that allows the parties to discuss the issues and clear up misunderstandings. However, Informal Resolution may not be an appropriate option for cases involving a report of sexual assault, dating violence, domestic violence, or circumstances involving severe misconduct.

An Informal Resolution can be requested by a Complainant or Respondent at any time after a Formal Complaint has been signed. An Informal Resolution process can be requested, even if the parties have entered the Formal Resolution process, up to the beginning of a Title IX Hearing. Any of the parties can withdraw from the Informal Resolution process and resume the Formal Resolution process at any time prior to reaching a determination regarding a policy violation. Furthermore, Formal Resolution may cease if the Complainant withdraws the Formal Complaint. However, the University may continue to move forward if there is an imminent threat of safety to the campus community.

Prior to entering the Informal Resolution process, the University must provide written notice to the parties. The written notice will include information regarding:

- The potential outcome of participating in an Informal Resolution process
- The confidentiality of information learned during the Informal Resolution process

- How the Formal Resolution process will resume if any of the parties withdraw from the Informal Resolution process
- The facilitator's inability to be called as a Witness if Informal Resolution cannot reach a mutual agreement and the Formal Resolution process resumes
- Any information obtained during Informal Resolution cannot be used in a subsequent investigation and Title IX Hearing during the Formal Resolution process

Engaging in the Informal Resolution process is not an admission of responsibility for the allegation or an admission of the falsehood of the allegations. The existence of an Informal Resolution is not viewed as a "Finding of a Policy Violation". The terms and outcome of the Informal Resolution are negotiable and may result in party-imposed corrective or punitive measures.

Once a Formal Complaint has been resolved through the Informal Resolution process, the agreements are binding according to the resolution terms and the outcome will be enforced by the University. Due to the voluntary nature of entering into an Informal Resolution process, there is no right to appeal the signed resolution agreement.

If the terms of the Informal Resolution agreement are violated, not met, or left incomplete, it is considered a Conduct Violation and will be addressed under the Code of Student Conduct for Students, or under University conduct policies for Employees.

NWU's Informal Resolution process is conducted by a neutral third party who will collect information about the incident without performing a full investigation, facilitate discussion, and propose solutions for a resolution between the parties. The process will be facilitated with the Complainant and Respondent in separate rooms.

The facilitator will schedule an advance call with each party, separately, prior to the informal resolution meeting. The facilitator will explain the process, goals, and options for the meeting. Following the call, the Informal Resolution Meeting Decorum will be sent electronically to both parties. The facilitator will receive regular and ongoing training on the same topics as Title IX personnel, as set forth in NWU's Title IX policies.

Each party may have one Support Person present during the informal resolution meeting. When the Support Person is an attorney, the facilitator must be given 2 days advance notice. The Support Person cannot direct questions or comments to the facilitator, but they may consult with the Student or Employee they are assisting. The facilitator will not unduly allow a Support Person's presence to inhibit their ability to gather information.

At the beginning of the Informal Resolution Meeting, the facilitator will establish facts that are not in dispute and identify what the parties hope to accomplish and why it is important to reach an agreement. The facilitator will navigate a conversation that attempts to move toward a resolution that will be agreed to and signed by both parties.

Parties are entering into this process freely, voluntarily, and because each party believes that entering this process is in their best interest. Participation in the Informal Resolution process is



not required, not a product of coercion, nor is it a condition of continued enrollment, employment or any other right from the party's educational or employment opportunities (e.g., admission to University events, use of University resources and facilities, Tuition Remission).

### **Formal Resolution Process**

The Formal Resolution process involves a full investigation, live-hearing with cross-examination, determination of policy violation by a Hearing Decision Maker, sanctions if applicable, and the opportunity to both the Complainant and the Respondent to appeal, if the grounds for appeal are met. The Formal Resolution is described in detail throughout the rest of this procedural document.

### **Meeting with Respondent**

After the Notice of Complaint has been sent, the Title IX Coordinator will meet with the Respondent. This meeting is not intended to be an investigative interview. The purpose of this meeting is to inform the Respondent of sufficient details of the Formal Complaint, including:

- Full name of all parties involved, if known;
- Conduct constituting a potential policy violation;
- Date, location, and time of alleged incident, if known;
- Overview of the sexual harassment and sexual misconduct resolution process;
- Information about resources, rights, procedural options, and supportive measures;
- The University's presumption that Respondents have not violated a policy due to the alleged misconduct until there is a determination that a policy violation has occurred, which is made at the end of the resolution process;
- The University's evidentiary standard - preponderance of evidence;
- Notice of Support Person and/or Advisor of Choice;
- Notice of conduct violations for intentionally submitting false statements or false information; and
- Review of the University's policy for privacy and prohibiting retaliation.

Additionally, after the Notice of Complaint has been sent, the University Administrator will set up separate, informational meetings in order to provide detailed information to the Complainant and to the Respondent about the resolution process, including the right to decide whether or not to participate in the process. As at every step in the resolution process, all involved parties may bring up to two people to this meeting: (1) Support Person and/or (1) Advisor of Choice.

The Title IX Coordinator will send a copy of the Title IX Assessment Report/Formal Complaint to the Investigator.

## **IX. Sexual Harassment and Sexual Misconduct Formal Investigation**

### **Meeting with Investigator**

The University has designated individuals as Investigators who receive training annually. Annual training includes, but is not limited to, all of the aforementioned general training requirements for Title IX personnel (including Title IX Coordinators, Investigators, Hearing

Decision Makers, and Informal Resolution Process Facilitators), in addition to specific training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Moreover, any materials used to train Title IX Coordinators, Investigators, Hearing Decision Makers, and Informal Resolution Process Facilitators does not rely on sex stereotypes and promotes impartial investigations and adjudications of formal complaints of sexual harassment. Training materials can be found on the NWU Title IX website. At its discretion, the University may use multiple Investigators, including internal or external Investigators of its choosing.

Throughout the investigation of a Formal Complaint, and the hearing process, the University will ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility remains on the University and not on the parties. The consideration for preservation of the evidence does remain with the involved parties. The University will, throughout the process, make continuing evaluations whether the matter falls within the jurisdiction of Title IX, and if it determines that the matter is not within the jurisdiction of Title IX, the complaint will be dismissed, but may be pursued under other NWU policies where appropriate. The Investigator is solely responsible for all aspects of the investigation, including whether or not to record the investigation interviews. If the Investigator chooses to record the interviews, there will be a single record of the meetings with the Investigator kept in the form of an audio or video recording. The record is the property of the University and will be maintained by the University. No other parties are permitted to record the interviews.

The Investigator will contact the Complainant, Respondent, and relevant witnesses to schedule interviews. All involved parties may bring up to two people to this meeting: (1) Support Person and/or (1) Advisor of Choice. When the Support Person or the Advisor of Choice is an attorney, the Investigator must be given 2 days advance notice. Neither the Support Person nor the Advisor of Choice can direct questions or comments to the Investigator, but they may consult with the Student or Employee they are assisting. The Investigator will not unduly allow a Support Person or an Advisor of Choice's presence to inhibit their ability to gather information.

If a Complainant or Respondent refuses to participate in the investigation or chooses not to answer certain questions from the Investigator, the investigation will continue nonetheless, and decisions will be made without the requested participation from or information from the Complainant or Respondent. However, no credibility determinations will be made throughout the formal resolution process (up to and including the live hearing) based on a party's status as Complainant, Respondent, or as a witness. The same holds true regarding whether or not a party chooses to participate in the investigation, or cross-examination at the live hearing.

The Investigator will conduct a thorough, prompt, impartial, and unbiased investigation. All individuals will be treated with appropriate respect, and in a manner considerate of their privacy. An investigation may include multiple, in-person or virtual, meetings with the Investigator. The Investigator will make a reasonable effort to complete the investigation within 30 days, but this time frame may be extended depending on the complexity of the circumstances of each case. Scheduling, University closures, or holidays may affect this timing

as well. Any delays in the process will be communicated in writing, simultaneously, to the Complainant and the Respondent.

An investigation will typically include interviews of the Complainant, Respondent, and any relevant witnesses provided by either party or discovered during the investigation, and other individuals who may have direct knowledge about the reported conduct. The Investigator will prepare a written summary of each interview. All those interviewed will have an opportunity to review their interview summary for accuracy and submit modifications or additional information within three days of the receipt of the summary from the Investigator.

The Investigator will seek to obtain evidence including text messages, email, photos, social media posts, screen shots, etc. The Investigator may also require access to campus facilities, including residence halls, to gather information and take photos, if necessary. The Complainant and Respondent will have an equal opportunity to provide statements, submit additional information, and/or identify witnesses who may have relevant information. The Complainant, Respondent and any witnesses shall not destroy evidence, including but not limited to the deletion of texts, emails, photos, etc., during the resolution process.

In cases where alcohol and/or other intoxicants are a factor, evaluating incapacitation will require an assessment of whether the involved parties should have been aware of the incapacitation of either party based on an objective and subjective evaluation of the behavior when viewed from the perspective of a sober, reasonable person. Evidence of incapacitation may require evaluating normal and abnormal behaviors of all parties involved, such as vomiting sleeping, blacking out, and unconsciousness.

An investigation may also require an evaluation of whether consent for sexual behavior was given. An essential element of consent is that it be freely given. Freely given consent might not be present, or may not even be possible, in relationships of a sexual or intimate nature between individuals where one individual has power, supervision, or authority over another.

In evaluating whether consent was given, consideration will be given to the totality of the facts and circumstances. This includes, but is not limited to, the extent to which a Complainant affirmatively uses words or actions indicating a willingness to engage in sexual contact, free from intimidation, fear, or coercion; whether a reasonable person in the Respondent's position would have understood such person's words and acts as an expression of consent; and whether there are any circumstances, known or reasonably apparent to the Respondent, demonstrating incapacitation or fear.

Intentional falsification, distortion, or misrepresentation of information as part of the Sexual Harassment and Sexual Misconduct resolution process is a violation of University policy. Any person who abuses the University conduct processes in this way may face disciplinary charges for that violation.

Once the Investigator has gathered all relevant information, the Investigator will prepare a Preliminary Investigative Report. This Report will include relevant information gathered during

the investigation. The Investigator may also include prior allegations of, or findings of, violations for similar conduct by the Respondent. If witness information is included in the Report, witness names and relevant statements will be identified. At this point in the process, the Investigator will send the Preliminary Investigative Report to the Title IX Coordinator for the jurisdictional review to determine whether an allegation falls outside of the definitions utilized in the 2020 Final Rule for Federal Title IX Regulations. At the discretion of the Title IX Coordinator, a third-party reviewer, or designee, may be utilized. Based on the determination, the Formal Complaint will be resolved utilizing the appropriate NWU Sexual Harassment and Sexual Misconduct policy and procedure.

The Preliminary Report will be sent by the Investigator electronically to the Complainant and Respondent, simultaneously. Both the Complainant and the Respondent will have 10 days to review the Preliminary Investigative Report and provide follow-up responses or information to the Investigator.

After the preliminary 10-day review period, the Investigator will review follow-up responses and incorporate relevant information into the Final Investigative Report.

Once the Investigator has completed the Final Investigative Report, the Investigator will simultaneously distribute the Report to the Complainant, the Respondent and the Title IX Coordinator. The Title IX Coordinator will notify the University Administrator who will schedule the Title IX Hearing.

The Title IX Hearing will be scheduled no sooner than 10 days after the Complainant and the Respondent have received the Final Investigative Report. This 10-day timeframe is designed to give the Complainant and Respondent the opportunity to respond to the Final Investigative Report. The Complainant and Respondent's follow-up responses or information must be directed to the Title IX Coordinator.

## **X. Title IX Hearing**

The 2020 Final Rule for Federal Title IX Regulations mandates that a live hearing, that includes cross-examination, is necessary for the resolution of any Formal Complaint.

The University Administrator will send the Notice of Hearing to all involved parties. The Notice will include the date and time of the Hearing, as well as information about contacting the University Administrator to request technology, a private space, or any additional accommodations in order to participate in the Hearing, if needed. The Notice will also include the names of all individuals who will be attending the Hearing. The University will ensure that any individual designated as a Title IX Coordinator, Investigator, Hearing decision-maker, or any facilitator of the informal resolution process, not have a conflict of interest or bias for or against complainants or respondents, generally or individually. Additionally, Complainants and Respondents will be given the opportunity to request that a University-assigned Support Person, an Advisor of Choice, or a Hearing Decision Maker be recused from the Hearing due to a potential conflict of interest or bias, in the event that the University does not recognize said conflict or bias. The University Administrator will likely not be removed from a hearing on

allegation of personal bias, as the University Administrator is not a decision maker and is present to ensure compliance with University procedures and has no impact on the outcome of the Hearing. In the event the University Administrator does have a conflict of interest, even though they do not act in an adjudicative capacity, an alternate University Administrator may be assigned.

Both Complainant and Respondent are required to have an Advisor of Choice for the Hearing for the sole purpose of conducting cross-examination on behalf of the party. If either party's Advisor of Choice cannot attend the hearing, the University will provide an advisor of the University's choice, without fee or charge. Any involved party may change their Support Person or their Advisor of Choice at any point. Complainants, Respondents, or their Support Person are not allowed to ask questions as part of cross-examination. A party's advisor, whether chosen or appointed, is the only person allowed to cross-examine, and ask questions at the live hearing.

The Hearing will be closed to the public. The following individuals will be present at the Hearing:

- The Hearing Decision Maker
- The University Administrator
- The Investigator(s)
- The Complainant, potentially accompanied by a Support Person
- The Complainant's Advisor of Choice
- The Respondent, potentially accompanied by a Support Person
- The Respondent's Advisor of Choice
- Witnesses (if applicable, will only be present at the Hearing during their testimony), potentially accompanied by a Support Person
- University Counsel (if applicable)

The Hearing Decision Maker will conduct a thorough and impartial Hearing without bias or prejudice. The Hearing Decision Maker will receive annual training to conduct such a Hearing. Annual training includes, but is not limited to, all of the aforementioned general training requirements for Title IX personnel (including Title IX coordinators, investigators, hearing decision makers, and Informal Resolution Process Facilitators); in addition to specific training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant (i.e. rape shield protections). Moreover, any materials used to train Title IX Coordinators, investigators, hearing decision-makers, and facilitators of the Informal Resolution Process does not rely on sex stereotypes and promotes impartial investigations and adjudications of formal complaints of sexual harassment. Training materials can be found on the NWU Title IX website.

The Hearing Decision Maker manages and leads the Hearing process, communicates Hearing protocol, oversees cross-examination questioning, and determines issues of admissibility and relevance of questions and evidence, including but not limited to rape shield protections, during cross-examination. The Hearing Decision Maker also makes final decisions of the resolution outcome and, if necessary, sanctions and communicates the Notification of

Determination to the University Administrator. The Title IX Coordinator is responsible for ensuring the timely completion of any remedies or sanctions.

**Hearing Protocol and Guidelines:**

The Complainant and Respondent have the right to decline to appear or participate in the Hearing. If a Complainant or Respondent declines to participate, the Hearing Process will continue. The Hearing Decision Maker will not draw an inference about the determination regarding responsibility based solely on a Complainant's, Respondent's, or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Intentional falsification, distortion, or misrepresentation of information as part of the Title IX resolution process is a violation of University policy. Any person who abuses the University conduct processes in this way may face disciplinary charges for that violation.

The Title IX Hearing will use virtual technology to allow a live hearing to occur with the parties physically located in separate rooms, enabling the Hearing Decision Maker and parties to simultaneously see and hear all parties and witnesses answering questions. Virtual breakout rooms will be used to facilitate the flow of the Hearing. Conversations held in breakout rooms will not be recorded. There will be a single record of the Title IX Hearing kept in the form of a video recording. The record is the property of the University and will be maintained by the University. No other parties are permitted to record the Hearing.

In the event of technical difficulties, the Hearing will be rescheduled, and all parties will be notified.

At the beginning of the Hearing, the Hearing Decision Maker will ask the Investigator to present the relevant information from the Final Investigative Report and may follow up with additional questions for the Investigator. Questions asked by the Hearing Decision Maker and information addressed by the Investigator cannot be re-asked by an Advisor of Choice.

The Hearing Decision Maker must permit each party's Advisor of Choice to ask the other party and any witnesses all relevant questions and follow-up questions, including questions challenging credibility. Before a Complainant, Respondent, or Witness answers a cross-examination or other question, the Hearing Decision Maker must first determine whether the question is admissible and relevant and explain and record any decision to exclude a question as not admissible or relevant. Relevancy and admissibility for each question will be determined by the Hearing Decision Maker on a question-by-question basis.

Cross-examination at the Hearing will be conducted directly, orally, and in real time. If a Complainant, Respondent, or Witness does not submit to cross-examination at the live hearing, the Hearing Decision Maker may rely on any statement of that party in reaching a determination regarding responsibility. The Hearing Decision Maker cannot draw an inference about the determination regarding responsibility based solely on a Complainant's, Respondent's, or Witness's absence from the live hearing or refusal to answer cross-examination or other questions.

The Hearing Decision Maker will ensure Rape Shield protections for the Complainant by limiting the ability of an Advisor of Choice to ask questions that are not relevant about the Complainant's past sexual behavior.

Once the Advisors of Choice for the Complainant and Respondent have asked all relevant questions, the Hearing will end.

The Hearing Decision Maker will use a preponderance of the evidence standard (i.e., that it is more likely than not that a policy violation occurred) when evaluating the Formal Complaint outcome and determining sanctions, if applicable. In the event the Respondent is a Student Organization, individual determinations of responsibility will be made, and sanctions may be assigned collectively and/or individually, depending on the circumstances of the Complaint. Sanctions will be proportionate to the involvement of each individual and the organization.

The Hearing Decision Maker has up to 5 days to make a decision and prepare the Notice of Determination. The requisite Title IX Coordinator, depending on the status of the parties involved (i.e., whether the parties are students or employees) is responsible for ensuring the timely completion of any remedies or sanctions.

## **XI. Notice of Determination**

The Hearing Decision Maker will prepare a Notice of Determination which will include the following information:

- Alleged violations
- Procedural steps
- Findings of fact
- Conclusion
- Rationale
- Sanction(s), if applicable
- Appeal procedures

Once the Notice of Determination is complete, the Hearing Decision Maker will forward it to the University Administrator.

The University Administrator, or designee, will share the Notice of Determination with the Complainant and the Respondent. This information will be shared simultaneously. In most circumstances, the information will be shared in person, or virtually, as well as in writing. The University Administrator will also share the Notice of Determination with the Title IX Coordinator and the Investigator(s).

## **XII. Sanctions**

Sanctions will be determined based on the nature and severity of the policy violation(s) and in consideration for the safety of the campus community. Conduct history will also be considered



as part of the sanctioning process. Possible sanctions may include, but are not limited to, protective measures, restrictions, letters of reprimand, action plans, performance improvement plans, apology letter, reflection statements, targeted educational projects, coaching, probation, suspension, expulsion, and/or separation.

Sanctions go into effect after the conclusion of, or following the deadline to submit, an appeal. The requisite Title IX Coordinator is responsible for ensuring the timely completion of any remedies or sanctions.

### **XIII. Appeals**

A Complainant or Respondent may each submit one appeal. An appeal must address all concerns related to the Notice of Determination. Appeals must be submitted within 5 days of receipt of the Notice of Determination. The electronic form to submit the appeal can be found on the [Title IX webpage](#) and in the Notice of Determination.

#### **Grounds for an appeal:**

The University offers both parties an appeal from a determination regarding responsibility, from the University's dismissal of a formal complaint, or the dismissal of any allegations contained therein, on the following bases:

- To determine whether the resolution process was conducted in accordance with University procedures that affected the outcome of the matter;
- To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original proceedings, because the person appealing did not know such information and/or facts at the time of the original Investigation or Hearing;
- To determine if any Title IX personnel had a conflict of interest or bias during the resolution process that would have affected the outcome; and/or
- To determine whether the sanction(s) imposed were proportionate to the misconduct.

Upon request, the video recording of the Hearing may be made available to the Complainant or Respondent as part of the appeal process. The record remains the property of the University and will be maintained by the University.

Upon receipt of an appeal, the University Administrator will provide a Notice of Appeal, including sufficient details of the appeal and a link to the Appeal Response Form, to the Complainant and Respondent, allowing 5 days for either party to respond.

Following the 5-day response period, the University Administrator will forward the appeal, along with the Final Investigative Report, the recording of the Title IX Hearing, and any other materials relevant to the determination or appeal, to the University President, or designee, for review.

The University President, or designee, will consider all available documentation. Based on the information provided, the University President will:

- Affirm the findings and/or sanctions determined by the Hearing Decision Maker; or
- Reverse the findings and/or modify the sanctions determined by the Hearing Decision Maker.

The President will prepare the Final Determination of Appeal stating their decision, which is final and binding. The document will include the rationale for the President's decision. The document will be provided to the University Administrator, who will communicate the President's decision to the Complainant and the Respondent, simultaneously. The Final Determination of Appeal will also be shared with the Title IX Coordinator and the Investigator(s).

The University Administrator will make a reasonable effort to complete the appeal process within 10 days. Scheduling, University closures, or holidays may affect this timing as well.

## **XIV. Additional Information**

In order to comply with laws protecting the privacy of education records and to provide a process for the consideration of relevant evidence free of intimidation or pressure, documentation related to the Title IX resolution process, including, but not limited to, the Title IX Assessment Report, Investigative reports, written testimony, oral testimony, recordings, or other evidence introduced, will not be disseminated to Third Parties or law enforcement, except as required by law. The University will maintain these records for seven years from the date of the incident, or indefinitely in cases involving a sanction of suspension or expulsion.

This document is thoroughly reviewed on an annual basis and may be updated periodically for accuracy and clarity. The most current version can be found on the Sexual Harassment and Sexual Misconduct Prevention and Response Page of the University's website.

The Title IX office approved these procedures on September 9, 2022. All incidents of sexual harassment and sexual misconduct reported on or after this date will be subject to these procedures. However, the University will apply sexual harassment and sexual misconduct definitions in effect at the time of the incident.

# NEBRASKA WESLEYAN UNIVERSITY

## Sexual Misconduct Policy Outside of the 2020 Final Rule for Federal Title IX Regulations

This policy applies to sexual harassment and sexual misconduct of all forms, including sexual and gender-based harassment/bullying, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation that fall **outside** of Title IX as outlined in the 2020 Final Rule for Federal Title IX Regulations jurisdiction guidelines.

Sexual harassment, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation are broad terms intended to capture a spectrum of behavior labeled sexual misconduct. These terms are specifically defined in Section V – Prohibited Conduct, of this document.

This policy is based on the 2020 Final Rule for Title IX of the Education Amendments of 1972 (Title IX), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), and corresponding guidance from the Department of Education.

### I. Statement of Intent

Nebraska Wesleyan University (“University”) is committed to establishing and maintaining a community that is free from all forms of discrimination and illegal harassment. The University seeks to create an environment in which the greatest academic potential of students and professional potential of employees may be realized. In order to create and maintain such an environment, the University recognizes that all who work and learn at the University are responsible for ensuring that the community is free from illegal discrimination based on sex, gender, gender identity, or sexual orientation including sexual harassment, sexual assault, stalking, sexual exploitation, dating violence, and domestic violence. These behaviors threaten our learning, living, and work environments and are considered prohibited conduct for all University Students and Employees.

When the Title IX Coordinator (or designee) becomes aware of allegations of sexual harassment and sexual misconduct, it will take prompt action while ensuring fundamental fairness to all parties. The Title IX Coordinator oversees the University’s response to all allegations of sexual harassment and sexual misconduct. To make a report, contact [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu) or connect with the appropriate staff member:

- Director of Title IX services: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, [mharder@nebrwesleyan.edu](mailto:mharder@nebrwesleyan.edu)

- Title IX Coordinator: Natasha Moreno, Nebraska Wesleyan University, Burt Hall 112, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2356, [nmoreno@nebrwesleyan.edu](mailto:nmoreno@nebrwesleyan.edu) or [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)

The Title IX Coordinator, or designee, will manage reports and complaints for Employees and Students.

## II. Jurisdiction

This policy applies to:

- **Employees:** Any person who works for the University in return for financial or other compensation. This includes full-time and part-time faculty, full-time and part-time staff, adjunct faculty, visiting faculty, and student employees.
- **Students:** Any person enrolled in courses at the University, both full-time and part-time, pursuing undergraduate or graduate studies, including those who audit courses.
- **Student Organizations:** Any group of persons who have complied with the formal requirements for University recognition as an organization or University-sponsored team.
- **Third Parties:** Any person or entity providing services for the University or visiting the University. This includes, but is not limited to, contractors, vendors, visitors, guests, volunteers, or other third parties within the University's control.

This policy pertains to acts of Prohibited Conduct (defined in Section V – Prohibited Conduct, of this document) when the conduct falls outside of the 2020 Final Rule for Federal Title IX Regulations. This policy applies when a report of sexual harassment or sexual misconduct is made that falls outside the definitions or jurisdiction of Title IX, or a Formal Title IX Complaint was made and then dismissed for the same reason.

Prohibited Conduct outside of Title IX will be addressed under this Policy when it involves:

- Current or former Students as the complainant or the respondent; and/or
- Current Employees as the complainant or the respondent;

And when:

- The conduct occurs off University grounds or on property not owned or controlled by the University; or
- The conduct occurs outside of the context of University employment or an education program or University-sponsored activity and has an adverse effect for students and/or employees; or
- The conduct occurs outside of the United States.

The University retains jurisdiction over students who graduated for misconduct that occurred prior to graduation through this Policy. Misconduct, if determined to have occurred, may result in a hold placed on the graduated student's ability to obtain official transcripts and/or graduate, and all sanctions must be satisfied prior to re-enrollment eligibility. The University also may

elect to retain jurisdiction over students who are not currently enrolled or are not attempting to participate in NWU's education programs, if deemed necessary to protect a student's access to educational services and resources.

Additionally, sexual harassment and sexual misconduct by an Employee prior to a leave of absence and/or misconduct that falls outside of the 2020 Final Rule for Federal Title IX Regulations will be addressed using this Policy and related procedures in consultation with the Staff and Faculty Handbooks. Misconduct, if determined to have occurred, will impact rehire eligibility, presence on University grounds, and related activities, which will be addressed at the time of sanctions.

### **III. Notice of Non-Discrimination**

Nebraska Wesleyan provides equal opportunity to all qualified persons in all areas of University operation, including education, employment, and decisions regarding faculty appointment, promotion or tenure, without regard to race, religion, age, sex, creed, color, disability, marital status, parenting or pregnant status, national or ethnic origin, ancestry, sexual orientation, gender identity, genetic material, or any other legally protected class under city, state, or federal law.

### **IV. Privacy and Confidentiality**

The University is committed to protecting the privacy of all individuals involved in a report of sexual harassment and sexual misconduct, whenever possible. A report to a confidential employee will remain confidential and will not be deemed "actual knowledge" by the University. Once a report is made to the Title IX Coordinator (or designee), however, reasonable efforts will be made to protect the privacy of all individuals involved in a manner consistent with the need for a thorough review of the reported information. Privacy means that once the Title IX Coordinator has received a report of sexual harassment or sexual misconduct, information related to the report of sexual harassment or sexual misconduct will only be shared with Individuals who "need to know" in order to assist in the assessment, investigation, and resolution process. Individuals who are involved in the University's Title IX response receive specific training and guidance about safeguarding private information. Annual training includes, but is not limited to, the definition of sexual harassment, the scope of the University's education program or activity, how to conduct an investigation and resolution process including hearings, appeals, and how to serve impartially, including to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Moreover, any materials used to train Title IX Coordinators, investigators, and hearing decision-makers does not rely on sex stereotypes and promotes impartial investigations and adjudications of formal complaints of sexual harassment. Training materials can be found on the NWU Title IX website.

The privacy of Student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), as outlined in the University's FERPA policy.

Confidentiality exists in the context of laws that protect certain relationships, including relationships with mental health providers (and those who provide administrative services related to the provision of mental health care), counselors, victim advocates, and ordained clergy, all of whom may engage in confidential communications under Nebraska law. The University has designated individuals able to have confidential communications as "Confidential Employees." A report to these "Confidential Employees" will not be considered actual knowledge, or notice to the University, of the alleged occurrence, but will allow the harmed party to proceed as they so choose. Confidential Employees are further defined in Section VI of this document.

The University has the right to share appropriate information with Law Enforcement to ensure campus safety. All employees, including Confidential Employees, are mandatory reporters of suspected abuse or neglect of a vulnerable adult or abuse of a minor by an adult, including sexual/physical assault, witness to domestic violence, dating/intimate partner violence, and stalking. In Nebraska, minors are considered all persons under the age of 19.

## V. Prohibited Conduct

This Policy, Sexual Harassment and Sexual Misconduct that falls outside of Federal Title IX Regulations, identifies three types of misconduct that constitute Sexual Harassment as Prohibited Conduct:

1. quid pro quo harassment;
2. any unwelcome conduct that a reasonable person would find severe, pervasive, and objectively offensive that it denies a person equal employment or educational access; and
3. any instance of sexual assault (as defined in the Clery Act), dating violence, or stalking (as defined in the Violence Against Women Act (VAWA)).

### Clery Act Definitions of Violence Against Women Act Crimes

**Sexual Assault:** Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.

The University further defines a sexual act to include intentional contact with the intimate parts of another, causing another person to touch one's intimate parts, disrobing, or exposure of intimate parts without consent. Intimate parts may include the breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner. Sexual contact also includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand, etc.) or object, or oral penetration involving mouth-to-genital contact.

**Dating Violence:** is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the harmed party. The existence of such a relationship shall be determined based on the reporting party's statement and with

consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition:

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

**Domestic Violence:** is defined as a felony or misdemeanor crime of violence committed:

- By a current or former spouse or intimate partner of the harmed party;
- By a person with whom the harmed party shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the harmed party as a spouse or intimate partner;
- By a person similarly situated to a spouse of the harmed party under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
- By any other person against an adult or youth harmed party, who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

A **Crime of Violence** is an offense that has an element of the use, attempted use, or threatened use of physical force against the person or property of another, or any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

Sexual Harassment may also take the form of threats, assault, property damage, or violence or threat of violence to one's self, one's sexual or romantic partner, one's family members or friends, or to the family members or friends of the sexual/romantic partner. The University further includes **Emotional Violence** and **Emotional Abuse** as elements of Sexual Harassment within Dating Violence and Domestic Violence.

**Emotional Violence** can be described as any act including confinement, isolation, verbal assault, humiliation, intimidation, infantilization, insults, threatens, degrades, controls, or any other treatment which may diminish the sense of identity, dignity, and self-worth.

**Emotional Abuse**, also known as mental or psychological abuse, encompasses many different tactics such as verbal abuse, playing mind games, attacking one's character, threatening acts of violence in person, in writing, or electronically, against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with that person.

**Stalking:** is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress

For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

The University's definition of stalking further includes cyberstalking, in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person.

**Sexual exploitation:** is sexual harassment that violates the sexual privacy of another, or takes sexual advantage of another without consent, constitutes unwelcome conduct that a reasonable person would find severe, pervasive, and objectively offensive.

Examples of sexual exploitation include, but are not limited to:

- Voyeurism – watching or taking pictures, videos, or audio recordings of another person in a state of undress or of another person engaging in a sexual act without the consent of all parties;
- Creating, disseminating, streaming, or posting pictures or video of another in a state of undress or of a sexual nature without the person's consent;
- Exposing one's genitals to another person without consent through electronic means;
- Trafficking of another individual;
- Knowingly exposing another individual to a sexually transmitted infection without the other individual's knowledge and consent; or
- Inducing incapacitation or attempted incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.
- Sharing information about the sexual privacy or gender identity of another person without their consent, either verbally, electronically, or through written material/photos, excluding reports to designated reporting officials.

### **Elements of Consent as it relates to Prohibited Conduct**

Consent is an affirmative and willing agreement to engage in specific forms of sexual contact with another person. Consent requires an outward demonstration, through mutually understandable words or actions, indicating that an individual has freely chosen to engage in sexual contact. Consent cannot be obtained through the use of **coercion** or **force** or by taking advantage of the **incapacitation** of another individual.

Silence, passivity, or the absence of resistance does not constitute consent for sexual activity. If confusion or ambiguity arises during a sexual interaction, it is essential that each participant stop and clarify the other's willingness to continue.



Consent can be withdrawn at any time. When consent is withdrawn, sexual activity must cease. Prior consent does not imply current or future consent; even in the context of an ongoing relationship, consent must be sought and freely given for each instance of sexual contact.

Consent is not present when there is sexual contact with someone who is known, or should have been known, to be **incapacitated** or otherwise mentally or physically incapable of resisting or appraising the nature of conduct. Likewise, consent is not present if the use of **force** or **coercion** of another person to engage in sexual contact against their will has occurred.

**Coercion:** the use of pressure to compel someone to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they inhibit another individual's freedom of will and ability to choose whether or not to engage in sexual activity.

**Force:** the use or threat of physical violence or intimidation to overcome an individual's freedom to choose whether or not to participate in sexual activity. There is no requirement that a party physically resists the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.

**Incapacitation:** the inability, temporarily or permanently, to give consent because the individual's mental and/or physical ability is diminished, and/or the individual is asleep, unconscious, or unaware that sexual activity is occurring. A person who is incapacitated lacks the ability to make informed, rational judgments and cannot consent to sexual activity.

Incapacitation may result from the use of alcohol and/or drugs. The impact or impairment from alcohol and other drugs vary from person to person (e.g., vomiting, sleeping, blacking out, unconsciousness). Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual assault or harassment in any form and does not diminish the responsibility to obtain informed and freely given consent.

**Intentional Falsification:** Intentional falsification, distortion, or misrepresentation of information as part of the Sexual Harassment and Sexual Misconduct resolution process is a violation of University policy. Any person who abuses the University conduct processes in this way may face disciplinary charges for that violation.

**Retaliation:** any act or attempt to seek retribution from any individual or group of individuals involved in the report, investigation, and/or resolution of a sexual harassment or sexual misconduct allegation. Retaliation can take many forms, including, but not limited to, continued abuse or violence, threats, exclusion, and intimidation. Any individual or group of individuals can engage in retaliation. Acts of Retaliation will be addressed under this policy and related procedures, just as a complaint of sexual harassment is handled.

**Non-compliance with a No/Limited Contact Order:** Failure to comply with the directives of a No/Limited Contact Order administered by the Title IX Office, will also be addressed as a separate violation of University policy.

## VI. Reporting

There are multiple channels for reporting sexual harassment and sexual misconduct. An individual may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. An individual may simultaneously pursue a criminal investigation and the University sexual harassment and sexual misconduct resolution process. The Title IX Coordinator will support all parties involved in understanding and assessing all options. Questions should be directed to a Title IX Coordinator.

**Reporting to the University:** The University encourages anyone who becomes aware of an incident of sexual harassment or sexual misconduct to promptly report the incident to a Title IX Coordinator. Any Campus Security Authority (CSA) identified by the University who receives a disclosure of sexual harassment or sexual misconduct by a harmed party or witness is required to report to the Title IX Office. While there is no time limit for reporting sexual harassment or sexual misconduct to the University, the University's ability to respond may diminish over time, as evidence may erode, memories fade, and individuals may no longer be affiliated with the University. If an individual is no longer affiliated with the University, the University will provide reasonably appropriate supportive measures, assist individuals in identifying external and/or other internal reporting options, and take reasonable steps to eliminate sexual harassment and sexual misconduct, prevent its recurrence, and remedy its effects.

**Anonymous Reporting to the University:** Individuals may report sexual harassment and sexual misconduct concerns anonymously to the University through the University website by clicking on the link [Report a Concern](#), located at the bottom of every webpage. Please note, the University may be limited in its ability to respond to concerns reported anonymously, or reports without sufficient details.

### **Making a Report vs. Filing a Non-Title IX Formal Complaint:**

**Making a Report** is the notification of an incident of sexual harassment or sexual misconduct to a Title IX Coordinator by any Reporting Party. A report may be accompanied by a request for any of the following: resources, no further action, supportive measures, and/or initiation of the Formal Complaint process. The University recognizes that not every individual will be prepared to request supportive measures or to file a Formal Complaint; therefore, Reporting Parties may pursue these options any time in the future. Individuals are not expected or required to pursue any specific course of action.

The University will make a reasonable effort to respect the wishes of the person who experienced sexual harassment or sexual misconduct.

The University reserves the right to file a formal complaint over the complainant's objection if the University deems it in the University's best interest to do so, including without limitation in order to render the respondent eligible for potential disciplinary sanction following the completion of a resolution process that complies with Section 106.45 of the 2020 Final Rule for Federal Title IX Regulations. This is done by the Title IX Coordinator signing a Formal Complaint, on behalf of the University, and can be done with or without consent/permission of the original Complainant. Upon the filing of the Formal Complaint, the Title IX Coordinator will not become a party to the procedure.

To ensure the harmed party of sexual harassment or sexual misconduct is informed of their rights and options, Campus Security Authorities (excluding Confidential Employees) will be required to report the relevant details about an incident of sexual harassment or sexual misconduct that involves any Student or Employee as a Complainant, Respondent, and/or Witness. This includes dates, times, locations, and names of parties and witnesses, if known. The Title IX Coordinator will contact the harmed party to provide information and ask how they wish to proceed.

**Filing a Non-Title IX Formal Complaint** is defined as the request to initiate either the University's formal or informal resolution process designed by the University that falls outside of the 2020 Final Rule for Federal Title IX Regulations. The decision to file a Non-Title IX Formal Complaint may be made at any time. A Report or Complaint can be made at any time via email, phone, or physical mail, or in person during regular business hours.

**Title IX Coordinators:** Nebraska Wesleyan University has two Title IX Coordinators, each responding to specific members of the campus community. The Coordinators oversee Nebraska Wesleyan University's processes regarding the review, investigation, and resolution of reports of sexual harassment and sexual misconduct. A report or complaint can be made at any time via email, phone, or physical mail, or in person during regular business hours.

- Director of Title IX services: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, [mharder@nebrwesleyan.edu](mailto:mharder@nebrwesleyan.edu)
- Title IX Coordinator: Natasha Moreno, Nebraska Wesleyan University, Burt Hall 112, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2356, [nmoreno@nebrwesleyan.edu](mailto:nmoreno@nebrwesleyan.edu) or [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)

The Title IX Coordinator, or designee, will manage reports and complaints for Employees and Students.

A "**Confidential Employee**" is an individual designated by the University to provide support to Students and Employees without being required to report to a Title IX Coordinator. The University has identified the Voices of Hope Campus Advocate, the University Minister, Counselors within NWU Counseling Services (for Students), and the Employee Assistance Program (for Employees) as Confidential Employees.

When an individual shares information with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee cannot reveal the information to any third party except when an applicable law or court order requires or permits disclosure of such information. For example, information will be disclosed when:

1. The individual gives written consent for the disclosure;
2. There is concern that the individual will likely cause serious physical harm to self or others; or
3. The information concerns conduct involving suspected abuse or neglect of a vulnerable adult or abuse of a minor by an adult. In Nebraska, minors are considered anyone under the age of 19.

Additionally, Confidential Employees must share non-identifying statistical information related to crimes found in the Annual Security Report with a Clery Compliance Officer, as required by the Clery Act.

**Campus Security Authorities** are required to report to a Title IX Coordinator all relevant details about an incident of sexual harassment or sexual misconduct, including dates, times, locations, and names of parties and witnesses, if known. Disclosure at public awareness events (e.g., "Take Back the Night") and certain research-based disclosures (e.g., where a Student is a subject in an Institutional Review Board-approved human subjects research project) will not trigger an individual investigation. Further, disclosures which occur as part of a classroom assignment will not require faculty or staff to report to a Title IX Coordinator, unless there is abuse or neglect of a vulnerable adult or abuse of a minor by an adult. Faculty and staff members are required to share reporting options with all students.

**Reporting to Law Enforcement:** Individuals have the right to notify or decline to notify law enforcement. Police have legal authority to criminally investigate reports of sexual assault, domestic abuse, and stalking, collect evidence, make arrests, and assist in seeking emergency protective measures. In keeping with its commitment to take all appropriate steps to address and to prevent sexual harassment and sexual misconduct, the University encourages individuals to promptly report sexual harassment and sexual misconduct to preserve potential evidence. The University will assist individuals in notifying law enforcement if they choose to do so.

**To Contact Lincoln or Omaha Police:**

- 911 (for emergencies)
- Lincoln Police Department: To make a non-emergency police report, call the non-emergency line or visit a team station Monday-Friday between 8:00 AM and 4:00 PM.
  - LPD Non-Emergency Line: (402) 441-6000
- Omaha Police Department: To make a non-emergency police report, visit the Omaha Police Department Headquarters 24/7 or a precinct office Monday-Friday between 8:00 AM and 5:00 PM.
  - Omaha Police Department Headquarters: 505 S. 15th Street, Omaha, NE 68102

**Anonymous Reporting to Law Enforcement:**

There are options to report a sexual assault or other crimes to law enforcement anonymously. These processes vary depending on the police department receiving the report. Please note, law enforcement may be limited in their ability to respond to anonymous reports or reports without sufficient details.

#### **Lincoln Police Department:**

- To make an anonymous report of sexual assault to the Lincoln Police Department, visit <https://lincoln.ne.gov/city/police/anonfrm.htm> or call (402) 441-3866. Individuals can choose to report as much information as they would like.
- Victims who choose to receive a forensic examination by a sexual assault nurse examiner may request that the evidence be collected anonymously, meaning they can choose whether to report their name and other information to law enforcement.

#### **Omaha Police Department:**

- Victims who choose to receive a forensic examination by a sexual assault nurse examiner may request that the evidence be collected anonymously, meaning they can choose whether to report their name and other information to law enforcement.

## **VII. Confidential Resources**

As indicated in Section VI, a Confidential Employee or other confidential resource will not disclose information about sexual harassment or sexual misconduct without the Reporting Party's permission. Confidential Employees must share non-identifying statistical information related to crimes found in the Annual Security Report, as required by the Clery Act. A report to these "Confidential Employees" will not be considered Actual Knowledge, or notice to the University, of the alleged occurrence, but will allow the harmed party to proceed as they so choose.

#### **Confidential Resources for Students:**

- **Voices of Hope Campus Advocate:** provides free and confidential support to students, staff, and faculty to empower those who have experienced relationship violence, sexual assault, or abuse; and can also support an individual who chooses to report to the Title IX Coordinator. The Voices of Hope Campus Advocate is available by appointment; [advocate@nebrwesleyan.edu](mailto:advocate@nebrwesleyan.edu); Voices of Hope 24/7 Support: (402) 475-7273.
- **NWU Counseling Services:** serves traditional undergraduate students. Counseling Services is located at 2641 N. 49th Street (49th & St. Paul Avenue) and is open Monday-Friday from 8:00 a.m. to 5:00 p.m.; [counseling@nebrwesleyan.edu](mailto:counseling@nebrwesleyan.edu); (402) 465-2464.
- **University Minister:** can help students, faculty and staff and is located in Old Main - Room 105; [minister@nebrwesleyan.edu](mailto:minister@nebrwesleyan.edu); (402) 465-2398.

#### **Confidential Resources for Employees:**

- **Directions EAP (Employee Assistance Program):** can help faculty and staff and is located at 3930 South St, Ste. 101 in Lincoln, NE 68506; [directionseap@directionseap.com](mailto:directionseap@directionseap.com); (402) 434-2900.

- **University Minister:** can help students, faculty and staff and is located in Old Main – Room 105; [minister@nebrwesleyan.edu](mailto:minister@nebrwesleyan.edu); (402) 465-2398.
- **Voices of Hope Campus Advocate:** provides free and confidential support to students, staff, and faculty to empower those who have experienced relationship violence, sexual assault, or abuse; and can also support an individual who chooses to report to the Title IX Coordinator. The Voices of Hope Campus Advocate is available by appointment. Voices of Hope is located at 2545 N St., Lincoln, NE 68510; [advocate@nebrwesleyan.edu](mailto:advocate@nebrwesleyan.edu); or [info@voicesofhopelincoln.org](mailto:info@voicesofhopelincoln.org); Office Phone: (402) 476-2110; Voices of Hope 24/7 Support: (402) 475-7273.

## VIII. Supportive Measures

The University offers a wide range of resources for Students and Employees to provide support and guidance throughout the initiation, investigation, and resolution of a report of sexual harassment or sexual misconduct. Upon receipt of actual knowledge of an alleged occurrence of sexual harassment or sexual misconduct, the University will offer supportive measures to the alleged victim (“Complainant”). These offered measures will be reasonable and appropriate measures to facilitate continued access to University employment or education programs and activities for all involved parties. Non-disciplinary, non-punitive individualized services will be offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a report or formal complaint.

The University will keep private any supportive measures provided under this policy to the extent practicable and will promptly address any violation of the supportive measures. The Title IX Coordinator has the discretion to determine the appropriateness of any supportive measure based on all available information and is available to meet with all involved parties to address any concerns about the provision of supportive measures. Supportive measures may include but are not limited to: facilitation of connections to on- and off-campus resources, issuance of a No Contact/Limited Contact Order, change of work or class assignment/location/schedule, change of living space, change of class schedule, and/or security escort.

## IX. Resolution

Please note: If a Formal Title IX Complaint is filed under the University’s Formal or Informal Processes, and is subsequently dismissed as being outside the scope of Title IX, this policy and corresponding procedures are available to the University and the party making the complaint.

The University has the responsibility to address sexual harassment and sexual misconduct under Federal Title IX regulations. Under the 2020 Final Rule for Federal Title IX Regulations, the University is allowed to have formal and informal resolution procedures for sexual harassment and sexual misconduct that falls outside of Title IX jurisdiction for Students and Employees. The resolution procedures are guided by the principle of fundamental fairness and

respect for all parties, which requires notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a Formal Complaint under this policy. All Title IX Personnel involved with the University's sexual harassment and sexual misconduct resolution processes, including Title IX Coordinators, Investigators, Hearing Decision Makers, and Informal Resolution Process Facilitators, receive regular and ongoing training. Annual training includes, but is not limited to, the definition of sexual harassment, the scope of the University's education program or activity, how to conduct an investigation and all resolution processes including informal resolution, deliberations, hearings, appeals, and how to serve impartially, including how to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Training materials can be found on the NWU Title IX website. For additional information about NWU's resolution processes, refer to the Resolution Procedures for Addressing Complaints of Sexual Misconduct Outside of the 2020 Final Rule for Federal Title IX Regulations involving Students or involving Employees.

Any question of interpretation of this policy will be referred to the Title IX Coordinator. The Title IX Coordinator will consult with the University President, whose interpretation is final.

## **X. Additional Information**

This document is thoroughly reviewed on an annual basis and may be updated periodically for accuracy and clarity. The most current version can be found on the Sexual Harassment and Sexual Misconduct Prevention and Response Page of the University's website.

The NWU Board of Governors approved this policy on September 9, 2022. All incidents of sexual harassment and sexual misconduct reported on or after this date will be subject to this policy. However, the University will apply sexual harassment and sexual misconduct definitions in effect at the time of the incident.

# NEBRASKA WESLEYAN UNIVERSITY

## **Resolution Procedures for Addressing Complaints of Student Sexual Misconduct Outside of the 2020 Final Rule for Federal Title IX Regulations**

This procedure applies to reports and complaints of sexual harassment and sexual misconduct involving **students**, including sexual and gender-based harassment/bullying, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation that fall **outside** of the definitions or jurisdiction of the 2020 Final Rule for Federal Title IX Regulations jurisdiction guidelines, or a Formal Title IX Complaint was made and then dismissed for the same reason.

Sexual harassment, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation are broad terms intended to capture a spectrum of behavior labeled sexual misconduct. These terms are specifically defined in the Sexual Misconduct Outside of the 2020 Final Rule for Federal Title IX Regulations Policy, Section V – Prohibited Conduct.

Hereinafter, Nebraska Wesleyan University will be referred to as “the University”.

### **I. To Whom This Procedure Applies and Jurisdiction**

This procedure pertains to acts of Prohibited Conduct when the conduct falls outside of the 2020 Final Rule for Federal Title IX Regulations. Prohibited Conduct outside of Title IX will be addressed under this procedure when it involves:

- Current or former Students as the Complainant or the Respondent;

And when:

- The conduct occurs off University grounds or on property not owned or controlled by the University; or
- The conduct occurs outside of the context of University employment or an education program or University-sponsored activity and has an adverse effect for students; or
- The conduct occurs outside of the United States.

The University retains jurisdiction over students who graduated for misconduct that occurred prior to graduation through this Procedure and corresponding Policy. Misconduct, if determined to have occurred, may result in a hold placed on the graduated student’s ability to obtain official transcripts and/or graduate, and all sanctions must be satisfied prior to re-enrollment eligibility. The University also may elect to retain jurisdiction over students who are not currently enrolled, or are not attempting to participate in NWU’s education programs, if deemed necessary to protect a student’s access to educational services and resources.



Additionally, should the former student be in violation of this Policy, the University may revoke that student's degree or impose other disciplinary sanctions.

Furthermore, sexual harassment and sexual misconduct involving a Student and an Employee will be addressed using the Sexual Misconduct Outside of the 2020 Final Rule for Federal Title IX Policy and corresponding procedures involving Employees.

**Group Violations:**

A Student Organization or University-sponsored team, and its officers and membership, may be held collectively and individually responsible when violations of this policy by the organization or its member(s):

- Take place by organization members outside the context of organization-sponsored events;
- Have received the consent or encouragement of the organization or of the organization's leadership; or
- Were known or should have been known to the membership or its officers.

There is no minimum number of members who must be involved in a violation of University Policy for disciplinary action to be taken against the Student Organization or University-sponsored team. In order to decide whether the Student Organization or University-sponsored team is accountable for the misconduct of individual members, it must be determined whether it is likely that the individuals would have acted if they were not members of the group; if the group, either directly or indirectly, encouraged the behavior; or if the behavior was intentionally ignored.

## II. Definitions of Key Terms

**Actual Knowledge:** the standard of notice the University must have of an alleged occurrence of sexual harassment or misconduct, which occurs when notice of, or allegations of, sexual harassment or sexual misconduct is received by a University Title IX Coordinator or an employee with authority to institute corrective measures.

**Campus Security Authority (CSA):** employees or officials who have been identified as having significant responsibilities for student and campus activities to whom students and employees should report criminal offenses to the Title IX Coordinator, which constitutes Actual Knowledge by the University. CSAs are required to report crimes to campus administrators, which include Title IX offenses, to the Title IX Coordinator, as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

**Complainant:** an individual who is alleged to be the victim of conduct that could constitute sexual harassment or sexual misconduct.

**Confidential Employee:** an individual designated by the University to provide support to Students and Employees without being required to report to a Title IX Coordinator. A report to a Confidential Employee will not be considered actual knowledge, or notice to the University, of the alleged occurrence of sexual harassment or sexual misconduct, and will not trigger the University's mandatory response obligations.

**Day:** University working day, not including Saturday, Sunday, or University holidays. The University will make all reasonable efforts to comply with all time frames set forth in these

procedures, but all applicable timelines may be extended depending on the complexity of the circumstances of each case.

**Employee:** any person who works for the University in return for financial or other compensation. This includes full-time and part-time faculty, full-time and part-time staff, adjunct faculty, visiting faculty, and student employees.

**Formal Resolution of Allegation(s) Outside of Title IX:** involves an investigation and a review of the Investigatory Report that may involve a hearing in order to determine whether a Respondent has violated the University's sexual harassment and sexual misconduct policy addressing sexual harassment and sexual misconduct that falls outside of the 2020 Final Rule for Federal Title IX Regulations. Sanctions may be assigned if the Respondent is found in violation of the Policy. The Complainant and Respondent both have the right to appeal the determination of the outcome and/or the sanctions assigned.

**Hearing Decision Maker:** manages and leads the Hearing Process, communicates Hearing protocol, oversees cross-examination questioning, and determines relevancy of each question during cross-examination. The Hearing Decision Maker also makes final decisions of the resolution outcome and, if necessary, sanctions, and communicates the Notification of Determination to the University Administrator. Once assigned to a Formal Complaint, the Hearing Decision Maker cannot serve as the Title IX Coordinator, Investigator, or any other administrative roles considered as "Title IX Personnel" for the Formal Complaint assigned (including the facilitator of the Informal Resolution Process).

**Harmed Party:** an individual or group of individuals who experienced sexual harassment or sexual misconduct. Once a Harmed Party makes a report, or files a complaint, alleging an occurrence of sexual harassment or sexual misconduct, they are referred to as a "Complainant" as defined herein.

**Informal Resolution of Allegation(s) Outside of Title IX:** involves a facilitated resolution that is voluntary, agreed upon, and acceptable to, the Complainant, Respondent, and the University. The Complainant, Respondent, or the University may withdraw from Informal Resolution at any point up to the time the resolution is completed. If any of the parties choose to withdraw from the Informal Resolution process prior to its completion, the University will immediately begin using the Formal Resolution processes in place.

**Investigator:** one or more trained University-appointed individuals who conduct an investigation and prepare the official written reports (Preliminary and Final Investigative Reports) after a Formal Complaint is filed.

**Mandatory Reporter:** all Employees, including Confidential Employees, are mandatory reporters of abuse or neglect of a vulnerable adult or abuse of a minor by an adult (sexual/physical assault, witness to domestic violence, dating/intimate partner violence, stalking). In Nebraska, minors are considered all persons under the age of 19.

**Non-Title IX Formal Complaint:** is a signed, written formal accusation against an individual for violation of the University's sexual harassment and sexual misconduct policies that is submitted by the Harmed Party, parent of the Harmed Party, or the Title IX Coordinator.

There are three situations in which the Non-Title IX Formal Complaint may be signed.

1. The Harmed Party may sign the Non-Title IX Formal Complaint
2. The parent of the harmed student may sign the Non-Title IX Formal Complaint in the event a harmed student does not wish to file the Non-Title IX Formal Complaint
3. The Title IX Coordinator may sign the Non-Title IX Formal Complaint
  - a) In the event a Harmed Party does not wish to file the Non-Title IX Formal Complaint
  - b) When the misconduct presents an imminent threat to campus safety or the safety of an individual on campus

The University reserves the right to file a formal complaint over the Complainant's objection if the University deems it in the University's best interest to do so, including without limitation in order to render the respondent eligible for potential disciplinary sanction following the completion of a resolution process that complies with Section 106.45 of the federal regulations.

When the parent of the harmed student or the Title IX Coordinator signs the Non-Title IX Formal Complaint, neither becomes the Complainant. Only the Harmed Party is allowed to become the Complainant.

**Reporting Party:** an individual, or group of individuals, who reports information to the Title IX Coordinator. All members of the NWU community are encouraged to report any incident of sexual harassment and sexual misconduct to the Title IX Coordinator. Reporting Parties can include, but are not limited to the person who experienced the sexual harassment or sexual misconduct, a Campus Security Authority, a friend of someone who has experienced sexual harassment or sexual misconduct, parents, bystanders, witnesses, instructors, friends, other community members, or someone who has otherwise been made aware of an incident of sexual harassment or sexual misconduct.

**Respondent:** an individual, or groups of individuals, who has been reported to have engaged in conduct that could constitute sexual harassment or sexual misconduct.

**Student:** any person enrolled in courses at the University, both full-time and part-time, pursuing undergraduate or graduate studies, including those who audit courses.

**Student Conduct System Administrator:** the Vice President for Student Life or their designee who oversees the implementation of student conduct-related policies and procedures.

**Student Organization:** any group of persons who have complied with the formal requirements for University recognition as an organization.

**Support Person:** an individual selected by a Complainant or Respondent to assist them during any part of the Formal or Informal Resolution processes addressed within Title IX or Outside of Title IX Procedures, including the Reporting, Assessment, Informal Resolution, Investigation, Hearing, and Appeal process. A Support Person may be a staff member, student, parent, community member, or an attorney. The University will not bear the

expense of an attorney acting as a Support Person retained by any involved party. Any involved party may change their Support Person at any point.

**Title IX Assessment Report:** a record of the relevant details as reported to the Title IX Coordinator during the Title IX Assessment, including factors related to any threat of imminent danger or ongoing safety concerns for the campus.

**Witness:** an individual who personally sees or perceives a detail or event and is willing to attest to that detail. Information from witnesses whose sole purpose is to provide character information will not be considered as part of an investigation.

### III. Supports

#### Title IX Coordinators

The Title IX Coordinators oversee the University's assessment, investigation, and resolution of reports of sexual harassment and sexual misconduct ensuring compliance with Title IX and other relevant state and federal laws. A Report can be made at any time via email, phone, or physical mail, or in person during regular business hours.

Director of Title IX services: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, [mharder@nebrwesleyan.edu](mailto:mharder@nebrwesleyan.edu)

Title IX Coordinator: Natasha Moreno, Nebraska Wesleyan University, Burt Hall 112, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2356, [nmoreno@nebrwesleyan.edu](mailto:nmoreno@nebrwesleyan.edu) or [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)

The Title IX Coordinator, or designee, will manage reports and complaints for Employees and Students.

#### The Title IX Coordinators are:

- Responsible for oversight of the assessment, investigation, and resolution of all reports of sexual harassment or sexual misconduct;
- Knowledgeable and trained in relevant state and federal laws and University policy and procedures.
  - Annual training programs include, but is not limited to, the definition of sexual harassment, the scope of the University's education program or activity, how to conduct an investigation and resolution process including hearings, appeals, and how to serve impartially, including to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Moreover, any materials used to train Title IX Coordinators, investigators, and decision-makers do not rely on sex stereotypes and promotes impartial investigations and adjudications of formal complaints of sexual harassment. Training materials can be found on the NWU Title IX website.
- Available to provide information to any individual, including a Complainant, a Respondent, or a Third Party, about the courses of action available at the University, both informally and formally;
- Available to assist any University community member regarding how to respond appropriately to reports of sexual harassment or sexual misconduct;

- Responsible for oversight of sexual violence prevention education and employee training;
- Responsible for monitoring full compliance with all requirements and timelines specified in the reporting and Formal Complaint procedures;
- Responsible for ensuring resolution procedures are in compliance with Federal and University policies and regulations;
- Responsible for ensuring the timely completion of any remedies or sanctions, and;
- Responsible for compiling annual reports.

### **Confidential Resources**

A Confidential Employee or other confidential resource will not disclose information about sexual harassment or sexual misconduct without the Reporting Party's permission. Confidential Employees must share non-identifying statistical information related to crimes found in the Annual Security Report (ASR), as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

There are three exceptions when a Confidential Resource must disclose information to University officials or Law Enforcement as required by law:

1. The individual gives written consent for the disclosure;
2. There is concern that the individual will likely cause serious physical harm to self or others; or
3. The information concerns conduct involving suspected abuse or neglect of a minor by an adult. In Nebraska, minors are considered anyone under the age of 19.

### **List of Confidential Resources:**

- **Voices of Hope Campus Advocate:** provides free and confidential support to students, staff, and faculty to empower those who have experienced relationship violence, sexual assault, or abuse; and can also support an individual who chooses to report to the Title IX Coordinator. The Voices of Hope Campus Advocate is available by appointment. Voices of Hope is located at 2545 N St., Lincoln, NE 68510; [advocate@nebrwesleyan.edu](mailto:advocate@nebrwesleyan.edu); or [info@voicesofhopelincoln.org](mailto:info@voicesofhopelincoln.org); Office Phone: (402) 476-2110; Voices of Hope 24/7 Support: (402) 475-7273.
- **NWU Counseling Services:** serves traditional undergraduate students. Counseling Services is located at 2641 N. 49th Street (49th & St. Paul Avenue) and is open Monday-Friday from 8:00 a.m. to 5:00 p.m.; [counseling@nebrwesleyan.edu](mailto:counseling@nebrwesleyan.edu); (402) 465-2464.
- **University Minister:** can help students, faculty and staff, and is located in Old Main – Room 105; [minister@nebrwesleyan.edu](mailto:minister@nebrwesleyan.edu); (402) 465-2398.

### **Support Person**

A Complainant or Respondent can select a Support Person to assist them during any part of the Formal or Informal Resolution processes addressed within Title IX or Outside of Title IX Procedures, including the Reporting, Assessment, Informal Resolution, Investigation, Hearing, and Appeal process. A Support Person may be a staff member, student, parent, community member, or an attorney.

In the event that the Complainant or Respondent would like a Support Person to assist them and is unable to identify someone, the Title IX Office will provide a list of people who are committed to providing support for either party.

## IV. Reporting

There are multiple channels for reporting sexual harassment and sexual misconduct. An individual may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. An individual may simultaneously pursue a criminal investigation and the University sexual harassment and sexual misconduct resolution process. The Title IX Coordinator will support all parties involved in understanding and assessing all options. Questions should be directed to a Title IX Coordinator.

**Reporting to the University:** The University encourages anyone who becomes aware of an incident of sexual harassment or sexual misconduct to promptly report the incident to a Title IX Coordinator. Any Campus Security Authority (CSA) identified by the University who receives a disclosure of sexual harassment or sexual misconduct by a harmed party or witness is required to report to the Title IX Office. While there is no time limit for reporting sexual harassment or sexual misconduct to the University, the University's ability to respond may diminish over time, as evidence may erode, memories fade, and individuals may no longer be affiliated with the University. If an individual is no longer affiliated with the University, the University will provide reasonably appropriate supportive measures, assist individuals in identifying external and/or other internal reporting options, and take reasonable steps to eliminate sexual harassment and sexual misconduct, prevent its recurrence, and remedy its effects.

**Anonymous Reporting to the University:** Individuals may report sexual harassment and sexual misconduct concerns anonymously to the University through the University website by clicking on the link [Report a Concern](#), located at the bottom of every webpage. Please note, the University may be limited in its ability to respond to concerns reported anonymously or reports without sufficient details.

### **Making a Report vs. Filing a Non-Title IX Formal Complaint:**

**Making a Report** is the notification of an incident of sexual harassment or sexual misconduct to a Title IX Coordinator by any Reporting Party. A report may be accompanied by a request for any of the following: resources, no further action, supportive measures, and/or initiation of the Formal Complaint process. The University recognizes that not every individual will be prepared to request supportive measures or to file a Formal Complaint; therefore, Reporting Parties may pursue these options any time in the future. Individuals are not expected or required to pursue any specific course of action.

The University will make a reasonable effort to respect the wishes of the person who experienced sexual harassment or sexual misconduct.

The University reserves the right to file a formal complaint over the complainant's objection if the University deems it in the University's best interest to do so, including without limitation in order to render the respondent eligible for potential disciplinary sanction

following the completion of a resolution process that complies with Section 106.45 of the 2020 Final Rule for Federal Title IX Regulations. This is done by the Title IX Coordinator signing a Formal Complaint, on behalf of the University, and can be done with or without consent/permission of the original Complainant. Upon the filing of the Formal Complaint, the Title IX Coordinator will not become a party to the procedure.

To ensure the harmed party of sexual harassment or sexual misconduct is informed of their rights and options, Campus Security Authorities (excluding Confidential Employees) will be required to report the relevant details about an incident of sexual harassment or sexual misconduct. This includes dates, times, locations, and names of parties and witnesses, if known. The Title IX Coordinator will contact the harmed party to provide information and ask how they wish to proceed.

**Filing a Non-Title IX Formal Complaint** is defined as the request to initiate the University's formal and informal resolution processes. The decision to file a Non-Title IX Formal Complaint may be made at any time.

A Report or Complaint can be made at any time via email, phone, or physical mail, or in person during regular business hours.

**To make a Report or file a Complaint, please contact the appropriate resource:**

Director of Title IX services: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, [mharder@nebrwesleyan.edu](mailto:mharder@nebrwesleyan.edu)

Title IX Coordinator: Natasha Moreno, Nebraska Wesleyan University, Burt Hall 112, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2356, [nmoreno@nebrwesleyan.edu](mailto:nmoreno@nebrwesleyan.edu) or [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)

The Title IX Coordinator, or designee, will manage reports and complaints for Employees and Students.

### **Amnesty:**

- **For Complainants:** The University provides amnesty to harmed parties who may be hesitant to report to University officials because they fear that they themselves may be accused of lower-level policy violations, such as alcohol violations.
- **For Those Who Offer Assistance:** To encourage Students to offer help and assistance to others, the University pursues a policy of amnesty for lower-level violations when Students offer help to others in need. At the discretion of the Student Conduct System Administrator, or designee, amnesty may also be extended on a case-by-case basis to the person receiving assistance.
- **For Those Who Report Serious Violations:** Students who are engaged in lower-level violations but who choose to bring related serious violations by others to the attention of the University may be offered amnesty for their lower-level violations.
- **For Those Who Witness Serious Violations:** Students who witness serious violations by others are offered amnesty for any lower-level violations if they are called on as a witness to a serious violation but will not be provided amnesty if they participated in, facilitated or condoned the misconduct through a failure to act.



In any of the circumstances listed above, an educational conference or coaching opportunity related to the minor violations may occur, but no conduct proceedings will result.

Abuse of amnesty requests can result in a decision by the Student Conduct System Administrator, or designee, not to extend amnesty to the same person repeatedly.

**Reporting to Law Enforcement:** Individuals have the right to notify or decline to notify law enforcement. Police have legal authority to criminally investigate reports of sexual assault, domestic abuse, and stalking, collect evidence, make arrests, and assist in seeking emergency protective measures. In keeping with its commitment to take all appropriate steps to address and to prevent sexual harassment and sexual misconduct, the University encourages individuals to promptly report sexual harassment and sexual misconduct to preserve potential evidence. The University will assist individuals in notifying law enforcement if they choose to do so.

**To Contact Lincoln or Omaha Police:**

- 911 (for emergencies)
- Lincoln Police Department: To make a non-emergency police report, call the non-emergency line or visit a team station Monday-Friday between 8:00 AM and 4:00 PM.
  - LPD Non-Emergency Line: (402) 441-6000
- Omaha Police Department: To make a non-emergency police report, visit the Omaha Police Department Headquarters 24/7 or a precinct office Monday-Friday between 8:00 AM and 5:00 PM.
  - Omaha Police Department Headquarters: 505 S. 15th Street, Omaha, NE 68102

**Anonymous Reporting to Law Enforcement:**

There are options to report a sexual assault or other crimes to law enforcement anonymously. These processes vary depending on the police department receiving the report. Please note, law enforcement may be limited in their ability to respond to anonymous reports or reports without sufficient details.

**Lincoln Police Department:**

- To make an anonymous report of sexual assault to the Lincoln Police Department, visit <https://lincoln.ne.gov/city/police/anonfrm.htm> or call (402) 441-3866. Individuals can choose to report as much information as they would like.
- Victims who choose to receive a forensic examination by a sexual assault nurse examiner may request that the evidence be collected anonymously, meaning they can choose whether to report their name and other information to law enforcement.

**Omaha Police Department:**

- Victims who choose to receive a forensic examination by a sexual assault nurse examiner may request that the evidence be collected anonymously, meaning they can choose whether to report their name and other information to law enforcement.

## V. Supportive Measures



The University offers a wide range of resources for Students to provide support and guidance throughout the initiation, investigation, and resolution of a report of sexual harassment or sexual misconduct. Upon receipt of actual knowledge of an alleged occurrence of sexual harassment or sexual misconduct, the University will offer supportive measures to the alleged victim (“Complainant”). These offered measures will be reasonable and appropriate measures to facilitate continued access to University employment or education programs and activities for all involved parties. Non-disciplinary, non-punitive individualized services will be offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a report or formal complaint.

The University will keep private any supportive measures provided under this policy to the extent practicable and will promptly address any violation of the supportive measures. The Title IX Coordinator has the discretion to determine the appropriateness of any supportive measure based on all available information and is available to meet with all involved parties to address any concerns about the provision of supportive measures. Supportive measures may include but are not limited to: facilitation of connections to on- and off-campus resources, issuance of a No Contact/Limited Contact Order, change of work or class assignment/location/schedule, change of living space, change of class schedule, and/or security escort.

## **VI. Title IX Assessment**

Upon receipt of a report, the Title IX Coordinator will conduct an initial Title IX Assessment. The first step of the assessment will typically include a preliminary meeting between the Reporting Party and the Title IX Coordinator. The purpose of this meeting is to gain a basic understanding of the nature and circumstances of the report; it is not intended to be a full investigative interview. The Reporting Party will also receive information about resources, rights, procedural options, and supportive measures. Furthermore, requests for supportive measures can be made to the Title IX Coordinator.

The Reporting Party may bring a Support Person to this meeting. When the Support Person is an attorney, the Title IX Coordinator must be given 2 days advance notice. The Support Person cannot direct questions or comments to the Title IX Coordinator, but they may consult with the person they are assisting. The Title IX Coordinator will not allow the presence of a Support Person to inhibit their ability to provide information.

### **During the Title IX Assessment, the Title IX Coordinator will:**

- Assess the nature of the reported misconduct to determine if the conduct is a potential violation of University policy, and whether it falls within the jurisdiction of Title IX;
- Address the immediate physical safety and emotional well-being of the Reporting Party and University community;
- Notify the Reporting Party of the range of supportive measures;
- Provide the Reporting Party with information about on- and off-campus resources;
- Determine if concerns exist for discrimination or harassment based on other protected classes;
- Explain the University's policy for prohibiting retaliation;
- Explain the difference between privacy and confidentiality;
- Explain the difference between confidential and non-confidential resources;

- Assess the reported conduct for the need of a timely warning notice as required under federal law;
- Determine if a pattern of evidence or other similar conduct by the Respondent exists;
- Determine if any issues of academic freedom exist, which may be reviewed by the Provost or designee;
- Explain the University's resolution process, including the evidentiary standard - preponderance of evidence;
- Record the Reporting Party's preferred course of action; and
- Provide the Reporting Party with a written explanation of their rights and options.

The Title IX Coordinator will document all information provided by the Reporting Party during a Title IX Assessment in a Title IX Assessment Report. The purpose of this Report is to record the relevant details as reported to the Title IX Coordinator. This Assessment Report will be shared with the Investigator(s) and Student Conduct System Administrator should a Non-Title IX Formal Complaint be filed. The Title IX Coordinator will also enter non-identifying statistical information about the report into the University's daily crime log.

The University will make a reasonable effort to respect the wishes of the person who experienced sexual harassment or sexual misconduct. However, if the reported incident constitutes an imminent or ongoing threat to campus safety based on the Title IX Coordinator's assessment, the Title IX Coordinator may sign a Non-Title IX Formal Complaint, beginning the Formal Resolution Process. In making this decision, the Title IX Coordinator will consider, but is not limited by, the following factors: whether the person who experienced sexual harassment or sexual misconduct has requested that no formal action be taken; whether they are willing to participate in additional steps; whether the University can undertake any action without their participation; the severity and impact of the sexual harassment or sexual misconduct; whether there exists a pattern of sexual harassment or sexual misconduct; the existence of independent evidence; the existence of relational power differentials; and any legal obligation to proceed based on the nature of the conduct, including sexual harassment and sexual misconduct involving vulnerable adults and involving minors by an adult. The Title IX Coordinator, in their discretion, upon receipt of a report of an alleged occurrence of sexual harassment or sexual misconduct, may determine to sign a Non-Title IX Formal Complaint, and commence the Formal Resolution Process (after taking account of the aforementioned factors), with or without approval of the original reporting party.

Where a Reporting Party requests that a name or other identifiable information not be shared with the Respondent and/or that no formal action be taken, the University may be limited in its ability to fully respond to the matter.

During the Title IX Assessment, the Title IX Coordinator will discuss the availability of supportive measures. Following the Assessment, the Title IX Coordinator will determine if a Non-Title IX Formal Complaint will be filed by the University. The University will balance the Reporting Party's requests with its responsibility to provide a safe and non-discriminatory environment for all University community members. Participation in the sexual harassment and sexual misconduct resolution process is voluntary and supportive measures are available at any time for all involved parties.

The Title IX Coordinator will document each report of sexual harassment or sexual misconduct and will review and retain copies of all reports or documentation as per the University's Record Retention Policy. These records will be kept private to the extent permitted by law.

## **VII. Interim Action**

At times, the University may take action to ensure the physical or emotional safety and well-being of the University community. The University may remove a Respondent from the University's employment or education programs or activities on an emergency basis, with or without a resolution process pending. The Respondent has the opportunity to challenge the University's decision immediately following the removal. The University may also issue a no-trespass or other no-contact order.

## **VIII. Sexual Harassment and Sexual Misconduct Formal Complaint Outside the Scope of Title IX**

### **Notice of Complaint**

Upon receipt of a Formal Complaint, the Title IX Coordinator will send the Notice of Complaint to both the Complainant and the Respondent, simultaneously, that includes written notice of the allegations, and notice of the University's resolution processes, and the availability of supportive measures.

The University offers two options to resolve a Formal Complaint: Informal Resolution and Formal Resolution. Within these resolution methods, there are timeframes for application of the resolution options. Parties may:

- Begin a Formal Resolution process immediately after the filing of a Formal Complaint.
- Begin an Informal Resolution process immediately after the filing of a Formal Complaint.
- Transition to an Informal Resolution process after a Formal Resolution process has begun, up until the beginning of the Hearing Decision-Maker Review.
- Transition to a Formal Resolution process from the Informal Resolution process when the Complainant, Respondent, or University no longer agrees to the terms of the Informal Resolution process.

### **Informal Resolution Process**

The Informal Resolution process involves a facilitated resolution that is voluntary and acceptable to the Complainant, Respondent, and the University after the filing of a Formal Complaint. Both parties must voluntarily agree in writing to participate in the Informal Resolution process.

A full investigation of the Formal Complaint filed is not conducted in the Informal Resolution process. Informal Resolution is a voluntary option that allows parties to resolve disputes in a forum that is separate and distinct from the institution's live-hearing process. It is also discretionary, based on the assessment of the Title IX Coordinator, whether to offer informal resolution at all, or only in certain cases. The University will generally allow only one Informal Resolution per Respondent. Informal Resolution will not be offered as a resolution strategy when the Formal Complaint involves both Students and Employees.

For some types of reported sexual harassment and sexual misconduct, Informal Resolution may offer parties resolution in a timeframe that is shorter than the Formal Resolution in a confidential, non-adversarial manner that allows the parties to discuss the issues and clear up misunderstandings. However, Informal Resolution may not be an appropriate option for cases involving a report of sexual assault, dating violence, domestic violence, or circumstances involving severe misconduct.

An Informal Resolution can be requested by a Complainant or Respondent at any time after a Formal Complaint has been signed. An Informal Resolution process can be requested, even if the parties have entered the Formal Resolution process, up to the beginning of the Hearing Decision-Maker Review. Any of the parties can withdraw from the Informal Resolution process and resume the Formal Resolution process, for addressing allegations outside of the Final Rule and under this procedure, at any time prior to reaching a determination regarding a policy violation. However, the University may proceed to address the matter, as it deems appropriate, if there is an imminent threat of safety to the campus community.

Prior to entering the Informal Resolution process, the University must provide written notice to the parties. The written notice will include information regarding:

- The potential outcome of participating in an Informal Resolution process
- The confidentiality of information learned during the Informal Resolution process
- How the Formal Resolution process will resume if any of the parties withdraw from the Informal Resolution process
- The facilitator's inability to be called as a Witness if Informal Resolution cannot reach a mutual agreement and the Formal Resolution process resumes
- Any information obtained during Informal Resolution cannot be used in a subsequent investigation and the Sexual Harassment and Sexual Misconduct Hearing Decision-Maker Review during the Formal Resolution process

Engaging in the Informal Resolution process is not an admission of responsibility for the allegation or an admission of the falsehood of the allegations. The existence of an Informal Resolution is not viewed as a "Finding of a Policy Violation". The terms and outcome of the Informal Resolution are negotiable and may result in party-imposed corrective or punitive measures.

Once a Formal Complaint has been resolved through the Informal Resolution process, the agreements are binding according to the resolution terms and the outcome will be enforced by the University. Due to the voluntary nature of entering into an Informal Resolution process, there is no right to appeal the signed resolution agreement.

If the terms of the Informal Resolution agreement are violated, not met, or left incomplete, it is considered a Conduct Violation and will be addressed under the Code of Student Conduct for Students, or under University conduct policies for Employees.

NWU's Informal Resolution process is conducted by a neutral third party who will collect information about the incident without performing a full investigation, facilitate discussion, and propose solutions for a resolution between the parties. The process will be facilitated with the Complainant and Respondent in separate rooms.

The facilitator will schedule an advance call with each party, separately, prior to the informal resolution meeting. The facilitator will explain the process, goals, and options for the meeting. Following the call, the Informal Resolution Meeting Decorum will be sent electronically to both parties.

Each party may have one Support Person present during the informal resolution meeting. When the Support Person is an attorney, the facilitator must be given 2 days advance notice. The Support Person cannot direct questions or comments to the facilitator, but they may consult with the Student or Employee they are assisting. The facilitator will not unduly allow a Support Person's presence to inhibit their ability to gather information.

At the beginning of the Informal Resolution Meeting, the facilitator will establish facts that are not in dispute and identify what the parties hope to accomplish and why it is important to reach an agreement. The facilitator will navigate a conversation that attempts to move toward a resolution that will be agreed to and signed by both parties.

Parties are entering into this process freely, voluntarily, and because each party believes that entering this process is in their best interest. Participation in the Informal Resolution process is not required, not a product of coercion, nor is it a condition of continued enrollment, employment or any other right from the party's educational or employment opportunities (e.g., admission to University events, use of University resources and facilities, Tuition Remission).

### **Formal Resolution Process**

The Formal Resolution process involves a full investigation, a Hearing Decision-Maker Review and determination, sanctions if applicable, and the opportunity to both the Complainant and the Respondent to appeal, if the grounds for appeal are met. The Formal Resolution is described in detail in Sections IX – XIV of this procedural document.

### **Meeting with Respondent**

Once a Formal Complaint has been made by the Complainant, an investigation is required. Based on the outcome of the Title IX Assessment, the Title IX Coordinator may also determine an investigation is required. In either case, the Title IX Coordinator will meet with the Respondent. This meeting is not intended to be an investigative interview. The purpose of this meeting is to inform the Respondent of sufficient details of the Formal Complaint, including:

- Full name of Complainant, if known;
- Conduct constituting a potential policy violation;
- Date, location, and time of alleged incident, if known;
- Overview of the sexual harassment and sexual misconduct resolution process;
- Information about resources, rights, procedural options, and supportive measures;
- The University's presumption that Respondents have not violated a policy until there is a determination that a policy violation has occurred, which is made at the end of the resolution process;
- The University's evidentiary standard - preponderance of evidence;
- Notice of Support Person option;
- Notice of conduct violations for knowingly submitting false statements or false information; and

- Review of the University's policy for privacy and prohibiting retaliation.

Additionally, after the Notice of Complaint has been sent, the University Administrator will set up separate, informational meeting in order to provide detailed information to the Complainant and to the Respondent about the resolution process, including the right to decide whether or not to participate in the process. As at every step in the resolution process, all involved parties may bring a Support Person.

The Title IX Coordinator will send a copy of the Title IX Assessment Report/Formal Complaint to the Investigator.

## **IX. Sexual Harassment and Sexual Misconduct Formal Investigation**

### **Meeting with Investigator**

The University has designated individuals as Investigators who receive training annually. Annual training includes, but is not limited to, the definition of sexual harassment, the scope of the University's education program or activity, how to conduct an investigation, and how to serve impartially, including to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Moreover, any materials used to train Investigators do not rely on sex stereotypes and promotes impartial investigations and adjudications of formal complaints of sexual harassment. Training materials can be found on the NWU Title IX website.

At its discretion, the University may use multiple Investigators, including internal or external Investigators of its choosing.

Throughout the investigation of a Formal Complaint, the University will ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility remains on the University and not on the parties. The consideration for preservation of evidence does remain with the involved parties. The Investigator is solely responsible for all aspects of the investigation, including whether or not to record the investigation interviews. If the Investigator chooses to record the interviews, there will be a single record of the meetings with the Investigator kept in the form of an audio or video recording. The record is the property of the University and will be maintained by the University. No other parties are permitted to record the interviews.

The Investigator will contact the Complainant, Respondent, and relevant witnesses to schedule interviews. All involved parties may bring one (1) Support Person to this meeting. When the Support Person is an attorney, the Investigator must be given 2 days advance notice. The Support Person cannot direct questions or comments to the Investigator, but they may consult with the Student they are assisting. The Investigator will not unduly allow a Support Person's presence to inhibit their ability to gather information. Either involved party may change their Support Person at any time.

If a Complainant or Respondent refuses to participate in the investigation or chooses not to answer certain questions from the Investigator, the investigation will continue nonetheless, and decisions will be made without the requested participation from or information from the Complainant or Respondent.

The Investigator will conduct a thorough, prompt, impartial, and unbiased investigation. All individuals will be treated with appropriate respect, and in a manner considerate of their privacy. An investigation may include multiple, in-person or virtual, meetings with the Investigator. The Investigator will make a reasonable effort to complete the investigation within 30 days, but this time frame may be extended depending on the complexity of the circumstances of each case. Scheduling, University closures, or holidays may affect this timing as well. Any delays in the process will be communicated in writing, simultaneously, to the Complainant and the Respondent.

An investigation will typically include interviews with the Complainant, Respondent, and any relevant witnesses provided by either party or discovered during the investigation, and other individuals who may have direct knowledge about the reported conduct. The Investigator will prepare a written summary of each interview. All those interviewed will have an opportunity to review their interview summary for accuracy and submit modifications or additional information within three days of receipt of the summary from the Investigator.

The Investigator will seek to obtain evidence including text messages, email, photos, social media posts, screen shots, etc. The Investigator may also require access to campus facilities, including residence halls, to gather information and take photos, if necessary. The Complainant and Respondent will have an equal opportunity to provide statements, submit additional information, and/or identify witnesses who may have relevant information. The Complainant, Respondent and any witnesses shall not destroy evidence, including but not limited to the deletion of texts, emails, photos, etc., during the resolution process.

In cases where alcohol and/or other intoxicants are a factor, evaluating incapacitation will require an assessment of whether the involved parties should have been aware of the incapacitation of either party based on an objective and subjective evaluation of the behavior when viewed from the perspective of a sober, reasonable person. Evidence of incapacitation may require evaluating normal and abnormal behaviors of all parties involved, such as vomiting sleeping, blacking out, and unconsciousness.

An investigation may also require an evaluation of whether consent for sexual behavior was given. An essential element of consent is that it be freely given. Freely given consent might not be present, or may not even be possible, in relationships of a sexual or intimate nature between individuals where one individual has power, supervision or authority over another.

In evaluating whether consent was given, consideration will be given to the totality of the facts and circumstances. This includes, but is not limited to, the extent to which a Complainant affirmatively uses words or actions indicating a willingness to engage in sexual contact, free from intimidation, fear, or coercion; whether a reasonable person in the Respondent's position would have understood such person's words and acts as an expression of consent; and whether there are any circumstances, known or reasonably apparent to the Respondent, demonstrating incapacitation or fear.

Intentional falsification, distortion, or misrepresentation of information as part of the Sexual Harassment and Sexual Misconduct resolution process is a violation of University policy. Any person who abuses the University conduct processes in this way may face disciplinary charges for that violation.

Once the Investigator has gathered all relevant information, the Investigator will prepare a Preliminary Investigative Report. This Report will include relevant information gathered during the investigation, with identities redacted. The Investigator may also include prior allegations of, or findings of, violations for similar conduct by the Respondent. At this point in the process, the Investigator will send the Preliminary Investigative Report to the Title IX Coordinator for the jurisdictional review to determine whether an allegation falls outside of the definitions utilized in the 2020 Final Rule for Federal Title IX Regulations. At the discretion of the Title IX Coordinator, a third-party reviewer, or designee, may be utilized. Based on the determination, the Formal Complaint will be resolved utilizing the appropriate NWU Sexual Harassment and Sexual Misconduct policy and procedure.

The Preliminary Report will be sent by the Investigator electronically to the Complainant and Respondent, simultaneously. Both the Complainant and the Respondent will have 10 days to review the Preliminary Investigative Report and provide follow-up responses or information to the Investigator.

After the preliminary 10-day review period, the Investigator will review follow-up responses and incorporate relevant information into the Final Investigative Report. The names of Witnesses will remain redacted.

Once the Investigator has completed the Final Investigative Report, the Investigator will distribute the Report to the Complainant and Respondent, as well as the Title IX Coordinator and to the Student Conduct System Administrator.

## **X. Sexual Harassment and Sexual Misconduct Hearing Decision-Maker Review**

The Title IX Coordinator will work with the Complainant, Respondent, and Hearing Decision-Maker to determine if a potential conflict of interest or bias exists. In the event of a potential conflict of interest or bias, a request to recuse an involved party may be made to the Title IX Coordinator, who will make the determination regarding the recusal of any party with a potential conflict of interest.

The Student Conduct System Administrator will likely not be removed from the resolution process on an allegation of personal bias, as the Student Conduct System Administrator is not a decision maker and is present to ensure compliance with University procedures and has no impact on the decision. In the event the Student Conduct System Administrator does have a conflict of interest, even though they do not act in an adjudicative capacity, an alternate Student Conduct System Administrator may be assigned.

The Hearing Decision-Maker is responsible for reviewing the Final Investigative Report and determining responsibility for “violation” or “not in violation” of a University policy, and, if necessary, assigning sanctions in consultation with Investigator(s) and University Counsel. Additionally, the University recognizes that the Investigator is subject matter expert in the investigation, as well as a subject matter expert regarding the material involved in the



investigation. Therefore, the Hearing Decision-Maker may request that the Investigator provide their recommendation regarding a finding for the deliberation. In the event that the Title IX Coordinator has filed the Formal Complaint with the University, the Title IX Coordinator may be present to answer questions about the Formal Complaint.

The Hearing Decision-Maker will use the preponderance of the evidence standard to determine a finding.

The Hearing Decision-Maker will render a finding of “in violation” or “not in violation” of a University Policy and assign sanctions, if applicable. Hearing Decision-Maker will prepare the Notice of Determination in collaboration with the Title IX Coordinator. The Notice of Determination will be delivered in person as well as in writing.

In the event the Respondent is a Student Organization, individual determinations of responsibility will be made, and sanctions may be assigned collectively and/or individually, depending on the circumstances of the Complaint. Sanctions will be proportionate to the involvement of each individual and the organization.

## **XI. Notice of Determination**

The Hearing Decision-Maker will prepare a Notice of Determination which will include the following information:

- Alleged violations
- Procedural steps
- Findings of fact
- Conclusion
- Rationale
- Sanction(s), if applicable
- Appeal procedures

The Student Conduct System Administrator, or designee, will share the Notice of Determination with the Complainant and the Respondent. In most circumstances, the information will be shared in person, or virtually, as well as in writing. The Student Conduct System Administrator will also share the Notice of Determination with the Title IX Coordinator and the Investigator(s).

## **XII. Sanctions**

Sanctions will be determined based on the nature and severity of the policy violation(s) and in consideration for the safety of the campus community. Conduct history will also be considered as part of the sanctioning process. Possible sanctions may include, but are not limited to, protective measures, restrictions, letters of reprimand, action plans, performance improvement plans, apology letter, reflection statements, targeted educational projects, coaching, suspension and/or expulsion.

Sanctions go into effect after the conclusion of, or following the deadline to submit, an appeal. The Title IX Coordinator is responsible for ensuring the timely completion of any remedies or sanctions in collaboration with the Student Conduct System Administrator.

### **XIII. Appeals**

A Complainant or Respondent may each submit one appeal. An appeal must address all concerns related to the Notice of Determination. Appeals must be submitted within 5 days of receipt of the Notice of Determination. The electronic form to submit the appeal can be found on the [Title IX webpage](#) and in the Notice of Determination.

#### **Grounds for an appeal:**

The University offers both parties an appeal from a determination regarding responsibility, from the University's dismissal of a formal complaint, or the dismissal of any allegations contained therein, on the following bases:

- To determine whether the resolution process was conducted in accordance with University procedures that affected the outcome of the matter;
- To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original proceedings, because the person appealing did not know such information and/or facts at the time of the original Investigation, Review or Hearing;
- To determine if any personnel involved in the resolution process had a conflict of interest or bias during the resolution process that would have affected the outcome; and/or
- To determine whether the sanction(s) imposed were proportionate to the misconduct.

Upon receipt of an appeal, the Student Conduct System Administrator will provide a Notice of Appeal, including sufficient details of the appeal and a link to the Appeal Response Form, to the Complainant and Respondent, allowing 5 days for either party to respond.

Following the 5-day response period, the Student Conduct System Administrator will forward the appeal, along with the Final Investigative Report, the recording of the Sexual Harassment and Sexual Misconduct Hearing, and any other materials relevant to the determination or appeal, to the University President, or designee(s), for review.

The University President, or designee(s), will consider all available documentation. Based on the information provided, the University President will:

- Affirm the findings and/or sanctions determined by the Hearing Decision-Maker Review; or
- Reverse the findings and/or modify the sanctions determined by the Hearing Decision-Maker.

The President will prepare the Final Determination of Appeal stating their decision, which is final and binding. The document will include the rationale for the President's decision. The document will be provided to the Student Conduct System Administrator, who will communicate the President's decision to the Complainant and the Respondent in person

and in writing. The Final Determination of Appeal will also be shared with the Title IX Coordinator and the Investigator(s).

The Student Conduct System Administrator will make a reasonable effort to complete the appeal process within 10 days. Scheduling, University closures, or holidays may affect this timing as well.

## **XIV. Additional Information**

Please note: If a Formal Title IX Complaint is filed under the University's Formal or Informal Processes, and is subsequently dismissed as being outside the scope of Title IX, this procedure is available to the University and the party making the complaint. This procedure is also available to complaints made that are deemed by the University to be outside the scope of Title IX.

In order to comply with laws protecting the privacy of education records and to provide a process for the consideration of relevant evidence free of intimidation or pressure, documentation related to the sexual harassment and sexual misconduct outside of Title IX resolution process, including, but not limited to, the Title IX Assessment Report, Investigative reports, written testimony, oral testimony, recordings, or other evidence introduced, will not be disseminated to Third Parties or law enforcement, except as required by law. The University will maintain these records for seven years from the date of the incident, or indefinitely in cases involving a sanction of suspension or expulsion.

This document is thoroughly reviewed on an annual basis and may be updated periodically for accuracy and clarity. The most current version can be found on the Sexual Harassment and Sexual Misconduct Prevention and Response Page of the University's website.

The Title IX office approved these procedures on September 9, 2022. All incidents of sexual harassment and sexual misconduct reported on or after this date will be subject to these procedures. However, the University will apply sexual harassment and sexual misconduct definitions in effect at the time of the incident.

## **Resolution Procedures for Addressing Complaints of Employee Sexual Misconduct Outside of the 2020 Final Rule for Federal Title IX Regulations**

This procedure applies to reports and complaints of sexual harassment and sexual misconduct involving **Faculty or Staff Employees as the respondent**, including sexual and gender-based harassment/bullying, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation **that fall outside of Title IX as outlined in** the 2020 Final Rule for Federal Title IX Regulations jurisdiction guidelines, or a Formal Complaint was made and then dismissed for the same reason.

For reports and complaints of sexual harassment and sexual misconduct involving Faculty and Staff Employees as the Respondent that do or may fall **within Title IX, please see the Sexual Misconduct Policy within the 2020 Final Rule for Federal Title IX Regulations. If uncertain as to which policy applies, please contact a Title IX Coordinator at [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu).**

Sexual harassment, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation are broad terms intended to capture a spectrum of behavior labeled sexual misconduct. These terms are specifically defined in the Sexual Misconduct Outside of the 2020 Final Rule for Federal Title IX Regulations Policy, Section V – Prohibited Conduct.

Hereinafter, Nebraska Wesleyan University will be referred to as “the University”. Faculty and Staff Employees will be referred to as “Employees”, unless uniquely specified.

### **I. To Whom This Procedure Applies and Jurisdiction**

This procedure pertains to acts of Prohibited Conduct when the conduct falls outside of the definitions or jurisdiction of the 2020 Final Rule for Federal Title IX Regulations, or a Formal Title IX Complaint was made and then dismissed for the same reason. Prohibited Conduct outside of Title IX will be addressed under this procedure when it involves:

- Current Employees as the Complainant or the Respondent;

And when:

- The conduct occurs off University grounds or on property not owned or controlled by the University; or
- The conduct occurs outside of the context of University employment or an education program or University-sponsored activity and has an adverse effect for Students or Employees; or
- The conduct occurs outside of the United States.

The University retains jurisdiction over Employees who take a leave of absence for misconduct that occurred prior to the leave through this Procedure and corresponding Policy. Misconduct, if determined to have occurred, will impact rehire eligibility, presence on University grounds, and related activities, which will be addressed at the time of sanctions.

Sexual harassment and sexual misconduct involving **a Student and an Employee** will be addressed using the Sexual Misconduct Outside of the 2020 Final Rule for Federal Title IX Policy and this procedure when the respondent is an Employee.

Sexual harassment and sexual misconduct involving students as the respondent will be addressed using the Sexual Misconduct Outside of the 2020 Final Rule for Federal Title IX Policy and corresponding student procedures.

## II. Definitions of Key Terms

**Actual Knowledge:** the standard of notice the University must have of an alleged occurrence of sexual harassment or misconduct, which occurs when notice of, or allegations of, sexual harassment or sexual misconduct is received by a University Title IX Coordinator or an employee with authority to institute corrective measures.

**Campus Security Authority (CSA):** employees or officials who have been identified as having significant responsibilities for student and campus activities to whom students and employees should report criminal offenses to the Title IX Coordinator, which constitutes Actual Knowledge by the University. CSAs are required to report crimes to campus administrators, which include Title IX offenses, to the Title IX Coordinator, as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

**Complainant:** an individual who is alleged to be the victim of conduct that could constitute sexual harassment or sexual misconduct.

**Confidential Employee:** an individual designated by the University to provide support to Students and Employees without being required to report to a Title IX Coordinator. A report to a Confidential Employee will not be considered actual knowledge, or notice to the University, of the alleged occurrence of sexual harassment or sexual misconduct, and will not trigger the University's mandatory response obligations.

**Day:** University working day, not including Saturday, Sunday, or University holidays. The University will make all reasonable efforts to comply with all time frames set forth in these procedures, but all applicable timelines may be extended depending on the complexity of the circumstances of each case.

**Employee:** any person who works for the University in return for financial or other compensation. This includes full-time and part-time faculty, full-time and part-time staff, adjunct faculty, visiting faculty, and student employees.

**Staff Employee:** Any person who works for the University in return for financial or other compensation who does not have faculty rank for the primary position of the employee's job. This includes full-time, part-time, and temporary staff employees.

**Faculty Employee:** Any person who works for the University in return for financial or other compensation who has faculty rank for the primary position of the employee's job. This includes full-time, part-time, adjunct and temporary faculty employees.

**Formal Resolution of Allegation(s) Outside of Title IX:** involves an investigation and a review of the Investigative Report to determine whether a Respondent has violated the University's sexual harassment and sexual misconduct policy addressing sexual harassment and misconduct that falls outside the 2020 Final Rule for Federal Title IX Regulations. Sanctions may be assigned if the Respondent is found in violation of the Policy. The Complainant and Respondent both have the right to appeal the determination of the outcome and/or the sanctions assigned.

**Harmed Party:** an individual or group of individuals who experienced sexual harassment or sexual misconduct. Once a Harmed Party makes a report, or files a complaint, alleging an occurrence of sexual harassment or sexual misconduct, they are referred to as a "Complainant" as defined herein.

**Informal Resolution of Allegation(s) Outside of Title IX:** involves a facilitated resolution that is voluntary, agreed upon, and acceptable to, the Complainant, Respondent, and the University. The Complainant, Respondent, or the University may withdraw from Informal Resolution at any point up to the time the resolution is completed. If any of the parties choose to withdraw from the Informal Resolution process prior to its completion, the University will immediately begin using the Formal Resolution processes in place.

**Investigator:** one or more trained University-appointed individuals who conduct an investigation and prepare the official written reports (Preliminary and Final Investigative Reports) after a Formal Complaint is filed.

**Mandatory Reporter:** all Employees, including Confidential Employees, are mandatory reporters of abuse or neglect of a vulnerable adult or abuse of a minor by an adult (sexual/physical assault, witness to domestic violence, dating/intimate partner violence, stalking). In Nebraska, minors are considered all persons under the age of 19.

**Non-Title IX Formal Complaint:** is a signed, written formal accusation against an individual for violation of the University's sexual harassment and sexual misconduct policies that is submitted by the Harmed Party, parent of the Harmed Party, or the Title IX Coordinator.

There are three situations in which the Non-Title IX Formal Complaint may be signed.

1. The Harmed Party may sign the Non-Title IX Formal Complaint
2. The parent of the harmed student may sign the Non-Title IX Formal Complaint in the event a harmed student does not wish to file the Non-Title IX Formal Complaint

3. The Title IX Coordinator may sign the Non-Title IX Formal Complaint
  - a) In the event a Harmed Party does not wish to file the Non-Title IX Formal Complaint
  - b) When the misconduct presents an imminent threat to campus safety or the safety of an individual on campus

The University reserves the right to file a formal complaint over the Complainant's objection if the University deems it in the University's best interest to do so, including without limitation in order to render the respondent eligible for potential disciplinary sanction following the completion of a grievance process that complies with Section 106.45 of the federal regulations.

When the parent of the harmed student or the Title IX Coordinator signs the Non-Title IX Formal Complaint, neither becomes the Complainant. Only the Harmed Party is allowed to become the Complainant.

**Reporting Party:** an individual, or group of individuals, who reports information to the Title IX Coordinator. All members of the NWU community are encouraged to report any incident of sexual harassment and sexual misconduct to the Title IX Coordinator. Reporting Parties can include, but are not limited to the person who experienced the sexual harassment or sexual misconduct, a Campus Security Authority, a friend of someone who has experienced sexual harassment or sexual misconduct, parents, bystanders, witnesses, instructors, friends, other community members, or someone who has otherwise been made aware of an incident of sexual harassment or sexual misconduct

**Respondent:** an individual who has been reported to have engaged in conduct that could constitute sexual harassment or sexual misconduct.

**Sexual Harassment and Sexual Misconduct Vice Presidential or Provost Review:** the Respondent's Division Vice President or Provost who is responsible for reviewing the Final Investigative Report and determining responsibility for "violation" or "not in violation" of a University policy, and, if necessary, assigning sanctions, in consultation with University Counsel and the Assistant Vice President of Human Resources.

**Student:** any person enrolled in courses at the University, both full-time and part-time, pursuing undergraduate or graduate studies, including those who audit courses.

\*Employees who are enrolled and taking classes will continue to be treated as an Employee under this procedure.

**Support Person:** an individual selected by a Complainant or Respondent to assist them during any part of the Formal or Informal Resolution processes addressed within Title IX or Outside of Title IX Procedures, including the Reporting, Assessment, Informal Resolution, Investigation, Hearing, and Appeal process. A Support Person may be a staff member, student, parent, community member, or an attorney. The University will not bear the expense of an attorney acting as a Support Person retained by any involved party. Any involved party may change their Support Person at any point.

**Title IX Assessment Report:** a record of the relevant details as reported to the Title IX Coordinator during the Title IX Assessment, including factors related to any threat of imminent danger or ongoing safety concerns for the campus.

**Witness:** an individual who personally sees or perceives a detail or event and is willing to attest to that detail. Information from witnesses whose sole purpose is to provide character information will not be considered as part of an investigation.

### III. Supports

#### **Title IX Coordinators**

The Title IX Coordinators oversee the University's assessment, investigation, and resolution of reports of sexual harassment and sexual misconduct ensuring compliance with Title IX and other relevant state and federal laws. A Report can be made at any time via email, phone, or physical mail, or in person during regular business hours.

Director of Title IX services: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, [mharder@nebrwesleyan.edu](mailto:mharder@nebrwesleyan.edu)

Title IX Coordinator: Natasha Moreno, Nebraska Wesleyan University, Burt Hall 112, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2356, [nmoreno@nebrwesleyan.edu](mailto:nmoreno@nebrwesleyan.edu) or [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)

The Title IX Coordinator, or designee, will manage reports and complaints for Employees and Students.

#### **The Title IX Coordinators are:**

- Responsible for oversight of the assessment, investigation, and resolution of all reports of sexual harassment or sexual misconduct;
- Knowledgeable and trained in relevant state and federal laws and University policy and procedures.
  - Annual training programs include, but is not limited to, the definition of sexual harassment, the scope of the University's education program or activity, how to conduct an investigation and resolution process including hearings, appeals, and how to serve impartially, including to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Moreover, any materials used to train Title IX Coordinators, investigators, panel members, and decision-makers do not rely on sex stereotypes and promotes impartial investigations and adjudications of formal complaints of sexual harassment. Training materials can be found on the NWU Title IX website.
- Available to provide information to any individual, including a Complainant, a Respondent, or a Third Party, about the courses of action available at the University, both informally and formally;
- Available to assist any University community member regarding how to respond appropriately to reports of sexual harassment or sexual misconduct;



- Responsible for oversight of sexual violence prevention education and employee training;
- Responsible for monitoring full compliance with all requirements and timelines specified in the reporting and Formal Complaint procedures;
- Responsible for ensuring resolution procedures are in compliance with Federal and University policies and regulations;
- Responsible for ensuring the timely completion of any remedies or sanctions, and;
- Responsible for compiling annual reports.

### Confidential Resources

A Confidential Employee or other confidential resource will not disclose information about sexual harassment or sexual misconduct without the Reporting Party's permission.

Confidential Employees must share non-identifying statistical information related to crimes found in the Annual Security Report (ASR), as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

There are three exceptions when a Confidential Resource must disclose information to University officials or Law Enforcement as required by law:

1. The individual gives written consent for the disclosure;
2. There is concern that the individual will likely cause serious physical harm to self or others; or
3. The information concerns conduct involving suspected abuse or neglect of a minor by an adult. In Nebraska, minors are considered anyone under the age of 19.

### List of Confidential Resources:

- **Voices of Hope Campus Advocate:** provides free and confidential support to students, staff, and faculty to empower those who have experienced relationship violence, sexual assault, or abuse; and can also support an individual who chooses to report to the Title IX Coordinator. The Voices of Hope Campus Advocate is available by appointment. Voices of Hope is located at 2545 N St., Lincoln, NE 68510; [advocate@nebrwesleyan.edu](mailto:advocate@nebrwesleyan.edu); or [info@voicesofhopelincn.org](mailto:info@voicesofhopelincn.org); Office Phone: (402) 476-2110; Voices of Hope 24/7 Support: 402-475-7273.
- **Directions Employee Assistance Program:** can help faculty and staff and is located at 3923 South Street Ste. 101 Lincoln, NE 68506; [directionseap@directionseap.com](mailto:directionseap@directionseap.com); 402-434-2900.
- **NWU Counseling Services:** serves traditional undergraduate students. Counseling Services is located at 2641 N. 49th Street (49th & St. Paul Avenue) and is open Monday-Friday from 8:00 a.m. to 5:00 p.m.; [counseling@nebrwesleyan.edu](mailto:counseling@nebrwesleyan.edu); (402) 465-2464.
- **University Minister:** can help students, faculty and staff, and is located in Old Main – Room 105; [minister@nebrwesleyan.edu](mailto:minister@nebrwesleyan.edu); (402) 465-2398.

### Support Person

A Complainant or Respondent can select a Support Person to assist them during any part of the Formal or Informal Resolution processes addressed within Title IX or Outside of Title IX Procedures, including the Reporting, Assessment, Informal Resolution, Investigation, Hearing, and Appeal process. A Support Person may be a staff member, student, parent, community member, or an attorney.

In the event that the Complainant or Respondent would like a Support Person to assist them and is unable to identify someone, the Title IX Office will provide a list of people who are committed to providing support for either party.

## IV. Reporting

There are multiple channels for reporting sexual harassment and sexual misconduct. An individual may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. An individual may simultaneously pursue a criminal investigation and the University sexual harassment and sexual misconduct resolution process. The Title IX Coordinator will support all parties involved in understanding and assessing all options. Questions should be directed to a Title IX Coordinator.

**Reporting to the University:** The University encourages anyone who becomes aware of an incident of sexual harassment or sexual misconduct to promptly report the incident to a Title IX Coordinator. Any Campus Security Authority (CSA) identified by the University who receives a disclosure of sexual harassment or sexual misconduct by a harmed party or witness is required to report to the Title IX Office. While there is no time limit for reporting sexual harassment or sexual misconduct to the University, the University's ability to respond may diminish over time, as evidence may erode, memories fade, and individuals may no longer be affiliated with the University. If an individual is no longer affiliated with the University, the University will provide reasonably appropriate supportive measures, assist individuals in identifying external and/or other internal reporting options, and take reasonable steps to eliminate sexual harassment and sexual misconduct, prevent its recurrence, and remedy its effects.

**Anonymous Reporting to the University:** Individuals may report sexual harassment and sexual misconduct concerns anonymously to the University through the University website by clicking on the link [Report a Concern](#), located at the bottom of every webpage. Please note, the University may be limited in its ability to respond to concerns reported anonymously or reports without sufficient details.

### **Making a Report vs. Filing a Non-Title IX Formal Complaint:**

**Making a Report** is the notification of an incident of sexual harassment or sexual misconduct to a Title IX Coordinator by any Reporting Party. A report may be accompanied by a request for any of the following: resources, no further action, supportive measures, and/or initiation of the Formal Complaint process. The University recognizes that not every individual will be prepared to request supportive measures or to file a Formal Complaint; therefore, Reporting Parties may pursue these options any time in the future. Individuals are not expected or required to pursue any specific course of action.

The University will make a reasonable effort to respect the wishes of the person who experienced sexual harassment or sexual misconduct.

The University reserves the right to file a formal complaint over the complainant's objection if the University deems it in the University's best interest to do so, including without limitation in order to render the respondent eligible for potential disciplinary sanction following the completion of a resolution process that complies with Section 106.45 of the 2020 Final Rule for Federal Title IX Regulations. This is done by the Title IX Coordinator signing a Formal Complaint, on behalf of the University, and can be done with or without consent/permission of the original Complainant. Upon the filing of the Formal Complaint, the Title IX Coordinator will not become a party to the procedure.

To ensure the harmed party of sexual harassment or sexual misconduct is informed of their rights and options, Campus Security Authorities (excluding Confidential Employees) will be required to report the relevant details about an incident of sexual harassment or sexual misconduct. This includes dates, times, locations, and names of parties and witnesses, if known. The Title IX Coordinator will contact the harmed party to provide information and ask how they wish to proceed.

**Filing a Non-Title IX Formal Complaint** is defined as the request to initiate the University's formal and informal resolution processes. The decision to file a Non-Title IX Formal Complaint may be made at any time.

A Report or Complaint can be made at any time via email, phone, or physical mail, or in person during regular business hours.

**To make a Report or file a Complaint, please contact:**

Director of Title IX services: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, [mharder@nebrwesleyan.edu](mailto:mharder@nebrwesleyan.edu)

Title IX Coordinator: Natasha Moreno, Nebraska Wesleyan University, Burt Hall 112, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2356, [nmoreno@nebrwesleyan.edu](mailto:nmoreno@nebrwesleyan.edu) or [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)

The Title IX Coordinator, or designee, will manage reports and complaints for Employees and Students.

**Amnesty:**

- **For Complainants:** The University provides amnesty to harmed parties who may be hesitant to report to University officials because they fear that they themselves may be accused of minor policy violations.
- **For Those Who Offer Assistance:** To encourage Employees to offer help and assistance to others, the University pursues a policy of amnesty for minor violations when Employees offer help to others in need. At the discretion of the Assistant Vice President of Human Resources, or designee, amnesty may also be extended on a case-by-case basis to the person receiving assistance.

- **For Those Who Report Serious Violations:** Employees who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the University may be offered amnesty for their minor violations.
- **For Those Who Witness Serious Violations:** Employees who witness serious violations by others may be offered amnesty for any minor violations if they are called on as a witness to a serious violation but will not be provided amnesty if they participated in, facilitated or condoned the misconduct through a failure to act.

In any of the circumstances listed above, a coaching opportunity related to the minor violations may occur, but no conduct proceedings will result.

Abuse of amnesty requests can result in a decision by the Assistant Vice President for Human Resources, or designee, not to extend amnesty to the same person repeatedly.

**Reporting to Law Enforcement:** Individuals have the right to notify or decline to notify law enforcement. Police have legal authority to criminally investigate reports of sexual assault, dating violence, domestic abuse, and stalking, collect evidence, make arrests, and assist in seeking emergency protective measures. In keeping with its commitment to take all appropriate steps to address and to prevent sexual harassment and sexual misconduct, the University encourages individuals to promptly report sexual harassment and sexual misconduct to preserve potential evidence. The University will assist individuals in notifying law enforcement if they choose to do so.

#### **To Contact Lincoln or Omaha Police:**

- 911 (for emergencies)
- Lincoln Police Department: To make a non-emergency police report, call the non-emergency line or visit a team station Monday-Friday between 8:00 AM and 4:00 PM.
  - LPD Non-Emergency Line: (402) 441-6000
- Omaha Police Department: To make a non-emergency police report, visit the Omaha Police Department Headquarters 24/7 or a precinct office Monday-Friday between 8:00 AM and 5:00 PM.
  - Omaha Police Department Headquarters: 505 S. 15th Street, Omaha, NE 68102

#### **Anonymous Reporting to Law Enforcement:**

There are options to report a sexual assault or other crimes to law enforcement anonymously. These processes vary depending on the police department receiving the report. Please note, law enforcement may be limited in their ability to respond to anonymous reports or reports without sufficient details.

#### **Lincoln Police Department:**

- To make an anonymous report of sexual assault to the Lincoln Police Department, visit <https://lincoln.ne.gov/city/police/anonfrm.htm> or call (402) 441-3866. Individuals can choose to report as much information as they would like.
- Victims who choose to receive a forensic examination by a sexual assault nurse examiner may request that the evidence be collected anonymously, meaning they can choose whether to report their name and other information to law enforcement.

**Omaha Police Department:**

- Victims who choose to receive a forensic examination by a sexual assault nurse examiner may request that the evidence be collected anonymously, meaning they can choose whether to report their name and other information to law enforcement.

## V. Supportive Measures

The University offers a wide range of resources for Employees to provide support and guidance throughout the initiation, investigation, and resolution of a report of sexual harassment or sexual misconduct. Upon receipt of actual knowledge of an alleged occurrence of sexual harassment or sexual misconduct, the University will offer supportive measures to the alleged victim (“Complainant”). These offered measures will be reasonable and appropriate measures to facilitate continued access to University employment or education programs and activities for all involved parties. Non-disciplinary, non-punitive individualized services will be offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a report or formal complaint.

The University will keep private any supportive measures provided under this policy to the extent practicable and will promptly address any violation of the supportive measures. The Title IX Coordinator has the discretion to determine the appropriateness of any supportive measure based on all available information and is available to meet with all involved parties to address any concerns about the provision of supportive measures. Supportive measures may include but are not limited to: facilitation of connections to on- and off-campus resources, issuance of a No Contact/Limited Contact Order, change of work or class assignment/location/schedule, change of on-campus living space, and/or security escort.

## VI. Title IX Assessment

Upon receipt of a report, the Title IX Coordinator will conduct an initial Title IX Assessment. The first step of the assessment will typically include a preliminary meeting between the Reporting Party and the Title IX Coordinator. The purpose of this meeting is to gain a basic understanding of the nature and circumstances of the report; it is not intended to be a full investigative interview. The Reporting Party will also receive information about resources, rights, procedural options, and supportive measures. Furthermore, requests for supportive measures can be made to the Title IX Coordinator.

The Reporting Party may bring a Support Person to this meeting. When the Support Person is an attorney, the Title IX Coordinator must be given 2 days advance notice. The Support Person cannot direct questions or comments to the Title IX Coordinator, but they may consult with the person they are assisting. The Title IX Coordinator will not allow the presence of a Support Person to inhibit their ability to provide information.

**During the Title IX Assessment, the Title IX Coordinator will:**

- Assess the nature of the reported misconduct to determine if the conduct is a potential violation of University policy and whether it falls within the jurisdiction of Title IX;
- Address the immediate physical safety and emotional well-being of the Reporting Party and University community;
- Notify the Reporting Party of the range of supportive measures;
- Provide the Reporting Party with information about on- and off-campus resources;
- Determine if concerns exist for discrimination or harassment based on other protected classes;
- Explain the University's policy for prohibiting retaliation;
- Explain the difference between privacy and confidentiality;
- Explain the difference between confidential and non-confidential resources;
- Assess the reported conduct for the need of a timely warning notice as required under federal law;
- Determine if a pattern of evidence or other similar conduct by the Respondent exists;
- Collaborate with the Provost, or designee, who will determine if any issues of academic freedom exist;
- Explain the University's resolution process, including the evidentiary standard - preponderance of evidence;
- Record the Reporting Party's preferred course of action; and
- Provide the Reporting Party with a written explanation of their rights and options.

The Title IX Coordinator will document all information provided by the Reporting Party during a Title IX Assessment in a Title IX Assessment Report. The purpose of this Report is to record the relevant details as reported to the Title IX Coordinator. This Assessment Report will be shared with the Investigator(s) should a Non-Title IX Formal Complaint be filed. The Title IX Coordinator will also enter non-identifying statistical information about the report into the University's daily crime log.

The University will make a reasonable effort to respect the wishes of the person who experienced sexual harassment or sexual misconduct. However, if the reported incident constitutes an imminent or ongoing threat to campus safety based on the Title IX Coordinator's assessment, the Title IX Coordinator may sign a Non-Title IX Formal Complaint, beginning the Formal Resolution Process. In making this decision, the Title IX Coordinator will consider, but is not limited by, the following factors: whether the person who experienced sexual harassment or sexual misconduct has requested that no formal action be taken; whether they are willing to participate in additional steps; whether the University can undertake any action without their participation; the severity and impact of the sexual harassment or sexual misconduct; whether there exists a pattern of sexual harassment or sexual misconduct; the existence of independent evidence; the existence of relational power differentials; and any legal obligation to proceed based on the nature of the conduct, including sexual harassment and sexual misconduct involving vulnerable adults and involving minors by an adult. The Title IX Coordinator, in their discretion, upon receipt of a report of an alleged occurrence of sexual harassment or sexual misconduct, may determine to sign a Non-Title IX Formal Complaint, and commence the Formal Resolution Process (after taking account of the aforementioned factors), with or without approval of the original reporting party.

Where a Reporting Party requests that a name or other identifiable information not be shared with the Respondent and/or that no formal action be taken, the University may be limited in its ability to fully respond to the matter.

During the Title IX Assessment, the Title IX Coordinator will discuss the availability of supportive measures. Following the Assessment, the Title IX Coordinator will determine if a Non-Title IX Formal Complaint will be filed by the University. The University will balance the Reporting Party's requests with its responsibility to provide a safe and non-discriminatory environment for all University community members. Participation in the sexual harassment and sexual misconduct resolution process is voluntary and supportive measures are available at any time for all involved parties.

The Title IX Coordinator will document each report of sexual harassment or sexual misconduct and will review and retain copies of all reports or documentation as per the University's Record Retention Policy. These records will be kept private to the extent permitted by law.

### **VII. Interim Actions**

At times, the University may take action to ensure the physical or emotional safety and well-being of the University community. The University may remove any person from the University's employment or education programs or activities on an emergency basis if immediate harm to the person or others is threatened by the person's continuance of employment or educational programs or activities. Removal of a person will initiate the University's formal resolution process. Interim actions may include a no-trespass or other no-contact order to be issued.

Faculty members may refer to the [Faculty Handbook](#), Article VII, for additional information regarding faculty procedures.

## **VIII. Sexual Harassment and Sexual Misconduct Formal Complaint Outside the Scope of Title IX**

### **Notice of Complaint**

Upon receipt of a Formal Complaint, the Title IX Coordinator will send the Notice of Complaint to both the Complainant and the Respondent, simultaneously, that includes written notice of the allegations, notice of the University's resolution processes, and the availability of supportive measures.

The University offers two options to resolve a Formal Complaint: Informal Resolution and Formal Resolution. Within these resolution methods, there are timeframes for application of the resolution options. Parties may:

- Begin a Formal Resolution process immediately after the filing of a Formal Complaint.
- Begin an Informal Resolution process immediately after the filing of a Formal Complaint.



- Transition to an Informal Resolution process after a Formal Resolution process has begun, up until the beginning of the Sexual Harassment and Sexual Misconduct Vice Presidential Review.
- Transition to a Formal Resolution process from the Informal Resolution process when the Complainant, Respondent, or University no longer agrees to the terms of the Informal Resolution process.

### **Informal Resolution Process**

The Informal Resolution process involves a facilitated resolution that is voluntary and acceptable to the Complainant, Respondent, and the University after the filing of a Formal Complaint. Both parties must voluntarily agree in writing to participate in the Informal Resolution process.

A full investigation of the Formal Complaint filed is not conducted in the Informal Resolution process. Informal Resolution is a voluntary option that allows parties to resolve disputes in a forum that is separate and distinct from the institution's live-hearing process. It is also discretionary, based on the assessment of the Title IX Coordinator, whether to offer informal resolution at all, or only in certain cases. The University will generally allow only one Informal Resolution per Respondent. Informal Resolution will not be offered as a resolution strategy when the Formal Complaint involves both Students and Employees.

For some types of reported sexual harassment and sexual misconduct, Informal Resolution may offer parties resolution in a timeframe that is shorter than the Formal Resolution in a confidential, non-adversarial manner that allows the parties to discuss the issues and clear up misunderstandings. However, Informal Resolution may not be an appropriate option for cases involving a report of sexual assault, dating violence, domestic violence, or circumstances involving severe misconduct.

An Informal Resolution can be requested by a Complainant or Respondent at any time after a Formal Complaint has been signed. An Informal Resolution process can be requested, even if the parties have entered the Formal Resolution process, up to the beginning of the Sexual Harassment and Sexual Misconduct Vice Presidential Review. Any of the parties can withdraw from the Informal Resolution process and resume the Formal Resolution process, for addressing allegations outside of the Final Rule and under this procedure, at any time prior to reaching a determination regarding a policy violation. However, the University may proceed to address the matter, as it deems appropriate, if there is an imminent threat of safety to the campus community.

Prior to entering the Informal Resolution process, the University must provide written notice to the parties. The written notice will include information regarding:

- The potential outcome of participating in an Informal Resolution process
- The confidentiality of information learned during the Informal Resolution process
- How the Formal Resolution process will resume if any of the parties withdraw from the Informal Resolution process
- The facilitator's inability to be called as a Witness if Informal Resolution cannot reach a mutual agreement and the Formal Resolution process resumes



- Any information obtained during Informal Resolution cannot be used in a subsequent investigation and Sexual Harassment and Sexual Misconduct Vice Presidential Review during the Formal Resolution process

Engaging in the Informal Resolution process is not an admission of responsibility for the allegation or an admission of the falsehood of the allegations. The existence of an Informal Resolution is not viewed as a “Finding of a Policy Violation”. The terms and outcome of the Informal Resolution are negotiable and may result in party-imposed corrective or punitive measures.

Once a Formal Complaint has been resolved through the Informal Resolution process, the agreements are binding according to the resolution terms and the outcome will be enforced by the University. Due to the voluntary nature of entering into an Informal Resolution process, there is no right to appeal the signed resolution agreement.

If the terms of the Informal Resolution agreement are violated, not met, or left incomplete, it is considered a Conduct Violation and will be addressed under the Code of Student Conduct for Students, or under University conduct policies for Employees.

NWU’s Informal Resolution process is conducted by a neutral third party who will collect information about the incident without performing a full investigation, facilitate discussion, and propose solutions for a resolution between the parties. The process will be facilitated with the Complainant and Respondent in separate rooms.

The facilitator will schedule an advance call with each party, separately, prior to the informal resolution meeting. The facilitator will explain the process, goals, and options for the meeting. Following the call, the Informal Resolution Meeting Decorum will be sent electronically to both parties.

Each party may have one Support Person present during the informal resolution meeting. When the Support Person is an attorney, the facilitator must be given 2 days advance notice. The Support Person cannot direct questions or comments to the facilitator, but they may consult with the Student or Employee they are assisting. The facilitator will not unduly allow a Support Person’s presence to inhibit their ability to gather information.

At the beginning of the Informal Resolution Meeting, the facilitator will establish facts that are not in dispute and identify what the parties hope to accomplish and why it is important to reach an agreement. The facilitator will navigate a conversation that attempts to move toward a resolution that will be agreed to and signed by both parties.

Parties are entering into this process freely, voluntarily, and because each party believes that entering this process is in their best interest. Participation in the Informal Resolution process is not required, not a product of coercion, nor is it a condition of continued enrollment, employment or any other right from the party’s educational or employment opportunities (e.g., admission to University events, use of University resources and facilities, Tuition Remission).

## **Formal Resolution Process**

The Formal Resolution process involves a full investigation, live-hearing with cross-examination, determination of policy violation by a Hearing Decision Maker, sanctions if applicable, and the opportunity to both the Complainant and the Respondent to appeal, if the grounds for appeal are met. The Formal Resolution is described in detail in Sections IX – XIV of this procedural document.

### **Meeting with Respondent**

Once a Formal Complaint has been made by the Complainant, the Title IX Coordinator will meet with the Respondent. This meeting is not intended to be an investigative interview. The purpose of this meeting is to inform the Respondent of sufficient details of the Formal Complaint, including:

- Full name of Complainant, if known;
- Conduct constituting a potential policy violation;
- Date, location, and time of alleged incident, if known;
- Overview of the sexual harassment and sexual misconduct resolution process;
- Information about resources, rights, procedural options, and supportive measures;
- The University's presumption that Respondents have not violated a policy until there is a determination that a policy violation has occurred, which is made at the end of the resolution process;
- The University's evidentiary standard - preponderance of evidence;
- Notice of Support Person option;
- Notice of conduct violations for knowingly submitting false statements or false information; and
- Review of the University's policy for privacy and prohibiting retaliation.

Additionally, after the Notice of Complaint has been sent, the University Administrator will set up separate, informational meeting in order to provide detailed information to the Complainant and to the Respondent about the resolution process, including the right to decide whether or not to participate in the process. As at every step in the resolution process, all involved parties may bring a Support Person.

The Title IX Coordinator will send a copy of the Title IX Assessment Report/Formal Complaint to the Investigator.

## **IX. Sexual Harassment and Sexual Misconduct Formal Investigation**

### **Meeting with Investigator**

The University has designated individuals as Investigators who receive training annually. Annual training programs include, but are not limited to, the definition of sexual harassment, the scope of the University's education program or activity, how to conduct an investigation, and how to serve impartially, including to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Moreover, any materials used to train Investigators do not rely on sex stereotypes and promotes impartial investigations and adjudications of formal complaints of sexual harassment. Training materials can be found on the NWU Title IX website.

At its discretion, the University may use multiple Investigators, including internal or external Investigators of its choosing.

Throughout the investigation of a Formal Complaint, the University will ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility remains on the University and not on the parties. The consideration for preservation of evidence does remain with the involved parties. The Investigator is solely responsible for all aspects of the investigation, including whether or not to record the investigation interviews. If the Investigator chooses to record the interviews, there will be a single record of the meetings with the Investigator kept in the form of an audio or video recording. The record is the property of the University and will be maintained by the University. No other parties are permitted to record the interviews.

The Investigator will contact the Complainant, Respondent, and relevant witnesses to schedule interviews. All involved parties may bring one (1) Support Person to this meeting. When the Support Person is an attorney, the Investigator must be given 2 days advance notice. The Support Person cannot direct questions or comments to the Investigator, but they may consult with the Employee they are assisting. The Investigator will not unduly allow a Support Person's presence to inhibit their ability to gather information. Either involved party may change their Support Person at any time.

The Investigator will ensure Rape Shield protections for the Complainant by limiting questions that are not relevant about the Complainant's past sexual behavior.

If a Complainant or Respondent refuses to participate in the investigation or chooses not to answer certain questions from the Investigator, the investigation will continue nonetheless, and decisions will be made without the requested participation from or information from the Respondent.

The Investigator will conduct a thorough, prompt, impartial, and unbiased investigation. All individuals will be treated with appropriate respect, and in a manner considerate of their privacy. An investigation may include multiple, in-person or virtual, meetings with the Investigator. The Investigator will make a reasonable effort to complete the investigation within 30 days, but this time frame may be extended depending on the complexity of the circumstances of each case. Scheduling, University closures, or holidays may affect this timing as well. Any delays in the process will be communicated in writing, simultaneously, to the Complainant and the Respondent.

An investigation will typically include interviews with the Complainant, Respondent, and any relevant witnesses provided by either party or discovered during the investigation, and other individuals who may have direct knowledge about the reported conduct. The Investigator will prepare a written summary of each interview. All those interviewed will have an opportunity to review their interview summary for accuracy and submit modifications or additional information within three days of receipt of the summary from the Investigator.

The Investigator will seek to obtain evidence including text messages, email, photos, social media posts, screen shots, etc. The Investigator may also require access to campus facilities, including residence halls, to gather information and take photos, if necessary. The Complainant and Respondent will have an equal opportunity to provide statements, submit additional information, and/or identify witnesses who may have relevant information. The Complainant, Respondent and any witnesses shall not destroy evidence, including but not limited to the deletion of texts, emails, photos, etc., during the resolution process.

In cases where alcohol and/or other intoxicants are a factor, evaluating incapacitation will require an assessment of whether the involved parties should have been aware of the incapacitation of either party based on an objective and subjective evaluation of the behavior when viewed from the perspective of a sober, reasonable person. Evidence of incapacitation may require evaluating normal and abnormal behaviors of all parties involved, such as vomiting sleeping, blacking out, and unconsciousness.

An investigation may also require an evaluation of whether consent for sexual behavior was given. An essential element of consent is that it be freely given. Freely given consent might not be present, or may not even be possible, in relationships of a sexual or intimate nature between individuals where one individual has power, supervision or authority over another.

In evaluating whether consent was given, consideration will be given to the totality of the facts and circumstances. This includes, but is not limited to, the extent to which a Complainant affirmatively uses words or actions indicating a willingness to engage in sexual contact, free from intimidation, fear, or coercion; whether a reasonable person in the Respondent's position would have understood such person's words and acts as an expression of consent; and whether there are any circumstances, known or reasonably apparent to the Respondent, demonstrating incapacitation or fear.

Intentional falsification, distortion, or misrepresentation of information as part of the Sexual Harassment and Sexual Misconduct resolution process is a violation of University policy. Any person who abuses the University conduct processes in this way may face disciplinary charges for that violation.

Once the Investigator has gathered all relevant information, the Investigator will prepare a Preliminary Investigative Report. This Report will include relevant information gathered during the investigation, with identities redacted. The Investigator may also include prior allegations of, or findings of, violations for similar conduct by the Respondent. At this point in the process, the Investigator will send the Preliminary Investigative Report to the Title IX Coordinator for the jurisdictional review to determine whether an allegation falls outside of the definitions utilized in the 2020 Final Rule for Federal Title IX Regulations. At the discretion of the Title IX Coordinator, a third-party reviewer, or designee, may be utilized. Based on the determination, the Formal Complaint will be resolved utilizing the appropriate NWU Sexual Harassment and Sexual Misconduct policy and procedure.

The Preliminary Report will be sent by the Investigator electronically to the Complainant and Respondent, simultaneously. Both the Complainant and the Respondent will have 10 days to

review the Preliminary Investigative Report and provide follow-up responses or information to the Investigator.

After the preliminary 10-day review period, the Investigator will review follow-up responses and incorporate relevant information into the Final Investigative Report. The names of Witnesses will remain redacted.

Once the Investigator has completed the Final Investigative Report, the Investigator will distribute the Report to the Title IX Coordinator. The Title IX Coordinator will then schedule a meeting with the Respondent's Divisional Vice President for review.

## **X. Sexual Harassment and Sexual Misconduct Vice Presidential or Provost Review**

The Respondent's Division Vice President or Provost is responsible for reviewing the Final Investigative Report and determining responsibility for "violation" or "not in violation" of a University policy, and, if necessary, assigning sanctions in consultation with University Counsel and the Assistant Vice President of Human Resources.

While reviewing the Final Investigative Report, the Respondent's Division Vice President, Provost, or University Counsel may ask the Investigator questions about details included in the Report.

The University recognizes that the Investigator is subject matter expert in the investigation, as well as a subject matter expert regarding the material involved in the investigation. Therefore, the Vice President or Provost may request that the Investigator provide their recommendation regarding a finding for deliberation. In the event that the Title IX Coordinator has filed the Formal Complaint with the University, the Title IX Coordinator may be present to answer questions. If no additional information is needed, the Respondent's Division Vice President or Provost will use the preponderance of the evidence standard to determine a finding.

The Respondent's Division Vice President or Provost will render a finding of "in violation" or "not in violation" of a University Policy and assign sanctions, if applicable. The Respondent's Divisional Vice President or Provost will prepare the Notice of Determination in collaboration with the Title IX Coordinator. The Notice of Determination will be delivered in person as well as in writing.

## **XI. Notice of Determination**

The Notice of Determination which will include the following information:

- Alleged violations
- Procedural steps
- Findings of fact
- Conclusion

- Rationale
- Sanction(s), if applicable
- Appeal procedures

## **XII. Sanctions**

Sanctions will be determined based on the nature and severity of the policy violation(s) and in consideration for the safety of the campus community. Possible sanctions may include, but are not limited to, protective measures, restrictions, letters of reprimand, action plans, performance improvement plans, targeted educational projects, progressive discipline, reassignment, reflection statements, training, counseling, coaching, suspension, and/or separation.

In considering the appropriate sanction, the Vice President or Provost will consider the following factors:

- The Respondent's prior discipline history;
- How the University has sanctioned similar incidents in the past;
- The nature and violence of the prohibited conduct;
- The impact of the conduct on the Complainant;
- The impact of the conduct on the community, its members, or University property;
- Whether the Respondent is reasonably likely to engage in similar conduct in the future;
- The University's values and community standards;
- Any other mitigating or aggravating circumstances; and
- Any sanctions, including termination of a faculty member, must follow the faculty handbook Article VII.

## **XIII. Appeals**

A Complainant or Respondent may each submit one appeal. Faculty members who want to submit an appeal, with follow the appeal process and outlined in the [Faculty Handbook](#), Section VIII. Staff Employees and Students will follow the appeal process identified below.

An appeal must address all concerns related to the Notice of Determination. Appeals must be submitted within 5 days of receipt of the Notice of Determination. The electronic form to submit the appeal can be found on the [Title IX webpage](#) and in the Notice of Determination.

### **Grounds for an appeal:**

The University offers both parties an appeal from a determination regarding responsibility, from the University's dismissal of a formal complaint, or the dismissal of any allegations contained therein, on the following bases:

- To determine whether the resolution process was conducted in accordance with University procedures that affected the outcome of the matter;

- To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original proceedings, because the person appealing did not know such information and/or facts at the time of the original Investigation;
- To determine if any personnel involved in the resolution process had a conflict of interest or bias during the resolution process that would have affected the outcome; and/or
- To determine whether the sanction(s) imposed were proportionate to the misconduct.

Upon receipt of an appeal, the Title IX Coordinator will provide a Notice of Appeal, including sufficient details of the appeal and a link to the Appeal Response Form, to the Complainant and Respondent, allowing 5 days for either party to respond.

Following the 5-day response period, the Title IX Coordinator will forward the appeal, along with the Final Investigative Report, and any other materials relevant to the determination or appeal, to the University President, or designee(s), for review.

The University President, or designee(s), will consider all available documentation. Based on the information provided, the University President will:

- Affirm the findings and/or sanctions determined by the Respondent's Division Vice President; or
- Reverse or affirm the findings and/or modify the sanctions determined by the Respondent's Division Vice President.

The President will prepare the Final Determination of Appeal stating their decision, which is final and binding. The document will include the rationale for the President's decision. The document will be provided to the Title IX Coordinator, who will communicate the President's decision to the Complainant and the Respondent in writing. The Final Determination of Appeal will also be shared with the Assistant Vice President for Human Resources.

The Title IX Coordinator will make a reasonable effort to complete the appeal process within 10 days. Scheduling, University closures, or holidays may affect this timing as well.

## **XIV. Additional Information**

Please note: If a Formal Title IX Complaint is filed under the University's Formal or Informal Processes, and is subsequently dismissed as being outside the scope of Title IX, this procedure is available to the University and the party making the complaint. This procedure is also available to complaints made that are deemed by the University to be outside the scope of Title IX.

In order to comply with laws protecting the privacy of employment records and to provide a process for the consideration of relevant evidence free of intimidation or pressure, documentation related to the sexual harassment and sexual misconduct outside of Title IX resolution process, including, but not limited to, the Title IX Assessment Report, Investigative reports, written testimony, oral testimony, recordings, or other evidence introduced, will not be

disseminated to Third Parties or law enforcement, except as required by law. The University will maintain these records for seven years from the date of the incident, or indefinitely in cases involving a sanction of separation.

This document is thoroughly reviewed on an annual basis and may be updated periodically for accuracy and clarity. The most current version can be found on the Sexual Harassment and Sexual Misconduct Prevention and Response Page of the University's website.

The Title IX office approved these procedures on September 9, 2022. All incidents of sexual harassment and sexual misconduct reported on or after this date will be subject to these procedures. However, the University will apply sexual harassment and sexual misconduct definitions in effect at the time of the incident.



## **Rights and Options** **Regarding Nebraska Wesleyan University's** **Sexual Harassment and Sexual Misconduct Resolution Processes**

The following information provides a summary of rights and options following a report or a complaint of an alleged violation of Nebraska Wesleyan University's policies regarding sexual harassment and sexual misconduct. Please contact the Title IX Coordinator if you have any questions about this information.

### **Rights:**

- 1) To report a sexual harassment and/or sexual misconduct concern to anyone.
  - a) Two main categories of resources on the Nebraska Wesleyan campus include:
    - i) Confidential Resources (University Minister, Campus Advocate, NWU Counselor, and Employee Assistance Program): Confidential Resources are not required to report to the Title IX Office.
    - ii) Campus Security Authority (Employees or officials identified by the University): Campus Security Authorities are required to report disclosures to the Title IX Office.

For clarification about the difference between confidentiality and privacy, please refer to Section IV of NWU's policies regarding Sexual Harassment and Sexual Misconduct located in this document, as well as on the [Sexual Misconduct Prevention and Response](https://www.nebrwesleyan.edu/inside-nwu/sexual-harassment-and-sexual-misconduct-prevention-and-response-0) webpage: <https://www.nebrwesleyan.edu/inside-nwu/sexual-harassment-and-sexual-misconduct-prevention-and-response-0>

- 2) To be treated with appropriate compassion and respect, and in a manner considerate of your privacy.

As noted above, confidentiality cannot be guaranteed unless disclosing to a confidential resource.

- 3) To a prompt and efficient processing of all reports and complaints received by NWU's Title IX Office, in accordance with NWU's procedures.
- 4) To be informed of a Formal Complaint, and the alleged misconduct on which the complaint is based, if you are the Complainant or the Respondent.
- 5) To decide whether or not to participate in the resolution process.

Please note, if a Formal complaint is filed and either party chooses not to participate or chooses not to answer certain questions during the resolution process, the process will continue nonetheless. Decisions will be made without that party's participation.

- 6) To request reasonable accommodations, including but not limited to language translation or interpretation services, in order to allow for participation in the Title IX reporting and resolution process.

- 7) To be supported by a Support Person, at your own expense, during any part of the reporting, assessment, or resolution process. The Support Person may speak only to the individual being supported.
  - a) When the Support Person is an attorney, the administrator hosting the meeting must be given two days advance notice.
  - b) If you desire the support of a Support Person, but cannot find someone that you are comfortable with, please contact a Title IX Coordinator, at [titleIX@nebrwesleyan.edu](mailto:titleIX@nebrwesleyan.edu).
- 8) To be advised by an Advisor of Choice during any part of the reporting, assessment, or resolution process. The Advisor of Choice may only speak to the individual being advised and may only ask relevant questions to involved parties during cross-examination.
  - a) When the Advisor of Choice is an attorney, the administrator hosting the meeting must be given two days advance notice.
  - b) An Advisor of Choice will be provided for the Title IX Hearing for the purpose of cross-examination if the involved party has not appointed one for themselves.
- 9) To request the recusal of any member of the reporting and resolution process because of potential bias.
- 10) To be advised of the determination of the resolution process.
- 11) To appeal the findings if there are grounds for an appeal.

**Options:**

- 1) To request that the Title IX Coordinator assists victims in contacting local Law Enforcement regarding incidents that are considered a criminal offense. The Title IX Coordinator will follow mandatory reporting laws involving abuse or neglect of a minor by an adult.
- 2) To request that the Title IX Coordinator assist complainants or respondents in contacting resources that may provide legal advice.
- 3) To request that Nebraska Wesleyan University provides supportive measures for the parties or witnesses involved in order to ensure equal access to NWU's educational programs and activities.
  - a) Restraining Orders: If you have obtained or obtain a temporary restraining order, or other no contact order, against the alleged perpetrator from a criminal, civil, or tribunal court, please provide that information to the Title IX Coordinator. Nebraska Wesleyan University will take all reasonable action to implement the order.
  - b) Supportive Measures: facilitation of connections to on- and off-campus resources, issuance of a No Contact/Limited Contact Order, change of work or class assignment/location/schedule, change of living space, change of class schedule, and/or security escort.

### **Other Considerations:**

- 1) Preservation of Evidence: It is important that you consider the preservation of evidence. Please see the Medical Care and Evidence Collection document for information on how to protect physical evidence <https://www.nebrwesleyan.edu/sites/default/files/inline-files/medical-care-collection-evidence-7-18-19.pdf>

Evidence in all electronic formats should also be retained (e.g., text messages, emails, photos, social media posts, screenshots, etc.).

- 2) Retaliation: NWU prohibits retaliation by any party against Respondents, Complainants, witnesses, reporters, or anyone involved in or participating in a resolution process. Engaging in retaliation is a separate violation of our University policy and can result in disciplinary action regardless of the outcome of the investigation and resolution of the initial complaint.

# NWU Response to Reports of Sexual Misconduct, Including Supportive Measures

## Response to Reports of VAWA (Violence Against Women Act) Crimes

Nebraska Wesleyan University has programs to prevent sexual misconduct including sexual assault, domestic violence, dating violence and stalking. As outlined in the Reporting sections of the Sexual Misconduct Policies, an individual who wishes to make a report of sexual misconduct is encouraged to make a report directly to the Title IX Coordinator. Specifically trained individuals for the university have been assigned as Title IX Coordinators who will be responsible to gather sensitive information dealing with sexual misconduct. In every report of sexual misconduct, the Title IX Coordinator will conduct a Title IX Assessment. At the conclusion of the Title IX Assessment, in consideration of the Complainant's wishes and the safety of the campus community, the report may be referred for supportive measures and/or a Title IX Complaint may be filed. Supportive measures address a Complainant's safety and well-being and continued access to educational and employment opportunities.

At the conclusion of the Title IX Assessment, the Title IX Coordinator will determine whether to refer the report for supportive measures and/or file a Title IX Complaint. An investigation does not necessarily initiate a Title IX Hearing. Even if an Investigation is not pursued, the University has the discretion to take interim measures that ensure Complainant and campus safety. The university's procedural steps for resolving sexual misconduct or sexual harassment reports/complaints can be reviewed in detail within Section IX Related Campus Policies of this Report or on the Nebraska Wesleyan's Title IX webpage.

The University will inform the Complainant and the Respondent that retaliation is prohibited by law under the Violence Against Women Act (VAWA) and University policy and that the University will take prompt action to protect the safety of any individual. If the University determines that retaliation has occurred through the grievance/resolution processes, it will not be tolerated and will result in applicable sanctions and/or disciplinary action.

The Title IX Coordinator will document each report/complaint or request for supportive measures involving sexual misconduct or harassment and will retain copies of all reports generated. These records will be kept confidential to the extent permitted by law.

## Response to Reports of Sexual Misconduct or Violence

Nebraska Wesleyan University will not tolerate sexual misconduct or violence in any form. Any University community member who believes they have been a victim of sexual misconduct or violence are encouraged to report their complaint to any of the Title IX Coordinators listed below.

- Natasha Moreno, Title IX Coordinator, Located at Burt Hall Office 112. Office Phone – (402) 465-2356, [nmoreno@nebrwesleyan.edu](mailto:nmoreno@nebrwesleyan.edu), or [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)
- Maria Harder, director of Title IX services, Located at Smith-Curtis Office 202E, Office Phone – (402) 465-2117, [mharder@nebrwesleyan.edu](mailto:mharder@nebrwesleyan.edu), or [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)

The University is committed to protecting the privacy of all individuals involved in a report of sexual misconduct or harassment. In any report under this policy, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the allegation.

There are multiple channels for reporting sexual misconduct. A Complainant may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. Complainants may simultaneously pursue criminal and disciplinary action. The University will support Complainants in understanding and assessing these options. The University also urges anyone who becomes aware of an incident of sexual misconduct to report the incident immediately to the University by contacting a University Title IX Coordinator by telephone, email, or in person during regular office hours at their respective locations, email addresses, and/or phone numbers.

There is no time limit for reporting sexual misconduct to the University under this policy, however, the University's ability to respond may diminish over time, as evidence may erode, memories fade, and Respondents may no longer be affiliated with the University. If the Respondent is no longer a Student or Employee, the University will provide reasonably appropriate supportive measures, assist the Complainant in identifying external reporting options, and take reasonable steps to eliminate sexual misconduct, prevent its recurrence, and remedy its effects.

The university's procedural steps for making a report versus filing a complaint for resolving sexual misconduct or sexual harassment reports/complaints can be reviewed in detail within Section IX Related Campus Policies of this Report or on the Nebraska Wesleyan's Title IX webpage. The procedures will also discuss the process for investigation, the Hearing/deliberation, the evidentiary standard used ('preponderance of the evidence' i.e., that it is more likely than not that sexual misconduct or sexual harassment occurred), to determine any policy violation, and outcomes.

### **Supportive Measures as Part of the University Response to Reports of Sexual Misconduct**

The University offers a wide range of resources for Students and Employees to provide support and guidance throughout the initiation, investigation, and resolution of a report of sexual harassment or sexual misconduct. The University will offer reasonable and appropriate measures to facilitate continued access to University employment or education programs and activities for all involved parties. Non-disciplinary, non-punitive individualized services will be offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a report or formal complaint.

The University will keep private any supportive measures provided under this policy to the extent practicable and will promptly address any violation of the supportive measures. The Title IX Coordinator has the discretion to determine the appropriateness of any supportive measure based on all available information and is available to meet with all involved parties to address any concerns about the provision of supportive measures. Supportive measures may include but are not limited to: facilitation of connections to on- and off-campus resources, issuance of a No Contact/Limited Contact Order, change of work/class assignment/location/schedule, change of living space, and/or security escort.

## **Immediate Medical Attention After an Incident of Sexual Violence, Dating Violence, Domestic Violence, or Stalking**

A person who has experienced an act of sexual violence, dating violence, domestic violence, or stalking is encouraged to go to the nearest emergency department to seek medical attention. Doing so will also allow the person the opportunity to participate in a forensic examination to collect physical evidence.

Forensic examinations are conducted by Sexual Assault Nurse Examiners (SANE) who are specially trained to care for persons who have experienced sexual violence and intimate partner violence, address their medical needs, and collect physical evidence. A SANE's first priority is to care for a person's medical needs; a forensic examination will be conducted only after the medical needs of the patient have been addressed.

The exam may involve taking pictures of injuries, swabbing for evidence collection, and performing a pelvic exam. The SANE will explain each step of the exam; the patient has the right to stop the exam at any time, decline any part of the exam, and ask questions about the exam. Patients will be treated for potential sexually transmitted infections. The SANE will provide education on signs/symptoms to watch for and the importance of following up with a primary care provider.

### **Once an individual arrives at the emergency department and requests a forensic examination, the following will occur:**

- The emergency department staff at the hospital will notify an Advocate from Voices of Hope. A person can request an Advocate if one has not been called prior to their interview and examination.
- An Advocate is specially trained to provide support and information about resources to address long-term safety needs. An Advocate can also be present during an exam if the person would like the advocate present.
- The emergency department at the Lincoln hospitals will notify the Lincoln Police Department when an act of sexual violence or intimate partner violence is reported to emergency department staff. The person receiving care may choose whether or not to make a police report.
- Please note it is possible to file an anonymous report of sexual assault to the Lincoln Police Department. Filing an anonymous report allows a person more time to decide whether or not to participate in a criminal investigation.
- Anonymous reports are assigned a number at the police department and that number is noted on the forensic examination kit. An anonymous report will not result in a police investigation unless the person later decides to make a formal report to law enforcement.
  - A person interested in filing an anonymous report and participating in a forensic examination must first obtain an anonymous reporting number. Upon arriving at the emergency department, the person will provide this number to hospital staff.
  - Obtaining an anonymous reporting number can be done by calling the Lincoln Police Department Non-Emergency Line (402-441-6000), or by visiting the Lincoln Police Department Website: <http://www.lincoln.ne.gov/city/police/anonfrm.htm>

**If a person wishes to receive a forensic examination, the following steps are recommended to help preserve physical evidence:**

- Visit a hospital within 72 hours of a sexual assault.
- DO NOT change clothing. Bring extra clothes to the emergency department if possible. Otherwise, emergency department staff will provide you with a change of clothing. If you have changed your clothes, put the clothes that were worn when the assault occurred—including underwear—in a paper bag and bring with you to the emergency department.
- DO NOT shower or bathe.
- DO NOT brush your teeth, drink fluids, eat or smoke.
- Put any other article that may contain evidence (such as sheets, towels, washcloths, etc.) in a paper bag and bring it to the emergency department.

**Note:** The above steps are recommendations to help preserve physical evidence. A person may still receive a forensic examination if the above recommendations are not followed. If more than 72 hours have passed since the assault occurred, a person may still receive a forensic exam and is encouraged to seek medical treatment.

### **Sexual Misconduct Prevention Programs**

Nebraska Wesleyan University strives to create a culture that is free from sexual harassment, sexual violence, intimate partner violence, and stalking. Violence prevention programs are provided to incoming students during New Student Orientation and are provided to all students throughout the year. Policies, procedures, information on rights, available options both on- and off-campus, and resources are available on the Title IX webpage, via the Nebraska Wesleyan University website. In-person presentations are provided in various classroom settings for all academic levels that cover prevention and awareness concepts. All student athletes receive Bystander Intervention training, as required by the NCAA, in addition to other awareness and prevention topics.

The goals of Nebraska Wesleyan University's violence prevention programs are to increase understanding of the dynamics of sexual violence, intimate partner violence, and stalking, and to increase awareness of safe, positive options for bystander intervention. Bystander Intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

NWU offers risk reduction programming and awareness options to students and employees designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and the campus community address conditions that facilitate violence. Information about risk reduction does not promote victim blaming.

Programs to prevent dating violence, domestic violence, sexual assault, and stalking are designed to be comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that are:

- Culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome
- Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels; and
- Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees

Programming is offered to all students and employees that includes the policy and procedures that the institution must follow when sexual harassment or sexual misconduct is reported.

#### Programs for Incoming Students:

All incoming traditional undergraduate students participate in Sex Signals or Sex Rules, programs that provides information about the power and control dynamics of sexual violence, issues related to gender-based discrimination, and safe options for intervening as a bystander. At the beginning of this program, the Title IX Coordinator, counseling staff, and victim advocate address all incoming students to provide awareness about how to report sexual misconduct and the option for students to seek support from confidential resources on campus. Graduate students receive relevant information as part of their academic pursuit in various classes.

#### Ongoing Programs:

At Nebraska Wesleyan University, students are continuously provided with opportunities to gain an understanding of sexual violence, dating violence, and stalking, and to practice skills to intervene and stop these acts of violence.

Nebraska Wesleyan University uses a sexual violence prevention and education program developed by Voices of Hope. The program is designed to engage audiences in a discussion about issues related to sexual violence and violence prevention. Program objectives include: providing participants with information about campus and community resources; providing education about consent, sexual assault, intimate partner violence, and stalking; allowing participants to practice safe, positive methods of bystander intervention.

Students, staff, and faculty also participate in a variety of efforts to bring awareness to the issues of sexual violence, dating violence, domestic violence, and stalking. These efforts include screenings of films that discuss the impact of sexual violence, classroom-based discussions about sexual violence prevention, participation in relevant community events, social media campaigns, Coloring Coffee and Consent event, and the Clothesline Project.

#### **Safe and Positive Options for Bystander Intervention:**

Sexual violence is a preventable crime. Nebraska Wesleyan University is committed to creating a culture that is free from sexual violence. Should a Nebraska Wesleyan University staff, faculty, or student notice warning signs that indicate an act of sexual violence, intimate partner violence, or other concerning behavior may occur, they are encouraged to take the following steps:



1. **Assess for Safety:** It is not always safe for a bystander to intervene in a situation. When an incident involves physical violence, one or both parties are unknown to the bystander, threats are exchanged, or the bystander feels the situation may be dangerous, the situation is likely unsafe. **If students, staff, or faculty witness a situation they feel is unsafe, they are urged to get to a safe location, call 911, and make note of any observations.**
2. **Intervene Directly:** If it is safe to do so, a bystander can directly intervene by checking in with the victim and offering to get help.
3. **Intervene Indirectly:** If it is safe to do so, a bystander can indirectly intervene by seeking assistance from a support person on campus who can address the issue.

Nebraska Wesleyan University recognizes that sexual violence is never the fault of the victim and that sexual violence prevention requires a community-wide approach. Safety of students, staff, and faculty is the university's top priority. There are a few steps that members of campus can take in order to increase their personal safety. These include:

- Possessing a knowledge of campus and community resources for reporting sexual violence and seeking confidential support (see "Response to Reports of Sexual Misconduct or Violence" and "Confidential Support Services" in Section IX (g) of this Report);
- Knowing the number for campus security (402-432-9238);
- Being aware of surroundings while on campus and in the community; and
- Promptly reporting any concerning behavior to campus security authorities so that it can be addressed in a timely manner.

### **Response to Reports of Sexual Harassment**

It is the policy of Nebraska Wesleyan University that no member of the community may sexually harass another. Sexual harassment is a form of sexual discrimination. It is the responsibility of all members of the Nebraska Wesleyan community to understand, prevent and combat sexual harassment. Any activity perceived as sexual harassment should be reported. Unwanted sexual advances, requests for sexual favors, verbal/physical conduct of a sexual nature constitutes sexual harassment when (1) submission to such conduct is either an implicit or explicit condition of an individual's education/employment, (2) submission to or rejection of such conduct is used as a basis for academic/employment decisions affecting the individual or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's academic/work performance, creates an intimidating/hostile/offensive educational/work environment. Any person found in violation of this policy may be subject to disciplinary actions.

Persons who feel they have been subjected to acts of sexual harassment should refer such acts to one of the persons listed below:

- Natasha Moreno, Title IX Coordinator
- Maria Harder, director of Title IX Services

### **Response to Reports of Personal Harassment**

It is the policy of Nebraska Wesleyan University to be committed to freedom of speech and expression as published in the Student Code of Conduct. As a liberal arts University and an academic community, we affirm the rights of our community members to freedom of expression. We also affirm the right of community members to an academic and campus living environment in which acts of personal harassment are not tolerated. Conduct which abuses or degrades

another person including (but not limited to) bullying, threats, intimidation, verbal/physical abuse, stalking, coercion or hateful behavior is inconsistent with the mission and values of the University and is unacceptable.

Any person found in violation of this policy may be subject to disciplinary actions. For confidential and anonymous reporting, submissions can be sent via the Report a Concern link located on any Nebraska Wesleyan webpage or call the Campus Conduct Hotline© at 1-866-943-5787.

Other reporting options include contacting any of these campus resources:

- Maria Harder, director of Title IX services, (402) 465-2117.
- Erin Hoffman, vice president of student life, (402) 465-2113.
- Kevin Bollinger, director of student integrity and campus community, (402) 465-2498.
- Any peer assistant, residential education coordinator or any campus employee as a CSA.

# Campus Safety Information

Although Nebraska Wesleyan responds to crimes through various measures, prevention and the reporting of crimes are ultimately the individual's responsibility. Various programs are designed to aid our community in learning safe living habits, including programming provided by Residential Education and Greek Life.

The university will inform its students and employees of confirmed incident(s) that could threaten their health and/or safety. The type of communication and its delivery will depend upon the circumstances of the incident.

In addition to communication of confirmed incidents when needed, the University also provides regular and ongoing training to students and employees about campus security procedures and prevention practices. NWU encourages students and employees to be responsible for their own security/safety and for the security/safety of others. Specific training programs offered are listed in Section X of this report under "Prevention and Awareness Programming."

## NWU Security

NWU employs a security agency to provide security for students, faculty, staff and facilities. Their purpose is to be the "eyes" and "ears" of our campus, and to assist LPD. Having security personnel is a proactive measure with the intent to prevent crimes. In conjunction with students' own precautions, Security can be an immediate resource in preventing crime.

Security staff are trained in crime prevention, fire prevention, safety, patrol techniques, first aid and public relations. Each also receives training on campus to familiarize him or herself with the facilities and procedures.

Security carries a cellular phone (402) 432-9238 to take calls. Security's duties are twofold: to protect students and other persons, and to protect University property. Their responsibilities include: securing buildings, checking offices, classrooms, noticing signs of break-ins, patrolling campus grounds, off campus properties owned by NWU and parking lots, providing a security escort when requested, and reporting security related maintenance requests.

NWU is under the jurisdiction of LPD's Northeast Team. LPD Officers have the right and the obligation to come onto campus property. Security is independent of LPD and state police agencies; however, they provide reports of crime and may call the LPD for service as conditions warrant. LPD communicates to the University on a timely basis any criminal activity our students engaged in.

Lincoln Fire & Rescue (LFR) responds to all fire and rescue calls to the campus and is authorized to investigate and prosecute incidents regarding false fire alarms, fire extinguisher tampering and any fires of suspect origin.

## Institutional and community resources

There are a variety of institutional and community resources for harmed parties of sexual harassment and sexual misconduct. Contact the Title IX Coordinator for detailed information on any of the following resources.

#### Within the institution

NWU Student Financial Aide  
Prairie Wolves Student Emergency Fund  
NWU Student Health Center  
NWU Counseling Center (Counseling and Mental Health Services)  
On-campus Victim Advocacy (Voices of Hope)  
Office of Global Engagement

#### Within the Community

Legal Services through Nebraska Victim Assistance Program  
Off-campus Victim Advocacy (Voices of Hope)  
Directions Employee Assistance Program  
Nebraska Immigration Legal Assistance Hotline

## **Campus Security escort service**

Security can escort students, faculty and staff on campus 24 hours a day 7 days a week. Security will escort the individual as he/she is available. More information about the program can be obtained through the Physical Plant.

## **Security Cameras**

There are 105+ active security cameras that monitor on campus—many with four-way directional viewing capacity. Security cameras are at most residential facility entrances as well as other locations throughout campus.

## **Missing person**

If a person has not been seen by a roommate, classmate, faculty member, family member or other campus staff in a reasonable amount of time, their absence may be cause for concern and should be reported to Campus Security immediately.

If a member of the NWU community has reason to believe that a student is missing, whether or not the student resides on campus, efforts will be made to locate the student to determine their state of health and well-being through collaboration with LPD, Campus Security and Residential Education. If a student resides on campus, either Campus Security or the REC (Residential Education Coordinator) will conduct a welfare check into the student's room. If the student resides off campus, Campus Security will work with local police to request a welfare check. University officials will also attempt to determine the student's whereabouts through contact with friends, faculty or on-campus employers of that student verifying class attendance, work schedules, organizational or academic meetings.

If located, verification of the student's state of health and intention of returning to a campus routine is made. When appropriate a referral to Counseling Services will be made.

If not located, notification will be made to the emergency contact provided by the student within 24 hours of receiving the initial report. If the student resides off campus emergency

contacts and family will be encouraged to report the situation to the appropriate law enforcement agency.

Suzanne's Law requires law enforcement to notify the national Crime Information Center when someone between the ages of 18 and 21 is reported missing (Federal law as of 2003 and part of the national "Amber Alert.")

Students are encouraged to register an emergency contact in case they are determined missing. Students living on campus should register their emergency contact person with the Residential Education Office. Students residing off campus should inform the Registrar's Office of their emergency contact. Contact information will be registered confidentially, however, will be made accessible to campus officials and Law Enforcement as part of a missing persons investigation.

## **Sex Offender Registry**

In accordance with the "Campus Sex Crimes Prevention Act" of 2000, which amends the Jacob Wetterling's, Crimes against Children and Sexually Violent Offender Registration Act, the Jeanne Clery Act and the Family Educational Rights and Privacy Act of 1974 states that NWU provides the link to the State Sex Offender's list. Nebraska Sex Offender Registry can be used to review information about Nebraska communities and is provided and is provided as a public notice about sex offenders in the state. Sex offender information is not meant to retaliate against the offenders or their families in any way, but rather allows a community to develop awareness. The Nebraska Sex Offender Registry can be accessed at <https://sor.nebraska.gov>. Convicted sex offenders employed by or enrolled as a student at any institution of higher education are also required to provide notice of their status to that institution.

The Campus Sexual Violence Elimination Act (Campus SaVE Act of 2013), was amended to the Jeanne Clery Act as a companion legislation to Title IX Regulations.

## **Rights of next of kin**

If an alleged victim of a crime is deceased as a result of that crime, the alleged victim's next of kin shall be notified of their right to request the outcome of the disciplinary proceedings conducted by the University, including sanctions.

## **Greek housing security**

The fraternity and sorority chapter houses on the perimeter of the campus are not operated by Nebraska Wesleyan University; however, Greek chapter houses meeting approved University Housing standards are considered to be approved housing. The 1990 Campus Security Act includes these facilities within the jurisdiction of the Act. Members should familiarize themselves with the safety and security procedures for their individual chapter houses. Members who detect any physical structures that present a safety or security risk should report them to the house manager, chapter president, or house director. Members should follow the procedures for emergencies established by each chapter; generally, these are to call 911 for life-threatening situations and to report criminal activity to the Lincoln Police Department. The University's security personnel are not authorized to provide services to the interiors of Greek chapter houses.

Access to Greek chapter houses is restricted to members and their invited guests.

## **Campus safety violation fines**

To protect the safety of all NWU students, visitors and other community members, individuals who operate vehicles on the campus beyond approved drives and individuals who are on the roof of any campus building will be automatically assessed a \$300 fine. In addition, these individuals may be subject to further disciplinary action under the Code of Student Conduct.

## **Outdoor recreational activities**

To ensure the safety of all members and guests of the NWU community, students, faculty and staff are asked to be considerate of others while engaging in any recreational or sporting activity on the campus. Any sporting or recreational activity being conducted must not interfere with any classroom activity or present a safety hazard to others on the campus. Additionally, the use, possession or storage of hover boards or similar devices on this campus is not permitted.

## **Weapons**

Possession, storage or use of any type of firearms or weapons including, but not limited to knives, paintball guns, B.B. and air guns, or explosive material of any kind, including but not limited to fireworks and flammable liquids are not allowed on University property or in Greek Houses. Firearms or other weapons confiscated by Nebraska Wesleyan officials will be turned over to the Lincoln Police Department for appropriate disposal and the student will be referred to the Student Conduct Board.

# Access to Campus Facilities

## Residential Facilities Security

The following descriptions are the University's efforts to provide a residential environment sensitive to student safety and security. No systems, however, can guarantee individual safety. Everyone must exercise personal caution and accept individual responsibility for the safety of their person and property:

- Each facility has a REC (Residential Education Coordinator) who is a member of the professional staff, assigned to and/or living in the facility. In most instances, several PAs (Peer Assistants) who are students also live on-site.
- PAs make rounds of Plainsman, Centennial, Pioneer, Johnson, Heim/White Suites and the Townhouses each evening. PAs do safety checks of outside doors and first floor windows to ensure they are locked, and screens are on windows.
- All residence halls are secured 24 hours a day. Only the residents of each building, commuter students participating in the Connect to Campus Program, admissions, and maintenance employees can enter using an electronic fob access system.
- There are some student housing apartments that do not have fob systems: 5240, 5400 and 5448 Madison; 2800 N 54<sup>th</sup> Street.
- All rooms and/or apartments have "coded" keys. If a room key is lost, the finder will not know the room number or the building of the key. Once a key is reported lost or stolen, the "core" of the lock can be readily changed to prevent entry by the person who found the key; thus, the coded keys have a two-step protection system.
- A cellular phone is attended by a Residential Education staff member on duty 24/7.
- Emergency lighting will come on if there is a power loss in the hallways and stairways. Each facility has fire alarms, extinguishers, smoke/heat detectors and sprinkling systems on each floor.
- Most room doors have a peephole to enable residents to establish identity before admitting anyone.
- Security cameras are at most residential facility entrances as well as at other locations throughout campus.

## General Facilities Security

Campus buildings have regularly scheduled operating hours. These hours which are posted on the external front doors of each building are maintained to protect everyone and the equipment in them. The hours are subject to change during holidays, down times and to accommodate special activities. Should emergencies arise, alterations to posted hours may be necessary.

Employees, students and visitors should not be in buildings outside of fob access hours. If someone needs to stay after fob access hours, they must have the appropriate permission by contacting NWU Security at (402) 432-9238. Employees and students should always carry an official University photo identification card and their personalized access fob.

# Electronic Fob Policy: Access to Campus Facilities

In an effort to improve campus safety and security, a new fob access policy has been implemented. Beginning Saturday, NWU campus buildings will be closed overnight but can be accessed with your electronic fob during the following hours:

## Public Hours (Monday – Friday)

- 7:00 am – 5:00 pm (Academic Buildings)
- 7:00 am – 7:00 pm (Story Student Center)

## Fob Access to Academic Buildings and Student Center

- 7:00 am – 11:00 pm (Students - 7 days a week)
- 7:00 am – 11:30 pm (Employees - 7 days a week)

## Library Hours (no fob access)

- 7:45 am – Midnight (Monday – Thursday)
- 7:45 – 5:00 pm (Friday)
- Noon to 6:00 pm (Saturday)
- Noon to Midnight (Sunday)

## Weary Center/Athletic Facility

- 8:00 am – 7:00 pm (Public hours and for students)
- For employees (fob access 24/7)
- Open Rec Hours, 7 days a week, 10:00 am – 1:00 pm and 3:00 – 7:00 pm

## Special Events

- Employees may submit a maintenance request when special events require doors to be unlocked in the evening, weekend or outside of fob-accessible building hours.

## Fob Information

- Students and employees needing a fob may request one from the Physical Plant Office.
- Lost fobs will be charged \$10.00 for a replacement.
- Broken fobs may be returned and replaced by the Physical Plant Office.
- Allowing anyone else access with my key/fob may be grounds for disciplinary action and termination of access.



# Nebraska Wesleyan University Student Alcohol and Drug Policy

In accordance with the Safe and Drug Free Schools & Campuses Act (34 C.F.R. Edgar Part 86) the following are the standards of conduct expected of Nebraska Wesleyan students, as well as, descriptions of short- and long-term health risks associated with substance abuse, applicable state and local laws, and resources for substance abuse.

## NEBRASKA WESLEYAN UNIVERSITY - Student Alcohol and Drug Policy

Because of the serious problems related to the use of alcoholic beverages and controlled substances, and because this practice can lead to a loss of effectiveness in human life and does not contribute to the teaching-learning process, the Nebraska Wesleyan community reaffirms its position of serious concern about and opposition to the use of alcoholic beverages and/or controlled substances in this college environment. The Nebraska Wesleyan community urges that all of its members exercise mature judgment and social responsibility when making decisions regarding the use of alcoholic beverages and other drugs. This University community further denounces and prohibits the sale, possession, distribution or use of illegal drugs by students, faculty or staff. The University urges the members of this academic community to become actively engaged in drug and alcohol education, prevention and treatment programs where appropriate.

While the Board of Governors recognizes the rights of students to be protected from intrusive drug testing, the Board acknowledges that substance abuse or illegal drug usage may hinder a student's performance (academic, athletic or other), health, or safety. Additionally, the Board recognizes that such abuse or use may adversely affect the interests of the University community. As such, it is the determination by the Board of Governors that Nebraska Wesleyan is authorized to implement appropriate procedures to protect the interests of the students and the University community. Such procedures may include the implementation of a screening process or the request for an evaluation from a qualified professional to determine the seriousness of the problem. In the implementation of these procedures, Nebraska Wesleyan is committed to protect the due process and privacy rights of students.

Violations of law and/or violations of the Code of Student Conduct shall be adjudicated by the proper student conduct bodies.

### **Prohibited Conduct**

- It is a violation to use or possess mind-altering substances that may be intended to create a hallucinogenic effect, as such substances represent a potential risk to the health and safety of students. Anyone found to use or possess hallucinogenic substances not otherwise covered by this policy will be reported and referred to the Student Conduct Board.

- Persons who are under 21 years of age may not possess or consume any alcoholic beverage or possess alcoholic beverage containers – full or empty – anywhere on campus (this includes any type of bottle or can display which contains alcohol containers).
- It is illegal, and also a violation of this policy, for a person under the age of 21 to be present at gatherings where alcohol is present. Further, it is a violation of this policy for any person to be in the presence of alcohol in a space not designated as “alcohol tolerant.” This includes students who knew, or reasonably should have known, they were in the presence of alcohol.
- It is a violation of the law, as well as this policy, to be under the influence of, to possess, to distribute, to use or to sell illegal drugs or any other controlled substance or agent having the potential for abuse, except pursuant to a physician’s or dentist’s prescription, or to possess paraphernalia for drug use on University-owned or controlled property. This includes students who knew, or reasonably should have known they were in the presence of illegal drugs.
- Neither the college nor any group which owes its existence to Nebraska Wesleyan, whether officially or unofficially, formally or informally, will be permitted to use any organizational funds held by the institution for the purchase of any kind of alcoholic beverage, without approval of the Administration.
- Nebraska Wesleyan University organizations may not provide alcoholic beverages at off-campus functions.
- No alcoholic beverages of any kind will be permitted at any on-campus function involving any students on the Nebraska Wesleyan University grounds or in any area other than in areas approved in Residence Halls and Greek Houses without approval from the Nebraska Wesleyan Administrative Council.
- Guests of students are bound by the same rules regarding alcoholic beverages and illegal drugs as are students. Violators will be asked to leave the campus and/or referred to local authorities. Students may be held accountable for the behavior of their guests.
- Individuals and their guests will be held responsible for their behavior and any destruction that occurs while under the influence of alcohol or other drugs. The University will not tolerate the endangerment or injury to any person, including the self, while under the influence of any alcohol or drugs.
- Public intoxication and/or disruptive behavior related to the consumption of alcoholic beverages will be considered a violation of the alcohol policy.
- Public intoxication and/or disruptive behavior related to the consumption of alcoholic beverages by an under-age student will be considered a violation of state law prohibiting such behavior.
- No open containers of alcohol may ever be carried or transported anywhere on campus.
- Possession or use of any unauthorized containers or paraphernalia: Beer bongos, funnels, shot glasses, or any other paraphernalia that suggests the transportation, concealment, manufacturing or consuming of alcohol are prohibited on campus.
- All drinking games are prohibited.
- It is illegal for any student of legal age to sell or supply minors with alcoholic beverages or illegal drugs of any kind. The procurement of alcoholic beverages or illegal drugs for minors is not only a violation of state law; it is an act which may create significant personal liability for a student and their parents if the minor is injured or injures another person while under the influence of alcoholic beverages or illegal drugs. Procuring is treated in the same fashion as repeat violations of the Alcohol & Drugs policy and will automatically be referred to the Student Conduct Board.

Nebraska Wesleyan University cannot regulate businesses which sell alcoholic beverages to individuals while they are off campus. The management of off-campus businesses which sell alcohol shall be

responsible for checking identification when alcoholic beverages are purchased or consumed by members of the University community off campus.

Alcohol / drug use during group off-campus travel may also be regulated by other NWU campus policies. NWU maintains jurisdiction over student behavior off campus in any situation where it appears that the student's conduct may present a danger or threat to the health or safety of the student or others.

### **“Alcohol Tolerant” Rooms in a Residential Facility**

All residence hall rooms/suites, apartments or townhouse units are alcohol free unless students, as permitted by law and university policy, follow established procedures to declare their room/suite, apartment or townhouse unit “alcohol tolerant.” To help with the enforcement of this policy, the residential education staff will be given a list of those rooms that have been declared alcohol tolerant. Note that Greek living units do not have “alcohol tolerant” rooms.

To declare a room/suite/apartment/unit alcohol tolerant, all roommates must go to the Residential Education Office located in Centennial Hall, show a legal form of identification to a professional Residential Education staff member, and sign an alcohol tolerant card for their living space. This process can take place after all roommates have reached the age of 21.

- Only students 21 years of age or older can live in alcohol tolerant rooms.
- No alcohol tolerant room may permit minors in the room if there is alcohol present.
- Any gathering in an individual student room where alcohol is present may not exceed a safe and manageable occupancy for that room. The University has decided that the “safe and manageable occupancy” may not exceed twice the number of residents assigned to that room. (Four-person suites or townhouses may have a total of eight people in the room, counting the assigned residents; a double room may have four people in the room; and a single room may have two people in the room).
- If it is discovered that underage drinking is occurring in an alcohol tolerant room, all residents present at the time of the offense will be held responsible.
- Consumption or possession of alcohol is prohibited in any public area, such as basements, dining rooms, public hallways, lounges, bathrooms, utility closets, shower rooms, kitchens, and computer rooms. Public areas also include any vehicle on campus property.
- All persons (residents and their guests) consuming and/or possessing alcohol must have a valid ID, which contains their date of birth.
- Students who are 21 years of age may only consume alcohol in rooms designated alcohol tolerant; doors to alcohol tolerant rooms must be closed when alcohol is being consumed.
- Bulk containers holding more than one liter of alcohol (i.e., kegs, party balls, pony kegs, multiple cases of beer, large quantities of wine or hard alcohol, etc.) or any common source containers of alcohol (including any mass-produced drinks such as “trashcan” punches, margaritas, etc.) are not permitted in any campus living unit or on any campus property.
- Grain alcohol (Everclear, Alcohol-95, and Golden Grain, etc.) is never permitted on campus.
- Beer in glass bottles is prohibited.

Alcohol Tolerant status is a privilege and not a right. If an approved, alcohol tolerant room is found in violation of the alcohol policy, the room's alcohol tolerant status will be removed for a time deemed appropriate by the Residential Education Coordinator.

\*\*Students must re-apply for alcohol tolerant status each academic year.

### **Alcohol Policy for Any Greek Living Units**

Greek houses (fraternities and sororities) meeting criteria for approved campus housing are subject to the laws governing alcohol and illegal drugs and are subject to the policies governing the possession and consumption of alcoholic beverages established by Nebraska Wesleyan University and by national fraternal organizations. Alcohol is prohibited in fraternity and sorority houses year-round. University policies do not prevent a chapter from invoking other restrictions.

### **Enforcement**

Violations may be referred directly to local authorities and/or action may be taken by Student Life / Residential Education.

Generally, a first or second alcohol violation will be treated as a “lower level” violation adjudicated by the Residential Education Coordinator in the building where the violation occurred. Any additional violations will be considered a “higher level” violation to be adjudicated by the Student Conduct Board. All alleged violations related to illegal drugs will be considered a “higher level” violation and will be adjudicated by the Student Conduct Board. At the discretion of the Residential Education Coordinator, any alleged violation of this policy may be adjudicated as a “higher level” violation based on the severity of the situation and the compliance of the involved individual(s).

For more information about student conduct procedures, see the Code of Student Conduct, specifically Section 8: The Student Conduct Process.

The University will impose sanctions on students for violations of the Alcohol and Drugs Policy (consistent with local, state, and federal law). These sanctions may include educational projects, disciplinary warning, disciplinary probation, restitution, revocation of privileges or restriction of activities, disciplinary suspension, and disciplinary expulsion. The local authorities may impose legal sanctions that may include incarceration and/or fines for those found guilty of violating the local, state, and federal law.

### **Off Campus and Lincoln Police Department Referrals**

In an agreement with the Lincoln Police Department, the Nebraska Wesleyan University Student Life Office is informed of all NWU students who violate drug or alcohol laws in Lincoln / Lancaster County. Nebraska Wesleyan adjudicates off-campus violations that impact the health and safety of students and the surrounding community or affect a substantial University interest as defined in Section 2: Jurisdiction of the Code of Student Conduct. The primary types of off-campus violations adjudicated include but are not limited to:

- a) Felony charges;
- b) Act of harm charges, including, but not limited to, assault, harassment, or threats;
- c) Repeated or high-risk alcohol offenses;
- d) Repeated Driving Under the Influence offenses;
- e) Repeated or high-risk drug misdemeanor charges

Nebraska Wesleyan enforces this policy 1) to prevent and reduce behavior that undermines student academic success and that impacts the educational mission of the University, 2) to improve the health and safety among students and community members, 3) to provide timely support and resources for those who may be struggling with substance abuse/addiction, and 4) to prevent violence in and around Nebraska Wesleyan’s campus.

If a student has not previously violated the Code of Conduct on campus or received off-campus charges, they will not be referred to the Student Conduct System for a first offense low level alcohol or other drug misdemeanor charge. Instead, they will meet with the Student Conduct System Administrator or designee. The purpose of this meeting is to communicate that Nebraska Wesleyan cares about the health and safety of our students and the community; to provide substance abuse prevention resources; and to educate about the University's authority and jurisdiction in addressing off campus violations. Future off-campus charges by the same student, however, will result in the filing of a student conduct complaint.

### **Parent Notification**

Nebraska Wesleyan University is aware that students have rights and expectations in terms of their privacy, as explained under the Family Educational Rights and Privacy Act (FERPA). FERPA, however, permits NWU officials to disclose, without student consent, educational records which may include personally identifiable information, in order to protect the health or safety of students or other individuals. At such times, records and information may be released to appropriate parties such as law enforcement officials, public health officials, and trained medical personnel. In addition, the Department of Education interprets FERPA to permit institutions to disclose information from education records to parents/guardians if a health or safety emergency involves their student FERPA (34 CFR 99.31).

As related to this policy, in accordance with the Family Educational Rights and Privacy Act (FERPA), the University may notify parents/guardians in the following circumstances:

- Serious concern for the health and safety of a student
- Serious or repeated offenses related to alcohol or drug use

### **Amnesty**

Safety is first and foremost. As a Nebraska Wesleyan community member, we expect students to demonstrate the utmost care and concern for others in matters of medical emergency and/or crisis. To encourage students to immediately seek necessary medical attention for themselves or others, the University will not impose disciplinary action of record for a violation of student alcohol or drug possession or consumption against individual students when they seek assistance from a NWU staff member, a health care professional, or law enforcement for a medical emergency or condition.

For more information about amnesty, and to learn about other circumstances where amnesty is offered to students, refer to section 8 of the Code of Student Conduct.

### **Health Risks**

The health risks of using illegal drugs and/or alcohol are difficult to predict due to the unknown chemicals involved in these substances. Alcoholic beverages are a central nervous system depressant. It slows down bodily functions such as heart rate, pulse and respiration. Drinking large enough amounts of alcohol over a period of time can produce psychological and physical dependence or alcoholism. Prolonged heavy drinking can lead to stomach irritation, ulcers, malnutrition, high blood pressure, lowered resistance to disease, and possible irreversible brain and nervous system damage. Alcohol can be harmful to unborn babies, resulting in fetal alcohol syndrome. The safest choice is not to drink at all during pregnancy. Operation of a motor vehicle or boat while under the influence of alcohol or drugs can result in impaired driving, presenting a health risk to the driver, passengers and others. There is also a wide range of health risks associated with the use of illegal drugs such as marijuana, cocaine and anabolic steroids. The diminishment of intellectual ability, long-term genetic damage and other health

risks may be severe and lead to permanent impairment or even death. Even occasional use or experimentation can have significant negative consequences.

If you or someone you know is having difficulties because of alcohol or substance abuse, please seek assistance. The campus and the Lincoln community include individuals and agencies with the resources to help. The staff in Student Health Services (ext. 2375) or Counseling Services (ext. 2464) are good places on campus to start and to receive community referrals.

### **City and State Laws on Violations and Penalties for Abuse of Alcohol and Drugs**

NOTE: Nebraska Wesleyan University complies with the Drug-Free School and Communities Act Amendments of 1989 (Public Law 101-226) through the publication of the Alcohol and Drugs Policy and other written materials distributed annually to students and employees. Further information is available from the Student Life Office (ext. 2223).

## **LAWS GOVERNING ABUSE OF ALCOHOL AND DRUGS**

This information summarizes selected provisions of Federal, State and local laws which provide criminal and civil penalties for unlawful possession or distribution of alcohol or drugs. (References are to Nebraska statutes unless otherwise indicated)

### **Alcohol Laws**

#### **Minor In Possession**

Nebraska law makes it illegal for a person under the age of 21 years to sell, dispense, consume, or possess alcohol. (§ 53-180.02) Penalties for violation of this law may include one or more of the following: impoundment of the offender's driver's license for thirty days or more; the requirement to attend an alcohol education class; the requirement to complete twenty hours or more of community service; or submission to an alcohol assessment by a licensed counselor. (§ 53-180.05(4) and § 53-106(1))

Nebraska law also prohibits a minor from obtaining alcohol by misrepresenting one's age or creating false identification for a person under the age of 21. (§ 53-180.01 and § 53-180.05)

#### **Safe Harbor for Requesting Emergency Medical Assistance**

If a person has otherwise violated the Minor-in-Possession law, no penalty will be imposed if the person (i) requested emergency medical assistance in response to a possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent; (ii) was the first person to make the request for medical assistance; and (iii) remained on the scene until the medical assistance arrived and cooperated with medical assistance and law enforcement personnel, when emergency assistance was requested for the possible alcohol overdose of another person. (§ 53-180.05(4) and § 53-181)

#### **Procuring Alcohol for Minors**

Nebraska law makes it illegal to sell, furnish, give away, exchange, deliver, or permit the sale, gift, or procuring of any alcoholic liquors to or for any minor. (§ 53-180) Violation of this law is generally punishable by not more than a 1-year imprisonment or a \$1,000 fine or both. (§ 53-180.05(1) and § 53-106(1)) However, if alcohol is knowingly and intentionally provided to a minor and the minor's consumption of the alcohol or impaired condition leads to the serious bodily injury or death of any

person, the person who provided the alcohol is guilty of a Class IIIA felony, which includes a mandatory minimum of at least 30 days' imprisonment. The penalty for a Class IIIA felony is a 3-year imprisonment and 18-month post release supervision or a \$10,000 fine or both and a minimum of a 9-month post-release supervision if imprisonment is imposed. (§ 53-180.05(2) and § 28-105(1))

### **Consumption on Public Property**

It is a violation of Nebraska law for any person to consume alcoholic liquors upon property owned or controlled by the State or any governmental subdivision thereof, unless authorized by the governing bodies having jurisdiction over such properties. (§ 53-186)

### **Driving While Intoxicated--Age 21 and Above**

Operating or being in physical control of a vehicle while under the influence of alcoholic liquors or drugs is a violation of Nebraska law when such person has a blood alcohol concentration ("BAC") of .08% or more. (§ 60-6,196) Violators are subject to a range of penalties, which can include fines, imprisonment, license revocation and use of an ignition interlock device installed at their expense. Persons with higher concentrations of alcohol, a BAC of .15% or more, are subject to stiffer penalties.

### **Driving While Intoxicated--Under Age 21**

Nebraska has a "zero-tolerance" DWI law for underage drinkers. This law makes it illegal for a person under the age of 21 to drive if he or she has a BAC of .02% or more. Violation will result in the impoundment of the driver's license for 30 days, and if the driver refuses to submit to a blood or breath test, the driver's license will be impounded for 90 days. These penalties are in addition to any that may result if the BAC is above .08%. (60-6,211.01)

### **Local Liquor Laws**

Local laws may also make it a crime to operate a motor vehicle under the influence of alcohol or to commit certain acts involving the consumption or possession of alcohol (e.g., "open container" laws).

### **Laws Governing Illegal Possession of Controlled Substances**

Nebraska's Uniformed Controlled Substances Act ("UCSA") governs the regulation of most illegal drugs, which are also called controlled substances. (§ 28-401 et seq.) There are other Nebraska laws which establish penalties for various drug-related offenses. Federal and local laws also regulate the manufacture, distribution and use of controlled substances.

### **Prohibited Acts**

Under the UCSA, it is illegal to manufacture, distribute, deliver, dispense or possess with the intent to take any of these actions involving controlled substances or counterfeit controlled substances. The definition of controlled substances includes, but is not limited to marijuana, cocaine, heroin, amphetamines, and anabolic steroids. Depending on the type of controlled substance involved, the quantity, and the nature of the offense, violations of the UCSA can result in fines up to \$10,000 and imprisonment up to 20 years.

### **Crimes Involving Minors**

Any person who is age 18 or older is subject to enhanced penalties for knowingly and intentionally manufacturing, distributing, delivering or possessing with intent to commit one of these actions involving controlled substances to persons under the age of 18 (a) within 1,000 feet of a school, college, university, or playground or (b) within 100 feet of a youth center, public swimming pool, or video arcade. The law

also provides for an enhanced penalty for anyone 18 or older who employs, uses, induces, or coerces any person under age 18 to commit any act which violates the UCSA. (§ 28-416(4) and (5))

Persons under the age of 18 who violate the drug laws may also be subject to sentencing provisions which include impounding driver's licenses or permits, completion of community service and attending drug education classes. (§ 28-416(4))

### **Using Controlled Substances for Unauthorized Purpose**

Persons may legally possess controlled substances which have been prescribed by licensed health practitioners, if they are used for the prescribed purpose. It is illegal to be under the influence of a controlled substance which is being used for a purpose other than the treatment of a sickness or injury as prescribed or administered by a licensed practitioner. If a person is prosecuted under this provision, it is sufficient for the State to show that the accused manifested symptoms or reactions caused by the use of any controlled substance and the State is not required to show that the accused was under the influence of a specific controlled substance. (§ 28-417)

### **Drug Paraphernalia Offenses**

The UCSA also prohibits the use, or possession with the intent to use, drug paraphernalia used to manufacture, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body. (§ 28-441) "Drug paraphernalia" includes such things as hypodermic syringes, needles, pipes, bongs, roach clips, and other items used, designed, or intended for use with controlled substances. (§ 28-439) Use or possession of drug paraphernalia is punishable by fines up to \$500, depending on whether it is a first or repeat offense. (§§ 28-441 and 28-436)

Nebraska law prohibits the manufacture and delivery of drug paraphernalia generally (§ 28-442) The penalties for delivery or manufacture of drug paraphernalia can include up to 6 months in prison, a \$1,000 fine, or both. (§§ 28-442 and 28-106) There are enhanced penalties for persons over the age of 18 who deliver drug paraphernalia to persons who are under the age of 18 and at least 3 years his or her junior. (§§ 28-442 and 28-106)

### **Inhaling or Drinking Controlled Substances**

The UCSA prohibits persons from breathing, inhaling, or drinking any compound, liquid, or chemical containing substances for the purpose of inducing a condition of intoxication, stupefaction, depression, giddiness, paralysis, inebriation, excitement, or irrational behavior, or in any manner changing, distorting, or disturbing the auditory, visual, mental, or nervous processes. (§ 28-417) Violations can result in a penalty of up to three months imprisonment, a \$500 fine, or both. (§28-106)

### **Offsite resources for Mental Health and Substance Abuse**

Blue Valley Behavioral Health	402-261-4017
CenterPointe	402-475-5161
The Bridge Behavioral Health Detox	402-477-3951
Fresh Step Recovery and Wellness Center	402-434-2730
Independence Center	402-481-5268
Lutheran Family Services	402-435-2910
St. Monica's	402-441-3768
Touchstone	402-474-4343



# NEBRASKA WESLEYAN UNIVERSITY ALCOHOL AND DRUG POLICY FOR EMPLOYEES

In accordance with the Safe and Drug Free Schools & Campuses Act (34 C.F.R. Edgar Part 86) the following are the standards of conduct expected of Nebraska Wesleyan employees, as well as, descriptions of short- and long-term health risks associated with substance abuse, applicable state and local laws, and resources for substance abuse.

## NEBRASKA WESLEYAN UNIVERSITY - Employee Alcohol and Drug Policy

Because of the serious problems related to the use of alcoholic beverages and controlled substances, and because this practice can lead to a loss of effectiveness in human life and does not contribute to the teaching-learning process, the Nebraska Wesleyan community reaffirms its position of serious concern about and opposition to the use of alcoholic beverages and/or controlled substances in this college environment. The Nebraska Wesleyan community urges that all of its members exercise mature judgment and social responsibility when making decisions regarding the use of alcoholic beverages and other drugs. This University community further denounces and prohibits the sale, possession, distribution or use of illegal drugs by students, faculty or staff. The University urges the members of this academic community to become actively engaged in drug and alcohol education, prevention and treatment programs where appropriate.

### **ALCOHOL AND DRUG POLICY FOR EMPLOYEES**

- Employees are prohibited from the illegal use, sale, dispensing, distribution, possession, or manufacture of illegal drugs, controlled substances, narcotics, or alcoholic beverages on Nebraska Wesleyan University premises or work sites.
- In addition, the University prohibits off-premises abuse of alcohol and controlled substances, as well as the possession, use, or sale of illegal drugs, when these activities adversely affect job performance and job safety, violate federal, state, or local laws or adversely affect the University's reputation in the community.
- The consumption of alcoholic beverages is prohibited during work hours for all Nebraska Wesleyan University employees unless it is at a social function where the serving of alcohol beverages has been formally sanctioned by the University.
- It is unlawful and strictly prohibited for Nebraska Wesleyan University employees to manufacture, distribute, dispense, possess, or use without medical authorization mind- or mood-altering chemicals or controlled substances in the work environment.
- As a condition of employment, all employees must abide by the terms of this statement, and must report to the human resource office any arrest and all subsequent conviction under a

criminal drug statute for conduct in or out of the workplace no later than five days after the arrest and any subsequent conviction.

- Employees will be subject to disciplinary action, up to and including termination, for violations of this policy.

### **City and State Laws on Violations and Penalties for Abuse of Alcohol and Drugs**

NOTE: Nebraska Wesleyan University complies with the Drug-Free School and Communities Act Amendments of 1989 (Public Law 101-226) through the publication of the Alcohol and Drugs Policy and other written materials distributed annually to students and employees. Further information is available from the Student Life Office (ext. 2498).

### **LAWS GOVERNING ABUSE OF ALCOHOL AND DRUGS**

This information summarizes selected provisions of Federal, State and local laws which provide criminal and civil penalties for unlawful possession or distribution of alcohol or drugs. (References are to Nebraska statutes unless otherwise indicated)

#### **Alcohol Laws**

##### **Minor in Possession**

Nebraska law makes it illegal for a person under the age of 21 years to sell, dispense, consume, or possess alcohol. (§ 53-180.02) Penalties for violation of this law may include one or more of the following:

- Impoundment of the offender's driver's license for thirty days or more;
- the requirement to attend an alcohol education class; the requirement to complete twenty hours or more of community service; or
- submission to an alcohol assessment by a licensed counselor.

§ 53-180.05(4) and § 53- § 28-106(1) Nebraska law also prohibits a minor from obtaining alcohol by misrepresenting one's age or creating false identification for a person under the age of 21.

§ 53-180.01 and § 53-180.05) Safe Harbor for Requesting Emergency Medical Assistance.

If a person has otherwise violated the Minor-in-possession law, no penalty will be imposed on the person (i) requested emergency medical assistance in response to a possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent; (ii) was the first person to make the request for medical assistance; and (iii) remained on the scene until the medical assistance arrived and cooperated with medical assistance and law enforcement personnel, when emergency assistance was requested for the possible alcohol overdose of another person. (S 53-180.05(4) and S 53-181).

##### **Procuring Alcohol for Minors**

Nebraska law makes it "legal to sell, furnish, give away, exchange, deliver, or permit the sale, gift, or procuring of any alcoholic liquors to or for any minor. (S 53-180) Violation of this law is generally punishable by not more than a 1-year imprisonment or a \$1,000 fine or both. (S 53-180.05(1) and S 28106(1)) However, if alcohol is knowingly and intentionally provided to a minor

and the minor's consumption of the alcohol or impaired condition leads to the serious bodily injury or death of any person, the person who provided the alcohol is guilty of a Class IIIA felony, which includes a mandatory minimum of at least 30 days' imprisonment. The penalty for a Class IIIA felony is a 3-year imprisonment and 18month post release supervision or a \$10,000 fine or both and a minimum of a 9-month post-release supervision if imprisonment is imposed. (S 53-180.05(2) and S 28-105(1))

### **Consumption on Public Property**

It is a violation of Nebraska law for any person to consume alcoholic liquors upon property owned or controlled by the State or any governmental subdivision thereof, unless authorized by the governing bodies having jurisdiction over such properties. (S 53-186)

### **Driving While Intoxicated—Age 21 and Above**

Operating or being in physical control of a vehicle while under the influence of alcoholic liquors or drugs is a violation of Nebraska law when such person has a blood alcohol concentration ("BAC") of .08% or more. (S 60-6,196) Violators are subject to a range of penalties, which can include fines, imprisonment, license revocation and use of an ignition interlock device installed at their expense. Persons with higher concentrations of alcohol, a BAC of .15% or more, are subject to stiffer penalties.

### **Driving While Intoxicated—under Age 21**

Nebraska has a "zero-tolerance" DWI law for underage drinkers. This law makes it illegal for a person under the age of 21 to drive if he or she has a BAC of .02% or more. Violation will result in the impoundment of the driver's license for 30 days, and if the driver refuses to submit to a blood or breath test, the driver's license will be impounded for 90 days. These penalties are in addition to any that may result if the BAC is above .08%. (60-6,211.01)

### **Local Liquor Laws**

Local laws may also make it a crime to operate a motor vehicle under the influence of alcohol or to commit certain acts involving the consumption or possession of alcohol (e.g., "open container laws").

### **Laws Governing Illegal Possession of Controlled Substances**

Nebraska's Uniformed Controlled Substances Act ("UCSA") Governs the regulation of most illegal drugs, which are also called controlled substances. (S 28401 et seq.) There are other Nebraska laws which establish penalties for various drug-related offenses. Federal and local also regulate the manufacture, distribution and use of controlled substances.

Prohibited Acts under the UCSA, it is illegal to manufacture, distribute, deliver, dispense or possess with the intent to take any of these actions involving controlled substances or counterfeit controlled substances. The definition of controlled substances includes, but is not limited to marijuana, cocaine, heroin, amphetamines, and anabolic steroids. Depending on the type of controlled substance involved, the quantity, and the nature of the offense, violations of the UCSA can result in fines up to \$10,000 and imprisonment up to 20 years.

### **Crimes Involving Minors**

Any person who is age 18 or older is subject to enhanced penalties for knowingly and intentionally manufacturing, distributing, delivering or possessing with intent to commit one of these actions involving controlled substances to persons under the age of 18 (a) within 1,000 feet of a school, college, university, or playground or (b) within 100 feet of a youth center, public swimming pool, or video arcade. The law also provides for an enhanced penalty for anyone 18 or older who employs, uses, induces, or coerces any person under age 18 to commit any act which violates the IJCSA. (S 28-416(4) and (5))

Persons under the age of 18 who violate the drug laws may also be subject to sentencing provisions which include impounding driver's licenses or permits, completion of community service and attending drug education classes. (S 28416(4))

### **Using Controlled Substances for Unauthorized Purpose**

Persons may legally possess controlled substances which have been prescribed by licensed health practitioners, if they are used for the prescribed purpose. It is illegal to be under the influence of a controlled substance which is being used for a purpose other than the treatment of a sickness or injury as prescribed or administered by a licensed practitioner. If a person is prosecuted under this provision, it is sufficient for the State to show that the accused manifested symptoms or reactions caused by the use of any controlled substance and the State is not required to show that the accused was under the influence of a specific controlled substance. (S 28-417)

### **Drug Paraphernalia Offenses**

The UCSA also prohibits the use, or possession with the intent to use, drug paraphernalia used to manufacture, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body. (S 28-441) "Drug paraphernalia" includes such things as hypodermic syringes, needles, pipes, bongs, roach clips, and other items used, designed, or intended for use with controlled substances. (S 28-439) Use or possession of drug paraphernalia is punishable by fines up to \$500, depending on whether it is a first or repeat offense. (SS 28-441 and 28-436) Nebraska law prohibits the manufacture and delivery of drug paraphernalia generally (S 28442) The penalties for delivery or manufacture of drug paraphernalia can include up to 6 months in prison, a \$1,000 fine, or both. (SS 28-442 and 28-106) There are enhanced penalties for persons over the age of 18 who deliver drug paraphernalia to persons who are under the age of 18 and at least 3 years his or her junior. (SS 28-442 and 28-106)

### **Inhaling or Drinking Controlled Substances**

The UCSA prohibits persons from breathing, inhaling, or drinking any compound, liquid, or chemical containing substances for the purpose of inducing a condition of intoxication, stupefaction, depression, giddiness, paralysis, inebriation, excitement, or irrational behavior, or in any manner changing, distorting, or disturbing the auditory, visual, mental, or nervous processes. (S 28417) Violations can result in a penalty of up to three months imprisonment, a \$500 fine, or both. (528-106)

## Resources

### Employee Assistance Program

The Employee Assistance Program (EAP) provides confidential access to professional counseling services for help in confronting such personal problems as alcohol and other substance abuse, marital and family difficulties, financial or legal troubles and emotional distress.

- The Employee Assistance Program (EAP) provides confidential access to professional counseling services for help in confronting such personal problems as alcohol and other substance abuse, marital and family difficulties, financial or legal troubles and emotional distress.
- The EAP is available to all employees and their immediate family members offering problem assessment, short-term counseling and referral to appropriate community and private services.
- Information given to the EAP counselor may be released only if requested by the employee in writing.
- All counselors are guided by a professional code of ethics.
- No information related to an employee's participation in the program is entered into the personnel file.
- EAP provides coaching services to supervisors and receive mandatory employee referrals from supervisors through the Human Resource Office.
- Counseling will not relieve an employee of responsibility for meeting acceptable job performance and attendance standards.

Questions about this policy and implementation procedures should be referred to the Human Resource Office.

### Resources outside of the Employee Assistance Program

- |   |              |
|---|--------------|
| • Blue Valley Behavioral Health           | 402-261-4017 |
| • CenterPointe                            | 402-475-5161 |
| • The Bridge Behavioral Health Detox      | 402-477-3951 |
| • Fresh Step Recovery and Wellness Center | 402-434-2730 |
| • Independence Center                     | 402-481-5268 |
| • Lutheran Family Services                | 402-435-2910 |
| • St. Monica's                            | 402-441-3768 |
| • Touchstone                              | 402-474-4343 |

# COVID-19 (coronavirus) Operational Safety Plan

The health and safety of our community is always a top concern. As you may be aware, the federal COVID-19 public health emergency declaration ended in May 2023, however we want to remind you of the recommended guidance if you test positive for COVID-19.

With our core value of community at the forefront, Nebraska Wesleyan feels strongly that vaccinations are the best protection against the risk of serious illness from COVID-19 and provide us the opportunity to return to the thriving experiences in and outside of the classroom that Nebraska Wesleyan is known for. Nebraska Wesleyan will continue to follow the guidance of the CDC and the Lincoln-Lancaster County Health Department, and we will make any necessary adjustments should directed health measures change.

## Hygiene and Wellness

- Individuals are encouraged to self-monitor for symptoms of COVID-19. A list of symptoms can be found: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>
- Students, faculty and staff are encouraged to stay home if they are feeling ill.
- Hand sanitizer stations will continue to be provided in each campus building.
- Upgraded air filters (MERV 13) will be maintained in campus buildings.
- Exemptions or extensions have been approved for some individuals on a case-by-case basis.

## Exposure and Positive Case Procedures

- NWU will remain in close contact with the Lincoln-Lancaster County Health Department (LLCHD)
- NWU will no longer monitor or manage reports of COVID-19 exposures
- NWU will no longer perform internal contact tracing

## General Guidance

All students, faculty and staff who are presumed positive or confirmed positive for COVID-19:

- Must isolate for a minimum of 5 days (Day 0 through day 5)
  - Day 0 is the date of symptom onset, OR the date of a positive result if you are asymptomatic.
  - Students required to isolate will do so in place in their residence hall room, apartment, or house while wearing a well-fitted mask.
- If after 5 days your symptoms have resolved or if your symptoms are resolving (fever-free for at least 24 hours without fever reducing medications, no cough or sneezing), you can discontinue isolation.
- If your symptoms persist, continue to isolate until your symptoms improve.

- It is strongly encouraged to wear a face covering when around others for an additional 5 days after symptom resolution to minimize the risk of viral transmission.
- There is no requirement to obtain a negative COVID-19 test prior to returning to work or school.

## Additional Guidance for Students

COVID-19 tests are available at [Student Health](#). Please schedule an appointment [here](#).

Students who test positive for COVID-19 should alert their instructors about their need to miss class. Students should also alert their on-campus employment supervisor or coach, as needed.

Housing, meals and restrooms during isolation:

- Students required to isolate will do so in-place in their residence hall room, apartment, or house while wearing a well-fitted mask.
- Students in isolation will use the restroom in their place of residence but must wear a well-fitted mask when they leave their rooms or enter the restroom.
- Students with a meal plan will be issued a reusable food container that may be used for grab-and-go takeout meals in the dining hall. Students should wear a well-fitted mask the entire time while leaving their room to pick up meals.

## Faculty/Staff Reporting

Faculty who test positive for COVID-19 should contact their department chair and the Provost, Graciela Caneiro-Livingston.

Staff who test positive for COVID-19 should contact their supervisor and request sick leave through self-service.

## Section X: Prevention and Awareness Programming

As part of its commitment to the prevention of Prohibited Conduct, Nebraska Wesleyan University offers a variety of education and awareness programs. Students, faculty, and staff receive prevention and awareness programming as part of their orientation as well as on-going training and related programs on an annual basis. Listed below are some of the trainings offered.

### 2021 Annual Prevention and Awareness Programming and Trainings

Goals for Training Concepts:

Awareness of Sexual Misconduct including rape, acquaintance rape, dating violence, domestic violence, sexual assault, stalking

Awareness of Prevention Efforts and Tactics, Bystander training, Personal Safety

Awareness of Fire Safety, Alcohol Use, Crime Reporting, University Policy & Procedures

<b>Program Name</b>	<b>Date</b>	<b>Target Audience</b>	<b>Approx. No. in Attendance</b>
Gender-Based Violence Prevention and Response training	1/19/2022	Softball team	18
Gender-Based Violence and Bystander Intervention	1/20/2022	Integrative Students	29
Gender-Based Violence Prevention and Response training	1/31/2022	Track and Field	93
Gender-Based Violence Prevention and Response training	2/2/2022	Wrestling	25
Gender-Based Violence Prevention and Response training	2/17/2022	Men and Women Tennis	12
Gender-Based Violence and Bystander Intervention	2/22/2022	Justice Course Students	9
Gender-Based Violence Prevention and Response training	3/1/2022	Women and Crime students	9
DOJ grant and Role, including GBV	3/17/2022	Grant writing students	7
GBV Prevention and Consent	4/26/2022	Human Sexuality	27
DOJ grant and Role, including GBV	5/5/2022	Grant writing students	7
GBV Prevention and Response PA Training	8/9/2022	Peer Assistants	27
GBV and Prevention	8/15/2022	PWW Leaders	26
Gender-Based Prevention and Response training	8/16/2022	Soccer Team	52
Gender-Based Violence Prevention and Response training	8/17/2022	Football Team	119
Gender-Based Violence Prevention and Response training	8/17/2022	Volleyball Team	26
Gender-Based Violence Prevention and Response training (During Prairie Wolf Welcome)	8/20/2022	Incoming Students	257
Sex Signals	8/20/2022	Incoming Students	257
Gender-Based Violence Prevention and Response training	8/31/2022	Spirit Squad	30
Gender-Based Violence Prevention and Response training	9/1/2022	Baseball team	53
Bystander Intervention	9/12/2022	Identity Course	18
Bystander Intervention and Title IX resources	9/16/2022	AWS Course	18
Title IX response and resources	10/3/2022	Zeta Psi	23
Gender-Based Violence Prevention and Response training	10/13/2022	Swim Team	34
Gender-Based Violence Prevention and Response training (Make-up)	10/19/2022	Swim Team Member	1



Gender-Based Violence Prevention and Response training (Make-up)	10/21/2022	Swim Team Member	1
Title IX Trivia and resource information	11/17/2022	Students	10
<b>Programming Campaigns</b>			
Healthy Relationship Passive Program (email campaign)	2/16/2022	Residential Students	600
Healthy Relationship Passive Program (tabling event)	2/17/2022	Johnson & Pioneer Hall Residents	20
<b>Planned Fire Drills</b>	<b>DATE</b>		
Centennial Hall	3/1/2022	Centennial Hall residents	37
Johnson Hall	3/29/2022	Johnson Hall residents	24
Plainsman Hall	4/5/2022	Plainsman Hall residents	41
Centennial Hall	4/11/2022	Centennial Hall residents	55
Johnson Hall	4/22/2022	Johnson Hall residents	48
Pioneer Hall	4/22/2022	Pioneer Hall residents	43
Heim/White Suites	4/27/2022	Heim/White Suites residents	98
Townhouse Village (all units)	4/27/2022	Townhouse Village residents	82
Townhouse Village (all units)	4/28/2022	Townhouse Village residents	82
Centennial Hall	8/22/2022	Centennial Hall residents	44
Pioneer Hall	8/23/2022	Pioneer Hall residents	36
Johnson Hall	8/23/2022	Johnson Hall residents	42
Plainsman Hall	8/25/2022	Plainsman Hall residents	44
Townhouse Village (all units)	9/2/2022	Townhouse Village residents	28
Townhouse Village (all units)	9/28/2022	Townhouse Village residents	81
Johnson	10/3/2022	Johnson Hall residents	59
Pioneer	10/3/2022	Pioneer Hall residents	60
Centennial	10/3/2022	Centennial Hall residents	90
Heim/White Suites	10/4/2022	Heim/White Suites residents	174
Plainsman	10/20/2022	Plainsman Hall residents	54

# Section XI: Missing Student Notification Procedures

## Lincoln Campus (Residential Campus)

If a member of the Nebraska Wesleyan University community has reason to believe that a student is missing for 24 hours, whether or not the student resides on campus, the student's name and reason for concern will be reported immediately to one of the following:

- Director of the physical plant, (402) 219-1334
- Assistant director of the physical plant, (402) 499-9815
- Director of residential education, (402) 465-7579
- Vice president of student life, (402) 465-2154.

These individuals will collaborate with the Threat Assessment Core Team, LPD, the Physical Plant security office, and residential education to assist in locating the missing student.

If there is evidence of foul play, a student can be determined missing before 24 hours have lapsed. NWU will notify LPD within 24 hours of determination that a student is missing unless LPD was the entity that made the determination that the student was missing.

If the missing student is under 18 years of age, and not emancipated, the University will contact a custodial parent or guardian, in addition to the emergency contact designated by the student within 24 hours of the determination that the student is missing.

If the missing student is over the 18 years of age, or is an emancipated minor, the University will contact the emergency or confidential contact designated by the student within 24 hours of the determination that the student is missing.

Students are encouraged to register an emergency contact in case they are determined missing and may update this emergency contact annually. Students' emergency and confidential information will be kept in a separate file that can only be accessed by authorized campus officials. This information will only be disclosed to law enforcement personnel in furtherance of a missing person investigation.

While the contact person remains confidential, nothing precludes an institution from notifying a student's parents, or anyone else they deem necessary to help find the missing student. The FERPA health and safety exception fully permits this.

The University may use any or all of the following resources to assist in locating the student:

- Call the student's room;
- Conduct a welfare check in the student's room;
- Talk to the student's PA, roommate and floor mates to see if anyone can confirm the missing student's whereabouts and/or confirm the date, time and location the student was last seen;
- Secure a current student ID or other photo of the student from a friend;
- Call and text the student's cell phone and call any other numbers on record;
- Send the student an email;
- Check all possible locations mentioned by the parties above including, but not limited to: library, residence hall lounges, classroom and recreational facilities, etc.;

- Contact or call any other on-campus or off-campus friends or contacts that are made known, which could include checking a student's social networking sites such as Facebook and Twitter;
- Ascertain the student's car make, model and license plate number;
- Contact friends, faculty or on-campus employees to verify class attendance, work schedules and organizational or academic meetings; and/or
- If the student resides off campus, the Physical Plant security office will work with LPD to request a welfare check.

Students are encouraged to register an emergency contact in case they are determined missing and may update their emergency contact annually. Students of legal age are not required to register a confidential contact person, therefore, law enforcement will be responsible for contacting next of kin.

## **XII. Fire Safety Information and Procedure for Evacuation**

NWU evacuation and procedures for fire safety on campus follow emergency and evacuation listed in Section VI of this report.

### **Procedures for Evacuation of Student Housing Facilities after a Fire**

If a fire occurs, it should be reported immediately to the Lincoln Fire & Rescue (LFR) by calling 911. Fire alarms should be activated and the building evacuated. A call should be placed to the residential education coordinator on-call and the Physical Plant security office. The responding residential education coordinator and Physical Plant security office are responsible for notifying the assistant dean for student success & residential education who will notify the vice president of student life, the provost, the vice president for finance and administration, and the director of the physical plant. All occupants of the building are to be accounted for when everyone is out.

### **On-Campus Student Housing Facilities Fire/Evacuation Drills**

Each residential facility is required to have fire drills each semester to prepare and educate residents about fire safety issues in community living situations. Immediately upon moving into a residence hall, every student should become familiar with fire exit routes and the locations of fire extinguishers. Detailed instructions and procedures to be followed in case of fire and for fire drills are posted in every room. When a fire alarm sounds, all persons must immediately evacuate the building, exiting by the most direct safe route. Occupants must evacuate the building to designated checkpoints to ensure their personal safety. All residents must report to their designated evacuation points. All occupants must evacuate in a timely manner. Disciplinary action may be taken in cases of failure to evacuate.

Residential education staff will periodically check smoke detectors in all rooms. Drills and smoke detector checks will not always be announced. Failure to evacuate the building during a fire and/or drill will result in a \$250 fine as well as the possibility of additional sanctions as outlined in the Code of Student Conduct. During break periods, the residential education staff will check rooms for safety before closing the buildings.

In addition to the policy that appears in the Student Handbook referenced above, evacuation instructions are posted on the back of student room doors. There are also evacuation posters (fire & tornado) near the Student Center building exits.

### **Fire Safety/Emergency Equipment**

Disciplinary action will be taken against anyone who falsely, intentionally, or negligently tampers with or activates fire safety equipment. Fire safety equipment includes smoke/heat detectors, sprinkler heads, fire extinguishers, pull stations, alarm panels, and exterior doors. Tampering with a smoke detector or other fire safety equipment can result in a \$250 fine. All on campus residential units are equipped with fire sprinklers. Tampering with any facet of the sprinkler system, including hanging items on the sprinkler head or pipes will result in a \$250 fine: additional restitution may be incurred for damage or loss due to a student's intentional or negligent actions. Health and safety walk-throughs by residential education staff occurs each break closing in all campus-owned residential housing.

All fire equipment in on-campus student housing facilities is tested by certified fire protection companies once a year and as needed, (Nebraska Wesleyan's Physical Plant Team checks all fire extinguishers, emergency lights and cigarette receptacles the first week of every month).

### **Fire Safety for On-Campus Student Housing**

Each on-campus student housing facility has sprinkler systems, heat/smoke detectors, fire extinguishers, pull stations, horns/bells/strobes, emergency lighting, and fire doors to resident rooms, stairwells, laundry rooms and kitchens. Each on-campus housing facility's fire panel is tied directly to the LFR. The fire panels are also monitored by Per Mar. When an alarm is received, Per Mar will alert LFR and Nebraska Wesleyan University.

Nebraska Wesleyan only allows approved, safe, low wattage portable electrical appliances. This includes: hair dryers, curling irons, non-halogen desk lamps, radios, TVs, stereos, electric blankets, computers, fans, thermostatically controlled coffee makers, hot pots and popcorn poppers. All candles and candle warmers are strictly prohibited in on-campus housing. Additional sources of ignition that are prohibited include, but are not limited to, incense, hookahs, lanterns, charcoal, lighter fluid, Bunsen type burners and propane.

Outdoor grilling is only allowed with University provided and authorized grills that are located north of Plainsman Hall and on the west side of the Townhouse Village. Personal grills are not allowed on University property.

Smoking/vaping is not permitted in any on-campus housing or any building on campus. Campus community members smoking outside must do so at least 15-feet from the building. All cigarette butts must be placed in receptacles provided.

## Description of On-campus Student Housing Facility Fire Safety Systems and Drills

Facility	Fire Alarms Monitored Off Site	Have Sprinkler Systems	Smoke/ Heat Detectors	Have Fire Extinguishers	Evacuation Plan Placards	Evacuation/ Fire Drills Done Each School Year	Fire Rated Doors On All Resident Rooms Stairwells Laundry Rooms Kitchens Entryways
Centennial Hall	X	X	X	X	X	2	X
Johnson Hall	X	X	X	X	X	4	X
Pioneer Hall	X	X	X	X	X	3	X
Plainsman Hall	X	X	X	X	X	2	X
Heim & White Suites	X	X	X	X	X	3	X
Heurmann House	X	X	X	X	X	3	X
Holder House	X	X	X	X	X	3	X
Huge House	X	X	X	X	X	3	X
Finley House	X	X	X	X	X	3	X
Unvert House	X	X	X	X	X	3	X
Apts. 5019 Huntington	N/A	X	X	X	X	0*	X
Apts. 5033 Huntington	X	X	X	X	X	0*	X
Apts. 2800 N 54 <sup>th</sup>	N/A	X	X	X	X	0*	X
Apts. 5240 Madison	N/A	X	X	X	X	0*	X
Apts. 5400 Madison	N/A	X	X	X	X	0*	X
Apts. 5448 Madison	N/A	X	X	X	X	0*	X

\*No drill button/alarm system

2022 Crime Statistics - Lincoln	On Campus	University Controlled (Non-campus)	Public Property	GRAND TOTAL	Residence Halls (subset of On-Campus)
<b>Crimes</b>					
Aggravated Assault	1	0	0	1	0
Arson	0	0	0	0	0
Burglary	3	0	0	3	2
Motor Vehicle Theft	5	0	0	5	0
Murder, Non-Negligent Manslaughter	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0
Robbery	0	0	0	0	0
<b>Sex Offenses</b>					
Rape	7	0	0	7	4
Fondling	4	0	0	4	4
Incest	0	0	0	0	0
Statutory Rape	0	0	0	0	0
<b>Arrests</b>					
Liquor Law Violations	6	0	0	6	6
Drug Abuse Violations	0	0	0	0	0
Weapons Violations	0	0	0	0	0
<b>Disciplinary Referrals</b>					
Liquor Law Violations	69	0	0	69	69
Drug Abuse Violations	5	0	0	5	5
Weapons Violations	0	0	0	0	0
<b>Violence Against Women Act Crimes (VAWA)</b>					
Domestic Violence	0	0	0	0	0
Dating Violence	1	0	0	1	1
Stalking	4	0	0	4	2

Hate Crimes	Total Sum	Race	Religion	Sexual Orientation	Gender	Gender Identity	Disability	Ethnicity	National Origin
Murder, Non-Negligent Manslaughter									
Rape									
Fondling									
Incest									
Statutory Rape									
Robbery									
Aggravated Assault									
Burglary									
Motor Vehicle Theft									
Arson									
Assault									
Theft/Larceny									
Intimidation									
Destruction/Damage/Vandalism of property									

**Lincoln Campus:** There were no fires in 2022. There are no Clery reportable crimes reported based on hate crimes for the campus in 2022.

2021 Crime Statistics - Lincoln	On Campus	University Controlled (Non-campus)	Public Property	GRAND TOTAL	Residence Halls (subset of On-Campus)
<b>Crimes</b>					
Aggravated Assault	2	0	1	3	2
Arson	0	0	0	0	0
Burglary	2	0	0	2	0
Motor Vehicle Theft	1	0	0	1	0
Murder, Non-Negligent Manslaughter	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0
Robbery	0	0	0	0	0
<b>Sex Offenses</b>					
Rape	1	0	0	1	0
Fondling	3	0	0	3	3
Incest	0	0	0	0	0
Statutory Rape	0	0	0	0	0
<b>Arrests</b>					
Liquor Law Violations	0	0	0	0	0
Drug Abuse Violations	0	0	3	3	0
Weapons Violations	0	0	0	0	0
<b>Disciplinary Referrals</b>					
Liquor Law Violations	66	0	0	66	66
Drug Abuse Violations	0	0	0	0	0
Weapons Violations	0	0	0	0	0
<b>Violence Against Women Act Crimes (VAWA)</b>					
Domestic Violence	0	0	1	1	0
Dating Violence	3	0	0	3	3
Stalking	8	0	0	8	2

Hate Crimes	Total Sum	Race	Religion	Sexual Orientation	Gender	Gender Identity	Disability	Ethnicity	National Origin
Murder, Non-Negligent Manslaughter									
Rape									
Fondling									
Incest									
Statutory Rape									
Robbery									
Aggravated Assault									
Burglary									
Motor Vehicle Theft									
Arson									
Assault									
Theft/Larceny									
Intimidation			1 On-Campus			2 On-Campus; 1 Non-Campus University Controlled			
Destruction/Damage/Vandalism of property									

**Lincoln Campus:** There were no fires in 2021. In Lincoln, there was 1 rape and 2 other types of unknown sexual assault that were reported in 2021 without an identified location.

**Omaha Campus:** No classes were held at the Omaha location beginning January 2022. There were no fires in CY 2021.

<b>2020 Crime Statistics - Lincoln</b>	On Campus	University Controlled (Non-campus)	Public Property	<b>GRAND TOTAL</b>	Residence Halls (subset of On-Campus)
<b>Crimes</b>					
Aggravated Assault	1	1	1	3	0
Arson	0	0	0	0	0
Burglary	0	0	0	0	0
Motor Vehicle Theft	1	0	0	1	0
Murder, Non-Negligent Manslaughter	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0
Robbery	0	0	0	0	0
<b>Sex Offenses</b>					
Rape	5	0	0	5	4
Fondling	1	0	0	1	1
Incest	0	0	0	0	0
Statutory Rape	0	0	0	0	0
<b>Arrests</b>					
Liquor Law Violations	0	0	0	0	0
Drug Abuse Violations	1	0	0	1	0
Weapons Violations	0	0	0	0	0
<b>Disciplinary Referrals</b>					
Liquor Law Violations	85	0	0	85	85
Drug Abuse Violations	4	0	0	4	4
Weapons Violations	0	0	0	0	0
<b>Violence Against Women Act Crimes (VAWA)</b>					
Domestic Violence	0	1	0	1	0
Dating Violence	5	0	1	6	5
Stalking	5	0	0	5	3

<b>Hate Crimes</b>	<b>Total Sum</b>	<b>Race</b>	<b>Religion</b>	<b>Sexual Orientation</b>	<b>Gender</b>	<b>Gender Identity</b>	<b>Disability</b>	<b>Ethnicity</b>	<b>National Origin</b>
Murder, Non-Negligent Manslaughter									
Rape									
Fondling									
Incest									
Statutory Rape									
Robbery									
Aggravated Assault									
Burglary									
Motor Vehicle Theft									
Arson									
Assault									
Theft/Larceny									
Intimidation									
Destruction/Damage/Vandalism of property									

Lincoln Campus: There were no Clery reportable crimes based on Hate Crime categories on-campus. There were no fires in 2020.

Omaha Campus: There were no Clery reportable crimes based on Hate Crime categories on-campus. There were no fires in 2020.



