Policy title	Category
Non-Discrimination and Harassment Policy	Administration Board of Governors Human Resources Student Conduct Student Involvement Student Life
Owner Human Resources	**Approved by** Board of Governors

Policy statement

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, shared 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 September 6, 2024 will be subject to this policy and corresponding procedures. For incidents occurring prior to September 6, 2024, 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 [at] nebrwesleyan.edu (reportbias[at]nebrwesleyan[dot]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 [at] NebrWesleyan.edu (chowell[at]NebrWesleyan[dot]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 [at] nebrwesleyan.edu (agomezra[at]nebrwesleyan[dot]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 [at] nebrwesleyan.edu (kbolling[at]nebrwesleyan[dot]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 [at] nebrwesleyan.edu (mharder[at]nebrwesleyan[dot]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 [at] nebrwesleyan.edu (minister[at]nebrwesleyan[dot]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 [at] nebrwesleyan.edu (counseling[at]nebrwesleyan[dot]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 [at] directionseap.com (directionseap[at]directionseap[dot]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 September 6, 2024. 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.

Last revised date
January 23, 2025