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

Policy statement

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.

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.

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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 [at] NebrWesleyan.edu (chowell[at]NebrWesleyan[dot]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 [at] nebrwesleyan.edu (mharder[at]nebrwesleyan[dot]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:
    1. In the event a Harmed Party does not wish to file the Complaint.
    2. 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

One of 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 appliable;
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

1-800-642-6112

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 1st, 2025.

Last revised date
April 1, 2025