



NEBRASKA WESLEYAN UNIVERSITY

Procedures for Addressing Sexual Misconduct and Sexual Harassment Involving Staff Employees and Third Parties as the Respondent

These procedures apply to sexual misconduct of all forms, including sexual and gender-based harassment, sexual assault, intimate partner/relationship violence, sexual exploitation, and stalking.

Sexual harassment, sexual assault, intimate partner/relationship violence, sexual exploitation and stalking are broad terms intended to capture a spectrum of behavior labeled sexual misconduct. These terms are specifically defined in Section V of the Sexual Misconduct and Sexual Harassment Policy. All behavior referenced as sexual misconduct is considered Prohibited Conduct and will be addressed utilizing these procedures.

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

I. To Whom these Procedures Apply

This procedure applies to Staff Employees defined as any person who works for the University in return for financial or other compensation who do not have faculty rank as the primary position of the employee’s job. This includes full-time, part-time, and temporary staff employees. It will also apply to Third Parties including, but not limited to, contractors, vendors, visitors, guests, volunteers, or other third parties within the University's control.

This procedure pertains to acts of Prohibited Conduct committed by Staff Employees and Third Parties when:

- The conduct occurs on University grounds or other property owned or controlled by the University; or
- The conduct occurs in the context of a University employment or education program or University-sponsored activity, including, but not limited to, University-sponsored study abroad, school trips, research, on-line, or internship programs; or
- The conduct occurs outside the context of University employment or education program or activity but has an adverse effect or creates a hostile environment for students, employees, or third parties while on University grounds or other property owned or controlled by the University or in any University employment or education program or activity.

The University retains conduct jurisdiction over staff employees who choose to take a leave of absence, or who are no longer employed, for any misconduct that occurred prior to the leave or separation.

II. Supports

Title IX Coordinator for Faculty and Staff: Maria Harder, Smith Curtis 202E, (402) 465-2117, mharder@nebrwesleyan.edu

Title IX Coordinator for Lincoln Students: Natasha Sutliff, Smith Curtis 330H, (402) 432-6925, titleix@nebrwesleyan.edu

Title IX Coordinator for Omaha Students: Amy Harrison, (402) 465-2570, aharriso@nebrwesleyan.edu or titleix@nebrwesleyan.edu

The Title IX Coordinators oversee the University's assessment, investigation, and resolution of reports of sexual misconduct, ensuring compliance with Title IX and other relevant state and federal laws. The Title IX Coordinators can be contacted by telephone, email, or in person during regular office hours.

The Title IX Coordinators are:

- Responsible for oversight of the assessment, investigation, and resolution of all reports of sexual misconduct;
- Knowledgeable and trained in relevant state and federal laws and University policy and procedures;
- Available to provide information to any individual about the courses of action available at the University, both informally and formally;
- Available to assist any University community member in responding appropriately to reports of sexual misconduct;
- Responsible for oversight of sexual violence prevention education and employee training;
- Responsible for monitoring full compliance with all requirements and timelines specified in the reporting and complaint procedures; and
- Responsible for compiling annual reports.

Confidential Resources

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

Confidential Resources:

- **Voices of Hope Campus Advocate:** can help students, staff, and faculty access on- and off-campus resources and can also support an individual who chooses to report to the Title IX Coordinator. The Voices of Hope Campus Advocate is available by appointment; advocate@nebrwesleyan.edu; Voices of Hope 27/4 Support: 402-475-7273
- **Counseling Services:** can help traditional students and is located at 2641 N. 49th Street (49th & St. Paul Avenue). Counseling Services serves traditional

undergraduate students and is open Monday-Friday from 8:00 a.m. to 5:00 p.m.; counseling@nebrwesleyan.edu; (402) 465-2464.

- **University Ministries:** can help students, staff, and faculty and is located in Old Main – Room 105; ebousson@nebrwesleyan.edu; (402) 465-2222
- **WCA (Women’s Center for Advancement):** can help students, staff, and faculty and provides free and confidential support to survivors of domestic violence, sexual assault, and stalking; the WCA is located at 3801 Harney St, Omaha, NE 68131; info@wcaomaha.org; Office Phone: (402) 345-6555; WCA 24/7 Support: 402-345-7273.
- **Directions Employee Assistant Program (EAP):** can help staff and faculty and is located at 3930 South Str., Ste. 101 in Lincoln, NE 68506; directionseap@directionseap.com; (402) 434-2900.

III. Definitions

Advisor of Choice: an individual selected by a Complainant or Respondent to assist them during any part of the process, including the Reporting, Assessment, Investigation, or Appeal process. An Advisor of Choice may be a faculty or staff member, student, parent, community member, victim advocate, or an attorney.

Complaint: a formal accusation against an individual for violation of the University's Sexual Misconduct and Sexual Harassment Policy.

Complainant: an individual or group of individuals who files a sexual misconduct Complaint. The Director of Title IX Services, or designee, may serve as the complainant in the event a victim of sexual misconduct does not wish to be named as a complainant, but the misconduct presents an imminent threat to campus safety.

Confidential Employee: an individual designated by the University to provide support to students, staff, or faculty without being required to report to a Title IX Coordinator.

Day: University working day, not including Saturday, Sunday, or University holidays.

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

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

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

Investigator: trained University-appointed faculty or staff members who, in allegations of sexual misconduct, conduct an investigation and prepare an official written report (Investigative Report).

Reporting Party: an individual, or group of individuals, who reports information to the Title IX Coordinator about an incident of sexual misconduct. A reporting party may be the person who experienced the sexual misconduct, a Responsible Employee, a friend of someone who has experienced sexual misconduct, or someone who has otherwise been made aware of an incident of sexual misconduct.

Respondent: an individual, or group of individuals, who is the subject of a sexual misconduct report or Complaint.

Responsible Employee: all employees not designated as a Confidential Resource by the University. Responsible Employees are required to report all relevant details about an incident of sexual misconduct they learn of to the Title IX Coordinator. They are considered mandatory reporters under Title IX.

Student: any person enrolled in courses at the University, both full-time and part-time, including study abroad, auditing courses, and pursuing undergraduate or graduate studies.

*Employees who are enrolled and taking classes will continue to be treated as an employee under these procedures.

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

Third Parties: any person or entity providing services for the University or visiting the University. This includes, but is not limited to, contractors, vendors, visitors, guests, volunteers, or other third parties within the University's control.

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

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

IV. Reporting

There are multiple channels for reporting sexual misconduct. A Reporting Party may choose to report to the University, to law enforcement, to both, or neither. These reporting options are not exclusive. A Reporting Party may simultaneously pursue a criminal investigation and the University sexual misconduct resolution process. The Title IX Coordinator will support Reporting Parties in understanding and assessing all options. All questions should be directed to the Title IX Coordinator.

Reporting to the University: The University encourages anyone who becomes aware of an incident of sexual misconduct to promptly report the incident to a Title IX Coordinator. Responsible Employees are Mandatory Reporters and must report all known incidents. While there is no time limit for reporting sexual misconduct to the University, the University's ability to respond may diminish over time, as evidence may erode, memories fade, and employees may no longer be affiliated with the University. If an individual is no longer an employee or affiliated, the University will provide reasonably

appropriate remedial measures, assist the Reporting Party in identifying external reporting options, and take reasonable steps to eliminate sexual misconduct, prevent its recurrence, and remedy its effects.

Anonymous Reporting to the University: Individuals may report security concerns to the University through the University website by clicking on the link “Report a Concern”, located at the bottom of every webpage. Reporting parties may choose to remain anonymous. Please note, the University may be limited in its ability to respond to concerns reported anonymously.

Making a Report vs. Filing a Complaint:

Making a report is defined as notification of an incident of sexual misconduct to a Title IX Coordinator by any Reporting Party. A report may be accompanied by a request for resources, no further action, remedies-based resolution, and/or initiation of the formal Complaint process by filing a Complaint. At the time a report is made, the Reporting Party does not have to decide whether or not to file a Complaint. The University recognizes that not every individual will be prepared to file a Complaint and individuals are not expected or required to pursue a specific course of action.

The University will make a reasonable effort to respect the wishes of the person who experienced sexual misconduct. However, if the reported incident constitutes an imminent or ongoing threat to campus safety based on the assessment of the Title IX Coordinator, a report may become a formal Complaint. In this event, the Director of Title IX Services, or designee, may serve as the Complainant.

To ensure victims of sexual misconduct are informed of their rights and options, Responsible Employees will be required to report all relevant details (obtained directly or indirectly) about an incident of sexual misconduct that involves any student or employee as a complainant, respondent, and/or witness. This includes dates, times, locations, and names of parties and witnesses if known. The Title IX Coordinator will contact the victim(s) to provide information and ask how they wish to proceed.

Filing a Complaint is defined as the request to initiate the University's formal investigative and disciplinary process. The decision to file a Complaint may be made at any time.

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

- **Title IX Coordinator for Faculty and Staff:** Maria Harder, Smith Curtis 202E, (402) 465-2117, mharder@nebrwesleyan.edu
- **Title IX Coordinator for Lincoln Students:** Natasha Sutliff, Smith Curtis 330H, (402) 432-6925, titleix@nebrwesleyan.edu
- **Title IX Coordinator for Omaha Students:** Amy Harrison, (402) 465-2570, aharriso@nebrwesleyan.edu or titleix@nebrwesleyan.edu

Amnesty:

- **For Complainants:** The University provides amnesty to victims who may be hesitant to report to University officials because they fear that they themselves may be accused of other (secondary) policy violations, at the time of the incident.

- **For Those Who Offer Assistance:** To encourage students or employees to offer help and assistance to others, the University pursues a policy of amnesty for other (secondary) violations when students or employees offer help to others in need. At the discretion of the President, 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 other (secondary) minor violations but who choose to bring related serious violations by others to the attention of the University are offered amnesty for their other (secondary) minor violations.
- **For Those Who Witness Serious Violations:** Students and employees who witness serious violations by others are offered amnesty for any other (secondary) 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 student or employee may be requested to meet and/or attend training related to the minor violations that occurred.

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

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

To Contact Lincoln or Omaha Police:

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

Anonymous Reporting to Law Enforcement:

There are options to report a sexual assault 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 of sexual assault.

Lincoln Police Department:

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

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

Omaha Police Department:

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

V. Remedial and Protective Measures

The University offers a wide range of resources for Students and Employees, whether as Complainants or Respondents, to provide support and guidance throughout the initiation, investigation, and resolution of a report of Prohibited Conduct. The University will offer reasonable and appropriate measures to protect a Reporting Party and facilitate their continued access to University employment or education programs and activities. These measures may be both remedial (designed to address individuals' safety, well-being, and continued access to educational or employment opportunities) or protective (involving actions that may impact the Respondent). The University may also provide, when possible and in the best interest of both parties, reasonable and appropriate measures to the Respondent to facilitate their access to University employment and education programs and activities.

The University will keep private any remedial and protective measures provided under this policy to the extent practicable and will promptly address any violation of the remedial and protective measures. The Title IX Coordinator has the discretion to determine the appropriateness of any remedial and protective measure based on all available information and is available to meet with a Reporting Party or Respondent to address any concerns about the provision of remedial and protective measures. Remedial and protective measures may be temporary or permanent.

Remedial measures are available regardless of whether a Reporting Party pursues a Complaint or investigation under this policy. The imposition of such measures assumes no determination of responsibility for either party.

A Complainant or Respondent may request separation or protection to ensure the safety, and equal educational and employment opportunity, of all parties.

Any party will be notified in writing of remedial and protective measures that directly impacts them.

Range of Remedial and Protective Measures: Remedial and protective measures that may be implemented include, but are not limited to:

- Providing an escort to ensure safe movement on campus;
- Contact Emergency Medical Service for employees or others;
- Referral to the Employee Assistance Program (EAP);
- Referral to Voices of Hope or other supportive resources;
- No-contact agreements;

- Change of work schedules, job assignments, a worksite location, office/workspace modifications;
- Limiting an individual's or organization's access to certain University facilities or activities pending resolution of the matter;
- Voluntary leave of absence;
- Administrative Leave (with or without pay); and/or
- Any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

Administrative Leave: If the President or the Title IX Coordinator decides at any point that the safety of any member of the University community is at stake, a temporary administrative leave with pay may be imposed on an employee who is being investigated for a potential violation of this policy, or who otherwise poses a risk of safety to the campus, until the time that the investigation or disciplinary action can be completed. The investigation will be completed as soon as possible. This action assumes no determination of responsibility.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by a remedial or protective measure. The University will take immediate and responsive action to enforce a previously implemented measure.

VI. Title IX Assessment

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

The Reporting Party may bring an Advisor of Choice to this meeting. When the Advisor of Choice is an attorney, the Title IX Coordinator must be given 2 days advance notice. The Advisor of Choice cannot direct questions or comments to the Title IX Coordinator, but they may consult with the student or employee they are assisting. The Title IX Coordinator will not allow an Advisor of Choice's presence to inhibit their ability to gather information.

If the Advisor of Choice is an attorney or other retained person, the Advisor must be retained at the initiative and expense of the party.

The Advisor of Choice cannot be a witness in this procedure, and witnesses and others involved in an investigation are generally not entitled to have an Advisor of Choice.

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

- Assess the nature of the reported misconduct to determine if the conduct is a potential violation of the Sexual Misconduct and Sexual Harassment Policy;
- Address the immediate physical safety and emotional well-being of the Reporting Party and University community;

- Notify the Reporting Party of the range of remedial and protective measures, including options for changes in living, academic, and working situations;
- Provide the Reporting Party with information about on- and off-campus resources;
- Determine if concerns exist for discrimination or harassment based on other protected classes;
- Explain the University's policy for privacy and prohibiting retaliation, as described in the Sexual Misconduct and Sexual Harassment Policy;
- Explain the difference between confidential and non-confidential supports and resources;
- Assess the reported conduct for the need of a timely warning notice required under federal law;
- Determine if a pattern of evidence or other similar conduct by Respondent exists;
- Determine if any issues of academic freedom exist, which may be reviewed by the Provost or designee;
- Enter non-identifying information about the report into the University's daily crime log if the report includes a Clery-reportable crime;
- Record the Reporting Party's preferred course of action and determine whether it is necessary to file a Complaint; and
- Provide the Reporting Party with a written explanation of their rights and options, listed in document: Rights and Options Regarding NWU's Sexual Misconduct and Sexual Harassment Resolution Process.

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

The University will make a reasonable effort to respect the wishes of the person who experienced sexual misconduct. However, if the reported incident constitutes an imminent or ongoing threat to campus safety based on the Title IX Coordinator's assessment, a report may become a formal Complaint. In making this decision, the Title IX Coordinator will consider, but is not limited by, the following factors: whether the person who experienced sexual misconduct has requested that no formal action be taken; whether they want to participate in additional steps; the severity and impact of the sexual misconduct or sexual harassment; whether the University can undertake any action without their participation; whether there exists a pattern of sexual misconduct; the existence of independent evidence; the existence of relational power differentials; and any legal obligation to proceed based on the nature of the conduct, including sexual misconduct involving minors.

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

At the conclusion of the Title IX Assessment, the Title IX Coordinator will determine whether to refer the report for remedial and protective measures and/or if a Title IX

Complaint will be filed. Participation in the sexual misconduct resolution process is voluntary and remedial and protective measures are available at any time.

The Title IX Coordinator will document each report of sexual misconduct and will review and retain copies of all reports or documentation generated as result of sexual misconduct. These records will be kept private to the extent permitted by law.

VII. Sexual Misconduct Complaint and Investigation

Once a Complaint is filed, the Title IX Coordinator will meet with the Respondent. The purpose of this meeting is to inform them of the Complaint, provide an overview of the sexual misconduct resolution process, and explain the University's policy for privacy and prohibiting retaliation, as described in the Sexual Misconduct and Sexual Harassment Policy. This meeting is not intended to be a full investigative interview. The Respondent will also receive information about resources, rights, procedural options, and remedial and protective measures.

The Respondent may bring an Advisor of Choice to this meeting. When the Advisor of Choice is an attorney, the Title IX Coordinator must be given 2 days advance notice. The Advisor of Choice cannot direct questions or comments to the Title IX Coordinator, but they may consult with the employee they are assisting. The Title IX Coordinator will not unduly allow an Advisor of Choice's presence to inhibit their ability to gather information.

If the Advisor of Choice is an attorney or other retained person, the Advisor must be retained at the initiative and expense of the party.

The Advisor of Choice cannot be a witness in this procedure, and witnesses and others involved in an investigation are generally not entitled to have an Advisor of Choice.

Before the start of an investigation, the Title IX Coordinator will simultaneously send written notice of the Complaint to the Complainant and Respondent.

The Title IX Coordinator will send a copy of the Title IX Assessment Report to the Investigator to provide basic information about the nature of the sexual misconduct as described by the Reporting Party and/or Complainant to the Title IX Coordinator during the Title IX Assessment.

The University will assign trained external investigators for investigations involving employees or investigations involving both Students and Employees.

The Investigator, or designee, will contact the Complainant, Respondent, and relevant witnesses to schedule an interview. The Investigator is solely responsible for all aspects of the investigation.

Similar to the process when meeting with the Title IX Coordinator, the Complainant and Respondent may bring an Advisor of Choice to their interview with the Investigator. When the Advisor of Choice is an attorney, the Investigator must be given 2 days advance notice. The Advisor of Choice cannot direct questions or comments to the

Investigator, but they may consult with the employee or student they are assisting. The Investigator will not unduly allow an Advisor of Choice's presence to inhibit their ability to gather information.

If the Advisor of Choice is an attorney or other retained person, the Advisor must be retained at the initiative and expense of the party.

The Advisor of Choice cannot be a witness in this procedure, and witnesses and others involved in an investigation are generally not entitled to have an Advisor of Choice.

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

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

An example where the timeframe may be extended beyond 30 days includes the involvement of a criminal investigation. At the request of law enforcement, the University may or may not agree to defer its Title IX fact-gathering until after the initial stages of a criminal investigation. The procedure and outcome of the University's investigation is not dictated by, or subject to, any criminal investigation or criminal outcome. If the University agrees to defer, the University will promptly resume its Title IX fact-gathering as soon as law enforcement has completed its initial investigation. Personnel scheduling, University closures, or holidays may also affect the timeframe for an investigation.

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

The Investigator will seek to obtain relevant communications between the parties, including text messages, email, photos, social media posts, screen shots, etc. The Investigator may also require access to campus facilities to gather information. 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.

In cases where alcohol and/or other intoxicants are a factor, evaluating incapacitation will require an assessment of whether a Respondent should have been aware of the Complainant's incapacitation based on an objective and subjective evaluation of the Complainant's behavior when viewed from the perspective of a sober, reasonable

person in the Respondent's position. Evidence of incapacitation may require evaluating normal and abnormal behaviors of all parties involved.

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

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

Once the Investigator has gathered all relevant information, the investigator will prepare a summary of all information provided during interviews with the Complainant, Respondent, and witnesses. A rebuttal interview will be requested of both the Complainant and Respondent, during which the investigator will summarize the information obtained during the investigation and the parties will have the opportunity to share any additional information and evidence in response

At the conclusion of the investigation, the Investigator will prepare a report setting forth the facts gathered and will make a recommendation of findings. The final Investigative Report will be forwarded to the Title IX Coordinator and the University President. Along with interview summaries, written statements, and other information the University deems relevant, the Investigator may also include in the report prior allegations of, or findings of responsibility for, similar conduct by the Respondent. The Investigator will use a 'preponderance of the evidence' standard (i.e., that it is more likely than not that sexual misconduct or sexual harassment occurred) when evaluating Complaints and recommending findings.

Upon receipt of the investigative report, the University President will consider the recommendations from the Investigator. Within 10 days of receiving the report, the University President will write a letter outlining the findings and provide that letter to the Title IX Coordinator.

The Title IX Coordinator will prepare the Notice of Findings using the President's letter and notify the Respondent and the Complainant of the findings and provide information about next steps in the process.

VIII. Notice of Findings

The Title IX Coordinator will prepare a Notice of Findings containing the following information: the name of the Respondent, whether the Respondent has been found "responsible" or "not responsible" of violating the Sexual Misconduct and Sexual Harassment Policy, a rationale for the finding, any sanctions imposed, and how to initiate the appeal process. Both the Respondent and Complainant will receive written notice of

findings not more than five days following the decision of the University President. In most circumstances, the Notice of Findings will also be delivered in person.

IX. Sanctions

Sanctions for employee violations of the Sexual Misconduct and Sexual Harassment Policy are listed in the Progressive Discipline for Staff Policy. The full range of sanctions, up to and including termination, may apply to any violation of the Sexual Misconduct and Sexual Harassment Policy. Sanctions will be determined by the University President who may consult with the relevant Vice President and/or the employee's supervisor.

In considering the appropriate sanction, the President will consider the following factors:

- The Respondent's prior discipline history;
- How the University has sanctioned similar incidents in the past;
- The nature and violence of the prohibited conduct;
- The impact of the conduct on the Complainant;
- The impact of the conduct on the community, its members, or University property;
- Whether the Respondent is reasonably likely to engage in similar conduct in the future;
- The University's values and community standards; and
- Any other mitigating or aggravating circumstances.

Sanctions for policy violations may include, but are not limited to, any form of responsive action or progressive discipline, including training, referral to counseling, any of the remedies described in these procedures, and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension (with or without pay), or termination.

X. Appeals

A Complainant or Respondent may choose to appeal the findings of the Investigator, and/or sanctions imposed by the President, to the President. The President will assign a designee, to complete an independent review of the investigatory materials, the findings, and sanctions determined who will make a recommendation to the President to uphold the first decision or to modify the findings and/or sanctions.

Appeals must be submitted in writing to the Title IX Coordinator within five days of receipt of the Notice of Findings. A Complainant or Respondent may submit one appeal. An appeal must address all concerns related to the process, the findings, and/or sanctions. The burden of proof lies with the party requesting the appeal and must be submitted with the written statement given to the Title IX Coordinator, as the original determination and sanction(s) are presumed to have been decided reasonably and appropriately.

Grounds for an appeal are limited to one or more of the following purposes:

- To determine whether the investigation was conducted fairly and in accordance with the University's procedures;
- To determine whether the facts presented were sufficient to establish a finding based on a preponderance of the evidence;

- To determine whether the sanction(s) imposed were proportionate to the misconduct; and/or
- To consider new information, sufficient to alter a decision or other relevant facts not brought out in the original investigation(s), because the person appealing did not know such information and/or facts at the time of the investigation.

After considering the independent review, the President will prepare a document stating his/her decision which is final and binding. The President will notify the Title IX Coordinator when the review is complete. The Title IX Coordinator will send notifications, including the President's letter to the Complainant and Respondent.

The Title IX Coordinator will make a reasonable effort to complete the notification process within 15 days, but this time frame may be extended depending on the complexity of the circumstances of each case. Scheduling, University closures, or holidays may affect this timing as well.

XI. Records

While Complaints resolved by Title IX Procedures for addressing Sexual Misconduct and Sexual Harassment are not part of an employee's official personnel file, the University will retain separate records of all reports, allegations, complaints, Title IX assessments, remedial and protective measures, investigations, and sanctions.

A finding of a policy violation and any imposition of sanction becomes part of the employee's official personnel file. Such records shall be used in reviewing the employee's overall performance, any further conduct, or in developing sanctions.

XII. Additional Information

Employees and students who leave the University before a conduct complaint is resolved may be prohibited from future employment, related activities, or enrollment, and have a hold placed on their University transcript until the matter is resolved.

This document is thoroughly reviewed on an annual basis and may be updated periodically for accuracy and clarity. The most current version can be found on the Title IX webpage of the University's website.

The NWU Board of Governor's approved these procedures on January 17th, 2020. Incidents of sexual misconduct committed on or after this date will be subject to this version of procedures.