



2024 Nebraska Wesleyan University Annual Security Report and Fire Safety Report

containing current policy statement information and crime
statistics for 2021-2023



NEBRASKA
WESLEYAN
UNIVERSITY

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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 campus. 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, assistant director of Title IX services and 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 (Additional Enforcement Information)

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 firearm at a school; penalty; exceptions; confiscation of certain firearms; disposition.

(1) Any person who possesses a firearm in a school, on school grounds, in a school-owned vehicle, or at a school-sponsored activity or athletic event is guilty of the offense of unlawful possession of a firearm at a school. Unlawful possession of a firearm at a school is a Class IV felony.

(2) Subsection (1) of this section does not apply to:

(a) The issuance of firearms to or possession by members of the armed forces of the United States, active or reserve, National Guard of this state, or Reserve Officers' Training Corps or peace officers or other duly authorized law enforcement officers when on duty or training;

(b) The possession of firearms by peace officers or other duly authorized law enforcement officers;

(c) The carrying of firearms by qualified law enforcement officers or qualified retired law enforcement officers carrying pursuant to 18 U.S.C. 926B or 926C, respectively, as such sections existed on January 1, 2023;

(d) Possession of a firearm by a person who is employed or contracted by a school to provide school security or school event control services pursuant to a written policy adopted by such school that complies with subdivision (3)(a) of this section. This subdivision does not apply to a public elementary or secondary school in a Class III, IV, or V school district as defined in section 79-102;

(e) Firearms which may lawfully be possessed by the person receiving instruction, for instruction under the immediate supervision of an adult instructor;

(f) Firearms which may lawfully be possessed by a member of a college or university firearm team, to include rifle, pistol, and shotgun disciplines, within the scope of such person's duties as a member of the team;

(g) Firearms which may lawfully be possessed by a person employed by a college or university in this state as part of an agriculture or a natural resources program of such college or university, within the scope of such person's employment;

(h) Firearms contained within a private vehicle operated by a nonstudent adult which are not loaded and (i) are enclosed in a case or (ii) are in a locked firearm rack that is on a motor vehicle;

(i) Firearms which may lawfully be possessed by a person for the purpose of using them, with the approval of the school, in a historical reenactment, in a hunter education program, or as part of an honor guard; or

(j) A handgun carried as a concealed handgun by a person other than a minor or prohibited person in a vehicle or on his or her person while riding in or on a vehicle into or onto any parking area, which is open to the public and used by a school if, prior to exiting the vehicle, the handgun is locked inside the glove box, trunk, or other compartment of the vehicle, a storage box securely attached to the vehicle, or, if the vehicle is a motorcycle, other than an autocyte, a hardened compartment securely attached to the motorcycle while the vehicle is in or on such parking area.

(3)(a) A school board or other governing body of a school or school district may authorize the carrying of firearms by authorized security personnel in a school, on school grounds, in a school-owned vehicle, or at a school-sponsored activity or athletic event by adopting a written policy governing such

conduct. Such written policy shall, at a minimum, include requirements for personal qualifications, training, appropriate firearms and ammunition, and appropriate use of force. This subdivision does not apply to a public elementary or secondary school in a Class III, IV, or V school district as defined in section 79-102.

(b) The State Board of Education shall, in consultation with the Nebraska State Patrol, develop a model policy relating to the authorization of the carrying of firearms by authorized security personnel as described in subdivision (3)(a) of this section. The policy shall include, but need not be limited to, the appropriate number of training hours required of such security personnel.

(4) Any firearm possessed in violation of subsection (1) of this section shall be confiscated without warrant by a peace officer or may be confiscated without warrant by school administrative or teaching personnel. Any firearm confiscated by school administrative or teaching personnel shall be delivered to a peace officer as soon as practicable.

(5) Any firearm confiscated by or given to a peace officer pursuant to subsection (4) of this section shall be declared a common nuisance and shall be held by the peace officer prior to his or her delivery of the firearm to the property division of the law enforcement agency which employs the peace officer. The property division of such law enforcement agency shall hold such firearm for as long as the firearm is needed as evidence. After the firearm is no longer needed as evidence, it shall be destroyed in such manner as the court may direct.

(6)(a) Whenever a firearm is confiscated and held pursuant to this section or section 28-1204.02, the peace officer who received such firearm shall cause to be filed within ten days after the confiscation a petition for destruction of such firearm. The petition shall be filed in the district court of the county in which the confiscation is made. The petition shall describe the firearm held, state the name of the owner, if known, allege the essential elements of the violation which caused the confiscation, and conclude with a prayer for disposition and destruction in such manner as the court may direct.

(b) At any time after the confiscation of the firearm and prior to court disposition, the owner of the firearm seized may petition the district court of the county in which the confiscation was made for possession of the firearm. The court shall release the firearm to such owner only if the claim of ownership can reasonably be shown to be true and either:

(i) The owner of the firearm can show that the firearm was taken from his or her property or place of business unlawfully or without the knowledge and consent of the owner and that such property or place of business is different from that of the person from whom the firearm was confiscated; or

(ii) The owner of the firearm is acquitted of the charge of unlawful possession of a handgun in violation of section 28-1204, unlawful transfer of a firearm to a juvenile, or unlawful possession of a firearm at a school.

(c) No firearm having significant antique value or historical significance as determined by the Nebraska State Historical Society shall be destroyed. If a firearm has significant antique value or historical significance, it shall be sold at auction and the proceeds shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

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;

(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) Home school means a school which: (a) Elects pursuant to section 79-1601 not to meet accreditation or approval requirements; and (b) is located in a personal residence;
- (7) Juvenile means any person under the age of eighteen years;
- (8) 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;
- (9) 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;
- (10) 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;
- (11)(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;
- (12)(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;
- (13) 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;
- (14)(a) 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.
- (b) School does not include a home school;
- (15) Short rifle means a rifle having a barrel less than sixteen inches long or an overall length of less than twenty-six inches; and
- (16) 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 international), 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.

2024 Fall Nebraska Wesleyan University Clery Map

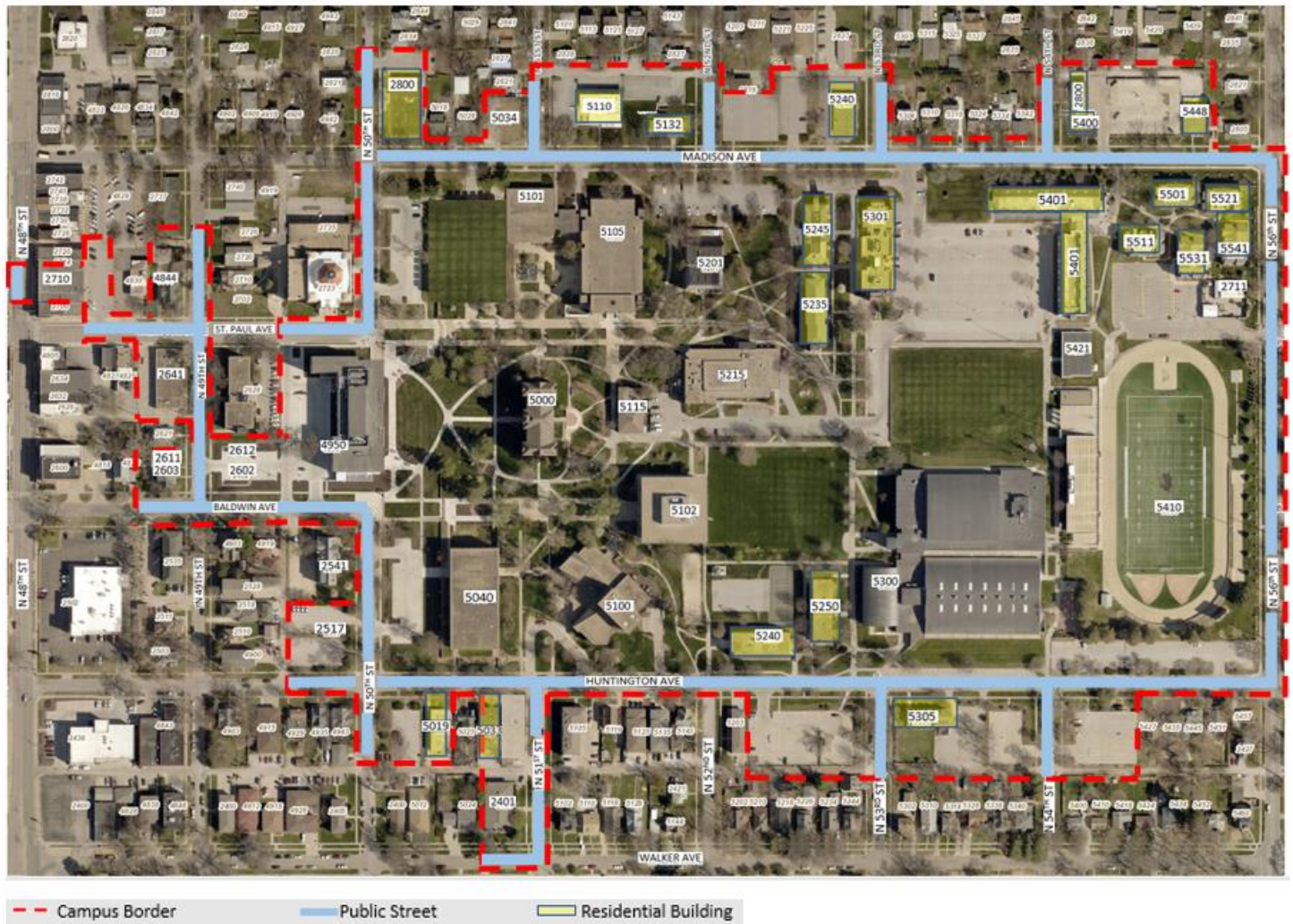


Figure 1.

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, assistant director of Title IX services and 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, provost, and director of public relations 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 2023, 2022, and 2021.

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: 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 Worker
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 President

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 and students have been notified via "All Employee" and "All Student" 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 and students identified as CSAs that outlines their responsibilities each semester. NWU provides annual in-person and online training 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 involving students, 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 and students have been notified via "All Employee" and "All Student" 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
 - Roxanne Styskal, assistant director of the physical plant, (402) 499-9815, rrs@nebrwesleyan.edu
 - Maria Harder, assistant vice president for human resources and director of Title IX services (402) 465-2117, mharder@nebrwesleyan.edu
 - Natasha Moreno, assistant director of Title IX and Title IX coordinator, (402) 465-2356, 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; Voices of Hope 24/7 Support: (402) 475-7273.
- Counseling services: located at 2641 N. 49th Street (49th & St. Paul Avenue). Counseling services serves undergraduate students and is open Monday-Friday from 8:00 a.m. to 5:00 p.m.; counseling@nebrwesleyan.edu; (402) 465-2464.
- University ministries: located in Old Main - Room 105; 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; (402) 434-2900.
- University ministries: located in Old Main – Room 105; minister@nebrwesleyan.edu; (402) 465-2398.
- Voices of Hope: located at 2545 N St., Lincoln, NE 68510; info@voicesofhopelincn.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, chief of staff, assistant vice president of human resources, the 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*** text messaging 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, Threat Assessment Team, 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 Ellucian Self-service. 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 or by email, dependent upon the circumstance. If the prior systems mentioned are unavailable due to unforeseen circumstances, other means of communication will be utilized, including, but not limited to, social media, signage, and the institution's website. The timely warning will be communicated through email or 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 aid 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 a group of administrators, that can include the director of public relations, a Clery Compliance Administrator, and a member(s) of the Threat Assessment Core Team. Timely warnings written by the director of public relations or a member of the Threat Assessment Core Team and are sent through the Wesleyan Alert System or by email, dependent upon the circumstance. If the prior systems mentioned are unavailable due to unforeseen circumstances, other means of communication will be utilized, including, but not limited to, social media, signage, and the institution's website. 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 document the decision 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

2025 Sexual Harassment and Sexual Misconduct Policy addressed under the 2020 Federal Title IX Regulations

This policy applies to forms of sexual harassment and sexual misconduct, including sexual and gender-based harassment/bullying, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation within the jurisdictions of the 2020 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 Campus Safety Act (Clery Act), and corresponding legal guidance.

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 or gender, 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, they 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 or connect with the appropriate staff member:

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

All reports and formal 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:

- **Students:** Any person registered in courses at the University, either full-time or part-time, pursuing undergraduate or graduate studies, including those who audit courses.
- **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*.

*Student/employee crossover: Students who work on campus as an employee and employees who are registered in courses at the University both fall under the jurisdiction of the policy. Details of the student/employment status will be assessed by the Title IX coordinator for appropriate application of procedures.

- **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 and those who are on campus or participating or attempting to participate in a University sponsored activity. 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 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 Harassment and 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 Federal Title IX Regulations will be addressed using the NWU Sexual Harassment and Sexual Misconduct Outside of Federal Title IX Regulations 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 adheres to the requirements of the Americans with Disabilities Act of 1990, as amended 2008 ("ADAAA"), Sections 504 and 508 of the Rehabilitation Act of 1973, and other relevant laws to ensure equal access for individuals in all areas of University operation, including education, employment, and decisions regarding faculty appointment, promotion or tenure. Discrimination on the basis of any protected category or characteristic other than disability will be addressed in accordance with Nebraska Wesleyan University's Non-Discrimination Policy.

The University shall provide certain support and modifications to people experiencing pregnancy or related conditions to ensure their equal access to a University's program or activity under Title IX protections. The University treats pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions and must allow voluntary leaves of absence. Pregnancy or related conditions include pregnancy, childbirth, termination of pregnancy, lactation; medical conditions and/or recovery related to any of the aforementioned medical conditions.

Parties can request reasonable accommodations for pregnancy or related conditions from the Director of Student Accessibility for support and modifications, which will be granted if they do not fundamentally alter the established procedures. The Director of Student Accessibility collaborates with appropriate offices to implement approved accommodations with the consent of the affected student or employee. Employees or applicants for employment may also contact the office of Human Resources for more information, because additional workplace laws and policies apply.

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 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 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 VII – 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. In Nebraska, minors are considered all persons under the age of 19.

V. Prohibited Conduct

The 2020 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

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.

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 in which the crime of violence occurred;
- By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

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.

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.

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.

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.

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;
- 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.
- Intentional sharing of information about the sexual privacy of another person without their consent, either verbally, electronically, or through written material/photos, excluding reports to designated reporting officials for the purpose of harm.

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.

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

VI. Employee Reporting Obligations

The University requires employees with specific job responsibilities that include the authority to institute corrective measures, individuals who serve the institution in a supervisor capacity, administrators, faculty/instructors, advisors, and other positions as noted below in Table 1 to promptly report conduct that reasonably could be sexual harassment and sexual misconduct using **ONLY** Option 1 directly to the Title IX Coordinator.

Employees and student employees whose job responsibilities are not listed under Category A are required to address disclosures of sexual harassment and sexual misconduct using either Option 1 or Option 2. Option 2 allows employees listed under Category B to provide contact information for the Title IX Coordinator **and** information about how to make a report and file a

Formal Complaint to anyone who provides a disclosure. Option 2 requirements can be met using the Title IX Resource card or email template, which are both located on the [Title IX webpage](#).

The two options that meet employee reporting obligations are:

- Option 1: Report all information disclosed and/or made available to the employee about sexual harassment and sexual misconduct to a Title IX Coordinator.
- Option 2: Provide contact information for the Title IX Coordinator to anyone who provides a disclosure **and** information about how to make a report and file a Formal Complaint.

Table 1: Employee Categories of Reporting Obligations

<u>Reporting</u>	<u>Choice of Reporting or Providing Information</u>
Employees in this category can ONLY use Reporting (Option 1) to meet this reporting obligation.	Employees in this category may use Reporting (Option 1) OR Providing Resource Information (Option 2) to meet this obligation.
<u>Job Category A</u> <ol style="list-style-type: none"> 1. Advisors, Academic and Club 2. Chief of Staff 3. Coaches (All) 4. Deans, Assistant Deans 5. Department Chairs, Program Directors 6. Directors, Assistant Directors 7. Faculty, full-time, part-time, adjuncts 8. Provost/Vice Presidents 9. Student Life/Affairs Personnel 10. Supervisors 11. Title IX Personnel 12. University President 	<u>Job Category B</u> <ol style="list-style-type: none"> 1. All other employees, including student employees, not listed in Obligation 1 2. Confidential Employees (exempt from Option 1)

Instances of disclosures may occur through various communications that include, but are not limited to, conversation, emails, classroom assignments, and social media and must be addressed in accordance with the University’s Title IX procedures.

VII. Reporting

Individual disclosure

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 University will make a reasonable effort to respect the wishes of the person who experienced sexual harassment and sexual misconduct. The Title IX Coordinator will support all parties involved in understanding and assessing all options; questions should be directed to a Title IX Coordinator.

While there is no time limit for reporting sexual harassment and 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.

Confidential Employees

Confidential Employees are exempt from Employee Reporting Obligation Option 1, listed in Section VI of this document. 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.

Anonymous Reporting to the University

Anonymous reports of sexual harassment and sexual misconduct concerns can be submitted 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. Reporting anonymously does not fulfill Employee Reporting Obligations.

Public Awareness Events

The Title IX Coordinator is not obligated to respond directly to any identified Harmed Party in a report of sexual harassment or sexual misconduct disclosed at a “public awareness event” that takes place on-campus or in a school-sponsored online platform unless there is an imminent and serious threat to someone’s health or safety.

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 Police Department:

- 911 (for emergencies)
- 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

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. 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.

VIII. 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 “Confidential Employees” does not trigger action by the University and will allow the harmed party to proceed as they choose.

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; advocate@nebrwesleyan.edu; (402) 465-2533; Voices of Hope 24/7 Support: (402) 475- 7273.

University Minister: can help students, faculty and staff and is located in Old Main - Room 105; minister@nebrwesleyan.edu; (402) 465-2398.

An Additional Confidential Resource for Undergraduate Students:

NWU 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; (402) 465-2464.

An Additional Confidential Resource For Employees:

Directions EAP (Employee Assistance Program): is located at 3930 South St, Ste. 101 in Lincoln, NE 68506; directionseap@directionseap.com; (402) 434-2900.

IX. Supportive Measures

The University offers a wide range of resources for Students and Employees to provide support and guidance upon receipt of a report of sexual harassment or sexual misconduct. The University will offer supportive measures to any involved party and will be reasonable and appropriate to facilitate continued access to University employment or education programs and activities. Non-disciplinary, non-punitive individualized services will be offered, as reasonably available, without fee or charge to the involved party, regardless of filing 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, change of class schedule, and/or Campus "Safe Walking Service".

Non-compliance with a Supportive Measure: Failure to comply with the directives of a supportive measure administered by the Title IX Office, will also be addressed as a separate violation of University policy through student conduct or employee conduct.

X. Resolution

The University has the responsibility to address sexual harassment, sexual misconduct utilizing formal and informal resolution procedures or accessing for potential dismissal of related complaints. 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 includes, but is not limited to, the definitions of sexual harassment and sexual misconduct, the scope of the University's education program or activity, 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 Harassment and Sexual Misconduct under the 2020 Federal Title IX Regulations.

Any question of interpretation of this policy will be referred to the Director of Title IX Services, or designee, who may consult with the University President, whose interpretation is final.

XI. 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 Title IX Webpage of the University's website. Training materials will be provided by the University on an annual basis and ongoing basis to take reasonable steps to eliminate sexual harassment and sexual misconduct, prevent its recurrence, and remedy its effects.

The NWU Board of Governors approved this policy to be implemented on January 9, 2025. All incidents of sexual harassment and sexual misconduct that occur on or after this date will be subject to this policy and corresponding procedures. However, the University will apply the applicable policy definitions in effect at the time of the incident.

Resolution Procedures for Addressing Sexual Harassment and Sexual Misconduct under the 2020 Federal Title IX Regulations

This procedure applies to forms of sexual harassment and sexual misconduct, including sexual and gender-based harassment/bullying, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation (“Prohibited Conduct”) within the jurisdictions of the 2020 Federal Title IX Regulations and Nebraska Wesleyan University’s (“University”) Sexual Harassment and Sexual Misconduct Policy addressed under the 2020 Federal Title IX Regulations (“Title IX Policy”).

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 corresponding Title IX Policy. All behavior referenced as sexual harassment and sexual misconduct that falls under the 2020 Federal Title IX jurisdiction guidelines will be addressed utilizing this procedure.

This procedure is based on the 2020 Final Rule for Title IX of the Education Amendments of 1972 (Title IX), the Jeanne Clery Campus Safety Act (Clery Act), and corresponding legal guidance.

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

I. 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, friend, family member, community member, or an attorney. An Advisor of Choice has a specialized role to ask questions at the Hearing, for the purpose of cross-examination. Any involved party may change their Advisor of Choice at any point. The Advisor of Choice may also serve as the Support Person.

Complainant: an individual who is alleged to be the Harmed Party of conduct that could constitute sexual harassment or sexual misconduct and has been filed and signed with the University.

Note: At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity with the University when the Formal Complaint is filed.

Confidential Employee: an individual designated by the University working in their confidential capacity 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.

Education Program or Activity: includes all campus operations, including off-campus settings that are operated or overseen by the University, including, for example, field trips, online classes, and athletic programs; conduct subject to the University's disciplinary authority that occurs off-campus; and conduct that takes place via University-sponsored electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of, the University.

Employee Reporting Obligations: All Employees and Student Employees have required reporting obligations based on their job responsibilities. Specific jobs in Category A, listed in Table 1: Employee Reporting Obligations (Section III of these procedures), will be required to promptly report disclosures of Prohibited Conduct that reasonably could be sexual harassment or sexual misconduct directly to the Title IX Coordinator. All other Employees not specifically identified and all Student Employees as noted in Category B (in Table 1) will be required to address disclosures of Prohibited Conduct using either Option 1 or Option 2. Option 2 requires Employees and Student Employees to provide contact information for the Title IX Coordinator **and** information about how to make a report and file a complaint to anyone who provides a disclosure. The two options that meet Employee Reporting Obligations are:

- Option 1: Report all information disclosed and/or made available to the employee about sexual harassment or sexual misconduct to a Title IX Coordinator.
- Option 2: Provide contact information for the Title IX Coordinator to anyone who provides a disclosure **and** information about how to make a report and file a complaint.

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*.

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.

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.

***Student/employee crossover:** Students who work on campus as an employee and employees who are registered in courses at the University fall under the jurisdiction of the

Title IX Policy and these procedures. Details of the student/employment status will be assessed by the Title IX coordinator for appropriate application of procedures.

Expert Witness: a person who is permitted to participate in an investigation or hearing because of special knowledge or [proficiency](#) in a particular field that is relevant to the Complaint.

Finding: a written conclusion by a preponderance of the evidence, issued by a Hearing Decisionmaker, that the conduct did or did not occur as alleged.

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.

Formal Resolution: involves an investigation, evidence review phase, live virtual 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 files a Formal 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 Notice 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.

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. 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. 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 group of individuals such as a student organization, who has been reported to have engaged in conduct that could constitute sexual harassment or sexual misconduct.

Sanctions: disciplinary steps that may be imposed on a Respondent who is found responsible for a violation of the University's policies.

Students: any person registered in courses at the University, either full-time or part-time, pursuing undergraduate or graduate studies, including those who audit courses. For Employees who are enrolled and taking classes, refer to the Student/Employee Crossover definition.

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, including the Reporting, Assessment, Informal Resolution, Investigation, Hearing, and Appeal process. A Support Person may be a staff member, student, friend, family member, community member, or an attorney. 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.

II. Role of Title IX Coordinator

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 and Title IX Coordinator: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, mharder@nebrwesleyan.edu

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

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.
- Committed to supporting all parties involved in understanding and assessing all rights, options, and resources;
- Knowledgeable and trained in relevant state and federal laws and University policy and procedures;
- Responsible for oversight of annual training programs for Title IX personnel and all members of the campus community. Trainings 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. Additionally, training ensures that Title IX personnel 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 involved party about the courses of action available at the University;

- Available to assist any party regarding how to respond appropriately to reports of sexual harassment or sexual misconduct;
- Responsible for oversight of sexual violence prevention education;
- 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;
 - The Title IX coordinator has discretion to address noncompliance during any part of the resolution process. This includes the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party or Support Person/Advisor of Choice who does not comply with meeting expectations or decorum and any other applicable part of the resolution process.
- Collaborate with the Provost, or designee, when disclosures or supportive measures are related to issues of academic freedom or instructional methods;
- Responsible for ensuring the timely completion of any remedies or sanctions, and;
- Responsible for compiling annual reports.

III. Employee Reporting Obligations

The University requires employees with specific job responsibilities that include the authority to institute corrective measures, individuals who serve the institution in a supervisory capacity, administrators, faculty/instructors, advisors, and other positions as noted below in Table 1, to promptly report directly to the Title IX Coordinator conduct that reasonably could be sexual harassment or sexual misconduct using **ONLY** Option 1.

<u>Reporting</u>	<u>Choice of Reporting or Providing Information</u>
Employees in this category can <u>ONLY</u> use Reporting (Option 1) to meet this reporting obligation.	Employees in this category may use Reporting (Option 1) <u>OR</u> Providing Resource Information (Option 2) to meet this obligation.
<u>Job Category A</u> <ol style="list-style-type: none"> 1. Advisors, Academic and Club 2. Chief of Staff 3. Coaches (All) 4. Deans, Assistant Deans 5. Department Chairs, Program Directors 6. Directors, Assistant Directors 7. Faculty, full-time, part-time, adjuncts 8. Provost/Vice Presidents 	<u>Job Category B</u> <ol style="list-style-type: none"> 1. All other employees, including student employees, not listed in Obligation 1 2. Confidential Employees (exempt from Option 1)

9. Student Life/Affairs Personnel 10. Supervisors 11. Title IX Personnel 12. University President	
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Employees and student employees whose job responsibilities are not listed under Category A are required to address disclosures of sexual harassment or sexual misconduct using either Option 1 or Option 2. Option 2 allows employees listed under Category B to provide contact information for the Title IX Coordinator **and** information about how to make a report and file a complaint to anyone who provides a disclosure. Option 2 requirements can be met using the Title IX Resource card or email template, which are both located on the Title IX webpage.

The two options that meet employee reporting obligations are:

- Option 1: Report all information disclosed and/or made available to the employee about sexual harassment and sexual misconduct to a Title IX Coordinator.
- Option 2: Provide contact information for the Title IX Coordinator to anyone who provides a disclosure **and** information about how to make a report and file a Formal Complaint.

Table 1: Employee Categories of Reporting Obligations

Instances of disclosures may occur through various communications that include, but are not limited to, conversation, emails, classroom assignments, and social media and must be addressed in accordance with the University’s Title IX procedures.

IV. Reporting Sexual Harassment and Sexual Misconduct

Individual disclosure

An individual may choose to report to the University, including the Title IX coordinator, a Confidential Resource, or through anonymous reporting. An individual may choose to report to law enforcement. These reporting options through the University and law enforcement are not exclusive. An individual may simultaneously pursue a civil or criminal investigation off campus and the University sexual harassment and sexual misconduct resolution process.

How to Make a Report vs. Filing a Formal Complaint to the University

All reports and Formal Complaints of an incident of sexual harassment or sexual misconduct will be taken seriously and in good faith. 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.

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 Complaint over the Complainant's objection if the University deems it in the University's best interest to do so. This is done by the Title IX Coordinator signing a Complaint, on behalf of the University, and can be done with or without consent/permission of the original Complainant. Upon the filing of the Complaint, the Title IX Coordinator will not become a party to the procedure.

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

Filing a Formal Complaint is defined as the request to the Title IX coordinator to initiate the University's formal and informal resolution processes regarding incidents of sexual harassment and sexual misconduct. The decision to file a Complaint may be made at any time via email/electronically, phone, or physical mail, or in person during regular business hours. The Title IX coordinator will provide assistance about what course of action may best support the individual(s) involved and how best to address the complaint.

There are three situations in which the Complaint may be signed.

1. A Harmed Party may sign the Complaint.
2. A parent, guardian, or other authorized individual with the legal right to act on behalf of the Harmed Party may sign the Complaint in the event a Harmed Party does not wish to file the Complaint.
3. A Title IX Coordinator may sign the Complaint:
 - a. In the event a Harmed Party does not wish to file the Complaint.
 - b. When the Prohibited Conduct 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 someone other than the Harmed Party signs the Complaint, that party does not become the Complainant. Only the Harmed Party is allowed to be the Complainant.

It is important for Reporting Parties to note that the University will consider amnesty protections as outlined below. **Amnesty** is protection granted to individuals for participating in minor policy violations without fear of a personalized conduct proceeding.

- **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 Students and Employees to offer help and assistance to others, the University pursues a policy of amnesty for minor 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 and 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:** Students and 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 minor violations may occur, but no conduct proceedings will result.

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

Reporting to Confidential Employees

Confidential Employees are exempt from Employee Reporting Obligations Option 1, listed in Section III of this document. 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.

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.

Anonymous Reporting to the University

Anonymous reports of sexual harassment and sexual misconduct concerns can be submitted 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. Reporting anonymously does not fulfil Employee Reporting Obligations.

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. The University will assist individuals in notifying law enforcement if they choose to do so.

To Contact Lincoln Police Department:

- 911 (for emergencies).
- 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.

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.

- 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.

V. Conflict of Interest

Any individual carrying out any part of the Title IX Policy or these procedures shall be free from any actual conflict of interest or demonstrated bias that would impact the handling of a matter.

Any individual may object to the participation of the Informal Resolution Facilitator, Investigator, Hearing Decisionmaker, and Appellate Decisionmaker on the grounds of a demonstrated bias or actual conflict of interest and are to be submitted in writing to the Title IX coordinator.

Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator shall immediately notify the Director of Title IX Services who will either take, or reassign to an appropriate designee, the role of Title IX Coordinator for purposes of carrying out the handling and finalization of the matter at issue.

Objections regarding the Title IX Coordinator are to be made, in writing, to the Director of Title IX Services. All objections will be considered, and changes made as appropriate. Any change will be communicated in writing.

A conflict or objection involving the Director of Title IX Services on the grounds of a demonstrated bias or actual conflict of interest are to be made, in writing, to the University President.

VI. Response to a Report

The following steps will be used following the receipt of a report of Prohibited Conduct to the Title IX Coordinator.

Initial Contact

Following receipt of a report alleging a potential violation of the Title IX Policy, the Title IX Coordinator will contact the Reporting/Harmed Party to offer an initial intake and assessment meeting. Initial contact includes related rights, options, and resources. The Title IX coordinator will assess available information for imminent or ongoing threats, immediate physical safety, and emotional well-being to the Harmed Party or campus community. If the individual bringing forward information about sexual harassment or sexual misconduct is not the actual Harmed Party/Complainant, the Title IX Coordinator will limit communication to general information on policies and processes.

Title IX Assessment

After the initial outreach, an involved party may agree to meet with the Title IX coordinator. The purpose of this initial 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.

During this meeting, the Title IX coordinator will provide the following:

1. Written explanation of rights, options, and resources, and the difference between privacy and confidentiality;
2. Overview of related University policy;
3. Identify any concerns about discrimination or harassment based on other protected classes;
4. Information regarding available confidential campus and community resources, including: counseling, health care, mental health, or victim advocacy. Upon request, information regarding legal assistance, visa and immigration assistance, student financial aid and other available services may be provided;
5. Availability of Supportive Measures regardless of whether a Formal Complaint is filed and/or any resolution process is initiated;
6. Options for resolution (no action, prevention, agreement, investigation) and how to initiate such resolution processes;
7. Explanation of the University's evidentiary standard ("preponderance of evidence");
8. Right to notify law enforcement as well as the right not to notify law enforcement;
9. Information about the importance of preserving evidence and, in the case of potential criminal misconduct, how to get assistance from the Title IX coordinator or local law enforcement in preserving evidence;
10. Right to a Support Person/Advisor of Choice, if applicable, during the University proceedings including the initial meeting with the Title IX Coordinator;
11. Statement about retaliation protections for filing a complaint, or participating in the complaint process, which is prohibited; and
12. Information on how to file a Complaint, as well as documentation on the Reporting Party's preferred course of action.

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 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 and sexual misconduct. In all cases, the Title IX coordinator will continue to assess imminent or ongoing threat, immediate physical safety,

and emotional well-being to Harmed Party or campus community to comply with the need of a timely warning or emergency notification as required under federal law.

If the reported incident constitutes an imminent or ongoing threat to campus safety, the Title IX Coordinator may sign a Formal Complaint, beginning the 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 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 Formal Complaint, and commence the formal resolution process (after taking account of the aforementioned factors), with or without approval of the original Reporting Party.

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

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.

Requests for Confidentiality or No Further Action

When a Harmed Party requests confidentiality from a Confidential Resource, the University will follow the guidelines outlined in Section IV of this procedure.

When a Harmed Party requests that the Title IX coordinator not use their name as part of any resolution process, or that the University not take any further action, the University will generally try to honor those requests. However, there are certain instances in which the University has a broader obligation to the community and may need to act against the wishes of the Harmed Party. In such circumstances, the Title IX Coordinator will notify the Harmed Party in writing of the need to take action. The factors the Title IX Coordinator will consider when determining whether to act against the wishes of a Harmed Party include:

1. The Harmed Party's request not to proceed with initiation of a complaint;
2. The Harmed Party's reasonable safety concerns regarding initiation of a Formal Complaint;
3. The risk that additional acts of Prohibited Conduct would occur if a Formal Complaint is not initiated;

4. The severity of the alleged Prohibited Conduct, including whether the sexual harassment or sexual misconduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the sexual harassment or sexual misconduct and prevent its recurrence;
5. The relationship of the parties, including whether the Respondent is an Employee;
6. The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing nature, or is alleged to have impacted multiple individuals;
7. The availability of evidence to assist a Hearing Decisionmaker in determining whether sexual harassment or sexual misconduct occurred;
8. Whether the University could end the alleged sexual harassment or sexual misconduct and prevent its recurrence without initiating its resolution procedures under the Title IX Policy; and
9. Whether the conduct as alleged presents an imminent and serious threat to the health or safety of the Harmed Party or other persons, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its Education Program or Activity.

Emergency Removal Evaluation

At times, the University may take action to ensure the physical or emotional safety and well-being of the University community. Per § 106.44(c) of the Federal Regulations, the University retains the authority to remove a Respondent from the University's Education Program or Activity on an emergency basis, where the University:

1. Completes an individualized safety and risk analysis;
2. Determines that an immediate and serious threat to the health or safety of a Complainant or any student, employee, or other individual arising from the allegations of sexual harassment or sexual misconduct justifies a removal; and
3. Provides the Respondent with notice of and an opportunity to appeal the decision immediately following the removal.

Removal of a person will initiate the University's resolution process. Interim actions may include a no-trespass or other no-contact order to be issued.

The Respondent may appeal the decision immediately following the removal, by notifying the Title IX Coordinator in writing through the Title IX webpage. An impartial individual, not otherwise involved in the case, will consider the appeal and determine if the emergency removal was reasonable. For other prohibited conduct, the University may defer to its interim suspension policies for students and administrative leave for Employees.

Administrative Leave Evaluation

The University retains the authority to place an Employee who is a Respondent on administrative leave during a pending complaint process, with or without pay, as appropriate. Administrative leave implemented as a supportive measure or as emergency removal is subject to the procedural provisions above, including the right to appeal the decision.

Faculty members may refer to the [Faculty Handbook](#), Article VII for additional information regarding faculty procedures.

Instances of Student Withdrawal or Employee Resignation With Pending Complaint(s)

If a Student or Employee Respondent permanently withdraws or resigns from the University with unresolved allegations pending, the University will consider whether and how to proceed with the resolution process. The University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s) and any ongoing effects of the alleged Prohibited Conduct.

A Student who is a Respondent who withdraws or leaves while the process is pending may not return to the University without first resolving any pending complaints, which applies to all University programs. Records will be retained by the Title IX Coordinator and the Student Conduct Administrator will place a registration hold on the Respondent's account.

An Employee who is a Respondent who resigns with unresolved allegations pending is not eligible for rehire with the University and the records retained by the Title IX Coordinator will reflect that status. Employment references made to the Human Resources office for that individual will include that the former employee resigned during a pending complaint process.

Evaluation of Dismissal of a Formal Complaint under the Corresponding Title IX Policy

Before dismissing a Formal Complaint under the corresponding Title IX Policy, the University will make reasonable efforts to clarify all available information and the allegations with the Complainant.

The University may dismiss a Formal Complaint if:

1. The University is unable to identify the Respondent after taking reasonable steps to do so;
2. The Respondent is not participating in the University's Education Programs or Activities and/or is not employed by the University;
3. The Complainant voluntarily withdraws their complaint in writing and the Title IX Coordinator declines to initiate a Formal Complaint;
4. The Complainant voluntarily withdraws some but not all allegations in a Formal Complaint [in writing] and the University determines that the conduct that remains alleged in the complaint would not constitute Prohibited Conduct; or
5. The University determines the conduct alleged in the complaint, even if proven, would not constitute Prohibited Conduct under the corresponding Title IX Policy.

Upon dismissal, the University will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the University will notify the parties simultaneously, in writing. If a dismissal of one or more allegations changes the appropriate decision-making process under these procedures, the Title IX Coordinator will include that information in the notification. The Title IX Coordinator will provide the Complainant details in the written notice about any matter that is being referred for handling under a different policy, and/or being referred to another appropriate office for handling.

The University will notify the Complainant that a dismissal may be appealed on the basis outlined in Section XII. Appeal Procedures. If dismissal occurs after the Respondent has been notified of the allegations, then the University will also notify the Respondent that the dismissal may be appealed on the same basis. If a dismissal is appealed, the University will follow the procedures outlined in the Appeals section of these procedures.

When a Formal Complaint is dismissed, the University will, at a minimum:

1. Offer supportive measures, simultaneously to the Complainant and Respondent, as appropriate;
2. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to determine that sexual harassment or sexual misconduct does not continue or recur within the University Education Program or Activity.
3. Provide the Complainant details in the written notice about any matter that is being referred to another appropriate office for handling under a different policy or code. The University may also send evidence already gathered as part of the referral.

A Complainant who decides to withdraw a Formal Complaint or any portion of it may later request to reinstate it or refile it.

VII. Consolidation of Complaints

The University may consolidate Complaints for allegations of sexual harassment and sexual misconduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment and sexual misconduct arise out of the same facts or circumstances. Where a resolution process involves more than one party, references in this section to the singular “party,” “Complainant,” or “Respondent” may be considered plural, as applicable. Where multiple policies may be implicated by the same set of facts or circumstances, the University may separate the proceedings in accordance with the requirements of the individual policies.

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.

The University also reserves the right to use the University’s Title IX Policy and these procedures to adjudicate other allegations and conduct violations that are outside of the scope of the Title IX Policy in instances when the conduct is associated with or intertwined with an alleged issue of Prohibited Conduct under the Title IX Policy. The Title IX Coordinator will address these consolidated Complaints in collaboration and coordination with other appropriate offices, such as Student Conduct and Human Resources, who may use alternative University procedures when misconduct is consolidated. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements for Title IX.

VIII. Options for Resolution

There are multiple options for resolution of a Formal Complaint of sexual harassment or sexual misconduct.

Report Only

Whether a Reporting Party or Harmed Party reports to a Title IX coordinator, a harmed party may request to keep the misconduct as a report only with no additional university action (see additional information in Section VI: Response to a Report, under “Requests for Confidentiality or No Further Action”).

Supportive Measures

After a disclosure, requests for supportive measures may be made to the Title IX Coordinator who will determine whether to implement reasonable supportive measures designed to assist involved parties and community members in maintaining access to and participation in the University’s Educational Programs and Activities and services during the resolution process.

Supportive measures will be reasonable and appropriate 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 involved parties regardless of making a report or Complaint.

A resolution using only supportive measures is an option for a Complainant who does not wish to take any further steps to address their concern, and when the Title IX Coordinator determines that no further action is required. Some types of support that may be appropriate 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, change of class schedule, and/or security walking service.

Supportive measures do not preclude later use of another resolution method. For example, if new information becomes available to the University and the Title IX Coordinator determines there is need for additional steps to be taken, or the Complainant later decides to pursue another resolution method.

Informal Resolution

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 (See Section IX: Informal Resolution Procedures).

Formal Resolution

The formal resolution process for the University, after receiving a signed Formal Complaint, involves an investigation, live hearing, and a Hearing Decision Maker determining whether or not a Respondent is more likely than not to have violated a 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 (See Section X: Formal Resolution Procedures).

IX. Informal Resolution Procedures

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. The Title IX Coordinator has the discretion to determine whether to offer informal resolution at all, or only in certain cases; generally allowing only one informal resolution per Respondent. 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).

Informal resolution does not include a full investigation and does not include any finding of responsibility nor an admission of the falsehood of the allegations and is a voluntary, structured interaction between or among affected parties that balances support and accountability. This is separate and distinct from the institution's hearing process. Regardless of entering into the informal resolution process, the Title IX Coordinator must still take other prompt and effective steps as needed to determine that sexual harassment and sexual misconduct does not continue or recur within the University's employment, or Education Programs and Activities.

For some types of reported sex harassment and sexual misconduct, informal resolution may offer parties resolution in a timeframe that is shorter than a formal resolution; it is 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 all cases of sex harassment and sexual misconduct.

An informal resolution can be requested by a Complainant or Respondent at any time, even if the parties have previously entered the formal resolution process, up to the beginning of the Hearing Decisionmaker review. Any of the parties can withdraw from the informal resolution process and resume the formal resolution process, for addressing allegations 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 information to the Complainant and Respondent that includes:

1. The specific allegation and the specific conduct that is alleged to have occurred;
2. The requirements of the informal resolution process;
3. The consequences of participating in the informal resolution process, including record-keeping and potential sharing of information, and the University's ability to disclose this information for future resolution processes, including investigations arising from the same or different allegations;
4. An agreement resulting from the informal resolution process is binding only on the parties and is not subject to appeal;
5. A statement indicating that once the Informal Resolution Agreement is finalized and signed by the Parties, they cannot initiate or continue an investigation procedure arising from the same allegations;

6. A statement indicating that the decision to participate in the informal resolution process does not presume that the conduct at issue has occurred;
7. A statement that the Respondent is presumed not in violation of a policy, unless Respondent admits to violations of a policy;
8. An explanation that all parties may be accompanied by a Support Person or an [Advisor of Choice](#);
9. A statement that any party has the right to withdraw from the informal resolution process and initiate or resume resolution procedures at any time before agreeing to a resolution;
10. The facilitator's inability to be called as a Witness if a formal resolution process is pursued;
11. Information regarding supportive measures, which are available equally to all parties.

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 report 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 ("facilitator") who will collect information about the incident without performing a full investigation, facilitate discussion, and propose solutions for a resolution between the parties. Informal resolution facilitators do not have a conflict of interest or bias in favor of or against Complainants or Respondents generally or regarding the specific parties in the matter. The facilitator may not act as the Investigator or Decisionmaker for the same matter in any other resolution method.

Facilitating an Informal Resolution Agreement

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, if all parties have agreed to explore informal resolution, the facilitator will send the Meeting Decorum electronically to both parties. The date and time of the initial meeting will be set by the facilitator or the Title IX Coordinator and all parties will be notified with advance notice.

Each party may have a Support Person/Advisor of Choice present during any part of the informal resolution process. When the Support Person/Advisor of Choice is an attorney, the facilitator must be given two (2) days advance notice. The Support Person/Advisor of Choice cannot direct questions or comments to the facilitator, but they may consult with the

party they are assisting. The facilitator will not allow a Support Person's/Advisor of Choice's presence to unduly inhibit their ability to gather information.

At the beginning of the informal resolution meeting, which is held separately with each party, 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.

Any party may craft or create the terms of their agreement and will be asked for their suggestions or ideas during the process. Examples of agreements may include but are not limited to:

- An agreement that the Respondent will change classes or housing assignments;
- An agreement that the Parties will not communicate or otherwise engage with one another;
- Completion of a training or educational project by the Respondent;
- Completion of a community service project by the Respondent;
- An agreement to engage in a facilitated dialogue; and/or
- Discipline agreed upon by all parties.

Finalizing the Informal Resolution Agreement

Once the final terms of the Informal Resolution Agreement have been agreed upon by all parties, in writing, and approved by the Title IX Coordinator, the matter will be considered closed, and no further action will be taken. Once signed, no appeal is permitted. The informal resolution process is generally expected to be completed within thirty (30) days and may be extended by the Title IX Coordinator as appropriate. All parties will be notified, in writing, of any extension and the reason for the extension.

No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any outside person by the Complainant or Respondent. Information from an informal resolution process can be shared with other offices as appropriate by the Title IX Coordinator.

If an agreement cannot be reached, either because the Parties do not agree, determine they no longer wish to participate in the informal resolution process, or the facilitator does not believe that the terms of the agreement or continuing the informal resolution process is appropriate, the facilitator may recommend that the reported conduct be addressed through another resolution method. The Title IX Coordinator will inform the parties of such decision, in writing.

Any violations of the terms of the Informal Resolution Agreement or procedural expectations, including Meeting Decorum rules, may result in disciplinary action.

X. Formal Resolution Procedures

A. Notice of Formal Complaint

Upon receipt of a signed Formal Complaint, the Title IX Coordinator will send the Notice of Formal Complaint to both the Complainant and the Respondent, simultaneously, communicating the initiation of an investigation. Should additional allegations be brought forward, or new information regarding location or date of the incident(s), a revised written Notice of Complaint shall be provided to all parties as needed or after the jurisdiction review is completed by the Title IX Coordinator.

The Notice will include, at a minimum:

1. The University's resolution procedures, and any alternative resolution process (informal or supportive measures), including a link to these procedures;
2. Sufficient information available at the time to allow the parties to respond to the allegations, including the specific allegation(s), identities of the parties involved in the incident(s), the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
3. A statement that Retaliation is prohibited;
4. Contact information for the assigned Investigator and Hearing Decisionmaker, as well as the process for appealing the appointed Investigator, Hearing Decisionmaker, or Title IX Coordinator, and the deadline (if not previously completed);
5. A statement indicating the expected length of the major stages of the resolution process, as well as any applicable deadlines;
6. A statement that the Respondent is presumed "not in violation" of a University policy until a determination is made at the conclusion of the investigation and decision-making procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Investigator and Hearing Decisionmaker;
7. A statement indicating that the parties may have a Support Person or an Advisor of their Choice (as defined in Section I);
8. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, and to provide a response;
9. A statement that the University prohibits knowingly making false statements or knowingly submitting false information during resolution procedures, with a link to the relevant policy(ies); and
10. A statement indicating the investigator's process of communication will be in writing and includes any investigation deadlines and schedule for investigative meetings. Investigators will provide reasonable notice for meetings.

Acceptance of Responsibility

If a Respondent accepts responsibility and agrees to waive their right to an investigation and live-hearing with cross-examination for all or part of the Prohibited Conduct alleged, the Title IX Coordinator, or designee, will work in consultation with Student Conduct System Administrator or the Assistant Vice President of Human Resources in assigning appropriate sanctions. The Title IX Coordinator will continue processing remaining allegations of Prohibited Conduct, if any.

Assignment of the Investigator, Hearing Decisionmaker, and/or Appellate Decisionmaker

The University has designated individuals identified and trained as Investigators, Hearing Decisionmakers, and Appellate Decisionmakers who receive annual training. Training programs include, but are not limited to, the definition of sex harassment and sexual

misconduct, the scope of the University's Education Program or Activity, how to conduct an investigation, and how to serve impartially, including how to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Moreover, any materials used to train Investigators, Hearing Decisionmakers, and Appellate Decisionmakers do not rely on sex stereotypes and promote impartial investigations, adjudications, and appeal decisions related to the resolution of reports and Formal Complaints of sexual harassment or sexual misconduct. Training materials can be found on the NWU Title IX website.

The University will assign an Investigator, Hearing Decisionmaker, and, if applicable, Appellate Decisionmakers, to conduct an adequate, reliable, and impartial investigation and determination, as applicable, in a reasonably prompt timeframe. The University reserves the right to utilize internal or external Investigators and Decisionmakers. The University also reserves the right to utilize a dual investigator model (more than one investigator).

Rights and Requirements

The University **requires** Employees to participate as a witness in, or otherwise assist with, an investigation, proceeding, hearing, or appeal involving sexual harassment and sexual misconduct.

All other parties are expected and encouraged to participate in the investigation, and each have the same rights during the resolution process including the right to a Support Person/Advisor of Choice, to submit relevant witness names and evidence, and to review the evidence gathered by the Investigator prior to the provision of the Final Investigative Report to the Hearing Decisionmaker.

All individuals will be treated with appropriate respect, and in a manner considerate of their privacy.

Written Notice of Meetings

The University will provide the involved parties whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time to prepare to participate.

Investigative Timeline

The Investigator will conduct a thorough, prompt, impartial, and unbiased investigation. The Investigator will make a reasonable effort to complete the investigation within thirty (30) days, but this time frame may be extended depending on the complexity of the circumstances of each case. Scheduling, University closures, period of examinations, law enforcement investigations or other good cause reasons may affect this timing. Good cause reasons may include availability of witnesses and other participants and providing participants reasonable time to review materials. Any significant delays in the process will be communicated in writing, simultaneously, to the Complainant and the Respondent.

The University will consider an involved party's request for an extension of a deadline related to a Complaint.

The Title IX Coordinator will ensure that the parties will be provided access to periodic status updates.

B. Individual Interviews with Investigator

The Investigator will interview all parties and relevant witnesses and gather relevant documentary evidence provided by the parties and any identified witnesses. Interviews may be conducted in person or virtually. When a party meets with an Investigator, the Investigator will ask questions related to the allegations in the Formal Complaint and a party is given the opportunity to speak to the allegations and related events. Parties may identify fact witnesses and provide evidence that is relevant to the allegations and not otherwise impermissible (defined in Section X. subsection C. Investigative Evidence). This will include inculpatory evidence (that tends to show it more likely that someone committed a violation) and exculpatory evidence (that tends to show it less likely that someone committed a violation). The Investigator ultimately determines whom to interview to determine the facts relevant to the complaint, which typically includes the Complainant, Respondent, and relevant witnesses (“Involved Parties”), to ask relevant and not otherwise impermissible questions and follow-up questions, including questions exploring credibility. Investigators reserve the right to hold meetings with Expert Witnesses. Character evidence is not relevant evidence, and therefore will not be considered.

The Investigator will contact the involved parties to schedule interviews. All involved parties may bring a Support Person/Advisor of Choice to this meeting. When the Support Person/Advisor of Choice is an attorney, the Investigator must be given two (2) days advance notice. The Support Person/Advisor of Choice cannot direct questions or comments to the Investigator, but they may consult with the person they are assisting. The Investigator will not allow a Support Person’s/Advisor of Choice’s presence to unduly inhibit their ability to gather information. Either involved party may change their Support Person/Advisor of Choice at any time.

Additional attendees may be permitted at the discretion of the Title IX Coordinator. Additional attendees will also be approved in connection with an approved disability-related or language barrier accommodation, or for other related accessibility concerns. All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of those proceedings and may be subject to further the University discipline for failure to do so.

The individual interviews may be conducted with all participants physically present in the same geographic location, or, at the University’s discretion, with all participants joining virtually through a video conferencing option. The Investigator is solely responsible for all aspects of the investigation, including meeting rules and 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 and not shared outside the University. No other parties are permitted to record the interviews.

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 procedures is a violation of University policy. Any person who abuses the University conduct processes in this way may face disciplinary charges for that violation.

Participation in the resolution process is addressed in this section, under subsection A: "Rights and Requirements". The investigation will continue and decisions will be made with the available information.

C. Investigative Evidence

Burden of Evidence

Throughout the investigation of a Formal Complaint, the University has the burden of conducting an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred. This burden does not rest with any involved party, and any party may decide to limit their participation in part or all of the process, or to decline to participate. A party's participation, or lack thereof, does not shift the burden of proof away from the University and does not indicate whether or not someone is in violation of the policy or acceptance of responsibility.

Impermissible Evidence

The following types of evidence and related questions are impermissible, meaning the information will not be accessed or considered, except to determine whether one of the

exceptions listed below applies. Impermissible evidence will not be disclosed or otherwise used, regardless of relevance:

1. Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
2. Evidence provided to a Confidential Resource, unless the person who made the disclosure or otherwise provided evidence to the Confidential Resource has voluntarily consented to re-disclosure;
3. An involved party's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in these procedures; and
4. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged sexual harassment or sexual misconduct. The fact of prior consensual sexual conduct between the parties does not by itself demonstrate or imply the Complainant's consent to other sexual activity or preclude a determination that Prohibited Conduct occurred.

Management of Evidence/Information

To maintain the privacy of evidence gathered or shared during any part of the resolution procedures, access to materials will be provided only by a secure method. Given the sensitive nature of the information provided during any of the resolution procedures, involved parties and advisors are not permitted to copy, remove, publicize, share, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided or make use of the documents outside of the processes described, unless given explicit permission by the Title IX coordinator. Parties may request to review a hard copy of materials, and the University will make that available in a supervised or monitored setting. Any student or employee who fails to abide by this may constitute retaliation and may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

D. Evidence Review Phases

Interview Summary Review

The Investigator will prepare a summary of each interview. All those interviewed will have an opportunity to review their interview summary for accuracy and submit suggested modifications or additional information within three (3) days of receipt of the summary from the Investigator.

Preliminary Investigative Report and Review

Once the Investigator has gathered all relevant information and after the interview summary review period, the Investigator will prepare a Preliminary Investigative Report.

This Report will include relevant information, excluding impermissible evidence, 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 appropriate procedural application. At the discretion of the Title IX Coordinator, a third-party reviewer, or designee, may be utilized.

The Preliminary Report will then be provided to the Complainant and Respondent, simultaneously. If applicable or directed by the Complainant or Respondent, the Report will be shared with any identified Support Person/Advisor of Choice by the Title IX coordinator. Both the Complainant and the Respondent will have ten (10) days to review the Preliminary Investigative Report and provide follow-up responses or information to the Investigator. The purpose of the inspection and review process is to allow each party the equal opportunity to respond to the evidence prior to conclusion of the investigation, to submit any additional relevant evidence, and the names of any additional witnesses with relevant information. Relevant responses submitted during the preliminary review period will be included in the Final Investigative Report.

The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence. At the conclusion of the evidence review, when deemed appropriate by the Investigator, the Investigator shall then conduct any additional fact-gathering as may be necessary. If new, relevant evidence is gathered during this second fact-gathering period, the new evidence will be made available for review by the parties and their advisors during the final review and response period. The Investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

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

E. Final Investigative Report

The Investigator will prepare a Final Investigative Report including all of the relevant information gathered and steps taken during the investigation process, excluding impermissible evidence. The Investigator will include as an attachment all relevant evidence gathered during the investigation.

The Final Investigative Report will include:

1. A description of the allegations of Prohibited Conduct;
2. Information about the policies and procedures used to evaluate the allegations;
3. A description of the procedural steps taken by the investigator, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
4. An evaluation of the relevant evidence, excluding impermissible evidence, and the rationale for that evaluation; and
5. Findings of fact for each allegation.

The Investigator will forward the Final Investigative Report to the Title IX Coordinator, who will provide the Report to the Complainant and Respondent simultaneously. If applicable or directed by the Complainant or Respondent, the Report will be shared with any identified Support Person/Advisor of Choice by the Title IX coordinator.

F. Title IX Hearing Timeline

The Title IX Coordinator will notify a University Administrator, or designee, who will schedule the Title IX Hearing. The Title IX Hearing will be scheduled no sooner than ten (10) days after the Complainant and the Respondent have received the Final Investigative Report. This ten (10)-day timeframe is the final review and response period, 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. This timeframe may be extended by the Title IX Coordinator for demonstrated good cause.

Prior to the Hearing

Three (3) days prior to the hearing, each party shall submit to the Hearing Decisionmaker a proposed list of questions they wish to pose to the other party, or to a witness (note: this is the same day in which additional witness lists must be submitted. Details are listed in this section, subsection H: Hearing Protocol and Guidelines).

If the Hearing Decisionmaker determines that any questions are not relevant or seek otherwise impermissible evidence, the Hearing Decisionmaker shall exclude the question and explain the reason for the exclusion of the question at the hearing. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The Hearing Decisionmaker must give a party an opportunity to clarify or revise any question that the Hearing Decisionmaker has determined is unclear or harassing and, if the party sufficiently clarifies or revises a question, and the question is relevant, the question will be asked.

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 Decisionmaker, or any facilitator of the informal resolution process, does 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.

G. Title IX Hearing Procedures

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

The purpose of a hearing is for a Hearing Decisionmaker to determine whether the conduct occurred as alleged and, if so, whether that conduct violates the Title IX policy. The University expects that all individuals who participate in the hearing process do so truthfully and that all who have a responsibility for carrying out one or more aspects of the hearing process do so fairly and without prejudice or bias. Hearings may be conducted in person or via videoconferencing. The Title IX Coordinator may determine that the hearing will continue in the absence of any party or any witness.

The Title IX coordinator will appoint a Hearing Decisionmaker, who will determine whether a violation of policy has occurred. The Hearing Decisionmaker will have the authority to determine the relevance of evidence submitted and of questions asked.

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)

Statements, Questioning and Presentation of Evidence at the Hearing

The Hearing Decisionmaker will conduct a thorough and impartial Hearing without bias or prejudice. 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 Decisionmaker will initiate the hearing to begin questioning of the Complainant, Respondent, and Witnesses. The order of questioning will be determined by the Hearing Decisionmaker. The Hearing Decisionmaker will pose questions to the involved

parties including the questions the Hearing Decisionmaker approved to be asked that were submitted by each party prior to the Hearing. The Complainant and Respondent will then be provided an opportunity to submit follow-up written questions to the Hearing Decisionmaker to ask the other party or witnesses. If the Hearing Decisionmaker determines that any questions are not relevant to the allegations, or seek otherwise impermissible evidence, the Hearing Decisionmaker will exclude the question and explain the reason for the exclusion of the question at the hearing and offer an opportunity for that party to reframe or resubmit the question. Questions that are unclear or harassing will not be permitted.

Only the Hearing Decisionmaker is permitted to ask questions of Complainants, Respondents, and Witnesses. Advisors of Choice are not permitted to directly or indirectly question the other party or Witness.

The Hearing Decisionmaker 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.

H. 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 Decisionmaker 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 questions posed.

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

Each Hearing will be recorded by the University and this recording will be considered the only official recording of the Hearing. No other individual is permitted to record while the Hearing is taking place. The recording is the property of the University but shall be available for listening until the conclusion of the appeals process to Complainant, Respondent, their Advisor of Choice, Hearing Decisionmaker, and Appeal Officer by contacting the Title IX Coordinator. The recording will not be shared with any parties outside the University.

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 Complainant, Respondent, and the Hearing Decisionmaker all have the right to call witnesses. Witnesses participating in the Hearing must have information relevant to the allegations.

Only witnesses who participated in the investigation will be permitted to participate in the hearing, unless the witness was otherwise unknown or not known to have relevant information during the course of the investigation. If the witness did not participate in the investigation, the party must also provide the reason the witness was not interviewed by the investigator, and what information the witness has that is relevant to the allegations. The Complainant and Respondent who wish to call any new witnesses must submit the name of the witness at least three (3) days in advance of the hearing to the Hearing Decisionmaker.

The Hearing Decisionmaker will then determine whether the witness has relevant information and if there is sufficient justification for permitting the witness to participate. A list of witnesses approved by the Hearing Decisionmaker will be provided to the Complainant and Respondent prior to the hearing. The Hearing Decisionmaker may choose to hold a pre-hearing conference with the parties jointly or individually, if the Hearing Decisionmaker determines the process would benefit from a pre-hearing conference to address in advance procedural or evidentiary issue that may arise during the hearing.

Advisor of Choice

The Complainant and Respondent must be accompanied by an Advisor of Choice at the Hearing. The role of the Advisor of Choice at the Hearing is to ask questions for purposes of cross-examination on behalf of the Complainant and Respondent. A University-selected Advisor of Choice will be provided without expense for the Hearing, for the purpose of cross-examination if the Complainant or Respondent has not appointed one for themselves. The University will not bear the expense of an attorney 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.

Hearing Participation Guidelines

The Hearing Decisionmaker will have the authority to maintain order and decorum at the hearing, including responding to disruptive or harassing conduct and, when necessary, to adjourn the hearing or exclude the disruptive person. In the event the Hearing Decisionmaker removes an Advisor of Choice, the Hearing Decisionmaker will have the discretion to appoint another Advisor of Choice for the remainder of the hearing. The Hearing Decisionmaker also has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, and will not permit such questions.

In the event that a Complainant or Respondent does not appear for the Hearing, the Advisor of Choice for that party may attend the live hearing and may conduct cross-examination of the other party and any witness at the hearing. The advisor may not actively participate in the hearing interviews nor provide testimony or argument on behalf of the party they are advising.

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 Formal Complaint. Sanctions will be proportionate to the involvement of each individual and the organization.

The Hearing Decision Maker has up to five (5) days to make a decision and prepare the Notice of Determination. The 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.

I. Notice of Determination

The Hearing Decisionmaker will make a reasonable effort to conduct their review within five (5) days following the Hearing. The Hearing Decisionmaker will prepare a Notice of Determination and provide the Notice to the Title IX Coordinator. All findings will be made using the preponderance of the evidence standard, which means that the allegation(s) are more likely than not to have occurred. To the extent credibility determinations need to be made, such determinations will not be based on a person's status as Complainant, Respondent, or Witness. If necessary, the Hearing Decisionmaker may work in consultation with the Student Conduct System Administrator, the Assistant Vice President of Human Resources, and/or University Counsel in assigning sanctions.

The Notice of Determination will include:

1. A description of the allegations of Prohibited Conduct;

2. Information about the policies and procedures used to evaluate the allegations;
3. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
4. An evaluation of the relevant and not otherwise impermissible evidence and the rationale for that evaluation;
5. Findings of fact for each allegation, with rationale;
6. Conclusions regarding which section of this Policy or other University policy, if any, the Respondent has or has not violated, with rationale;
7. Sanction(s), if applicable; and
8. Appeal procedures.

J. Written Impact Statement Option

The Complainant and Respondent may each submit a written impact statement at any time prior to the Conclusion of the Hearing Decisionmaker Review. The impact statement is not evidence and will be reviewed only after a determination is reached.

K. Conclusion of Hearing Decisionmaker Review

The Notice of Determination will be provided to the Title IX Coordinator and University Administrator. The Title IX Coordinator will communicate the findings to the Complainant and Respondent, and their Advisor of Choice should the party wish the Advisor to receive it, along with reiterating with procedures for appeal. If applicable, sanctions become effective on the date that the appeal process is finalized. If no party appeals, the determination and applicable sanctions become final on the date that the time period to appeal ends (three [3] days after the dissemination of the Notice of Determination).

XI. 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, reference to counseling, performance improvement plans, apology letter, reflection statements, targeted educational projects, coaching, probation, suspension, expulsion, and/or separation.

If applicable, sanctions become effective on the date that the appeal process is finalized. If no party appeals, the determination and applicable sanctions become final on the date that the time period to appeal ends three (3) days after the dissemination of the Notice of Determination).

The Title IX Coordinator is responsible for ensuring the timely completion of any or sanctions.

Failure to Complete Sanctions/Comply with Responsive Actions

All responding parties are expected to comply with sanctions/responsive actions/ corrective actions within the timeframe specified by the University. Responding parties needing an

extension to comply with their sanctions must submit a written request to the Title IX Coordinator stating the reasons for needing additional time.

Failure to follow through on conduct sanctions/responsive actions/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive actions/corrective actions listed above.

XII. Appeal Procedures

The University recognizes the following procedural steps where University decisions can be appealed by a Complainant or Respondent:

- Supportive measure decisions
- Emergency removals
- Dismissals of Complaints
- Notice of Determination – ONLY on the following grounds:
 - **Procedural Error:** A procedural error occurred and the error would change the outcome. A description of the error and its impact on the determination of the case must be included in the written appeal; and/or
 - **New Evidence:** New evidence or information has arisen that was not available or known to the party during the investigation, that would change the outcome. Information that was known to the party during the resolution process but which they chose not to present is not considered new information. The new evidence, an explanation as to why the evidence was not previously available or known, and an explanation of its potential impact on the investigation findings must be included in the written appeal; and/or
 - **Actual Conflict of Interest or Demonstrated Bias:** The Title IX Coordinator, Investigator, or others with a role in the process has an actual conflict of interest or demonstrated bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that would change the outcome. Any evidence supporting the alleged conflict of interest or demonstrated bias must be included in the written appeal.

A Complainant or Respondent may individually submit one appeal for any of the University decisions as listed in this Appeal Procedures section. All concerns about each procedural step must be addressed in one appeal submission at each appeal opportunity.

Appeals must be submitted within three (3) days of a Notice following any specified procedural step. Directions regarding how to submit an appeal can be found on the Title IX webpage and in the letters of Notice.

Faculty members who want to submit an appeal regarding a Notice of Determination on specified conditions will follow the appeal process outlined in the [Faculty Handbook](#), Section VIII.

Upon receipt of an appeal, the Title IX Coordinator will provide a Notice of Appeal, including sufficient details about the appeal, the name of the assigned Appellate Decisionmaker, and a link to the Appeal Response Form, to both the Complainant and Respondent, allowing three (3) days for the non-appealing party to respond.

Following the three-day (3) response period, the Title IX Coordinator will forward the appeal, along with all relevant information regarding the appeal, to the Appellate Decisionmaker, or designee(s), for review.

The Appellate Decisionmaker, or designee(s), will consider all available documentation related to the appeal. Based on the information provided, the Appellate Decisionmaker, or designee(s), will:

- Affirm the decision or Findings determined by the Decisionmaker/University Administrator; or
- Modify or reverse the decision or Findings determined by the Decisionmaker/University Administrator.

The Appellate Decisionmaker, or designee(s), will prepare the Final Determination of Appeal stating their decision, which is final and binding. The document will include the rationale for the decision. The Appellate Decisionmaker will make a reasonable effort to complete the appeal process within five (5) days, which may be extended for good cause. The document will be provided to the Title IX Coordinator, who will communicate the final decision to the Complainant and the Respondent in writing. The Final Determination of Appeal will also be shared with the University Administrator, if applicable.

XIII. Record Retention

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 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 (7) years from the date of the incident, or indefinitely in cases involving a sanction of separation. All records will be afforded the confidentiality protections required by law, including but not limited to the Family Educational Rights and Privacy Act (FERPA) governing confidentiality of student information.

XIV. Additional Enforcement Information

The U.S. Equal Employment Opportunity Commission (EEOC) investigates reports of unlawful harassment, discrimination, and retaliation, including sex-based harassment, in employment.

- U.S. Equal Employment Opportunity Commission (EEOC) <https://www.eeoc.gov/contact-eeoc>

The Office for Civil Rights (OCR) investigates complaints of unlawful discrimination and harassment of students and employees in education programs or activities.

Other questions about Title IX may be referred to the assistant secretary for civil rights:

Office for Civil Rights,
Lincoln Commission on Human Rights
555 S.10th Ste. 304
Lincoln, NE 68508
402-441-7624

Nebraska Equal Opportunity Commission
1526 K Street Ste. 310
Lincoln, NE 68508
402-471-2024
1-800-642-6112

Any person may report conduct prohibited by the Title IX Policy to the Title IX Coordinator:

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

A complaint about the Title IX Coordinator may be made to:

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

XV. Clery-Reportable Crimes and Disclosure Obligations

The Clery Act is a federal crime and incident disclosure public safety law. It requires, among other things, that the University report the number of incidents of certain crimes, including some of the Prohibited Conduct in the Title IX Policy and these procedures, that occur in particular campus-related locations. The Clery Act also requires the University to issue warnings to the community in certain circumstances.

In the statistical disclosures and warnings to the community, the University will ensure that a Complainant's name and other identifying information are not disclosed. The Title IX Coordinator will refer information to the Clery Compliance Administrator when appropriate for disclosing crime statistics or sending campus notifications.

For additional information of Clery-reportable crimes, please refer to the [Campus Safety](#) page.

XVI. Policy Review and Revision

The corresponding policy and these procedures will be reviewed and updated regularly by the University. Modifications to the corresponding Title IX policy and these procedures will be made in a manner consistent with institutional policy upon determining that changes to law, regulation or best practices require policy or procedural alterations not reflected herein. These procedures will apply regardless of the time of the incident.

This procedure may be revised at any time without notice. All revisions supersede prior versions and are effective immediately upon posting to the University website.

This procedure is effective as of January 9, 2025 and was approved by NWU's Title IX office.

NEBRASKA WESLEYAN UNIVERSITY

Sexual Harassment and Sexual Misconduct Policy Outside of the 2020 Federal Title IX Regulations

This policy applies to forms of sexual harassment and sexual misconduct, including sexual assault, dating violence, domestic violence, stalking, and sexual exploitation that fall outside of Title IX as outlined in the 2020 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 Title IX of the Education Amendments of 1972 (Title IX), the Jeanne Clery Campus Safety 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 all forms of discrimination and illegal harassment based on sex, gender, gender identity, or sexual orientation, including sexual assault, stalking, sexual exploitation, dating violence, and domestic violence, which will be referred to as “prohibited conduct”. 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, they 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 misconduct. To make a report, contact titleix@nebrwesleyan.edu or connect with the appropriate staff member:

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

All reports and formal 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:

- Students: Any person registered in courses at the University, either full-time or part-time, pursuing undergraduate or graduate studies, including those who audit courses.
- 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*.

*Student/employee crossover: Students who work on campus as an employee and employees who are registered in courses at the University both fall under the jurisdiction of the policy. Details of the student/employment status will be assessed by the Title IX coordinator for appropriate application of procedures.

- 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 and those who are on campus or participating or attempting to participate in a University sponsored activity. 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 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 2020 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 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.

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. 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.

Furthermore, 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 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 adheres to the requirements of the Americans with Disabilities Act of 1990, as amended 2008 ("ADAAA"), Sections 504 and 508 of the Rehabilitation Act of 1973, and other relevant laws to ensure equal access for individuals in all areas of University operation, including education, employment, and decisions regarding faculty appointment, promotion or tenure. Discrimination on the basis of any protected category or characteristic other than disability will be addressed in accordance with Nebraska Wesleyan University's Non-Discrimination Policy.

The University shall provide certain support and modifications to people experiencing pregnancy or related conditions to ensure their equal access to a University's program or activity under Title IX protections. The University treats pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions and must allow voluntary leaves of absence. Pregnancy or related conditions include pregnancy, childbirth, termination of pregnancy, lactation; medical conditions and/or recovery related to any of the aforementioned medical conditions.

Parties can request reasonable accommodations for pregnancy or related conditions from the Director of Student Accessibility for support and modifications, which will be granted if they do not fundamentally alter the established procedures. The Director of Student Accessibility collaborates with appropriate offices to implement approved accommodations with the consent of the affected student or employee. Employees or applicants for employment may also contact the office of Human Resources for more information, because additional workplace laws and policies apply.

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 and sexual misconduct, 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 does not rely on sex stereotypes and promotes impartial investigations and adjudications of formal complaints of sexual harassment and sexual misconduct. 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 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 VII 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. In Nebraska, minors are considered all persons under the age of 19.

V. Prohibited Conduct

Sexual harassment and sexual misconduct that falls outside of Federal Title IX Regulations, identifies three types of 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.

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.

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;
- Inducing incapacitation or attempted incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity; or
- Intentional 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.

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.

VII. Employee Reporting Obligations

The University requires employees with specific job responsibilities that include the authority to institute corrective measures, individuals who serve the institution in a supervisor capacity, administrators, faculty/instructors, advisors, and other positions as noted below in Table 1 to promptly report conduct that reasonably could be sexual harassment and sexual misconduct using ONLY Option 1 directly to the Title IX Coordinator.

Employees and student employees whose job responsibilities are not listed under Category A are required to address disclosures of sexual harassment and sexual misconduct using either Option 1 or Option 2. Option 2 allows employees listed under Category B to provide contact information for the Title IX Coordinator and information about how to make a report and file a Formal Complaint to anyone who provides a disclosure. Option 2 requirements can be met using the Title IX Resource card or email template, which are both located on the [Title IX webpage](#).

The two options that meet employee reporting obligations are:

- Option 1: Report all information disclosed and/or made available to the employee about sexual harassment and sexual misconduct to a Title IX Coordinator.
- Option 2: Provide contact information for the Title IX Coordinator to anyone who provides a disclosure and information about how to make a report and file a Formal Complaint.

Table 1: Employee Categories of Reporting Obligations

<u>Reporting</u>	<u>Choice of Reporting or Providing Information</u>
Employees in this category can <u>ONLY</u> use Reporting (Option 1) to meet this reporting obligation.	Employees in this category may use Reporting (Option 1) <u>OR</u> Providing Resource Information (Option 2) to meet this obligation.
<u>Job Category A</u> <ol style="list-style-type: none"> 1. Advisors, Academic and Club 2. Chief of Staff 3. Coaches (All) 4. Deans, Assistant Deans 5. Department Chairs, Program Directors 6. Directors, Assistant Directors 7. Faculty, full-time, part-time, adjuncts 8. Provost/Vice Presidents 	<u>Job Category B</u> <ol style="list-style-type: none"> 1. All other employees, including student employees, not listed in Obligation 1 2. Confidential Employees (exempt from Option 1)

9. Student Life/Affairs Personnel 10. Supervisors 11. Title IX Personnel 12. University President	
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Instances of disclosures may occur through various communications that include, but are not limited to, conversation, emails, classroom assignments, and social media and must be addressed in accordance with the University’s Title IX procedures.

VII. Reporting

Individual disclosure

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 University will make a reasonable effort to respect the wishes of the person who experienced sexual harassment and sexual misconduct. The Title IX Coordinator will support all parties involved in understanding and assessing all options; questions should be directed to a Title IX Coordinator.

While there is no time limit for reporting sexual harassment and 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.

Confidential Employees

Confidential Employees are exempt from Employee Reporting Obligation Option 1, listed in Section VI of this document. 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.

Anonymous Reporting to the University

Anonymous reports of sexual harassment and sexual misconduct concerns can be submitted 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. Reporting anonymously does not fulfill Employee Reporting Obligations.

Public Awareness Events

The Title IX Coordinator is not obligated to respond directly to any identified Harmed Party in a report of sexual harassment or sexual misconduct disclosed at a “public awareness event” that takes place on-campus or in a school-sponsored online platform unless there is an imminent and serious threat to someone’s health or safety.

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 Police Department:

- 911 (for emergencies)
- 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

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. 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.

VIII. 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 “Confidential Employees” does not trigger action by the University and will allow the harmed party to proceed as they choose.

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; advocate@nebrwesleyan.edu; (402) 465-2533; Voices of Hope 24/7 Support: (402) 475- 7273.

University Minister: can help students, faculty and staff and is located in Old Main - Room 105; minister@nebrwesleyan.edu; (402) 465-2398.

An Additional Confidential Resource for Undergraduate Students:

NWU 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; (402) 465-2464.

An Additional Confidential Resource For Employees:

Directions EAP (Employee Assistance Program): is located at 3930 South St, Ste. 101 in Lincoln, NE 68506; directionseap@directionseap.com; (402) 434-2900.

IX. Supportive Measures

The University offers a wide range of resources for Students and Employees to provide support and guidance upon receipt of a report of sexual harassment or sexual misconduct. The University will offer supportive measures to any involved party and will be reasonable and appropriate to facilitate continued access to University employment or education programs and activities. Non-disciplinary, non-punitive individualized services will be offered, as reasonably available, without fee or charge to the involved party, regardless of filing 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, change of class schedule, and/or Campus “Safe Walking Service”.

Non-compliance with a Supportive Measure: Failure to comply with the directives of a supportive measure administered by the Title IX Office, will also be addressed as a separate violation of University policy through student conduct or employee conduct.

X. 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, sexual misconduct utilizing formal and informal resolution procedures or accessing for potential dismissal of related complaints. 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 includes, but is not limited to, the definitions of sexual harassment and sexual misconduct, the scope of the University's education program or activity, 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 Outside of Title IX Complaints, refer to the Resolution Procedures for Addressing Complaints of Sexual Harassment and Sexual Misconduct Outside of the 2020 Federal Title IX Regulations.

Any question of interpretation of this policy will be referred to the Director of Title IX Services, or designee, who may consult with the University President, whose interpretation is final.

XI. 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 Title IX Webpage of the University's website. Training materials will be provided by the University on an annual basis and ongoing basis to take reasonable steps to eliminate sexual harassment and sexual misconduct, prevent its recurrence, and remedy its effects.

The NWU Board of Governors approved this policy to be implemented on January 9, 2025. All incidents of sexual harassment and sexual misconduct that occur on or after this date will be subject to this policy and corresponding procedures. However, the University will apply the applicable policy definitions in effect at the time of the incident.

Resolution Procedures for Addressing Sexual Harassment and Sexual Misconduct Outside of the 2020 Federal Title IX Regulations

This procedure applies to forms of sexual harassment and sexual misconduct, including sexual and gender-based harassment/bullying, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation (“Prohibited Conduct”) when the Prohibited Conduct falls **outside of** the 2020 Federal Title IX Regulations and Nebraska Wesleyan University’s (“University”) corresponding policy, “Sexual Harassment and Sexual Misconduct Policy outside of the 2020 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 corresponding Sexual Harassment and Sexual Misconduct Policy Outside of the 2020 Federal Title IX Regulations (“Outside of Title IX Policy”). All behavior referenced as sexual harassment and sexual misconduct that falls outside of the 2020 Federal Title IX jurisdiction guidelines will be addressed utilizing this procedure.

This procedure is based on the 2020 Final Rule for Title IX of the Education Amendments of 1972 (Title IX), the Jeanne Clery Campus Safety Act (Clery Act), and corresponding legal guidance.

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

I. 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.

Complainant: an individual who is alleged to be the Harmed Party of conduct that could constitute sexual harassment or sexual misconduct and has been filed and signed with the University.

Confidential Employee: an individual designated by the University working in their confidential capacity 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.

Decisionmaker: participates in the evidence review process and makes final decisions of the resolution outcome and, if necessary, sanctions, and communicates the Notice of Determination to the University Administrator. The Decisionmaker 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).

Education Program or Activity: includes all campus operations, including off-campus settings that are operated or overseen by the University, including, for example, field trips, online classes, and athletic programs; conduct subject to the University’s disciplinary authority that occurs off-campus; and conduct that takes place via University-sponsored electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of, the University.

Employee Reporting Obligations: All Employees and Student Employees have required reporting obligations based on their job responsibilities. Specific jobs in Category A, listed in Table 1: Employee Reporting Obligations (Section III of these procedures), will be required to promptly report disclosures of Prohibited Conduct that reasonably could be sexual harassment or sexual misconduct directly to the Title IX Coordinator. All other Employees not specifically identified and all Student Employees as noted in Category B (in Table 1) will be required to address disclosures of Prohibited Conduct using either Option 1 or Option 2. Option 2 requires Employees and Student Employees to provide contact information for the Title IX Coordinator **and** information about how to make a report and file a complaint to anyone who provides a disclosure. The two options that meet Employee Reporting Obligations are:

- Option 1: Report all information disclosed and/or made available to the employee about sexual harassment or sexual misconduct to a Title IX Coordinator.
- Option 2: Provide contact information for the Title IX Coordinator to anyone who provides a disclosure **and** information about how to make a report and file a complaint.

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*.

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.

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.

***Student/employee crossover:** Students who work on campus as an employee and employees who are registered in courses at the University fall under the jurisdiction of the Outside of Title IX Policy and these procedures. Details of the student/employment status will be assessed by the Title IX coordinator for appropriate application of procedures.

Expert Witness: a person who is permitted to participate in an investigation because of special knowledge or proficiency in a particular field that is relevant to the Complaint.

Finding: a written conclusion by a preponderance of the evidence, issued by a Decisionmaker, that the conduct did or did not occur as alleged.

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.

Formal Resolution: involves an investigation, an evidence review phase, and a Decisionmaker 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 files a Formal Complaint, alleging an occurrence of sexual harassment or sexual misconduct, they are referred to as a "Complainant" as defined herein.

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.

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. 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. 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 group of individuals such as a student organization, who has been reported to have engaged in conduct that could constitute sexual harassment or sexual misconduct.

Sanctions: disciplinary steps that may be imposed on a Respondent who is found responsible for a violation of the University's policies.

Students: any person registered in courses at the University, either full-time or part-time, pursuing undergraduate or graduate studies, including those who audit courses. For Employees who are enrolled and taking classes, refer to the Student/Employee Crossover definition.

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, including the Reporting, Assessment, Informal Resolution, Investigation, Hearing, and Appeal process. A Support Person may be a staff member, student, friend, family member, community member, or an attorney. 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.

II. Role of Title IX Coordinator

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 and Title IX Coordinator: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, mharder@nebrwesleyan.edu

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

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.
- Committed to supporting all parties involved in understanding and assessing all rights, options, and resources;

- Knowledgeable and trained in relevant state and federal laws and University policy and procedures;
- Responsible for oversight of annual training programs for Title IX personnel and all members of the campus community. Trainings 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. Additionally, training ensures that Title IX personnel 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 involved party about the courses of action available at the University;
- Available to assist any party regarding how to respond appropriately to reports of sexual harassment or sexual misconduct;
- Responsible for oversight of sexual violence prevention education;
- 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;
 - The Title IX coordinator has discretion to address noncompliance during any part of the resolution process. This includes the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party or Support Person/Advisor of Choice who does not comply with meeting expectations or decorum and any other applicable part of the resolution process.
- Collaborate with the Provost, or designee, when disclosures or supportive measures are related to issues of academic freedom or instructional methods;
- Responsible for ensuring the timely completion of any remedies or sanctions, and;
- Responsible for compiling annual reports.

III. Employee Reporting Obligations

The University requires employees with specific job responsibilities that include the authority to institute corrective measures, individuals who serve the institution in a supervisory capacity, administrators, faculty/instructors, advisors, and other positions as noted below in Table 1, to promptly report directly to the Title IX Coordinator conduct that reasonably could be sexual harassment or sexual misconduct using **ONLY** Option 1.

Employees and student employees whose job responsibilities are not listed under Category A are required to address disclosures of sexual harassment or sexual misconduct using either Option 1 or Option 2. Option 2 allows employees listed under Category B to provide contact information for the Title IX Coordinator **and** information about how to make a report and file a complaint to anyone who provides a disclosure. Option 2 requirements can be met using the Title IX Resource card or email template, which are both located on the Title IX webpage.

The two options that meet employee reporting obligations are:

- Option 1: Report all information disclosed and/or made available to the employee about sexual harassment and sexual misconduct to a Title IX Coordinator.
- Option 2: Provide contact information for the Title IX Coordinator to anyone who provides a disclosure **and** information about how to make a report and file a Formal Complaint.

Table 1: Employee Categories of Reporting Obligations

<u>Reporting</u>	<u>Choice of Reporting or Providing Information</u>
Employees in this category can ONLY use Reporting (Option 1) to meet this reporting obligation.	Employees in this category may use Reporting (Option 1) OR Providing Resource Information (Option 2) to meet this obligation.
<p style="text-align: center;"><u>Job Category A</u></p> <ol style="list-style-type: none"> 1. Advisors, Academic and Club 2. Chief of Staff 3. Coaches (All) 4. Deans, Assistant Deans 5. Department Chairs, Program Directors 6. Directors, Assistant Directors 7. Faculty, full-time, part-time, adjuncts 8. Provost/Vice Presidents 9. Student Life/Affairs Personnel 10. Supervisors 11. Title IX Personnel 12. University President 	<p style="text-align: center;"><u>Job Category B</u></p> <ol style="list-style-type: none"> 1. All other employees, including student employees, not listed in Obligation 1 2. Confidential Employees (exempt from Option 1)

Instances of disclosures may occur through various communications that include, but are not limited to, conversation, emails, classroom assignments, and social media and must be addressed in accordance with the University’s procedures.

IV. Reporting Sexual Harassment and Sexual Misconduct

Individual disclosure

An individual may choose to report to the University, including the Title IX coordinator, a Confidential Resource, or through anonymous reporting. An individual may choose to report to law enforcement. These reporting options through the University and law enforcement are not exclusive. An individual may simultaneously pursue a civil or criminal investigation off campus and the University sexual harassment and sexual misconduct resolution process.

How to Make a Report vs. Filing a Formal Complaint to the University

All reports and Formal Complaints of an incident of sexual harassment or sexual misconduct will be taken seriously and in good faith. 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.

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 Complaint over the Complainant's objection if the University deems it in the University's best interest to do so. This is done by the Title IX Coordinator signing a Complaint, on behalf of the University, and can be done with or without consent/permission of the original Complainant. Upon the filing of the Complaint, the Title IX Coordinator will not become a party to the procedure.

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

Filing a Formal Complaint is defined as the request to the Title IX coordinator to initiate the University's formal and informal resolution processes regarding incidents of sexual harassment and sexual misconduct. The decision to file a Complaint may be made at any time via email/electronically, phone, or physical mail, or in person during regular business hours. The Title IX coordinator will provide assistance about what course of action may best support the individual(s) involved and how best to address the complaint.

There are three situations in which the Complaint may be signed.

1. A Harmed Party may sign the Complaint.
2. A parent, guardian, or other authorized individual with the legal right to act on behalf of the Harmed Party may sign the Complaint in the event a Harmed Party does not wish to file the Complaint.
3. A Title IX Coordinator may sign the Complaint:
 - a. In the event a Harmed Party does not wish to file the Complaint.
 - b. When the Prohibited Conduct 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 someone other than the Harmed Party signs the Complaint, that party does not become the Complainant. Only the Harmed Party is allowed to be the Complainant.

It is important for Reporting Parties to note that the University will consider amnesty protections as outlined below. **Amnesty** is protection granted to individuals for participating in minor policy violations without fear of a personalized conduct proceeding.

- **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 Students and Employees to offer help and assistance to others, the University pursues a policy of amnesty for minor 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 and 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:** Students and 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 minor violations may occur, but no conduct proceedings will result.

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

Reporting to Confidential Employees

Confidential Employees are exempt from Employee Reporting Obligations Option 1, listed in Section III of this document. 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.

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.

Anonymous Reporting to the University

Anonymous reports of sexual harassment and sexual misconduct concerns can be submitted 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. Reporting anonymously does not fulfill Employee Reporting Obligations.

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. The University will assist individuals in notifying law enforcement if they choose to do so.

To Contact Lincoln Police Department:

- 911 (for emergencies).
- 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.

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.

- 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.

V. Conflict of Interest

Any individual carrying out any part of the Outside of Title IX Policy or these procedures shall be free from any actual conflict of interest or demonstrated bias that would impact the handling of a matter.

Any individual may object to the participation of the Informal Resolution Facilitator, Investigator, Decisionmaker, and Appellate Decisionmaker on the grounds of a demonstrated bias or actual conflict of interest and are to be submitted in writing to the Title IX coordinator.

Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator shall immediately notify the Director of Title IX Services who will either take, or reassign to an appropriate designee, the role of Title IX Coordinator for purposes of carrying out the handling and finalization of the matter at issue.

Objections regarding the Title IX Coordinator are to be made, in writing, to the Director of Title IX Services. All objections will be considered, and changes made as appropriate. Any change will be communicated in writing.

A conflict or objection involving the Director of Title IX Services on the grounds of a demonstrated bias or actual conflict of interest are to be made, in writing, to the University President.

VI. Response to a Report

The following steps will be used following the receipt of a report of Prohibited Conduct to the Title IX Coordinator.

Initial Contact

Following receipt of a report alleging a potential violation of the Outside of Title IX Policy, the Title IX Coordinator will contact the Reporting/Harmed Party to offer an initial intake and assessment meeting. Initial contact includes related rights, options, and resources. The Title IX coordinator will assess available information for imminent or ongoing threats, immediate physical safety, and emotional well-being to the Harmed Party or campus community. If the individual bringing forward information about sexual harassment or sexual misconduct is not the actual Harmed Party/Complainant, the Title IX Coordinator will limit communication to general information on policies and processes.

Title IX Assessment

After the initial outreach, an involved party may agree to meet with the Title IX coordinator. The purpose of this initial 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.

During this meeting, the Title IX coordinator will provide the following:

1. Written explanation of rights, options, and resources, and the difference between privacy and confidentiality;

2. Overview of related University policy;
3. Identify any concerns about discrimination or harassment based on other protected classes;
4. Information regarding available confidential campus and community resources, including: counseling, health care, mental health, or victim advocacy. Upon request, information regarding legal assistance, visa and immigration assistance, student financial aid and other available services may be provided;
5. Availability of Supportive Measures regardless of whether a Formal Complaint is filed and/or any resolution process is initiated;
6. Options for resolution (no action, prevention, agreement, investigation) and how to initiate such resolution processes;
7. Explanation of the University's evidentiary standard ("preponderance of evidence");
8. Right to notify law enforcement as well as the right not to notify law enforcement;
9. Information about the importance of preserving evidence and, in the case of potential criminal misconduct, how to get assistance from the Title IX coordinator or local law enforcement in preserving evidence;
10. Right to a Support Person/Advisor of Choice, if applicable, during the University proceedings including the initial meeting with the Title IX Coordinator;
11. Statement about retaliation protections for filing a complaint, or participating in the complaint process, which is prohibited; and
12. Information on how to file a Complaint, as well as documentation on the Reporting Party's preferred course of action.

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 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 and sexual misconduct. In all cases, the Title IX coordinator will continue to assess imminent or ongoing threat, immediate physical safety, and emotional well-being to Harmed Party or campus community to comply with the need of a timely warning or emergency notification as required under federal law.

If the reported incident constitutes an imminent or ongoing threat to campus safety, the Title IX Coordinator may sign a Formal Complaint, beginning the 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 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 Formal Complaint, and commence the formal resolution process (after taking account of the aforementioned factors), with or without approval of the original Reporting Party.

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

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.

Requests for Confidentiality or No Further Action

When a Harmed Party requests confidentiality from a Confidential Resource, the University will follow the guidelines outlined in Section IV of this procedure.

When a Harmed Party requests that the Title IX coordinator not use their name as part of any resolution process, or that the University not take any further action, the University will generally try to honor those requests. However, there are certain instances in which the University has a broader obligation to the community and may need to act against the wishes of the Harmed Party. In such circumstances, the Title IX Coordinator will notify the Harmed Party in writing of the need to take action. The factors the Title IX Coordinator will consider when determining whether to act against the wishes of a Harmed Party include:

1. The Harmed Party's request not to proceed with initiation of a complaint;
2. The Harmed Party's reasonable safety concerns regarding initiation of a Formal Complaint;
3. The risk that additional acts of Prohibited Conduct would occur if a Formal Complaint is not initiated;
4. The severity of the alleged Prohibited Conduct, including whether the sexual harassment or sexual misconduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the sexual harassment or sexual misconduct and prevent its recurrence;
5. The relationship of the parties, including whether the Respondent is an Employee;
6. The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing nature, or is alleged to have impacted multiple individuals;
7. The availability of evidence to assist a Decisionmaker in determining whether sexual harassment or sexual misconduct occurred;
8. Whether the University could end the alleged sexual harassment or sexual misconduct and prevent its recurrence without initiating its resolution procedures under the Outside Title IX Policy; and
9. Whether the conduct as alleged presents an imminent and serious threat to the health or safety of the Harmed Party or other persons, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its Education Program or Activity.

Emergency Removal Evaluation

At times, the University may take action to ensure the physical or emotional safety and well-being of the University community. Per § 106.44(c) of the Federal Regulations, the University retains the authority to remove a Respondent from the University's Education Program or Activity on an emergency basis, where the University:

1. Completes an individualized safety and risk analysis;
2. Determines that an immediate and serious threat to the health or safety of a Complainant or any student, employee, or other individual arising from the allegations of sexual harassment or sexual misconduct justifies a removal; and
3. Provides the Respondent with notice of and an opportunity to appeal the decision immediately following the removal.

Removal of a person will initiate the University's resolution process. Interim actions may include a no-trespass or other no-contact order to be issued.

The Respondent may appeal the decision immediately following the removal, by notifying the Title IX Coordinator in writing through the Title IX webpage. An impartial individual, not otherwise involved in the case, will consider the appeal and determine if the emergency removal was reasonable. For other prohibited conduct, the University may defer to its interim suspension policies for students and administrative leave for Employees.

Administrative Leave Evaluation

The University retains the authority to place an Employee who is a Respondent on administrative leave during a pending complaint process, with or without pay, as appropriate. Administrative leave implemented as a supportive measure or as emergency removal is subject to the procedural provisions above, including the right to appeal the decision.

Faculty members may refer to the [Faculty Handbook](#), Article VII for additional information regarding faculty procedures.

Instances of Student Withdrawal or Employee Resignation With Pending Complaint(s)

If a Student or Employee Respondent permanently withdraws or resigns from the University with unresolved allegations pending, the University will consider whether and how to proceed with the resolution process. The University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s) and any ongoing effects of the alleged Prohibited Conduct.

A Student who is a Respondent who withdraws or leaves while the process is pending may not return to the University without first resolving any pending complaints, which applies to all University programs. Records will be retained by the Title IX Coordinator and the Student Conduct Administrator will place a registration hold on the Respondent's account.

An Employee who is a Respondent who resigns with unresolved allegations pending is not eligible for rehire with the University and the records retained by the Title IX Coordinator will reflect that status. Employment references made to the Human Resources office for that individual will include that the former employee resigned during a pending complaint process.

Evaluation of Dismissal of a Formal Complaint

Before dismissing a Formal Complaint, the University will make reasonable efforts to clarify all available information and the allegations with the Complainant.

The University may dismiss a Formal Complaint if:

1. The University is unable to identify the Respondent after taking reasonable steps to do so;
2. The Respondent is not participating in the University's Education Programs or Activities and/or is not employed by the University;
3. The Complainant voluntarily withdraws their complaint in writing and the Title IX Coordinator declines to initiate a Formal Complaint;
4. The Complainant voluntarily withdraws some but not all allegations in a Formal Complaint and the University determines that the conduct that remains alleged in the complaint would not constitute Prohibited Conduct; or
5. The University determines the conduct alleged in the complaint, even if proven, would not constitute Prohibited Conduct under University sexual harassment and sexual misconduct policies.

Upon dismissal, the University will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the University will notify the parties simultaneously, in writing. If a dismissal of one or more allegations changes the appropriate decision-making process under these procedures, the Title IX Coordinator will include that information in the notification. The Title IX Coordinator will provide the Complainant details

in the written notice about any matter that is being referred for handling under a different policy, and/or being referred to another appropriate office for handling.

The University will notify the Complainant that a dismissal may be appealed on the basis outlined in Section XII. Appeal Procedures. If dismissal occurs after the Respondent has been notified of the allegations, then the University will also notify the Respondent that the dismissal may be appealed on the same basis. If a dismissal is appealed, the University will follow the procedures outlined in the Appeals section of these procedures.

When a Formal Complaint is dismissed, the University will, at a minimum:

1. Offer supportive measures, simultaneously to the Complainant and Respondent, as appropriate;
2. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to determine that sexual harassment or sexual misconduct does not continue or recur within the University Education Program or Activity.
3. Provide the Complainant details in the written notice about any matter that is being referred to another appropriate office for handling under a different policy or code. The University may also send evidence already gathered as part of the referral.

A Complainant who decides to withdraw a Formal Complaint or any portion of it may later request to reinstate it or refile it.

VII. Consolidation of Complaints

The University may consolidate Complaints for allegations of sexual harassment and sexual misconduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment and sexual misconduct arise out of the same facts or circumstances. Where a resolution process involves more than one party, references in this section to the singular “party,” “Complainant,” or “Respondent” may be considered plural, as applicable. Where multiple policies may be implicated by the same set of facts or circumstances, the University may separate the proceedings in accordance with the requirements of the individual policies.

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.

The University also reserves the right to use the University’s Outside of Title IX Policy and these procedures to adjudicate other allegations and conduct violations that are outside of the scope of the Title IX Policy in instances when the conduct is associated with or intertwined with an alleged issue of Prohibited Conduct. The Title IX Coordinator will address these consolidated Complaints in collaboration and coordination with other appropriate offices, such as Student Conduct and Human Resources, who may use alternative University procedures when misconduct is consolidated.

VIII. Options for Resolution

There are multiple options for resolution of a Formal Complaint of sexual harassment or sexual misconduct.

Report Only

Whether a Reporting Party or Harmed Party reports to a Title IX coordinator, a harmed party may request to keep the misconduct as a report only with no additional university action (see additional information in Section VI: Response to a Report, under “Requests for Confidentiality or No Further Action”).

Supportive Measures

After a disclosure, requests for supportive measures may be made to the Title IX Coordinator who will determine whether to implement reasonable supportive measures designed to assist involved parties and community members in maintaining access to and participation in the University’s Educational Programs and Activities and services during the resolution process.

Supportive measures will be reasonable and appropriate 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 involved parties regardless of making a report or Complaint.

A resolution using only supportive measures is an option for a Complainant who does not wish to take any further steps to address their concern, and when the Title IX Coordinator determines that no further action is required. Some types of support that may be appropriate 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, change of class schedule, and/or security walking service.

Supportive measures do not preclude later use of another resolution method. For example, if new information becomes available to the University and the Title IX Coordinator determines there is need for additional steps to be taken, or the Complainant later decides to pursue another resolution method.

Informal Resolution

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 (See Section IX: Informal Resolution Procedures).

Formal Resolution

The formal resolution process for the University, after receiving a signed Formal Complaint, involves an investigation, evidence review phases, and a Decisionmaker determining whether or not a Respondent is more likely than not to have violated a 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 (See Section X: Formal Resolution Procedures).

IX. Informal Resolution Procedures

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. The Title IX Coordinator has the discretion to determine whether to offer informal resolution at all, or only in certain cases; generally allowing only one informal resolution per Respondent. 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).

Informal resolution does not include a full investigation and does not include any finding of responsibility nor an admission of the falsehood of the allegations and is a voluntary, structured interaction between or among affected parties that balances support and accountability. This is separate and distinct from the institution's hearing process. Regardless of entering into the informal resolution process, the Title IX Coordinator must still take other prompt and effective steps as needed to determine that sexual harassment and sexual misconduct does not continue or recur within the University's employment, or Education Programs and Activities.

For some types of reported sex harassment and sexual misconduct, informal resolution may offer parties resolution in a timeframe that is shorter than a formal resolution; it is 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 all cases of sex harassment and sexual misconduct.

An informal resolution can be requested by a Complainant or Respondent at any time, even if the parties have previously entered the formal resolution process, up to the beginning of the Decisionmaker review. Any of the parties can withdraw from the informal resolution process and resume the formal resolution process, for addressing allegations 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 information to the Complainant and Respondent that includes:

1. The specific allegation and the specific conduct that is alleged to have occurred;
2. The requirements of the informal resolution process;
3. The consequences of participating in the informal resolution process, including record-keeping and potential sharing of information, and the University's ability to disclose this information for future resolution processes, including investigations arising from the same or different allegations;
4. An agreement resulting from the informal resolution process is binding only on the parties and is not subject to appeal;
5. A statement indicating that once the Informal Resolution Agreement is finalized and signed by the Parties, they cannot initiate or continue an investigation procedure arising from the same allegations;
6. A statement indicating that the decision to participate in the informal resolution process does not presume that the conduct at issue has occurred;
7. A statement that the Respondent is presumed not in violation of a policy, unless Respondent admits to violations of a policy;
8. An explanation that all parties may be accompanied by a Support Person;
9. A statement that any party has the right to withdraw from the informal resolution process and initiate or resume resolution procedures at any time before agreeing to a resolution;
10. The facilitator's inability to be called as a Witness if a formal resolution process is pursued;
11. Information regarding supportive measures, which are available equally to all parties.

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 report 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 ("facilitator") who will collect information about the incident without performing a full investigation, facilitate discussion, and propose solutions for a resolution between the parties. Informal resolution facilitators do not have a conflict of interest or bias in favor of or against Complainants or Respondents generally or regarding the specific parties in the matter. The facilitator may not act as the Investigator or Decisionmaker for the same matter in any other resolution method.

Facilitating an Informal Resolution Agreement

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, if all parties have agreed to explore informal resolution, the facilitator will send the Meeting Decorum electronically to both parties. The date and time of the initial meeting will be set by the facilitator or the Title IX Coordinator and all parties will be notified with advance notice.

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

At the beginning of the informal resolution meeting, which is held separately with each party, 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.

Any party may craft or create the terms of their agreement and will be asked for their suggestions or ideas during the process. Examples of agreements may include but are not limited to:

- An agreement that the Respondent will change classes or housing assignments;
- An agreement that the Parties will not communicate or otherwise engage with one another;
- Completion of a training or educational project by the Respondent;
- Completion of a community service project by the Respondent;
- An agreement to engage in a facilitated dialogue; and/or
- Discipline agreed upon by all parties.

Finalizing the Informal Resolution Agreement

Once the final terms of the Informal Resolution Agreement have been agreed upon by all parties, in writing, and approved by the Title IX Coordinator, the matter will be considered closed, and no further action will be taken. Once signed, no appeal is permitted. The informal resolution process is generally expected to be completed within thirty (30) days and may be extended by the Title IX Coordinator as appropriate. All parties will be notified, in writing, of any extension and the reason for the extension.

No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any outside person by the Complainant or Respondent. Information from an informal resolution process can be shared with other offices as appropriate by the Title IX Coordinator.

If an agreement cannot be reached, either because the Parties do not agree, determine they no longer wish to participate in the informal resolution process, or the facilitator does not believe that the terms of the agreement or continuing the informal resolution process is appropriate, the facilitator may recommend that the reported conduct be addressed through another resolution method. The Title IX Coordinator will inform the parties of such decision, in writing.

Any violations of the terms of the Informal Resolution Agreement or procedural expectations, including Meeting Decorum rules, may result in disciplinary action.

X. Formal Resolution Procedures

A. Notice of Formal Complaint

Upon receipt of a signed Formal Complaint, the Title IX Coordinator will send the Notice of Formal Complaint to both the Complainant and the Respondent, simultaneously, communicating the initiation of an investigation. Should additional allegations be brought forward, or new information regarding location or date of the incident(s), a revised written Notice of Complaint shall be provided to all parties as needed or after the jurisdiction review is completed by the Title IX Coordinator.

The Notice will include, at a minimum:

1. The University's resolution procedures, and any alternative resolution process (informal or supportive measures), including a link to these procedures;
2. Sufficient information available at the time to allow the parties to respond to the allegations, including the specific allegation(s), identities of the parties involved in the incident(s), the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
3. A statement that Retaliation is prohibited;
4. Contact information for the assigned Investigator and Decisionmaker, as well as the process for appealing the appointed Investigator, Decisionmaker, or Title IX Coordinator, and the deadline (if not previously completed);
5. A statement indicating the expected length of the major stages of the resolution process, as well as any applicable deadlines;
6. A statement that the Respondent is presumed "not in violation" of a University policy until a determination is made at the conclusion of the investigation and decision-making procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Investigator and Decisionmaker;
7. A statement indicating that the parties may have a Support Person;
8. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, and to provide a response;
9. A statement that the University prohibits knowingly making false statements or knowingly submitting false information during resolution procedures, with a link to the relevant policy(ies); and
10. A statement indicating the investigator's process of communication will be in writing and includes any investigation deadlines and schedule for investigative meetings. Investigators will provide reasonable notice for meetings.

Acceptance of Responsibility

If a Respondent accepts responsibility and agrees to waive their right to an investigation, evidence review phase and Decisionmaker determination for all or part of the Prohibited Conduct alleged, the

Title IX Coordinator, or designee, will work in consultation with Student Conduct System Administrator or the Assistant Vice President of Human Resources in assigning appropriate sanctions. The Title IX Coordinator will continue processing remaining allegations of Prohibited Conduct, if any.

Assignment of the Investigator, Decisionmaker, and/or Appellate Decisionmaker

The University has designated individuals identified and trained as Investigators, Decisionmakers, and Appellate Decisionmakers who receive annual training. Training programs include, but are not limited to, the definition of sex harassment and sexual misconduct, the scope of the University's Education Program or Activity, how to conduct an investigation, and how to serve impartially, including how to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Moreover, any materials used to train Investigators, Decisionmakers, and Appellate Decisionmakers do not rely on sex stereotypes and promote impartial investigations, adjudications, and appeal decisions related to the resolution of reports and Formal Complaints of sexual harassment or sexual misconduct. Training materials can be found on the NWU Title IX website.

The University will assign an Investigator, Decisionmaker, and, if applicable, Appellate Decisionmakers, to conduct an adequate, reliable, and impartial investigation and determination, as applicable, in a reasonably prompt timeframe. The University reserves the right to utilize internal or external Investigators and Decisionmakers. The University also reserves the right to utilize a dual investigator model (more than one investigator).

Rights and Requirements

The University **requires** Employees to participate as a witness in, or otherwise assist with, an investigation, proceeding, hearing (if applicable), or appeal involving sexual harassment and sexual misconduct.

All other parties are expected and encouraged to participate in the investigation, and each have the same rights during the resolution process including the right to a Support Person, to submit relevant witness names and evidence, and to review the evidence gathered by the Investigator prior to the provision of the Final Investigative Report to the Decisionmaker.

All individuals will be treated with appropriate respect, and in a manner considerate of their privacy.

Written Notice of Meetings

The University will provide the involved parties whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time to prepare to participate.

Investigative Timeline

The Investigator will conduct a thorough, prompt, impartial, and unbiased investigation. The Investigator will make a reasonable effort to complete the investigation within thirty (30) days, but this time frame may be extended depending on the complexity of the circumstances of each case. Scheduling, University closures, period of examinations, law enforcement investigations or other good cause reasons may affect this timing. Good cause reasons may include availability of witnesses and other participants and providing participants reasonable time to review materials. Any significant delays in the process will be communicated in writing, simultaneously, to the Complainant and the Respondent.

The University will consider an involved party's request for an extension of a deadline related to a Complaint.

The Title IX Coordinator will ensure that the parties will be provided access to periodic status updates.

B. Individual Interviews with Investigator

The Investigator will interview all parties and relevant witnesses and gather relevant documentary evidence provided by the parties and any identified witnesses. Interviews may be conducted in person or virtually. When a party meets with an Investigator, the Investigator will ask questions related to the allegations in the Formal Complaint and a party is given the opportunity to speak to the allegations and related events. Parties may identify fact witnesses and provide evidence that is relevant to the allegations and not otherwise impermissible (defined in Section X. subsection C. Investigative Evidence). This will include inculpatory evidence (that tends to show it more likely that someone committed a violation) and exculpatory evidence (that tends to show it less likely that someone committed a violation). The Investigator ultimately determines whom to interview to determine the facts relevant to the complaint, which typically includes the Complainant, Respondent, and relevant witnesses (“Involved Parties”), to ask relevant and not otherwise impermissible questions and follow-up questions, including questions exploring credibility. Investigators reserve the right to hold meetings with Expert Witnesses. Character evidence is not relevant evidence, and therefore will not be considered.

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

Additional attendees may be permitted at the discretion of the Title IX Coordinator. Additional attendees will also be approved in connection with an approved disability-related or language barrier accommodation, or for other related accessibility concerns. All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of those proceedings and may be subject to further the University discipline for failure to do so.

The individual interviews may be conducted with all participants physically present in the same geographic location, or, at the University’s discretion, with all participants joining virtually through a video conferencing option. The Investigator is solely responsible for all aspects of the investigation, including meeting rules and 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 and not shared outside the University. No other parties are permitted to record the interviews.

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 procedures is a violation of University policy. Any person who abuses the University conduct processes in this way may face disciplinary charges for that violation.

Participation in the resolution process is addressed in this section, under subsection A: "Rights and Requirements". The investigation will continue and decisions will be made with the available information.

C. Investigative Evidence

Burden of Evidence

Throughout the investigation of a Formal Complaint, the University has the burden of conducting an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred. This burden does not rest with any involved party, and any party may decide to limit their participation in part or all of the process, or to decline to participate. A party's participation, or lack thereof, does not shift the burden of proof away from the University and does not indicate whether or not someone is in violation of the policy or acceptance of responsibility.

Impermissible Evidence

The following types of evidence and related questions are impermissible, meaning the information will not be accessed or considered, except to determine whether one of the exceptions listed below applies. Impermissible evidence will not be disclosed or otherwise used, regardless of relevance:

1. Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
2. Evidence provided to a Confidential Resource, unless the person who made the disclosure or otherwise provided evidence to the Confidential Resource has voluntarily consented to re-disclosure;
3. An involved party's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in these procedures; and
4. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged

sexual harassment or sexual misconduct. The fact of prior consensual sexual conduct between the parties does not by itself demonstrate or imply the Complainant's consent to other sexual activity or preclude a determination that Prohibited Conduct occurred.

Management of Evidence/Information

To maintain the privacy of evidence gathered or shared during any part of the resolution procedures, access to materials will be provided only by a secure method. Given the sensitive nature of the information provided during any of the resolution procedures, involved parties and advisors are not permitted to copy, remove, publicize, share, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided or make use of the documents outside of the processes described, unless given explicit permission by the Title IX coordinator. Parties may request to review a hard copy of materials, and the University will make that available in a supervised or monitored setting. Any student or employee who fails to abide by this may constitute retaliation and may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

D. Evidence Review Phases

Interview Summary Review

The Investigator will prepare a summary of each interview. All those interviewed will have an opportunity to review their interview summary for accuracy and submit suggested modifications or additional information within three (3) days of receipt of the summary from the Investigator.

Preliminary Investigative Report and Review

Once the Investigator has gathered all relevant information and after the interview summary review period, the Investigator will prepare a Preliminary Investigative Report.

This Report will include relevant information, excluding impermissible evidence, 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 appropriate procedural application. At the discretion of the Title IX Coordinator, a third-party reviewer, or designee, may be utilized.

The Preliminary Report will then be provided to the Complainant and Respondent, simultaneously. If applicable or directed by the Complainant or Respondent, the Report will be shared with any identified Support Person by the Title IX coordinator. Both the Complainant and the Respondent will have three (3) days to review the Preliminary Investigative Report and provide follow-up responses or information to the Investigator. The purpose of the inspection and review process is to allow each party the equal opportunity to respond to the evidence prior to conclusion of the investigation, to submit any additional relevant evidence, and the names of any additional witnesses with relevant information. Relevant responses submitted during the preliminary review period will be included in the Final Investigative Report.

The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence. At the conclusion of the evidence review, when deemed appropriate by the Investigator, the Investigator shall then conduct any additional fact-gathering as may be necessary. If new, relevant evidence is gathered during this second fact-gathering period, the new

evidence will be made available for review by the parties and their advisors during the final review and response period. The Investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

After the preliminary three-day (3) review period, the Investigator will review follow-up responses and incorporate relevant information into the Final Investigative Report.

E. Final Investigative Report

The Investigator will prepare a Final Investigative Report including all of the relevant information gathered and steps taken during the investigation process, excluding impermissible evidence. The Investigator will include as an attachment all relevant evidence gathered during the investigation.

The Final Investigative Report will include:

1. A description of the allegations of Prohibited Conduct;
2. Information about the policies and procedures used to evaluate the allegations;
3. A description of the procedural steps taken by the investigator, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
4. An evaluation of the relevant evidence, excluding impermissible evidence, and the rationale for that evaluation; and
5. Findings of fact for each allegation.

The Investigator will forward the Final Investigative Report to the Title IX Coordinator, who will provide the Report to the Complainant and Respondent simultaneously. If applicable or directed by the Complainant or Respondent, the Report will be shared with any identified Support Person by the Title IX coordinator.

F. Decisionmaker Review

The Decisionmaker will evaluate the relevant evidence, excluding impermissible evidence, and will make factual determinations regarding each allegation, and also determine whether a violation of the Outside of Title IX Policy occurred. The Decisionmaker may question the Complainant, the Respondent, any witness, any other administrators involved to seek clarification on relevant information. The Decisionmaker may choose to place less or no weight upon statements by a party or witness who refused to respond to questions deemed relevant and not impermissible or declined to participate. Evidence not provided during the investigation process will not be considered by the Decisionmaker. The Decisionmaker will not draw an inference about whether sexual harassment and sexual misconduct occurred based solely on a party's or witness's refusal to respond to questions.

The Decisionmaker will make a reasonable effort to conduct their review within five (5) days. The Decisionmaker will prepare a Notice of Determination and provide the Notice to the Title IX Coordinator. The Title IX Coordinator will then provide the Complainant and Respondent and their Advisor of Choice, if any, with the Notice of Determination. If necessary, the Decisionmaker may work in consultation with Student Conduct System Administrator, the Assistant Vice President of Human Resources, and/or University Counsel in assigning sanctions.

G. Notice of Determination

The Decisionmaker will make a reasonable effort to conduct their review within five (5) days. The Decisionmaker will prepare a Notice of Determination and provide the Notice to the Title IX Coordinator. All findings will be made using the preponderance of the evidence standard, which means that the allegation(s) are more likely than not to have occurred. To the extent credibility determinations need to

be made, such determinations will not be based on a person's status as Complainant, Respondent, or Witness. If necessary, the Decisionmaker may work in consultation with the Student Conduct System Administrator, the Assistant Vice President of Human Resources, and/or University Counsel in assigning sanctions.

The Notice of Determination will include:

1. A description of the allegations of Prohibited Conduct;
2. Information about the policies and procedures used to evaluate the allegations;
3. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
4. An evaluation of the relevant and not otherwise impermissible evidence and the rationale for that evaluation;
5. Findings of fact for each allegation, with rationale;
6. Conclusions regarding which section of this Policy or other University policy, if any, the Respondent has or has not violated, with rationale;
7. Sanction(s), if applicable; and
8. Appeal procedures.

I. Written Impact Statement Option

The Complainant and Respondent may each submit a written impact statement at any time prior to the Conclusion of the Decisionmaker Review. The impact statement is not evidence and will be reviewed only after a determination is reached.

J. Conclusion of Decisionmaker Review

The Notice of Determination will be provided to the Title IX Coordinator and University Administrator. The Title IX Coordinator will communicate the findings to the Complainant and Respondent, and their Support Person should the party wish the Support Person to receive it, along with reiterating with procedures for appeal. If applicable, sanctions become effective on the date that the appeal process is finalized. If no party appeals, the determination and applicable sanctions become final on the date that the time period to appeal ends (three [3] days after the dissemination of the Notice of Determination).

XI. 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, reference to counseling, performance improvement plans, apology letter, reflection statements, targeted educational projects, coaching, probation, suspension, expulsion, and/or separation.

If applicable, sanctions become effective on the date that the appeal process is finalized. If no party appeals, the determination and applicable sanctions become final on the date that the time period to appeal ends three (3) days after the dissemination of the Notice of Determination).

The Title IX Coordinator is responsible for ensuring the timely completion of any or sanctions.

Failure to Complete Sanctions/Comply with Responsive Actions

All responding parties are expected to comply with sanctions/responsive actions/ corrective actions within the timeframe specified by the University. Responding parties needing an extension to comply

with their sanctions must submit a written request to the Title IX Coordinator stating the reasons for needing additional time.

Failure to follow through on conduct sanctions/responsive actions/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive actions/corrective actions listed above.

XII. Appeal Procedures

The University recognizes the following procedural steps where University decisions can be appealed by a Complainant or Respondent:

- Supportive measure decisions
- Emergency removals
- Dismissals of Complaints
- Notice of Determination – ONLY on the following grounds:
 - **Procedural Error:** A procedural error occurred and the error would change the outcome. A description of the error and its impact on the determination of the case must be included in the written appeal; and/or
 - **New Evidence:** New evidence or information has arisen that was not available or known to the party during the investigation, that would change the outcome. Information that was known to the party during the resolution process but which they chose not to present is not considered new information. The new evidence, an explanation as to why the evidence was not previously available or known, and an explanation of its potential impact on the investigation findings must be included in the written appeal; and/or
 - **Actual Conflict of Interest or Demonstrated Bias:** The Title IX Coordinator, Investigator, or others with a role in the process has an actual conflict of interest or demonstrated bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that would change the outcome. Any evidence supporting the alleged conflict of interest or demonstrated bias must be included in the written appeal.

A Complainant or Respondent may individually submit one appeal for any of the University decisions as listed in this Appeal Procedures section. All concerns about each procedural step must be addressed in one appeal submission at each appeal opportunity.

Appeals must be submitted within three (3) days of a Notice following any specified procedural step. Directions regarding how to submit an appeal can be found on the Title IX webpage and in the letters of Notice.

Faculty members who want to submit an appeal regarding a Notice of Determination on specified conditions will follow the appeal process outlined in the [Faculty Handbook](#), Section VIII.

Upon receipt of an appeal, the Title IX Coordinator will provide a Notice of Appeal, including sufficient details about the appeal, the name of the assigned Appellate Decisionmaker, and a link to the Appeal Response Form, to both the Complainant and Respondent, allowing three (3) days for the non-appealing party to respond.

Following the three-day (3) response period, the Title IX Coordinator will forward the appeal, along with all relevant information regarding the appeal, to the Appellate Decisionmaker, or designee(s), for review.

The Appellate Decisionmaker, or designee(s), will consider all available documentation related to the appeal. Based on the information provided, the Appellate Decisionmaker, or designee(s), will:

- Affirm the decision or Findings determined by the Decisionmaker/University Administrator; or
- Modify or reverse the decision or Findings determined by the Decisionmaker/University Administrator.

The Appellate Decisionmaker, or designee(s), will prepare the Final Determination of Appeal stating their decision, which is final and binding. The document will include the rationale for the decision. The Appellate Decisionmaker will make a reasonable effort to complete the appeal process within five (5) days, which may be extended for good cause. The document will be provided to the Title IX Coordinator, who will communicate the final decision to the Complainant and the Respondent in writing. The Final Determination of Appeal will also be shared with the University Administrator, if applicable.

XIII. Record Retention

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 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 (7) years from the date of the incident, or indefinitely in cases involving a sanction of separation. All records will be afforded the confidentiality protections required by law, including but not limited to the Family Educational Rights and Privacy Act (FERPA) governing confidentiality of student information.

XIV. Additional Enforcement Information

The U.S. Equal Employment Opportunity Commission (EEOC) investigates reports of unlawful harassment, discrimination, and retaliation, including sex-based harassment, in employment.

- U.S. Equal Employment Opportunity Commission (EEOC)
<https://www.eeoc.gov/contact-eeoc>

The Office for Civil Rights (OCR) investigates complaints of unlawful discrimination and harassment of students and employees in education programs or activities.

Other questions about Title IX may be referred to the assistant secretary for civil rights:

Office for Civil Rights,
Lincoln Commission on Human Rights
555 S.10th Ste. 304
Lincoln, NE 68508
402-441-7624

Nebraska Equal Opportunity Commission
1526 K Street Ste. 310
Lincoln, NE 68508
402-471-2024
1-800-642-6112

Any person may report conduct prohibited by the Outside of Title IX Policy or the Title IX Policy to the Title IX Coordinator:

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

A complaint about the Title IX Coordinator may be made to:

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

XV. Clery-Reportable Crimes and Disclosure Obligations

The Clery Act is a federal crime and incident disclosure public safety law. It requires, among other things, that the University report the number of incidents of certain crimes, including some of the Prohibited Conduct in the Outside of Title IX Policy, Title IX Policy, and these procedures, that occur in particular campus-related locations. The Clery Act also requires the University to issue warnings to the community in certain circumstances.

In the statistical disclosures and warnings to the community, the University will ensure that a Complainant's name and other identifying information are not disclosed. The Title IX Coordinator will refer information to the Clery Compliance Administrator when appropriate for disclosing crime statistics or sending campus notifications.

For additional information of Clery-reportable crimes, please refer to the [Campus Safety](#) page.

XVI. Policy Review and Revision

The corresponding policy and these procedures will be reviewed and updated regularly by the University. Modifications to the corresponding Outside of Title IX policy and these procedures will be made in a manner consistent with institutional policy upon determining that changes to law, regulation or best practices require policy or procedural alterations not reflected herein. These procedures will apply regardless of the time of the incident.

This procedure may be revised at any time without notice. All revisions supersede prior versions and are effective immediately upon posting to the University website.

This procedure is effective as of January 9, 2025 and was approved by NWU's Title IX office.

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 sex discrimination and sex-based harassment. Please contact the Title IX coordinator if you have any questions about this information.

Rights:

- 1) You can report a sex discrimination or sex-based harassment 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) Private Resources (Title IX coordinators): Privacy means that once the Title IX coordinator receives a report, information will only be shared with those who need it to assess, investigate, resolve the matter, or ensure the safety of individuals or the campus.
- (1) While all are encouraged to report to a Title IX coordinator, there are employees and student employees with specific job responsibilities that are required to report to a Title IX coordinator. Job categories that are required to report include:
 - (a) Advisors, academic and club
 - (b) Chief of staff
 - (c) Coaches (all)
 - (d) Deans, assistant deans
 - (e) Department chairs, program directors
 - (f) Directors, assistant directors
 - (g) Faculty, full-time, part-time, adjuncts
 - (h) Provost/vice presidents
 - (i) Student life/affairs personnel
 - (j) Supervisors
 - (k) Title IX personnel
 - (l) University president

For clarification about the difference between confidentiality and privacy, please refer to Section IV of NWU's Title IX policy on NWU's [Title IX Webpage](#).

- 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 resolution procedures.
- 4) To be informed of a 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 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/advised by a support person/advisor of choice, at your own expense, during any part of the reporting, assessment, or resolution process. The support person/advisor of choice may speak only to the individual being supported/advised.
 - a) When the support person/advisor of choice 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/advisor of choice, but cannot find someone that you are comfortable with, please contact a Title IX coordinator, at titleIX@nebrwesleyan.edu.
- 8) To request the recusal of any member of the reporting and resolution process because of potential bias.
- 9) To be advised of the determination of the resolution process.
- 10) 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) Protection Orders: If you have obtained or obtain a temporary protection 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 walking services.
- 4) To request to participate in an informal resolution process: This process involves a facilitated resolution that is voluntary, agreed upon, and acceptable to, the complainant, respondent, and the university.

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 located on NWU's [Title IX Webpage](#) for information on how to protect physical evidence

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 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 harassment and sexual misconduct policies and corresponding procedures, 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.

Once a Title IX Complaint has been filed, there are several resolution methods available to the Complainant. The Complainant is able to decide which resolution method they would like to pursue. 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, or titleix@nebrwesleyan.edu
- Maria Harder, director of Title IX services, Located at Smith-Curtis Office 202E, Office Phone – (402) 465-2117, mharder@nebrwesleyan.edu, or 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 University 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.

While all those who become aware of incidents of sexual misconduct are encouraged to report directly to a Title IX Coordinator, the University requires all employees to take specific actions dependent on their job responsibility. Some employees are required to report disclosures of sexual misconduct directly to a Title IX Coordinator. Other employees, including student employees are required to provide contact information for the Title IX Coordinator and provide information on how to make a report or file a Complaint. Resource cards are available for employees to distribute to Harmed Parties upon disclosure that identity how to make a report, file a complaint or contact 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 or 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 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 and Title IX/sexual misconduct response 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 undergraduate students participate in 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 sexual violence prevention and education programs 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, but are not limited to, public speakers and 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 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.
- Candice Howell, Assistant Dean of Student Success and Persistence and BERT Facilitator, (402) 465-2401
- 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.

NEBRASKA WESLEYAN UNIVERSITY

Non-Discrimination/Harassment Policy

This policy is based on the Title VI and VII of the Civil Rights Act of 1964 that makes it unlawful to discriminate against someone who is a member of a protected class or any other legally protected class under city, state, or federal law (listed below) in an educational environment or the workplace.

Nebraska Wesleyan University does not tolerate unlawful discrimination or illegal harassment in all areas of University operation, including education, employment, and decisions regarding faculty appointment, promotion or tenure. Protected class includes: race, religion, creed, age, sex, gender identity, sexual orientation, color, disability, marital status, national or ethnic origin, ancestry, and genetic material/information. Discrimination based on these protected classes and relative terms are specifically defined in Section V – Prohibited Conduct, of this document.

Sexual harassment and sexual misconduct in all forms will be addressed using one of Nebraska Wesleyan University's Sexual Harassment and Sexual Misconduct policies and the corresponding procedures, not this Non-Discrimination and Harassment Policy and the corresponding procedures.

All incidents of discrimination based on the protected classes listed above that occur on or after January 23, 2025 will be subject to this policy and corresponding procedures. For incidents occurring prior to January 23, 2025, the University will apply the applicable policy and procedure, in effect at the time of the incident, regardless of the reporting date.

I. Statement of Intent

Nebraska Wesleyan University ("University") is committed to establishing and maintaining a community that does not tolerate unlawful discrimination or 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 supporting a community that rejects discrimination and harassment. These behaviors threaten our learning, living, and work environments and are considered prohibited conduct for all University Students and Employees.

When the University becomes aware of allegations of discrimination and harassment, the University will take prompt action while ensuring use of applicable University policy and procedures and by including members of the Bias Education Response Team ("BERT"), Student Conduct, and/or the office of Human Resources.

To make a report regarding allegations of discrimination or harassment, contact reportbias@nebrwesleyan.edu, [Student Conduct Complaint Form](#), or connect with one of the appropriate staff members below who, for the purposes of this policy, are designated as a "University Administrator":

- Assistant Dean of Student Success and Persistence and BERT Facilitator: Candice Howell, Nebraska Wesleyan University, Story Student Center – Student Life Office, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2401, chowell@NebrWesleyan.edu

- Assistant Director of Diversity and Inclusion: Adrian Gomez Ramos, Nebraska Wesleyan University, Story Student Center – Lower Level 018, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2135 agomezra@nebrwesleyan.edu
- Director of Student Integrity and Student Conduct System Administrator: Kevin Bollinger, Nebraska Wesleyan University, Story Student Center, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2498 kbolling@nebrwesleyan.edu
- Assistant Vice President of Human Resources and Non-Discrimination Coordinator: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, mharder@nebrwesleyan.edu

II. Jurisdiction

This policy applies to:

- **Students:** Any person registered in courses at the University, either full-time or part-time, pursuing undergraduate or graduate studies, including those who audit courses.
 - **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*.
- ***Student/employee crossover:** Students who work on campus as an employee and employees who are registered in courses at the University both fall under the jurisdiction of the policy. Details of the student/employment status will be assessed by the Assistant VP of Human Resources for appropriate application of procedures.
- **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 and those who are on campus or participating or attempting to participate in a University sponsored activity. This includes, but is not limited to, contractors, vendors, visitors, guests, volunteers, or other third parties within the University's control.

Prohibited Conduct 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 any one or more of the following criteria regarding scope/jurisdiction are met:

- Misconduct occurs under an institution's educational program or activity in the United States;
- There is any operation of the institution involved or present, regardless of location;
- Misconduct occurs in buildings owned or controlled by the institution;
- Misconduct occurs in buildings owned or controlled by an officially recognized student organization;

- Misconduct is subject to the institution’s disciplinary authority;
- The exercise of institutional power or authority by employees and agents exists, regardless of location;
- Misconduct creates a “hostile environment” in a program or activity that occurred off campus, including abroad.

Under this Policy, the University retains jurisdiction over students who have graduated for misconduct that occurred prior to their graduation. 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 potential 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, discrimination and harassment by an Employee prior to a leave of absence will be addressed using this Policy and related procedures in consultation with the Staff and Faculty Handbooks. Misconduct, if determined to have occurred, may impact rehire eligibility, presence on University grounds, and related activities, which will be addressed at the time of sanctions.

III. Notice of Non-Discrimination and Equal Access

The University shall offer certain support and modifications to anyone requiring accommodations without discrimination and to provide equal access. Parties can request accommodations from the Director of Student Accessibility, the Title IX Coordinator, or Assistant VP of Human Resources. There are many different types of accommodation requests; administrators will assess requests for accommodations using the interactive process to identify appropriate and reasonable outcomes.

A few corresponding regulations that the University adheres to include:

- The Americans with Disabilities Act of 1990, as amended 2008 (“ADAAA”), Sections 504 and 508 of the Rehabilitation Act of 1973, and other relevant laws to ensure equal access for individuals in all areas of University operation, including education, employment, and decisions regarding faculty appointment, promotion or tenure.
- The 2020 Federal Title IX Regulations (“Title IX”) provides certain support and modifications to people experiencing pregnancy or related conditions to ensure their equal access to a University’s program or activity. The University treats pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions. Pregnancy or related conditions include pregnancy, childbirth, termination of pregnancy, lactation; medical conditions and/or recovery related to any of the aforementioned medical conditions.

Employees or applicants for employment may also contact the office of Human Resources for more information about additional workplace laws and policies that may apply.

IV. Privacy and Confidentiality

The University is committed to protecting the privacy of all individuals involved in a report of discrimination or harassment, whenever possible. A report to a confidential employee will remain confidential and will not be deemed acknowledged by the University.

Once a report is made to the appropriate staff member (listed in Section II) or another University Administrator 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 appropriate staff member (listed in Section II), or another University Administrator, has received a report of discrimination or harassment. Information related to the report of discrimination or harassment will only be shared with individuals who "need to know" in order to assist in the assessment, investigation, and resolution process and to provide for the physical safety of an individual or the campus. Thus, the University cannot, and does not, guarantee that all information related to reports and complaints can be kept private or confidential.

Individuals who are involved in the University's response to discrimination and harassment receive specific training and guidance about safeguarding private information. Training includes, but is not limited to, the definition of discrimination and harassment, how to conduct an investigation and resolution process, including how to serve impartially and avoid prejudgment of the facts at issue, conflicts of interest, and bias. Materials used for training do not rely on stereotypes and promotes impartial investigations and adjudications of discrimination and harassment.

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, 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 "acknowledged" by the University, but will allow the harmed party to proceed as they so choose. Confidential Employees are further defined in Section VII 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. In Nebraska, minors are considered all persons under the age of 19.

V. Prohibited Conduct

This Policy prohibits discrimination, including harassment and retaliation as defined below. These acts shall also be referred to as Prohibited Conduct under this Policy:

A. Discrimination on the Basis of Protected Classes Under this Policy

Prohibited discrimination is defined as actions that cause an individual to be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any

academic, extracurricular, research, occupational training, or other education program or activity operated by the University.

Employees, students, student organizations and third parties shall not engage in any prohibited conduct if it would cause more than de minimis harm related to university programs, activities, and/or operations. De minimis harm refers to situations where the magnitude of harm is so small that it does not warrant a policy violation, a lawsuit, or criminal liability. Examples of harm greater than the de minimis standard include, but are not limited to, the following conduct if determined to have occurred by the preponderance of the evidence and, if it occurred because of the individual's protected class.

- Treating one person differently from another regarding decisions about requirements or conditions for aid, benefits, or services;
- Providing, or denying, aid, benefits, or services in a different manner;
- Subjecting any person to separate or different rules of behavior, sanctions, or other treatment;
- Applying any rule concerning the residence of a student or applicant, including eligibility for in-state fees and tuition;
- Aiding or perpetuating discrimination by providing assistance to any organization or person that discriminates when providing any aid, benefit or service to students or employees;
- Otherwise limiting any person(s) right, privilege, advantage, or opportunity.

Two categories of discrimination include disparate impact and disparate treatment.

In evaluating whether or not disparate impact has occurred, the following elements are considered, among other considerations:

- Evidence that a neutral policy disproportionately affects members of a protected class;
- Statistical evidence; and
- Discriminatory impact resulting from a specific practice or policy.

In evaluating whether or not disparate treatment has occurred, the following elements are considered, among other considerations:

- Whether the prohibited conduct was based on a discriminatory motive;
- Direct evidence or indirect (circumstantial) evidence that builds a "prima facie" case, meaning evidence of discrimination or adverse action has occurred which occurred because of membership in a protected class; and
- A comprehensive review comparing experiences, personnel files, student records, and interviews relevant to the complaint.

B. Harassment

Harassment is a form of discrimination of protected classes, including stereotypes and characteristics that may take the form of hostile environment, bullying, cyberstalking, verbal or physical harassment.

Quid Pro Quo Harassment is based on an aid, benefit, or service related to conduct of a sexual nature and will be addressed under the University's sexual harassment and sexual misconduct policies.

Other prohibited harassment addressed under this policy includes the following conduct:

1. Hostile Environment Harassment

Hostile environment harassment is defined as unwelcome conduct that, based on the totality of the circumstances, is endured conduct that becomes a condition of continued participation in or denial of the educational program or activity or employment when the conduct is severe or pervasive enough to create an environment that a reasonable person would consider the conduct intimidating, hostile, or abusive.

Prohibited conduct examples may include, but are not limited to, abusive or intimidating comments, jokes, acts, name-calling, graphic and written statements, offensive objects, slurs and epithets, ridicule or mockery, insults or put-downs, interference with performance, bullying and physically humiliating or threatening/harmful conduct.

This prohibited conduct may be verbal or non-verbal. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which the conduct affected the individual's ability to access the University's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about a party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other harassment in the University's education program or activity.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of a policy violation.

2. Bullying

Repeated, unreasonable actions of an individual (or a group) directed towards an employee or student (or a group of employees or students), which intimidate, degrade, humiliate, or undermine; or which create a risk to the health or safety of the employee or student.

3. Cyber Harassment

Use of unwanted, repeated, and unreasonable actions through electronic communication or digital means to harass, stalk, silence, or threaten someone. Cyber Harassment can

include contact through phone calls, letters, emails, virtual visits, by means of social media, other digital or messaging platforms.

4. Verbal and Physical Harassment

Defining this type of harassment is difficult, as it involves the “relative effect” of a person’s actions toward another. The same words or actions may be used as playful gestures in certain situations or may have harmful or harassing effects in a different situation.

Generally, the words or actions may contribute to harassment when it is used to frighten or threaten another person into performing an act or behaving in a certain way. For examples, physical gestures, such as punching or playful shoving, may be an acceptable behavior between friends or other personal relationships, or may be considered elements of physical abuse in an alternative situation.

C. Intentional Falsification

Intentional falsification, distortion, or misrepresentation of information as part of the discrimination and harassment 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.

D. Retaliation

Retaliation is any act, material adverse action, or attempt to seek retribution from any individual or group of individuals involved in the disclosure, reporting, investigation, and/or resolution of a discrimination and harassment allegation. Retaliation can take many forms, including, but not limited to, continued abuse or violence, threats, exclusion, further harassment, coercion, further discrimination, 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 discrimination or harassment is handled. Perceived or petty slights, or trivial annoyances do not constitute retaliation.

The prohibition against retaliation applies to any individuals who participate (or student who refuse to participate) in any manner in an investigation or proceeding. Student witnesses are expected and encouraged to participate in investigations, proceedings and hearings. As stated in the corresponding procedure, the University requires employees to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing involving discrimination and harassment.

Retaliation may occur even where there is a finding of “not in violation” under this Policy. Good faith actions lawfully pursued in response to a report of Prohibited Conduct are not Retaliation. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited in this policy.

VI. Reporting Obligations

All Employees and Student Employees are required to take action upon receipt of a disclosure of discrimination and harassment. There are two action steps Employees or Student Employees may choose from upon receipt of a disclosure (that does not involve potential sex discrimination or sex-base harassment violation):

1. Report all information disclosed and/or made available to the employee about discrimination and harassment to the applicable Non-Discrimination Coordinator or BERT Facilitator; or
2. Provide contact information for the Non-Discrimination Coordinator or BERT Facilitator to anyone who provides a disclosure **and** information about how to make a report and file a complaint.

Instances of disclosures may occur through various communications that include, but are not limited to, conversation, emails, classroom assignments, social media, and public awareness events and must be addressed in accordance to the University's Non-Discrimination procedures.

VII. Reporting Discrimination and Harassment

Individual disclosure

There are multiple channels for reporting discrimination and harassment. 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 discrimination and harassment resolution process. The University Administrator will refer the individual to the BERT Facilitator or Non-Discrimination Coordinator who will support all parties involved in understanding and assessing all options. The University will make a reasonable effort to respect the wishes of the person who experienced discrimination and harassment. Instructions on how to report are detailed in the corresponding Non-Discrimination procedural document; questions should be directed to a University Administrator or BERT.

While there is no time limit for reporting discrimination or harassment 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 discrimination and harassment, prevent its recurrence, and remedy its effects.

Confidential Employees

Confidential Employees/Resources are designated by the University to provide support to Students and Employees without being required to report to the University. The University has identified the University Minister, Counselors within NWU Counseling Services (for Students), and the Employee Assistance Program (for Employees) as "Confidential Employees."

The Confidential Employee will not 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.

Anonymous Reporting to the University

Anonymous reports of discrimination and harassment concerns can be submitted 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.

Public Awareness Events

The BERT Facilitator or Non-Discrimination Coordinator must respond to individual disclosures of conduct that could constitute discrimination or harassment.

The BERT Facilitator or Non-Discrimination Coordinator is not obligated to respond directly to any identified Harmed Party in a report of discrimination or harassment disclosed at a “public awareness event” that takes place on-campus or in a school-sponsored online platform unless there is an imminent and serious threat to someone’s health or safety.

The BERT Facilitator or Non-Discrimination Coordinator will collaborate with BERT to use the information reported to create training that addresses alleged discrimination or harassment in any of its education program or activity.

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 crimes related to discrimination and harassment, collect evidence, make arrests, and assist in seeking emergency protective measures. The University encourages individuals to promptly report discrimination and harassment to preserve potential evidence. The University will assist individuals in notifying law enforcement if they choose to do so.

To Contact Lincoln Police Department:

- 911 (for emergencies)
- 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

Anonymous Reporting to Law Enforcement:

There are options to report discrimination and harassment 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.

- To make an anonymous report of crime to the Lincoln Police Department, visit Lincoln Crime Stoppers at <https://lincolncrimestoppers.com/> or call (402) 475-3600. Individuals can choose to report as much information as they would like.

VIII. Confidential Resources

As indicated in Section VII, a Confidential Employee or other confidential resource will not disclose information about discrimination and harassment 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 "Confidential Employees" does not trigger action by the University and will allow the harmed party to proceed as they choose.

Confidential Resources

- **University Minister:** can help students, faculty and staff and is located in Old Main - Room 105; minister@nebrwesleyan.edu; (402) 465-2398.

An Additional Confidential Resource for Undergraduate Students:

- **NWU 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; (402) 465-2464.

An Additional Confidential Resource For Employees:

- **Directions EAP (Employee Assistance Program):** is located at 3930 South St, Ste. 101 in Lincoln, NE 68506; directionseap@directionseap.com; (402) 434-2900.

IX. Supportive Measures

The University offers a wide range of resources for Students and Employees to provide support and guidance upon receipt of a disclosure of an alleged occurrence of discrimination and harassment. The University will offer supportive measures to any involved party and will be reasonable and appropriate to facilitate continued access to University employment or education programs and activities. Non-disciplinary, non-punitive individualized services will be offered, as reasonably available, without fee or charge to the involved party.

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 BERT Facilitator or Non-Discrimination 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, change of class schedule, and/or security escort.

Non-compliance with a Supportive Measure: Failure to comply with the directives of a supportive measure administered by the BERT Facilitator or Non-Discrimination Coordinator, will also be addressed as a separate violation of University policy through student conduct or employee conduct.

X. Resolution

The University has the responsibility to address discrimination and harassment utilizing formal and informal resolution procedures or potential dismissals. 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 complaint under this policy.

For additional information about NWU's resolution processes, refer to the University's Discrimination and Harassment Resolution Procedures.

Any question of interpretation of this policy will be referred to a University Administrator, or designee, who may consult with the University President, whose interpretation is final.

XI. 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 [University Policy Webpage](#).

The NWU Board of Governors approved this policy to be implemented on January 23, 2025. All incidents of discrimination and harassment that occur on or after this date will be subject to this policy and corresponding procedures. However, the University will apply the applicable policy, definitions, and procedures in effect at the time of the incident if the incident occurred prior to January 23, 2025.

Discrimination and Harassment Procedures

These procedures pertain to acts of discrimination and harassment (“Prohibited Conduct”), as described in the University’s Non-Discrimination/Harassment Policy.

Nebraska Wesleyan University does not tolerate unlawful discrimination or illegal harassment in all areas of University operation, including education, employment, and decisions regarding faculty appointment, promotion or tenure. Protected class includes: race, religion, creed, age, sex, gender identity, sexual orientation, color, disability, marital status, national or ethnic origin, ancestry, and genetic material/information.

Note: Sexual harassment and sexual misconduct will be addressed using Nebraska Wesleyan University’s Title IX or Outside of Title IX Policy and the corresponding procedures, not these Discrimination and Harassment Procedures.

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. Definitions of Key Terms

Assessment Report: a record of the relevant details as reported to the University Administrator or BERT facilitator who completes the intake and assesses the details reported, including factors related to any threat of imminent danger or ongoing safety concerns for the campus.

Complainant: an individual who is alleged to be the Harmed Party of conduct that could constitute discrimination or harassment.

Complaint: is a verbal or written accusation against an individual for violation of the University’s Non-Discrimination/Harassment Policy that is submitted by a:

- Harmed Party; or
- Parent, guardian, or other authorized individual with the legal right to act on behalf of an of the Harmed Party; or
- University Administrator or BERT facilitator.

Note: For discrimination other than harassment, any student or employee, or other person who was participating or attempting to participate at the time of the alleged discrimination, can submit a Complaint.

Confidential Employee: an individual designated by the University working in their confidential capacity to provide support to Students and Employees without being required to report to a University Administrator or BERT facilitator. A report to a Confidential Employee will not be acknowledged or considered notice to the University about the alleged occurrence of discrimination and harassment, and will not trigger the University’s 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.

Decisionmaker: a trained professional designated by the University who is responsible for reviewing all relevant information, determining “in violation/responsible” or “not in violation/not responsible” of a University policy, and assigning sanctions, if necessary. Decisionmakers also review approved appeal requests.

Disparate Impact: is a type of unintentional discrimination that occurs when a seemingly neutral policy or practice negatively affects a protected group of people, under the Non-Discrimination/Harassment Policy and these procedures.

Disparate Treatment: is a type of discrimination that occurs when a person is treated differently or adversely based on a protected class as protected under the Non-Discrimination/Harassment Policy and these procedures.

Education Program or Activity: includes all campus operations, including off-campus settings that are operated or overseen by the University, including, for example, field trips, online classes, and athletic programs; conduct subject to the University’s disciplinary authority that occurs off-campus; and conduct that takes place via University-sponsored electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of, the University. Conduct that occurs outside of the education program or activity may contribute to a hostile environment within the program or activity.

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*.

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.

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.

***Student/employee crossover:** Students who work on campus as an employee and employees who are registered in courses at the University fall under the jurisdiction of the Non-Discrimination/Harassment Policy and these procedures. Details of the student/employment status will be assessed by the University Administrator or BERT facilitator for appropriate application of procedures.

Expert Witness: a person who is permitted to participate in an investigation or hearing because of special knowledge or [proficiency](#) in a particular field that is relevant to the Complaint.

Finding: a written conclusion by a preponderance of the evidence (“more likely than not”), issued by a Decisionmaker, Student Conduct Review Committee, or Student Conduct Hearing Committee, that the conduct did or did not occur as alleged.

Harmed Party: an individual or group of individuals who experienced discrimination and harassment. Once a Harmed Party makes a report, or files a complaint, alleging an occurrence of discrimination or harassment, they are referred to as a “Complainant” as defined herein.

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

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. In Nebraska, minors are considered all persons under the age of 19.

Remedies: are measures provided, as appropriate, to a Complainant or any other person the University identifies as having had their equal access to a University’s education program or activity limited or denied by discrimination or other Prohibited Conduct covered by the Non-Discrimination/Harassment Policy and these procedures. These measures are provided to restore or preserve that person’s access to the education program or activity after the University determines that discrimination or harassment occurred.

Reporting Obligations: All Employees and Student Employees are required to report disclosures of discrimination and harassment. Note: Separate obligations to report possible sexual harassment and sexual misconduct can be found in the University’s Title IX and Outside of Title IX Policy and corresponding procedures

Reporting Party: an individual, or group of individuals, who reports information to the University Administrator or BERT facilitator. Reporting Parties can include, but are not limited to the person who experienced the discrimination or harassment, Employees, parents, bystanders, witnesses, friends, other community members, or someone who has otherwise been made aware of an incident of discrimination or harassment.

Respondent: an individual, or group of individuals such as a student organization, who has been reported to have engaged in conduct that could constitute Prohibited Conduct or retaliation for engaging in a protected activity.

Sanctions: disciplinary steps that may be imposed on a Respondent who is found responsible for a violation of the University’s policies.

Student Conduct Hearing Committee: a group of five members, including faculty, staff and/or student members assigned to review the official written documentation (Preliminary and Final Investigative Reports) and/or a finding recommended by the Student Conduct Review Committee; interview Complainants, Respondents, and witnesses; and examine other available information as part of the Student Conduct Hearing. Hearing Committee members will determine a finding of “in violation/responsible” or “not in violation/not responsible” and determine sanctions, when applicable.

Student Conduct Review Committee: a group of three members, including faculty or staff members and at least one student, who review the official written documentation (Preliminary and Final Investigative Reports) to determine a finding of “in violation/responsible” or “not in

violation/not responsible”, determine any sanctions, or refer the matter to the Student Conduct Hearing Committee for further review.

Students: any person registered in courses at the University, either full-time or part-time, pursuing undergraduate or graduate studies, including those who audit courses. For Employees who are enrolled and taking classes, refer to the Employee: Student/Employee Crossover definition.

Supportive Measures: reasonable and appropriate actions offered to any involved party to facilitate continued access to University employment or education programs and activities. 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, change of class schedule, and/or security walking service.

Support Person: an individual selected by a Complainant or Respondent to assist them during any part of the Formal or Informal Resolution processes, including the Reporting, Assessment, Informal Resolution, Investigation, Hearing, and Appeal process. A Support Person may be a staff member, student, friend, family member, 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.

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.

II. Role of University Administrators

Bias Education Response Team (“BERT”)

The purpose of the Bias Education Response Team is to respond to incidents of bias and/or hate crimes through education and dialogue. As such, it is important to note that BERT’s primary role is to promote a campus climate that is welcoming and inclusive for all students, staff, and faculty, regardless of protected classes, by being both proactive in its support for diversity at the University and responsive to incidents of bias on campus. BERT will be consulted by the BERT Facilitator and the Non-Discrimination Coordinator after the resolution of bias incidents/hate crimes to discuss community outcomes and further action to address community concerns, education, communication, or other action steps the University may consider to enhance an inclusive campus environment.

BERT Facilitator

The BERT Facilitator acts as a lead for BERT as well as the official coordinator for bias incident/hate crime reports involving students as the Complainant. The BERT Facilitator is not a confidential resource. After receiving and assessing bias incidents for discrimination and harassment, the BERT Facilitator will offer rights, options, and resources to the Harmed Party, as well as discuss the University’s resolution procedures. The University’s procedures allow the Harmed Party to determine which resolution method they would like to pursue.

The BERT Facilitator will collaborate with the Non-Discrimination Coordinator regarding the details of assessment reports.

- Assistant Dean of Student Success and Persistence and BERT facilitator: Candice Howell, Nebraska Wesleyan University, Story Student Center – Student Life Office, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2401, chowell@NebrWesleyan.edu

Non-Discrimination Coordinator

The Non-Discrimination Coordinator works as the official coordinator for bias incidents/hate crime reports involving employees as the Complainant. The Non-Discrimination Coordinator is not a confidential resource. After receiving and assessing bias incidents for discrimination and harassment, the coordinator will offer rights, options, and resources to the Harmed Party, as well as discuss the University's resolution procedures. The University's procedures allow the Harmed Party to determine which resolution method they would like to pursue.

The Non-Discrimination Coordinator will collaborate with the BERT Facilitator regarding the details of assessment reports involving students. The Non-Discrimination Coordinator will also collaborate with BERT regarding community concerns, education, communication, or other action steps the University may consider to enhance an inclusive campus environment.

- Assistant Vice President of Human Resources and Non-Discrimination Coordinator: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, mharder@nebrwesleyan.edu

The BERT Facilitator and Non-Discrimination Coordinator are:

- Responsible for oversight of the assessment, investigation, and resolution of all reports of discrimination and harassment;
- Committed to supporting all parties involved in understanding and assessing all rights, options, and resources;
- Knowledgeable and trained in relevant state and federal laws and University policy and procedures;
- Responsible for engaging with BERT for coordination of training, education, and prevention programs for campus community;
- Available to provide information to any involved party about the courses of action available at the University;
- Available to assist any party regarding how to respond appropriately to reports of discrimination and harassment;
- Responsible for monitoring full compliance with all requirements and timelines specified in the reporting and complaint procedures;
- Responsible for ensuring resolution procedures are in compliance with Federal and University policies and regulations;
- The University has the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party or Support Person who does not comply with meeting expectations or decorum and any other applicable part of the resolution process.
- Collaborate with the Provost, or designee, when disclosures or supportive measures are related to issues of academic freedom or instructional methods;
- Responsible for ensuring the timely completion of any remedies or sanctions, and;
- Responsible for compiling annual reports.

III. Employee Reporting Obligations

All Employees and Student Employees are required to take action upon receipt of a disclosure of discrimination and harassment. There are two action steps Employees or Student Employees may choose from upon receipt of a disclosure (that does not involve potential sexual harassment and sexual misconduct violation):

1. Report all information disclosed and/or made available to the employee about discrimination and harassment to the applicable Non-Discrimination Coordinator or BERT Facilitator; or
2. Provide contact information for the Non-Discrimination Coordinator or BERT Facilitator to anyone who provides a disclosure **and** information about how to make a report and file a complaint.

Instances of disclosures may occur through various communications that include, but are not limited to, conversation, emails, classroom assignments, and social media and must be addressed in accordance to the University's Non-Discrimination procedures.

IV. Reporting Discrimination and Harassment

Individual disclosure

An individual may choose to report to the Non-Discrimination Coordinator, BERT Facilitator, a Confidential Resource, or through anonymous reporting. An individual may choose to report illegal harassment to law enforcement. These reporting options through the University and law enforcement are not exclusive. An individual may simultaneously pursue a civil or criminal investigation off campus and the University discrimination and harassment resolution process.

How to Make a Report or File a Complaint to the University

All reports and Complaints of discrimination and harassment will be taken seriously and in good faith. While there is no time limit for reporting discrimination and harassment 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 to assist individuals in identifying external and/or other internal reporting options.

Making a Report is the notification of an incident of discrimination or harassment to a Non-Discrimination Coordinator or BERT Facilitator 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 Complaint process. The University recognizes that not every individual will be prepared to request supportive measures or to file a 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 discrimination and harassment. The University reserves the right to file a Complaint over the Complainant's objection if the University deems it in the University's best interest to do so. This is done by the Non-Discrimination Coordinator or BERT Facilitator signing a Complaint, on behalf of the University, and can be done with or without consent/permission of the original Complainant. Upon the filing of the Complaint, the Non-Discrimination Coordinator or BERT Facilitator will not become a party to the procedure.

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

Filing a Complaint is defined as the request to the Non-Discrimination Coordinator or BERT Facilitator to initiate the University's formal and informal resolution processes regarding incidents of discrimination and harassment. The decision to file a Complaint may be made at any time via email/electronically, phone, or physical mail, or in person during regular business hours. The Non-Discrimination Coordinator or BERT Facilitator will provide assistance about what course of action may best support the individual(s) involved and how best to address the complaint.

There are four situations in which the Complaint may be signed.

1. A Harmed Party may sign the Complaint.
2. A parent, guardian, or other authorized individual with the legal right to act on behalf of an of the Harmed Party may sign the Complaint in the event a Harmed Party does not wish to file the Complaint.
3. A Non-Discrimination Coordinator or BERT Facilitator may sign the Complaint:
 - a. In the event a Harmed Party does not wish to file the Complaint.
 - b. When the Prohibited Conduct presents an imminent threat to campus safety or the safety of an individual on campus.

The University reserves the right to file a 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.

4. Any student, employee, or other person who was participating or attempting to participate in an Education Program or Activity at the time of the alleged discrimination.

When someone other than the Harmed Party signs the Complaint, that party does not become the Complainant. Only the Harmed Party is allowed to become the Complainant.

It is important for Reporting Parties to note that the University will consider amnesty protections as outlined below. **Amnesty** is protection granted to individuals for participating in minor policy violations without fear of a personalized conduct proceeding.

- **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 Students and Employees to offer help and assistance to others, the University pursues a policy of amnesty for minor 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 and 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:** Students and 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 protections can result in a decision by the Student Conduct System Administrator, Assistant Vice President for Human Resources, or designee, not to extend amnesty.

Reporting to Confidential Employees

Confidential Employees are exempt from providing reports to the Non-Discrimination Coordinator or BERT Facilitator, as noted in Section III: Employee Reporting Obligations. Confidential Employees will provide contact information for the Non-Discrimination Coordinator or BERT Facilitator to anyone who provides a disclosure **and** information about how to make a report and file a complaint.

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.

Anonymous Reporting to the University

Anonymous reports of discrimination and harassment concerns can be submitted 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.

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 crimes related to discrimination and harassment, collect evidence, make arrests, and assist in seeking emergency protective measures. The University will assist individuals in notifying law enforcement if they choose to do so.

To Contact Lincoln Police Department:

- 911 (for emergencies).
- 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.

Anonymous Reporting to Law Enforcement:

There are options to report discrimination and harassment 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.

- To make an anonymous report of crime to the Lincoln Police Department, visit Lincoln Crime Stoppers at <https://lincolncrimestoppers.com/> or call (402) 475-3600. Individuals can choose to report as much information as they would like.

V. Conflict of Interest

Any individual carrying out any part of the Non-Discrimination Policy or these procedures shall be free from any actual conflict of interest or demonstrated bias that would impact the handling of a matter. Should a conflict of interest exist, that individual shall immediately notify an alternate coordinator or university administrator who will either take, or reassign to an appropriate designee, the coordination role of carrying out the handling and finalization of the matter at issue. A conflict or objection by the complainant or respondent involving any university administrator on the grounds of a demonstrated bias or actual conflict of interest are to be made, in writing, to the University President, or designee.

VI. Response to a Report

The following steps will be used following the receipt of a report of Prohibited Conduct to a Non-Discrimination Coordinator or BERT Facilitator.

Initial Contact

Following receipt of a report alleging a potential violation of the Non-Discrimination Policy, the BERT Facilitator or Non-Discrimination Coordinator will contact the Reporting/Harmed Party to offer an initial intake and assessment meeting.

The BERT Facilitator or Non-Discrimination Coordinator will complete an initial intake and assessment meeting and will provide the Harmed Party with all related rights, options, and resources. The Facilitator and Coordinator will collaborate to assess available information for imminent or ongoing threat, immediate physical safety, and emotional well-being to Harmed Party or campus community. If the individual bringing forward information about discrimination and harassment is not the actual Harmed Party/Complainant, the Facilitator and Coordinator will limit communication to general information on policies and processes.

Assessment

After the initial outreach, an involved party may agree to meet with the Facilitator or Coordinator. The purpose of this initial 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.

During this meeting, the Facilitator or Coordinator will provide the following:

1. Written explanation of rights, options, and resources, and the difference between privacy and confidentiality;
2. Overview of related University policy;
3. Identify any concerns about discrimination or harassment based on other protected classes;
4. Information regarding available confidential and non-confidential campus and community resources, including: counseling, health care, mental health, or victim advocacy. Upon request, information regarding legal assistance, visa and immigration assistance, student financial aid and other available services may be provided;

5. Availability of Supportive Measures regardless of whether a complaint is filed and/or any resolution process is initiated;
6. Options for resolution (no action, prevention, agreement, investigation) and how to initiate such resolution processes;
7. Explanation of the University's evidentiary standard ("preponderance of the evidence");
8. Right to notify law enforcement as well as the right not to notify law enforcement;
9. Information about the importance of preserving evidence and, in the case of potential criminal misconduct, how to get assistance from the Facilitator or Coordinator or local law enforcement in preserving evidence;
10. Right to a Support Person/Advisor of Choice, if applicable, during the University proceedings including the initial meeting with the Facilitator or Coordinator;
11. Statement about retaliation protections for filing a complaint, or participating in the complaint process, which is prohibited; and
12. Information on how to file a Complaint, as well as documentation on the Reporting Party's preferred course of action.

The Facilitator or Coordinator will document all information provided by the Reporting Party in an Assessment Report. The purpose of this Report is to record the relevant details as reported to the Facilitator or Coordinator. This Assessment Report will be shared with the Investigator(s) should a Complaint be filed. The Non-Discrimination Coordinator will also enter non-identifying statistical information about the report into the University's daily crime log, if applicable.

The University will make a reasonable effort to respect the wishes of the person who experienced discrimination and harassment. In all cases, the Facilitator or Coordinator will continue to assess imminent or ongoing threat, immediate physical safety, and emotional well-being to Harmed Party or campus community to comply with the need of a timely warning or emergency notification as required under federal law.

If the reported incident constitutes an imminent or ongoing threat to campus safety, the Facilitator or Coordinator may sign a Complaint, beginning the resolution process. In making this decision, the Facilitator or Coordinator will consider, but is not limited by, the following factors: whether the person who experienced discrimination and harassment has requested that no 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 discrimination and harassment; whether there exists a pattern of discrimination and harassment; 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 discrimination and harassment involving vulnerable adults and involving minors by an adult. Facilitator or Coordinator, in their discretion, upon receipt of a report of an alleged occurrence of discrimination and harassment, may determine to sign a Complaint, and commence the formal resolution process (after taking account of the aforementioned factors), with or without approval of the original Reporting Party.

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 discrimination and harassment resolution process is voluntary and supportive measures are available at any time for all involved parties. Where a Reporting Party requests that a name or other identifiable information not be shared with the Respondent and/or that no action be taken, the University may be limited in its ability to fully respond to the matter.

The Facilitator or Coordinator will document each report of discrimination and harassment 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.

Requests for Confidentiality or No Further Action

When a Harmed Party requests confidentiality from a Confidential Resource, the University will follow the guidelines outlined in Section IV of this procedure.

When a Harmed Party requests that the Facilitator or Coordinator not use their name as part of any resolution process, or that the University not take any further action, the University will generally try to honor those requests. However, there are certain instances in which the University has a broader obligation to the community and may need to act against the wishes of the Harmed Party. In such circumstances, the Facilitator or Coordinator will notify the Harmed Party in writing of the need to take action. The factors the Facilitator or Coordinator will consider when determining whether to act against the wishes of a Harmed Party include:

1. The Harmed Party's request not to proceed with initiation of a complaint;
2. The Harmed Party's reasonable safety concerns regarding initiation of a Complaint;
3. The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
4. The severity of the alleged Prohibited Conduct, including whether the discrimination or harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination or harassment and prevent its recurrence;
5. The relationship of the parties, including whether the Respondent is an Employee;
6. The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing nature, or is alleged to have impacted multiple individuals;
7. The availability of evidence to assist a Decisionmaker in determining whether discrimination or harassment occurred;
8. Whether the University could end the alleged discrimination and harassment and prevent its recurrence without initiating its resolution procedures under the Non-Discrimination/Harassment Policy; and
9. Whether the conduct as alleged presents an imminent and serious threat to the health or safety of the Harmed Party or other persons, or that the conduct as alleged prevents the University from ensuring equal access to its Education Program or Activity.

Emergency Removal Evaluation

At times, the University may take action to ensure the physical or emotional safety and well-being of the University community. For discrimination and harassment, the University retains the authority to remove a Respondent from the University's Education Program or Activity on an emergency basis, where the University:

1. Completes an individualized safety and risk analysis;
2. Determines that an immediate and serious threat to the health or safety of a Complainant or any student, employee, or other individual arising from the allegations of discrimination justifies a removal; and
3. Provides the Respondent with notice of and an opportunity to appeal the decision immediately following the removal.

Removal of a person will initiate the University's resolution process. Interim actions may include a no-trespass or other no-contact order to be issued.

The Respondent may appeal the decision immediately following the removal, by notifying the Facilitator or Coordinator in writing. An impartial individual, not otherwise involved in the case, will consider the appeal and determine if the emergency removal was reasonable. For all other Prohibited Conduct, the University may defer to its interim suspension policies for students and administrative leave for Employees.

Administrative Leave Evaluation

The University retains the authority to place an Employee who is a Respondent on administrative leave during a pending complaint process, with or without pay, as appropriate. Administrative leave implemented as a supportive measure or as emergency removal is subject to the procedural provisions above, including the right to appeal the decision.

Faculty members may refer to the [Faculty Handbook](#), Article VII, for additional information regarding faculty procedures.

Instances of Student Withdrawal or Employee Resignation With Pending Complaint(s)

If a Student or Employee Respondent permanently withdraws or resigns from the University with unresolved allegations pending, the University will consider whether and how to proceed with the resolution process. The University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s) and any ongoing effects of the alleged Prohibited Conduct.

A Student who is a Respondent who withdraws or leaves while the process is pending may not return to the University without first resolving any pending complaints, which applies to all University programs. Records will be retained by the Facilitator and the Student Conduct Administrator will place a registration hold on the Respondent's account.

An Employee who is a Respondent who resigns with unresolved allegations pending is not eligible for rehire with the University and the records retained by the Coordinator will reflect that status. Employment references made to the Human Resources office for that individual will include that the former employee resigned during a pending complaint process.

Evaluation of Dismissal of a Complaint

Before dismissing a report/Complaint under the corresponding Non-Discrimination/Harassment Policy, the University will make reasonable efforts to clarify all available information and the allegations with the Complainant.

The University may dismiss a report/Complaint if:

1. The University is unable to identify the Respondent after taking reasonable steps to do so;
2. The Respondent is not participating in the University's Education Programs or Activities and/or is not employed by the University;
3. The Complainant voluntarily withdraws their complaint in writing and the Facilitator or Coordinator declines to initiate a Complaint;
4. The Complainant voluntarily withdraws some but not all allegations in a Complaint [in writing] and the University determines that the conduct that remains alleged in the complaint would not constitute Prohibited Conduct; or
5. The University determines the conduct alleged in the complaint, even if proven, would not constitute Prohibited Conduct under the corresponding Non-Discrimination/Harassment Policy.

Upon dismissal, the University will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the University will notify the parties in writing. If a dismissal of one or more allegations changes the appropriate decision-making process under these procedures, the Facilitator or Coordinator will include that information in the notification. The Facilitator or Coordinator will provide the Complainant details in the written notice about any matter that is being referred for handling under a different policy, and/or being referred to another appropriate office for handling.

The University will notify the Complainant that a dismissal may be appealed on the basis outlined in the Appeals section. If dismissal occurs after the Respondent has been notified of the allegations, then the University will also notify the Respondent that the dismissal may be appealed on the same basis. If a dismissal is appealed, the University will follow the procedures outlined in the Appeals section of these procedures.

When a report/Complaint is dismissed, the University will, at a minimum:

1. Offer supportive measures to the Complainant as appropriate;
2. If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
3. Take other prompt and effective steps, as appropriate, through the Facilitator or Coordinator to determine that discrimination and harassment does not continue or recur within the University Education Program or Activity.
4. Provide the Complainant details in the written notice about any matter that is being referred to another appropriate office for handling under a different policy or code. The University may also send evidence already gathered as part of the referral.

A Complainant who decides to withdraw a Complaint or any portion of it may later request to reinstate it or refile it.

VII. Consolidation of Complaints

The University may consolidate Complaints for allegations of discrimination and harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of discrimination and harassment arise out of the same facts or circumstances. Where a resolution process involves more than one party, references in this section to the singular “party,” “Complainant,” or “Respondent” may be considered plural, as applicable. Where multiple policies may be implicated by the same set of facts or circumstances, the University may separate the proceedings in accordance with the requirements of the individual policies.

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.

The University also reserves the right to use the University's Non-Discrimination/Harassment Policy and these procedures to adjudicate other allegations and conduct violations that are outside of the scope of the Non-Discrimination/Harassment Policy in instances when the conduct is associated with or intertwined with an alleged issue of Prohibited Conduct under the Non-Discrimination/Harassment Policy. The Facilitator or Coordinator will address these consolidated Complaints in collaboration and coordination with other appropriate offices, such as Student Conduct and Human Resources. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements for Non-Discrimination/Harassment.

VIII. Options for Resolution

There are multiple ways to resolve a complaint or report of discrimination and harassment.

Report Only

Whether a Reporting Party or Harmed Party reports to a Title IX coordinator, a harmed party may request to keep the misconduct as a report only with no additional university action (see additional information in Section VI: Response to a Report, under "Requests for Confidentiality or No Further Action").

Supportive Measures

After a disclosure, requests for supportive measures may be made to the Facilitator or Coordinator who will determine whether to implement reasonable supportive measures designed to assist involved parties and community members in maintaining access to and participation in the University's Educational Programs and Activities and services during the resolution process.

Supportive measures will be reasonable and appropriate 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 involved parties regardless of making a report or Complaint.

A resolution using only supportive measures is an option for a Complainant who does not wish to take any further steps to address their concern, and when the Facilitator or Coordinator determines that no further action is required. Some types of support that may be appropriate 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, change of class schedule, and/or security walking service.

Supportive measures do not preclude later use of another resolution method. For example, if new information becomes available to the University and the Facilitator or Coordinator determines there is need for additional steps to be taken, or the Complainant later decides to pursue another resolution method.

Informal Resolution

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 (See Section IX: Informal Resolution Procedures).

Formal Resolution

The formal resolution process for the University, after receiving a Complaint, involves an investigation, evidence review phases, and a Decisionmaker/Student Conduct Board determining whether or not a Respondent is more likely than not to have violated the Non-Discrimination/Harassment Policy. Sanctions may be assigned if the Respondent is found “in violation/responsible” of a policy violation. The Complainant and Respondent both have the right to appeal the determination of the outcome and/or the sanctions assigned (See Section X: Formal Resolution Procedures).

IX. Informal Resolution Procedures

The informal resolution process involves a facilitated resolution that is voluntary and acceptable to the Complainant, Respondent, and the University after receipt of a Complaint. All parties must voluntarily agree in writing to participate in the informal resolution process. The Facilitator or Coordinator has the discretion to determine whether to offer informal resolution at all, or only in certain cases; generally allowing only one informal resolution per Respondent. 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).

Informal resolution does not include a full investigation and does not include any finding of responsibility nor an admission of the falsehood of the allegations and is a voluntary, structured interaction between or among affected parties that balances support and accountability. This is separate and distinct from the institution's hearing process. Regardless of entering into the informal resolution process, the Facilitator or Coordinator must still take other prompt and effective steps as needed to determine that discrimination and harassment does not continue or recur within the University’s employment, or Education Programs and Activities.

For some types of reported discrimination and harassment, informal resolution may offer parties resolution in a timeframe that is shorter than a formal resolution; it is 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 all cases of discrimination and harassment.

An informal resolution can be requested by a Complainant or Respondent at any time, even if the parties have previously entered the formal resolution process, up to the beginning of the Student Conduct Review or Decisionmaker review. Any of the parties can withdraw from the informal resolution process and resume the formal resolution process, for addressing allegations 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 Complainant and Respondent that includes:

1. The specific allegation and the specific conduct that is alleged to have occurred;
2. The requirements of the informal resolution process;
3. The consequences of participating in the informal resolution process, including record-keeping and potential sharing of information, and the University's ability to disclose this information for future resolution processes, including investigations arising from the same or different allegations;
4. Notice that an agreement resulting from the informal resolution process is binding only on the parties and is not subject to appeal;
5. Notice that once the Informal Resolution Agreement is finalized and signed by the Parties, they cannot initiate or continue an investigation procedure arising from the same allegations;
6. A statement indicating that the decision to participate in the informal resolution process does not presume that the conduct at issue has occurred;
7. A statement that the Respondent is presumed not in violation of a policy, unless Respondent admits to violations of a policy;
8. An explanation that all parties may be accompanied by a Support Person;
9. A statement that any party has the right to withdraw from the informal resolution process and initiate or resume resolution procedures at any time before agreeing to a resolution;
10. The facilitator's inability to be called as a Witness if a formal resolution process is pursued;
11. Information regarding supportive measures, which are available equally to all parties.

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/Finding of Responsibility". The terms and outcome of the informal resolution are negotiable and may result in party-imposed corrective or punitive measures.

Once a report 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 ("Informal Resolution (IR) facilitator") who will collect information about the incident without performing a full investigation, facilitate discussion, and propose solutions for a resolution between the parties. IR facilitators do not have a conflict of interest or bias in favor of or against Complainants or Respondents generally or regarding the specific parties in the matter. The IR facilitator may not act as the Investigator or Decisionmaker for the same matter in any other resolution method.

Facilitating an Informal Resolution Agreement

The IR facilitator will schedule an advance call with each party, separately, prior to the informal resolution meeting. The IR facilitator will explain the process, goals, and options for the meeting. Following the call, if all parties have agreed to explore informal resolution, the IR facilitator will send the Meeting Decorum electronically to both parties. The date and time of the initial meeting will be set by the IR facilitator or the BERT Facilitator or Non-Discrimination Coordinator and all parties will be notified with advance notice.

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

At the beginning of the informal resolution meeting, which is held separately with each party, the IR 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 IR facilitator will navigate a conversation that attempts to move toward a resolution that will be agreed to and signed by both parties.

Any party may craft or create the terms of their agreement and will be asked for their suggestions or ideas during the process. Examples of agreements may include but are not limited to:

- An agreement that the Respondent will change classes or housing assignments;
- An agreement that the Parties will not communicate or otherwise engage with one another;
- Completion of a training or educational project by the Respondent;
- Completion of a community service project by the Respondent;
- An agreement to engage in a facilitated dialogue; and/or
- Discipline agreed upon by all parties.

Finalizing the Informal Resolution Agreement

Once the final terms of the Informal Resolution Agreement have been agreed upon by all parties, in writing, and approved by the BERT Facilitator or Non-Discrimination Coordinator, the matter will be considered closed, and no further action will be taken. Once signed, no appeal is permitted. The informal resolution process is generally expected to be completed within thirty (30) days and may be extended by the BERT Facilitator or Non-Discrimination Coordinator as appropriate. All parties will be notified, in writing, of any extension and the reason for the extension.

No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any outside person by the Complainant or Respondent. Information from an informal resolution process can be shared with other offices as appropriate by the BERT Facilitator or Non-Discrimination Coordinator.

If an agreement cannot be reached, either because the Parties do not agree, determine they no longer wish to participate in the informal resolution process, or the facilitator does not believe that the terms of the agreement or continuing the informal resolution process is appropriate, the IR facilitator may recommend that the reported conduct be addressed through

another resolution method. The BERT Facilitator or Non-Discrimination Coordinator will inform the parties of such decision, in writing.

Any violations of the terms of the Informal Resolution Agreement or procedural expectations, including Meeting Decorum rules, may result in disciplinary action.

X. Formal Resolution Procedures

Formal procedures of resolution involve two methods that will be utilized based on parties involved:

- Discrimination or harassment involving employees (and third parties) as the Respondent.
- Discrimination or harassment involving a University Student as a Respondent.

A. The following information applies to both student and employee methods of formal resolution:

1. Acceptance of Responsibility: If a Respondent accepts responsibility for all or part of the Prohibited Conduct alleged, the BERT Facilitator or Non-Discrimination Coordinator, or designee, will work in consultation with Student Conduct System Administrator or the Assistant Vice President of Human Resources in assigning appropriate sanctions. The BERT Facilitator or Non-Discrimination Coordinator will continue processing remaining allegations of Prohibited Conduct, if any.
2. Assignment of the Investigator, Student Conduct Review and Hearing Committee Members, Decisionmaker, and/or Appellate Decisionmaker: The University has designated individuals as Investigators, Student Conduct Review and Hearing Committee Members, Decisionmakers, and Appellate Decisionmakers who receive annual training. Training programs include, but are not limited to, the definition of discrimination and harassment, the scope of the University's Education Program or Activity, how to conduct an investigation, and how to serve impartially, including how to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Moreover, any materials used to train administrators do not rely on stereotypes and promote impartial investigations, adjudications, and appeal decisions related to the resolution of reports and Complaints of discrimination and harassment.

The University will assign an Investigator, Decisionmakers, Student Conduct Review and Hearing Committee members and, if applicable, Appellate Decisionmakers, to conduct an adequate, reliable, and impartial investigation and determination, as applicable, in a reasonably prompt timeframe. The University reserves the right to utilize internal or external Investigators and Decisionmakers.

3. Conflict of Interest or Bias: After a Notice of Complaint (as described below) is issued to all parties, any party may object to the participation of the BERT Facilitator, Non-Discrimination Coordinator, Investigator, Student Conduct Review and Hearing Committee members, Decisionmaker, and Appellate Decisionmaker on the grounds of a demonstrated bias or actual conflict of interest. Objections regarding any above-named party, please refer to Section V: Conflict of Interest section of these procedures.
4. Rights and Requirements: The University **requires** Employees to participate as a witness in, or otherwise assist with, an investigation, proceeding, hearing, or appeal involving discrimination and harassment.

All other parties are expected and encouraged to participate in the investigation, and each have the same rights during the resolution process including the right to a Support Person, to submit relevant witness names and evidence, and to review the evidence gathered by the Investigator prior to the provision of the Final Investigative Report to the Decisionmaker or Review Committee.

All individuals will be treated with appropriate respect, and in a manner considerate of their privacy.

5. Written Notice of Meetings: The University will provide the involved parties whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time to prepare to participate.
6. Investigative Timeline: The Investigator will conduct a thorough, prompt, impartial, and unbiased investigation. The Investigator will make a reasonable effort to complete the investigation within thirty (30) days, but this time frame may be extended depending on the complexity of the circumstances of each case. Scheduling, University closures, period of examinations, law enforcement investigations or other good cause reasons may affect this timing. Good cause reasons may include availability of witnesses and other participants and providing participants reasonable time to review materials. Any significant delays in the process will be communicated in writing to the Complainant and the Respondent.

The University will consider an involved party's request for an extension of a deadline related to a Complaint.

The BERT Facilitator or Non-Discrimination Coordinator will ensure that the parties will be provided access to periodic status updates.

7. Burden of Evidence: Throughout the investigation of a report or Complaint, the University has the burden of conducting an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred. This burden does not rest with any involved party, and any party may decide to limit their participation in part or all of the process, or to decline to participate. A party's participation, or lack thereof, does not shift the burden of proof away from the University and does not indicate whether or not someone is in violation of the policy or acceptance of responsibility.
8. Management of Evidence/Information: To maintain the privacy of evidence gathered or shared during any part of the resolution procedures, access to materials will be provided only by a secure method. Given the sensitive nature of the information provided during any of the resolution procedures, involved parties and advisors are not permitted to copy, remove, publicize, share, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided or make use of the documents outside of the processes described, unless given explicit permission by the BERT Facilitator or Non-Discrimination Coordinator. Parties may request to review a hard copy of materials, and the University will make that available in a supervised or monitored setting. Any student or employee who fails to abide by this may constitute retaliation and may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

Evidence Gathering

A. Interviews

The Investigator will interview all parties and relevant witnesses and gather relevant documentary evidence provided by the parties and any identified witnesses. Interviews may be conducted in person or virtually. When a party meets with an Investigator, the Investigator will ask questions related to the allegations in the report or Complaint and a party is given the opportunity to speak to the allegations and related events. Parties may identify fact witnesses and provide evidence that is relevant to the allegations and not otherwise impermissible. This will include inculpatory evidence (that tends to show it more likely that someone committed a violation) and exculpatory evidence (that tends to show it less likely that someone committed a violation). The Investigator ultimately determines whom to interview to determine the facts relevant to the complaint.

B. Impermissible Evidence

The following types of evidence and related questions are impermissible, meaning the information will not be accessed or considered, except to determine whether one of the exceptions listed below applies. Impermissible evidence will not be disclosed or otherwise used, regardless of relevance:

1. Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
2. Evidence provided to a Confidential Resource, unless the person who made the disclosure or otherwise provided evidence to the Confidential Resource has voluntarily consented to re-disclosure; and
3. An involved party's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in these procedures.

Evaluation Considerations

In evaluating instances of discrimination or harassment, consideration will be given to the totality of the facts and circumstances. This includes, but is not limited to, the use of words or actions indicating intimidation, fear, exclusion, or coercion; whether a reasonable person in the Respondent's position would have understood such person's words and acts as an expression of intimidation, fear, exclusion, or coercion. Evidence may be evaluated objectively and subjectively for normal and abnormal behaviors of all parties involved, including the perspective of a reasonable person.

In evaluating whether or not discrimination or harassment has occurred with Disparate Impact, Investigators will consider, among other considerations, the following elements:

- Evidence that a neutral policy disproportionately affects members of a protected class;
- Statistical evidence; and
- Discriminatory impact resulting from a specific practice or policy.

In evaluating whether or not discrimination or harassment has occurred with Disparate Treatment, Investigators will consider, among other considerations, the following elements:

- Whether the Respondent's actions were based on a discriminatory motive;

- Direct evidence or indirect (circumstantial) evidence that builds a “prima facie” case, meaning evidence of discrimination or adverse action has occurred which occurred because of membership in a protected class; and
- A comprehensive review comparing experiences, personnel files, student records, and interviews relevant to the Complaint.

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

Participation in the resolution process is addressed in Section VIII-Options To Respond, Subsection “Rights and Requirements”. The investigation will continue and decisions will be made with the available information.

Appeal Procedure

The University recognizes the following procedural steps where University decisions can be appealed by a Complainant or Respondent:

- Supportive measure decisions
- Emergency removals
- Dismissals of Complaints
- Notice of Determination – ONLY on the following grounds:
 - **Procedural Error:** A procedural error occurred and the error would change the outcome. A description of the error and its impact on the determination of the case must be included in the written appeal; and/or
 - **New Evidence:** New evidence or information has arisen that was not available or known to the party during the investigation, that would change the outcome. Information that was known to the party during the resolution process but which they chose not to present is not considered new information. The new evidence, an explanation as to why the evidence was not previously available or known, and an explanation of its potential impact on the investigation findings must be included in the written appeal; and/or
 - **Actual Conflict of Interest or Demonstrated Bias:** The administrators, or anyone with a role in the resolution process, who has an actual conflict of interest or demonstrated bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that would change the outcome. Any evidence supporting the alleged conflict of interest or demonstrated bias must be included in the written appeal.

A Complainant or Respondent may individually submit one appeal for any of the decisions made by the University at the procedural steps outlined above. All concerns about each procedural step must be addressed in one appeal submission at each appeal opportunity.

Appeals must be submitted within three (3) days of a Notice following any specified procedural step. Directions regarding how to submit an appeal will be found in the letters of Notice.

Faculty members who want to submit an appeal regarding a Notice of Determination on specified conditions will follow the appeal process outlined in the [Faculty Handbook](#), Section VIII.

Upon receipt of an appeal, the BERT Facilitator or Non-Discrimination Coordinator will provide a Notice of Appeal, including sufficient details about the appeal, the name of the assigned Appellate Decisionmaker, and a link to the Appeal Response Form, to both the Complainant and Respondent, allowing three (3) days for the non-appealing party to respond.

Following the 3-day response period, the BERT Facilitator or Non-Discrimination Coordinator will forward the appeal, along with all relevant information regarding the appeal, to the Appellate Decisionmaker, or designee(s), for review.

The Appellate Decisionmaker, or designee(s), will consider all available documentation related to the appeal. Based on the information provided, the Appellate Decisionmaker, or designee(s), will:

- Affirm the decision or Findings determined by the Decisionmaker, Student Conduct Review Committee, Student Conduct Hearing Committee, or University Administrator; or
- Modify or reverse the decision or Findings determined by the Decisionmaker, Student Conduct Review Committee, Student Conduct Hearing Committee, or University Administrator.

The Appellate Decisionmaker, or designee(s), will prepare the Final Determination of Appeal stating their decision, which is final and binding. The document will include the rationale for the decision. The Appellate Decisionmaker will make a reasonable effort to complete the appeal process within five (5) days, which may be extended for good cause. The document will be provided to the BERT Facilitator or Non-Discrimination Coordinator, who will communicate the final decision to the Complainant and the Respondent in writing. The Final Determination of Appeal will also be shared with the University Administrator, if applicable.

XI. Formal Resolution Procedures For Discrimination or Harassment involving employees (and non-student third parties) as the Respondent

This procedure is for all allegations of Prohibited Conduct pertaining to discrimination or harassment involving employees (and non-student third parties) as the Respondent.

A. Notice of Complaint

Upon receipt of a Complaint, the Non-Discrimination Coordinator will send the Notice of Complaint to both the Complainant and the Respondent communicating the initiation of an investigation. Should additional allegations be brought forward, or information regarding location or date of the incident(s), a revised written Notice of Complaint shall be provided to all parties as needed or after the jurisdiction review is completed by the Non-Discrimination Coordinator.

The Notice will include, at a minimum:

1. The University's resolution procedures, and any alternative resolution process (informal or supportive measures), including a link to these procedures;
2. Sufficient information available at the time to allow the parties to respond to the allegations, including the specific allegation(s), identities of the parties involved in the incident(s), the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
3. A statement that Retaliation is prohibited;

4. Contact information for the assigned Investigator and Decisionmaker, as well as the process for appealing the appointed Investigator, Decisionmaker, or Non-Discrimination Coordinator, and the deadline (if not previously completed);
5. A statement indicating the expected length of the major stages of the resolution process, as well as any applicable deadlines;
6. A statement that the Respondent is presumed “not in violation” of a University policy until a determination is made at the conclusion of the investigation and decision-making procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Investigator and Decisionmaker;
7. A statement indicating that the parties may have a Support Person/Advisor of Choice (as defined in Section I);
8. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, and to provide a response;
9. A statement that the University prohibits knowingly making false statements or knowingly submitting false information during resolution procedures, with a link to the relevant policy(ies); and
10. A statement indicating the investigator’s process of communication will be in writing and includes any investigation deadlines and schedule for investigative meetings. Investigators will provide reasonable notice for meetings.

B. Individual Interviews with Investigator

The Investigator will hold individual interviews with the Complainant, Respondent, and relevant witnesses (“Involved Parties”), to ask relevant questions and follow-up questions, including questions exploring credibility. Investigators reserve the right to hold meetings with Expert Witnesses. Character evidence is not relevant evidence, and therefore will not be considered.

The Investigator will contact the involved parties to schedule interviews. All involved parties may bring a Support Person/Advisor of Choice to this meeting. When the Support Person/Advisor of Choice is an attorney, the Investigator must be given two (2) days advance notice. The Support Person/Advisor of Choice cannot direct questions or comments to the Investigator, but they may consult with the person they are assisting. The Investigator will not allow a Support Person’s/Advisor of Choice’s presence to unduly inhibit their ability to gather information. Either involved party may change their Support Person/Advisor of Choice at any time.

Additional attendees may be permitted at the discretion of the Non-Discrimination Coordinator in connection with an approved disability-related or language barrier accommodation, or for other related accessibility concerns. All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of those proceedings, and may be subject to further University discipline for failure to do so.

The individual interviews may be conducted with all participants physically present in the same geographic location, or, at the University’s discretion, with all participants joining virtually through a video conferencing option. The Investigator is solely responsible for all aspects of the investigation, including meeting rules and 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 and not shared outside the University. No other parties are permitted to record the interviews.

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.

C. Evidence Review

Interview Summary Review

The Investigator will prepare a summary of each interview. All those interviewed will have an opportunity to review their interview summary for accuracy and submit suggested modifications or additional information within three (3) days of receipt of the summary from the Investigator.

Preliminary Investigative Report and Review

Once the Investigator has gathered all relevant information and after the interview summary review period, the Investigator will prepare a Preliminary Investigative Report.

This Report will include relevant information, excluding impermissible evidence, gathered during the investigation. 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 Non-Discrimination Coordinator for the jurisdictional review to determine appropriate procedural application. At the discretion of the Non-Discrimination Coordinator, a third-party reviewer, or designee, may be utilized. Based on the determination, the Complaint will be resolved utilizing the appropriate discrimination and harassment procedure.

The Preliminary Report will then be provided to the Complainant and Respondent, simultaneously. If applicable or directed by the Complainant or Respondent, the Report will be shared with any identified Support Person/Advisor of Choice by the Non-Discrimination Coordinator. Both the Complainant and the Respondent will have three (3) days to review the Preliminary Investigative Report and provide follow-up responses or information to the Investigator. The purpose of the inspection and review process is to allow each party the equal opportunity to respond to the evidence prior to conclusion of the investigation, to submit any additional relevant evidence, and the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence, or names of witnesses. Relevant responses submitted during the preliminary review period will be included in the Final Investigative Report.

Given the sensitive nature of the information provided, the University will facilitate this review in a secure manner. None of the parties nor their advisors may copy, remove, publicize, share, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any Student or Employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process. Any retaliation or attempts to intimidate, question against their wishes, tamper with, or threaten any witness, at any time, will be subject

to disciplinary action up to and including suspension or expulsion against any party, or person acting on their behalf.

The Non-Discrimination Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence. At the conclusion of the evidence review, when deemed appropriate by the Investigator, the Investigator shall then conduct any additional fact-gathering as may be necessary. If new, relevant evidence is gathered during this second fact-gathering period, the new evidence will be made available for review by the parties and their advisors. The parties shall have three (3) days to provide a response to the newly-gathered evidence. The Investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

After the preliminary three-day (3) review period, the Investigator will review follow-up responses and incorporate relevant information into the Final Investigative Report.

Final Investigative Report

The Investigator will prepare a Final Investigative Report including all of the relevant information gathered and steps taken during the investigation process, excluding impermissible evidence. The Investigator will include as an attachment all relevant evidence gathered during the investigation.

The Final Investigative Report will include:

1. A description of the allegations of Prohibited Conduct;
2. Information about the policies and procedures used to evaluate the allegations;
3. A description of the procedural steps taken by the investigator, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
4. An evaluation of the relevant evidence, excluding impermissible evidence, and the rationale for that evaluation; and
5. Findings of fact for each allegation.

The Investigator will forward the Final Investigative Report to the Non-Discrimination Coordinator, who will provide the Report to the Complainant and Respondent, and the Decisionmaker. If applicable or directed by the Complainant or Respondent, the Report will be shared with any identified Support Person/Advisor of Choice by the Non-Discrimination Coordinator.

Decisionmaker Review

The Decisionmaker will evaluate the relevant evidence, excluding impermissible evidence, and will make factual determinations regarding each allegation, and also determine whether a violation of the Non-Discrimination/Harassment Policy occurred. The Decisionmaker may choose to place less or no weight upon statements by a party or witness who refused to respond to questions deemed relevant and not impermissible, or declined to participate. Evidence not provided during the investigation process will not be considered by the Decisionmaker. The Decisionmaker will not draw an inference about whether discrimination or harassment occurred based solely on a party's or witness's refusal to respond to questions.

The Decisionmaker will make a reasonable effort to conduct their review within five (5) days. The Decisionmaker will prepare a Notice of Determination and provide the Notice to the Non-Discrimination Coordinator. The Non-Discrimination Coordinator will then provide the

Complainant and Respondent and their Advisor of Choice, if any, with the Notice of Determination. If necessary, the Decisionmaker may work in consultation with the Assistant Vice President of Human Resources and/or University Counsel in assigning sanctions.

D. Notice of Determination

The Notice of Determination will include:

1. A description of the allegations of Prohibited Conduct;
2. Information about the policies and procedures used to evaluate the allegations;
3. A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
4. An evaluation of the relevant evidence and the rationale for that evaluation;
5. Findings of fact for each allegation, with rationale;
6. Conclusions regarding which section of the Non-Discrimination/Harassment Policy or other University policy, if any, the Respondent has or has not violated, with rationale;
7. Sanction(s), if applicable; and
8. Appeal procedures.

E. Written Impact Statement Option

The Complainant and Respondent may each submit a written impact statement at any time prior to the Conclusion of the Decisionmaker Review. The impact statement is not evidence and will be reviewed only after a determination is reached.

F. Conclusion of Decisionmaker Review

The Notice of Determination and applicable sanctions becomes effective on the date that the appeal process is finalized. If no party appeals, the determination and applicable sanctions become final on the date that the time period to appeal ends (three [3] days after the dissemination of the Notice of Determination).

XII. Formal Resolution Procedures For Prohibited Conduct Of Discrimination or Harassment Involving Students as the Respondent

This procedure is for allegations of Prohibited Conduct pertaining to discrimination or harassment involving a University Student as a Respondent.

A. Notice of Complaint

Upon receipt of a report or Complaint, the BERT Facilitator will send the Notice of Complaint to both the Complainant and the Respondent, communicating the initiation of an investigation. Should additional allegations be brought forward, or new information regarding location or date of the incident(s), a revised written Notice of Complaint shall be provided to all parties as needed or after the jurisdiction review is completed by the BERT Facilitator.

The Notice will include, at a minimum:

1. The University's resolution procedures, and any alternative resolution process (informal or supportive measures), including a link to these procedures;
2. Sufficient information available at the time to allow the parties to respond to the allegations, including the specific allegation(s), identities of the parties involved in the incident(s), the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);

3. A statement that Retaliation is prohibited;
4. Contact information for the assigned Investigator, as well as the process for appealing the appointed Investigator, and the deadline (if not previously completed);
5. A statement indicating the expected length of the major stages of the resolution process, as well as any applicable deadlines;
6. A statement that the Respondent is presumed “not in violation” of a University policy until a determination is made at the conclusion of the investigation and decision-making procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Investigator and Student Conduct Review Committee, and Student Conduct Hearing Committee, if applicable;
7. A statement indicating that the parties may have a Support Person/Advisor of Choice their choice (as defined in Section I);
8. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, and to provide a response;
9. A statement that the University prohibits knowingly making false statements or knowingly submitting false information during resolution procedures, with a link to the relevant policy(ies); and
10. A statement indicating the investigator’s process of communication will be in writing and includes any investigation deadlines and schedule for investigative meetings. Investigators will provide reasonable notice for meetings.

B. Individual Interviews with Investigator

The Investigator will hold individual interviews with the Complainant, Respondent, and relevant witnesses (“Involved Parties”), to ask relevant questions and follow-up questions, including questions exploring credibility. Investigators reserve the right to hold meetings with Expert Witnesses. Character evidence is not relevant evidence, and therefore will not be considered.

The Investigator will contact the involved parties to schedule interviews. All involved parties may bring a Support Person/Advisor of Choice to this meeting. When the Support Person/Advisor of Choice is an attorney, the Investigator must be given two (2) days advance notice. The Support Person/Advisor of Choice cannot direct questions or comments to the Investigator, but they may consult with the person they are assisting. The Investigator will not allow a Support Person’s/Advisor of Choice’s presence to unduly inhibit their ability to gather information. Either involved party may change their Support Person/Advisor of Choice at any time.

Additional attendees may be permitted at the discretion of the BERT Facilitator in connection with an approved disability-related or language barrier accommodation, or for other related accessibility concerns. All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of those proceedings, and may be subject to further the University discipline for failure to do so.

The individual interviews may be conducted with all participants physically present in the same geographic location, or, at the University’s discretion, with all participants joining virtually through a video conferencing option. The Investigator is solely responsible for all aspects of the investigation, including meeting rules and 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 and not shared outside the University. No other parties are permitted to record the interviews.

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.

C. Evidence Review

Interview Summary Review

The Investigator will prepare a summary of each interview. All those interviewed will have an opportunity to review their interview summary for accuracy and submit suggested modifications or additional information within three (3) days of receipt of the summary from the Investigator.

Preliminary Investigative Report and Review

Once the Investigator has gathered all relevant information and after the interview summary review period, 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. At this point in the process, the Investigator will send the Preliminary Investigative Report to the BERT Facilitator for the jurisdictional review to determine appropriate procedural application. At the discretion of the BERT Facilitator, a third-party reviewer, or designee, may be utilized. Based on the determination, the Complaint will be resolved utilizing the appropriate discrimination and harassment procedure.

The Preliminary Report will then be provided to the Complainant and Respondent. If applicable or directed by the Complainant or Respondent, the Report will be shared with any identified Support Person/Advisor of Choice by the BERT Facilitator. Both the Complainant and the Respondent will have three (3) days to review the Preliminary Investigative Report and provide follow-up responses or information to the Investigator. The purpose of the inspection and review process is to allow each party the equal opportunity to respond to the evidence prior to conclusion of the investigation, to submit any additional relevant evidence, and the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence, or names of witnesses. Relevant responses submitted during the preliminary review period will be included in the Final Investigative Report.

Given the sensitive nature of the information provided, the University will facilitate this review in a secure manner. None of the parties nor their advisors may copy, remove, publicize, share, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process. Any retaliation or attempts to intimidate, question against their wishes, tamper with, or threaten any witness, at any time, will be subject to disciplinary action up to and including suspension or expulsion against any party, or person acting on their behalf.

The BERT Facilitator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence. At the conclusion of the evidence review, when deemed appropriate by the Investigator, the Investigator shall then conduct any additional fact-gathering as may be necessary. If new, relevant evidence is gathered during this second fact-gathering period, the new evidence will be made available for review by the parties and their advisors. The parties shall have three (3) days to provide a response to the newly-gathered evidence. The Investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

After the preliminary three-day (3) review period, the Investigator will review follow-up responses and incorporate relevant information into the Final Investigative Report.

Final Investigative Report

The Investigator will prepare a Final Investigative Report including all of the relevant information gathered and steps taken during the investigation process, excluding impermissible evidence. The Investigator will include as an attachment all relevant evidence gathered during the investigation.

The Final Investigative Report will include:

1. A description of the allegations of Prohibited Conduct;
2. Information about the policies and procedures used to evaluate the allegations;
3. A description of the procedural steps taken by the investigator, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
4. An evaluation of the relevant evidence, excluding impermissible evidence, and the rationale for that evaluation; and
5. Findings of fact for each allegation.

The Investigator will forward the Final Investigative Report to the BERT Facilitator, who will provide the Report to the Complainant and Respondent simultaneously. If applicable or directed by the Complainant or Respondent, the Report will be shared with any identified Support Person/Advisor of Choice by the BERT Facilitator.

D. Student Conduct Review Committee Procedures

The BERT Facilitator will notify the Student Conduct System Administrator, or designee, who will schedule the Student Conduct Review. The Student Conduct Review will be scheduled within ten (10) days after the Complainant and the Respondent have received the Final Investigative Report and the timeframe may be extended by the Student Conduct System Administrator only for demonstrated good cause.

The purpose of a Student Conduct Review is for the committee to determine whether the conduct occurred as alleged and, if so, whether that conduct violates the Non-Discrimination/Harassment Policy. The University expects that all individuals who participate in the review process have a responsibility for carrying out one or more aspects of the review process do so fairly and without prejudice or bias. The review may be conducted in person or via videoconferencing.

The Student Conduct System Administrator will engage in the selection process to appoint Review Committee members, who will determine whether a violation of policy has occurred.

The Review Committee will have the authority to determine the relevance of evidence submitted and any additional clarifying questions. The Review Committee will not draw an inference about the determination regarding responsibility based solely on a Complainant or Respondent's decision to not engage in the resolution process.

Each Review Committee Meeting is documented and this documentation will be considered the only official record of the review meeting. No other individual is permitted to record while the Review Committee Meeting is taking place. The documentation is the property of the University. A summary of relevant information shall be included in the Notice of Review Committee Recommendation.

The Notice of Review Committee Recommendation will include:

1. A description of the allegations of Prohibited Conduct;
2. Information about the policies and procedures used to evaluate the allegations;
3. A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
4. An evaluation of the relevant and not otherwise impermissible evidence and the rationale for that evaluation;
5. Findings of fact for each allegation, with rationale;
6. Conclusions regarding which section of this Policy or other University policy, if any, the Respondent has or has not violated, with rationale;
7. Sanction(s), if applicable; and
8. Procedures to request a Student Conduct Hearing Committee review.

Note: Upon reviewing the Final Investigative Report, the Student Conduct Review Committee may decide to immediately forward the complaint to the Student Conduct Hearing Committee for adjudication. Additionally, the complaint will be referred to the Student Conduct Hearing Committee if the Review Committee is unable to come to a unanimous decision.

E. Student Conduct Hearing Committee Procedures (if applicable)

The Student Conduct System Administrator, or designee, will schedule the Student Conduct Hearing. The Student Conduct Hearing will be scheduled within ten (10) days after the Complainant and the Respondent have requested a Student Conduct Hearing. The timeframe may be extended by the Student Conduct System Administrator only for demonstrated good cause.

The purpose of a hearing is for the Hearing Committee to determine whether the conduct occurred as alleged and, if so, whether that conduct violates the Non-Discrimination/Harassment Policy. The University expects that all individuals who participate in the hearing process do so truthfully and that all who have a responsibility for carrying out one or more aspects of the hearing process do so fairly and without prejudice or bias. Hearings may be conducted in person or via videoconferencing. The Student Conduct System Administrator may determine that the hearing will continue in the absence of any party or any witness.

The Student Conduct System Administrator will engage in the selection process to appoint Hearing Committee members, who will determine whether a violation of policy has occurred. The Hearing Committee will have the authority to determine the relevance of evidence submitted, and of questions asked, to limit the time allotted to any phase of the hearing, and/or

to limit the time allotted to the hearing. The Hearing Committee may question the Complainant, the Respondent, the Student Conduct System Administrator, or any witness. The Hearing Committee will not draw an inference about the determination regarding responsibility based solely on a Complainant or Respondent's absence from the hearing or decision to not answer questions posed.

Each hearing will be recorded by the University and this recording will be considered the only official recording of the hearing. No other individual is permitted to record while the hearing is taking place. The recording is the property of the University but shall be available for listening until the conclusion of the appeals process to Complainant, Respondent, their Advisor of Choice, Hearing Committee, and Appeal Officer by contacting the Student Conduct System Administrator. The recording will not be shared with any parties outside the University.

Advisor of Choice

At a Student Conduct Hearing, the Complainant and Respondent are entitled to be accompanied by an Advisor of Choice. The role of the Advisor of Choice is to assist the Complainant or Respondent with understanding and navigating the proceedings. The Advisor of Choice may not advocate for, respond for, or otherwise speak on behalf of the party they are assisting during the hearing. In the event that a Complainant or Respondent is asked to appear for the Student Conduct Hearing and does not appear for the hearing, the Advisor of Choice for that party may not participate in the hearing or submit questions to be asked on behalf of the party they are assisting.

Hearing Guidelines

The Student Conduct System Administrator will have the authority to maintain order and decorum at the hearing, including responding to disruptive or harassing conduct and, when necessary, to adjourn the hearing or exclude the disruptive person. In the event the Student Conduct System Administrator removes an Advisor of Choice, the Student Conduct System Administrator will have the discretion to appoint another Advisor of Choice for the remainder of the hearing. The Hearing Committee has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, and will not permit such questions.

The Hearing Committee will initiate the hearing that may include questioning of the Complainant, Respondent, and Witnesses. The order of questioning will be determined by the Hearing Committee. Only the Hearing Committee is permitted to ask questions of Complainants, Respondents, and Witnesses. Advisors of Choice are not permitted to directly or indirectly question the other party or Witness.

F. Notice of Determination

The Hearing Committee will make a reasonable effort to conclude the Hearing Committee procedures within five (5) days. If necessary, the Hearing Committee may work in consultation with the Student Conduct System Administrator, BERT Facilitator, and/or University Counsel in assigning sanctions.

The Student Conduct System Administrator, or designee, will prepare a Notice of Determination. All findings will be made using the preponderance of the evidence standard, which means that the allegation(s) are more likely than not to have occurred. To the extent

credibility determinations need to be made, such determinations will not be based on a person's status as Complainant, Respondent, or Witness.

The Notice of Determination will include:

1. A description of the allegations of Prohibited Conduct;
2. Information about the policies and procedures used to evaluate the allegations;
3. A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
4. An evaluation of the relevant and not otherwise impermissible evidence and the rationale for that evaluation;
5. Findings of fact for each allegation, with rationale;
6. Conclusions regarding which section of this Policy or other University policy, if any, the Respondent has or has not violated, with rationale;
7. Sanction(s), if applicable; and
8. Appeal procedures.

F. Written Impact Statement Option

The Complainant and Respondent may each submit a written impact statement prior to the conclusion of the resolution process. The impact statement is not evidence and will be reviewed only after a determination is reached.

G. Conclusion of Student Conduct Hearing Committee Review

The Notice of Determination will be provided by the Student Conduct System Administrator who will communicate the findings to the Complainant and Respondent, and their Advisor of Choice should the party wish the Advisor to receive it, along with reiterating with procedures for appeal. If applicable, sanctions become effective on the date that the appeal process is finalized. If no party appeals, the determination and applicable sanctions become final on the date that the time period to appeal ends (three [3] days after the dissemination of the Notice of Determination).

XIII. Remedies and Sanctions

Remedies must be designed to restore or preserve equal access to the University's Education Program or Activity. Remedies and 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, reference to counseling, performance improvement plans, apology letter, reflection statements, targeted educational projects, coaching, probation, suspension, expulsion, and/or separation.

If applicable, Sanctions become effective on the date that the appeal process is finalized. If no party appeals, the determination and applicable Sanctions become final on the date that the time period to appeal ends three (3) days after the dissemination of the Notice of Determination.

The Student Conduct System Administrator or Non-Discrimination Coordinator is responsible for ensuring the timely completion of any Remedies or Sanctions.

Failure to Complete Sanctions/Comply with Responsive Actions

All responding parties are expected to comply with conduct sanctions/responsive actions/corrective actions within the timeframe specified by the University. Responding parties needing an extension to comply with their Sanctions must submit a written request to the Student Conduct System Administrator or Non-Discrimination Coordinator stating the reasons for needing additional time.

Failure to follow through on conduct sanctions/responsive actions/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive actions/corrective actions listed above.

XIV. Record Retention

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 discrimination and harassment resolution process, including, but not limited to, the 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 (7) years from the date of the incident, or indefinitely in cases involving a sanction of separation. All records will be afforded the confidentiality protections required by law, including but not limited to the Family Educational Rights and Privacy Act (FERPA) governing confidentiality of student information.

XV. Additional Enforcement Information

The U.S. Equal Employment Opportunity Commission (EEOC) investigates reports of unlawful harassment, discrimination, and retaliation, including sex-based harassment, in employment.

- U.S. Equal Employment Opportunity Commission (EEOC)
<https://www.eeoc.gov/contact-eeoc>

The U.S. Department of Education, Office for Civil Rights (OCR) investigates complaints of unlawful discrimination and harassment of students and employees in education programs or activities.

Other questions about discrimination and harassment may be referred to the assistant secretary for civil rights:

Office for Civil Rights,
Lincoln Commission on Human Rights
555 S.10th Ste. 304
Lincoln, NE 68508
402-441-7624

Nebraska Equal Opportunity Commission
1526 K Street Ste. 310
Lincoln, NE 68508
402-471-2024

XVI. Clery-Reportable Crimes and Disclosure Obligations

The Clery Act is a federal crime and incident disclosure public safety law. It requires, among other things, that the University report the number of incidents of certain crimes, including some of the Prohibited Conduct in the Non-Discrimination/Harassment Policy and these procedures, that occur in particular campus-related locations. The Clery Act also requires the University to issue warnings to the community in certain circumstances.

In the statistical disclosures and warnings to the community, the University will ensure that a Complainant's name and other identifying information are not disclosed. The BERT Facilitator and Non-Discrimination Coordinator will refer information to the Clery Compliance Administrator when appropriate for disclosing crime statistics or sending campus notifications.

For additional information of Clery-reportable crimes, please refer to the [Campus Safety](#) page.

XVII. Policy Review and Revision

The corresponding policy and these procedures will be reviewed and updated regularly by the University. Modifications to the corresponding Non-Discrimination/Harassment Policy and these procedures will be made in a manner consistent with institutional policy upon determining that changes to law, regulation or best practices require policy or procedural alterations not reflected herein. Procedures in effect at the time of its implementation will apply. The Non-Discrimination/Harassment Policy definitions in effect at the time of the conduct will apply even if the Policy is changed subsequently, unless the Complainant and Respondent consent to be bound by the current Policy.

The Non-Discrimination/Harassment Policy and corresponding procedures may be revised at any time without notice. All revisions supersede prior policy and are effective immediately upon posting to the University website. The current Policy and corresponding procedures were approved by the NWU Board of Governors and became effective on April 1, 2025.

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
Campus Ministries

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 Safe Walking Service

Students and employees of the NWU community may call Campus Security at [\(402\) 432-9238](tel:4024329238) to request a University representative to provide the "Safe Walking Service" to and from on-campus buildings and residences.

The "Safe Walking Service" is available 24 hours a day, 7 days a week.

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 Policy

In accordance with Section 485 of the Higher Education Act, 20 U.S.C. § 1092(j), Nebraska Wesleyan University has developed this investigation and notification policy regarding students who reside in on-campus housing and have been reported as missing.

This notification policy and procedures apply only to students who reside in campus housing ("resident students"). This includes residence halls or apartments that are owned or controlled by Nebraska Wesleyan University (NWU) and that are designated for student use. Although this policy does not apply to students who live in off-campus housing, university staff will assist local authorities in their investigation of an off-campus missing NWU student. However, if a member of the university community has reason to believe that any student is missing and makes a report, efforts will be made to locate the student to determine his or her state of health and well-being.

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.

Initial concerns about a missing student should be referred immediately to, the Residential Education Coordinator (REC) on-call at 402-601-2114, the Vice President of Student Life at 402-465-2154, or Campus Security at 402-432-9238. Efforts to locate the student will be directed by local authorities with support from Student Life and Residential Education, as well as friends and family members of the missing student.

If a student resides on campus, the Residential Education Coordinator will conduct a welfare check into the student's room with possible assistance from Campus Security. If the student resides off campus, the Vice President for Student Life, or designee, or Campus Security will work with local police to request a welfare check. University officials will also attempt to determine the student's whereabouts through reviewing building access and contacting friends, roommates, faculty or on-campus employers of that student verifying class attendance, work schedules, organizational or academic meetings.

The University may use any or all of the additional steps to assist in locating the student:

- 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;
- If the student resides off campus, the Physical Plant security office will work with LPD to request a welfare check.

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, a formal investigation will begin.

A formal investigation will include any or all of the following steps:

- If the student has been missing for more than 24 hours past the University's initial attempt to contact, the VP of Student Life or designee will notify the emergency contact person identified by the missing student within 24 hours after such determination that the student is missing. Contextual factors may increase the immediacy of this process as determined by the Vice President for Student Life or designee.
- If a resident student has been missing for more than 24 hours and that resident student is unemancipated and under 18 years of age, then that student's custodial parent or legal guardian will also be notified within 24 hours.
 - If the student resides off campus, emergency contacts and family will be encouraged to report the situation to the appropriate law enforcement agency.

- A Timely Warning and/or an Emergency Notification will be sent to the campus community when a formal investigation is necessary.

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.

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

All weapons including, but not limited to: firearms, knives, paintball guns, B.B. and air guns, pocket knives longer than 3.5 inches, brass/iron knuckles, and explosive materials of any kind including, but not limited to fireworks and flammable liquids are strictly prohibited on University property, stored in a vehicle parked on University property, including Greek Housing, or other locations and spaces being utilized for educational purposes or under the control of the University. Hunting equipment is prohibited on campus. Firearms or other weapons confiscated by Nebraska Wesleyan officials will be turned over to the Lincoln Police Department for appropriate disposal. In addition to the items listed above, any item that is used to intentionally and deliberately harm or threaten another student can be categorized as a weapon. Weapons violations by a student will be referred to the director of student integrity and weapons violations by an employee will be referred to the assistant VP of human resources.

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 NWU student residents of each building, commuter students participating in the Connect to Campus Program, townhouse residents, admissions, and maintenance employees can enter specific buildings 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 54th 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, as identified in the Electronic Fob Policy: Access to Campus Facilities.

Campus buildings available to the public have operating hours posted on the external front doors of each building. 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.

Campus buildings are maintained to protect everyone and the assets/equipment in them. 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.

Fob Access Policy

In an effort to improve campus safety and security, a fob access policy has been implemented. NWU campus buildings will be closed overnight but can be accessed with electronic fobs during the following hours:

Public Hours:

Academic and Administrative Buildings: (Monday – Friday) 7:00 am – 5:00 pm

Story Student Center: (Monday – Friday) 6:30 am – 8:00 pm
(Saturday) 10:45 am – 4:00 pm

Cochran Woods Library: (Monday - Friday) 7:45 am – 5:00 pm

“Fob Access” allows access for the following hours, in addition to Public Hours.

Academic Buildings with **Fob Access**: 7:00 am – 11:00 pm (Students - 7 days/week)
7:00 am – 11:30 pm (Employees - 7 days/week)

Student Center with **Fob Access**: 7:00 am – 11:00 pm (Students - 7 days/week)
7:00 am – 11:30 pm (Employees - 7 days/week)

Library Hours with **Fob Access**: 5:00 pm - Midnight (Monday through Friday)
Noon to 6:00 pm (Saturday)
Noon to Midnight (Sunday)

For Special Events: Authorized employees may submit a maintenance request when events require doors to be unlocked in the evening, weekend or outside of fob accessible buildings.

Lost Fobs: Students and employees needing a fob may request one from the Physical Plant Office using the online Maintenance Request Form while being logged in to confirm one’s identify and authorization to request access.

Students and Employees who lose a fob will be charged \$10.00 for a replacement. Broken fobs may be returned and replaced by the Physical Plant Office without charge.

Sharing or Allowing Others to use your Fob Access: Allowing anyone else to access campus property using a key or fob assigned to a student or employee 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 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. (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

Presumed positive or confirmed positive test:

- There is no longer a 5-day isolation period for a presumed positive or confirmed positive test.
- If you are sick and require time away from school or work, you may return to normal activities once symptoms begin improving and you are fever free for 24 hours without use of a fever-reducing medication. This is the same guidance used to avoid transmitting flu and other illnesses.
- Once you resume normal activities, you are encouraged to take additional prevention strategies for the next 5 days to curb spread, such as taking more steps for cleaner air (opening doors/windows and fresh air), enhancing hygiene practices, wearing a well-fitting mask, keeping a distance from others, and/or getting tested for respiratory viruses.
- There is no requirement to obtain a negative COVID-19 test prior to returning to work or school.

- COVID-19 tests are available at [Student Health](#) for undergraduate students. Please schedule an appointment [here](#). Covid tests are available at Student Health for graduate students, but nurses will not administer the test.
- Faculty should contact their department chair or the Provost, Graciela Caneiro-Livingston if you have questions.
- Staff should contact their direct supervisor for questions.

Additional Guidance for Students

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.

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.

2023 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

<u>Program Name</u>	<u>Date</u>	<u>Target Audience</u>	<u>Approx. No. in Attendance</u>
D. Stafford and Associates Title IX, VAWA, and Clery online training	2023	Employees, CSAs	316
Title IX Response PA Training	1/5/2023	Peer Assistant	1
Gender-Based Prevention and Response training	1/5/2023	Men's Varsity Basketball Team	18
Gender-Based Prevention and Response training	1/10/2023	Men's Junior Varsity Basketball Team	13
Active Shooter Training with Lincoln SWAT	2/23/2023	Threat Assessment Team Committee	10
Gender-Based Prevention and Response training	3/6/2023	Women's Basketball Team	12
Gender-Based Prevention and Response training	2/2/2023	Track and Field	65
Gender-Based Prevention and Response training	2/10/2023	Wrestling	39
Coffee, Coloring and Consent programming	2/13/2023	Students	25
Coffee, Coloring and Consent programming	2/23/2023	Students	25
Gender-Based Prevention and Response training	3/20/2023	Softball team	19
Gender-Based Prevention and Response training	3/24/2023	Golf Team	15
Active Shooter Training with Lincoln SWAT	3/29/2023	Employees	50
Active Shooter Training with Lincoln SWAT	3/30/2023	Employees	50
Gender-Based Prevention and Response training	3/30/2023	Tennis Team	23
Stalking awareness event with Anna Nasset	4/2/2023	Students and Employees	15
Stalking awareness event with Anna Nasset	4/3/2023	Students and Employees	160
Sexual Assault awareness presentation	4/12/2023	Theta Chi	30

Sexual Assault awareness presentation by Ph.D. student	4/14/2023	Students and Employees	33
Bystander Intervention	4/23/2023	Understanding Human Sexuality students	28
Gender-Based Prevention and Response training	8/11/2023	PAs and RECs	20
Title IX Overview	8/11/2023	Employee	1
Gender-Based Prevention and Response training	8/14/2023	Prairie Wolf Welcome Leaders	26
Title IX Training with Ann Todd	8/15/2023	Employees	248
Gender-Based Prevention and Response training and "Sex Rules"	8/19/2023	First Year and Transfer Students	275
Title IX Overview	8/30/2023	Archway Seminar Students	16
We Need to Talk About Sexual Violence and Bystander Intervention	9/12/2023	Athletes, Students, Employees	465
We Need to Talk About Sexual Violence and Bystander Intervention	9/13/2023	Athletes, Students, Employees	231
Domestic Violence Awareness Activity-Tie Dye t-shirts	10/10/2023	Students, Employees	76
We Need to Talk About Sexual Violence and Bystander Intervention	10/11/2023	Student Athletes	7
We Need to Talk About Sexual Violence and Bystander Intervention	10/20/2023	Student Athlete	1
Purple Run, Walk, Roll Against Domestic Violence	10/26/2023	Students, Employees	87
Domestic Violence Awareness Activity-Informational cards	10/31/2023	Students, Employees	113
We Need to Talk About Sexual Violence and Bystander Intervention	11/10/2023	Student Athlete	1
Programming Campaigns			
Clothesline Project (All month display)	4/1/2023	All Students and Employees	
Denim Day Awareness	4/26/2023	All Students and Employees	
Domestic Violence Awareness -Wear Purple Day	10/19/2023	Students, Employees	
PLANNED FIRE DRILL LOCATION	DATE		
Johnson	4/5/2023		18
Johnson	4/22/2023		42
Pioneer	4/22/2023		31
Plainsman	4/26/2023		21
Pioneer	9/21/2023		55
Plainsman	9/21/2023		68
Centennial	9/26/2023		105
Johnson	9/28/2023		65
Suites	9/28/2023		59

Townhouses	9/28/2023		40
Suites	10/6/2023		121
Townhouses	10/6/2023		93
Johnson	10/24/2023		34
Centennial	11/11/2023		46

Section XI: Missing Student Notification Procedures

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:

- 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 Procedures 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 online Residential Education/Housing Policy page, 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. No student/resident may own or use a fire pit on university property. Only University-owned fire pits may be used under the direction of a student life professional staff member for special events.

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. The use or storage of Hookahs is also not permitted.

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-5301 Madison Ave.	X	X	X	X	X	2	X
Johnson Hall-5245 Madison Ave.	X	X	X	X	X	4	X
Pioneer Hall-5235 Madison Ave.	X	X	X	X	X	3	X
Plainsman Hall-5240 Huntington Ave.	X	X	X	X	X	2	X
Heim & White Suites-5401 Madison Ave.	X	X	X	X	X	3	X
Heurmann House-5501 Madison Ave.	X	X	X	X	X	3	X
Holder House-5521 Madison Ave.	X	X	X	X	X	3	X
Huge House-5541 Madison Ave.	X	X	X	X	X	3	X
Finley House-5531 Madison Ave.	X	X	X	X	X	3	X
Unvert House-5511 Madison Ave.	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 th	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

2023 Crime Statistics - Lincoln	On Campus	University Controlled (Non-campus)	Public Property	GRAND TOTAL	Residence Halls (subset of On-Campus)
Crimes					
Aggravated Assault	3	0	0	3	3
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
Sex Offenses					
Rape	1	0	0	1	0
Fondling	2	0	0	2	2
Incest	0	0	0	0	0
Statutory Rape	0	0	0	0	0
Arrests					
Liquor Law Violations	0	0	0	0	0
Drug Abuse Violations	0	0	0	0	0
Weapons Violations	0	0	0	0	0
Disciplinary Referrals					
Liquor Law Violations	49	0	0	49	49
Drug Abuse Violations	0	0	0	0	0
Weapons Violations	0	0	0	0	0
Violence Against Women Act Crimes (VAWA)					
Domestic Violence	0	0	0	0	0
Dating Violence	3	0	0	3	3
Stalking	7	0	0	7	4

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 2023. There are no Clery reportable crimes reported based on hate crimes for the campus in 2023.

2022 Crime Statistics - Lincoln	On Campus	University Controlled (Non-campus)	Public Property	GRAND TOTAL	Residence Halls (subset of On-Campus)
Crimes					
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
Sex Offenses					
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
Arrests					
Liquor Law Violations	6	0	0	6	6
Drug Abuse Violations	0	0	0	0	0
Weapons Violations	0	0	0	0	0
Disciplinary Referrals					
Liquor Law Violations	69	0	0	69	69
Drug Abuse Violations	5	0	0	5	5
Weapons Violations	0	0	0	0	0
Violence Against Women Act Crimes (VAWA)					
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)
Crimes					
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
Sex Offenses					
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
Arrests					
Liquor Law Violations	0	0	0	0	0
Drug Abuse Violations	0	0	3	3	0
Weapons Violations	0	0	0	0	0
Disciplinary Referrals					
Liquor Law Violations	66	0	0	66	66
Drug Abuse Violations	0	0	0	0	0
Weapons Violations	0	0	0	0	0
Violence Against Women Act Crimes (VAWA)					
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.

