



Code of Student Conduct



NEBRASKA
WESLEYAN
UNIVERSITY

NEBRASKA WESLEYAN UNIVERSITY

Code of Student Conduct

Approved by the Board of Governors
September 5, 2019

Preface

Behavioral standards of student conduct at Nebraska Wesleyan University.

In order to foster the goals and spirit of the Nebraska Wesleyan community, students are expected to practice, both in and out of the classroom, the standards embodied in the following promise:

Prairie Wolf Promise

Integrity

University students exemplify honesty, honor and a respect for the truth in all of their dealings.

Community

University students build and enhance their community.

Social Justice

Students are just and equitable in their treatment of all members of the community and act to discourage and/or intervene to prevent unjust and inequitable behaviors.

Respect

University students show positive regard for each other and for the community.

Responsibility

University students are given and accept a high level of responsibility to self, to others and to the community.

Nebraska Wesleyan students are responsible for knowing the information, policies and procedures outlined in this document. The University reserves the right to make changes to the Code of Student Conduct (the Code) as necessary and once these changes are posted, they are in effect. Students are encouraged to check online (<https://www.nebrwesleyan.edu/inside-nwu/office-student-life/student-conduct-system>) for the updated versions of all policies and procedures.

TABLE OF CONTENTS

- Section 1: Philosophy**
- Section 2: Jurisdiction**
- Section 3: Student Rights**
- Section 4: Violations Of The Law**
- Section 5: Definitions**
- Section 6: Prohibited Conduct**
- Section 7: The Student Conduct Process**
- Section 8: Sanctions**
- Section 9: Student Conduct Authority**
- Section 10: Appeals**
- Section 11: Interpretation And Revision**

SECTION 1: PHILOSOPHY

Nebraska Wesleyan University (NWU) is a community of scholars committed to fostering a campus environment that is conducive to academic inquiry, a productive campus life and thoughtful study and discourse. The student conduct process is committed to the educational and developmental growth that balances the interests of individual students with the expectations of the University community.

A community exists on the basis of shared values and principles. At Nebraska Wesleyan University, student members of the community are expected to uphold and abide by standards of conduct that form the basis of the *Code of Student Conduct*. These standards are embodied within a set of behavioral expectations, referred to as the Prairie Wolf Promise, that includes integrity, community, social justice, respect, and responsibility.

Each member of the NWU community is responsible for their conduct and to assume reasonable responsibility for the behavior of others. When members of the community fail to exemplify these five standards by engaging in the misconduct outlined below, campus conduct proceedings are used to assert and uphold the *Code of Student Conduct*.

The student conduct process at NWU is not intended to punish students; rather, it exists to protect the interests and rights of the community and to challenge those whose behavior is not in accordance with our policies. Sanctions are intended to challenge students' moral and ethical decision-making and to help them bring their behavior into accord with our community standards. When a student is unable to conduct themselves in a manner consistent with our community standards, the student

conduct process may determine that the student should no longer share in the privilege of participating in this community.

Students should be aware that the student conduct process is quite different from legal proceedings. Procedures and rights in student conduct procedures are conducted with fairness to all, but do not include the same protections of due process afforded by the courts. Due process, as defined within these procedures, assures written notice and a hearing before an objective decision-maker. No student will be found in violation of a Nebraska Wesleyan University policy without information showing that it is more likely than not that a policy violation occurred, and any sanctions will be proportionate to the severity of the violation and to the cumulative conduct history of the student.

SECTION 2: JURISDICTION

Students at the University are provided a copy of the *Code of Student Conduct* annually in the form of a website link on the University website. Students are responsible for reading and abiding by the provisions of the *Code of Student Conduct*.

The *Code of Student Conduct* and the student conduct process apply to the conduct of individual students, both undergraduate and graduate, and all University-recognized student organizations. For the purposes of student conduct, the University considers an individual to be a student when they are enrolled in courses and thereafter as long as the student remains enrolled at the University.

The University retains conduct jurisdiction over students who choose to take a leave of absence, withdraw or have graduated for any misconduct that occurred prior to the leave, withdrawal or graduation. If sanctioned, a hold may be placed on the student's ability to re-enroll and/or obtain official transcripts and/or graduate and all sanctions must be satisfied prior to re-enrollment eligibility. In the event of serious misconduct committed while still enrolled but reported after the accused student has graduated, the University may invoke these procedures and, should the former student be found responsible, the University may revoke that student's degree or impose other disciplinary sanctions.

The *Code of Student Conduct* applies to behaviors that take place on the campus, at University-sponsored events and may also apply off-campus when the Vice President for Student Life, or designee, determines that the off-campus conduct affects a substantial University interest. A substantial University interest is defined to include:

- * Any situation where it appears that the student's conduct may present a danger or threat to the health or safety of the student or others; and/or
- * Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- * Any situation that is detrimental to the educational mission and/or interests of the University.

The *Code of Student Conduct* may be applied to behavior conducted online, or via email or other electronic medium. Students should also be aware that online postings such as blogs, web postings, chats and social networking sites are in the public sphere

and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. The University does not regularly search for this information but may take action if and when such information is brought to the attention of University officials. However, most online speech by students not involving University networks or technology will be protected as free expression and not subject to this Code, with two notable exceptions:

* A true threat, defined as “a threat a reasonable person would interpret as a serious expression of intent to inflict bodily harm upon specific individuals”;

* Speech posted online about the University or its community members that causes a significant on-campus disruption.

The *Code of Student Conduct* applies to guests of community members whose hosts may be held accountable for the misconduct of their guests. The Code may also be applied to resident non-students, campers and high school bridge/extension/partner/dual-credit and continuing education programs by contractual agreements. Visitors to and guests of the University may seek resolution of violations of the *Code of Student Conduct* committed against them by members of the University community.

There is no time limit on reporting violations of the *Code of Student Conduct*; however, the longer someone waits to report an offense, the harder it becomes for University officials to obtain information and witness statements and to make determinations regarding potential violations.

Though anonymous complaints are permitted, doing so may limit the University’s ability to investigate and respond to a complaint. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Student Life Office.

University email is the University’s primary means of communication with students. Students are responsible for all communication delivered to that email address. Once communication has been sent it will be presumptively delivered.

SECTION 3: STUDENT RIGHTS

All students involved in the Student Conduct System are entitled to the following:

1. To be informed of the complaint and the possible misconduct on which the complaint is based.
2. To receive an expeditious hearing of the case.
3. To participate in the structured student conduct process including a formal Student Conduct Board hearing.
4. To request reasonable accommodations, including but not limited to language translation or interpretation services, in order to allow for participation in the process.

To have reasonable time to prepare and present their own case. Respondents are not required to make any statement to the Student Conduct Board.

5. To speak on their behalf throughout the hearing. However, complainants or respondents are not required to make any statement to the Student Conduct Board.

6. To bring persons having pertinent information to the hearing as witnesses, and to question any witness. The Student Conduct System Administrator must be notified of the identity of any witnesses a minimum of two days prior to the hearing.
7. To be assisted by an advisor of their choosing, at their own expense. During the hearing, the advisor of choice may speak only to the individual being advised, and may not speak directly to the Student Conduct Board. The Student Conduct System Administrator must be notified of the identity of the advisor of choice a minimum of two days prior to the hearing.
8. To be assured of confidentiality in accordance with the terms of the Federal Educational Rights and Privacy Act.
9. To request that any member of the Student Conduct Board be removed from the student conduct process because of personal bias, provided, however, that except in extraordinary circumstances, such as the discovery of new information, this request is made prior to the beginning of the hearing.
10. To a presumption that they have not engaged in misconduct, until the Student Conduct Board or a Student Conduct Officer determines that it is more likely than not that misconduct has occurred.
11. All students involved in the student conduct process will be advised of the outcome of the investigation and hearing, if one is necessary.
12. To appeal the decision of the student conduct system if there are grounds for an appeal (see Section 10: Appeals).

SECTION 4: VIOLATIONS OF THE LAW

Potential violations of federal, state and local laws may be investigated and addressed under the *Code of Student Conduct*. When an offense occurs over which the University has jurisdiction, the University conduct process will usually go forward notwithstanding any criminal complaint that may arise from the same incident.

The University reserves the right to exercise its authority of interim suspension upon notification that a student is facing criminal investigation and/or complaint. Interim suspensions are imposed until a hearing can be held, typically within two weeks. Within that time, the suspended student may request an immediate hearing from the Vice President for Student Life to show cause why the interim suspension should be lifted. This hearing may resolve the allegation, or may be held to determine if the interim suspension should be continued. The interim suspension may be continued if a danger to the community is posed and the University may be delayed or prevented from conducting its own investigation and resolving the allegation pending the criminal process. In such cases, the University will only delay its hearing until such time as it can conduct an internal investigation or obtain sufficient information independently or from law enforcement upon which to proceed. This delay will be no longer than two weeks from notice of the incident unless a longer delay is requested in writing by the complainant to allow the criminal investigation to proceed before the University process.

Students accused of crimes may request to take a leave from the University until the criminal charges are resolved. In such situations, the University procedure for voluntary leaves of absence is subject to the following conditions:

- The responding student must comply with all campus investigative efforts that will not prejudice their defense in the criminal trial; and
- The responding student must comply with all interim actions and/or restrictions imposed during the leave of absence; and
- The responding student must agree that, in order to be reinstated to active student status, they must first be subject to, and fully cooperate with, the campus conduct process and must comply with all sanctions that are imposed.

SECTION 5: DEFINITIONS

Advisor of Choice: An individual selected by a complainant or a respondent to assist them during any part of the procedures, including the hearing. An Advisor of Choice may be a faculty or staff member, a student, parent, community member, victim advocate or an attorney. During the hearing the Advisor of Choice may confer with the complainant or respondent they advise, but may not communicate directly with the Hearing Panel. The Student Conduct System Administrator must be notified of the identity of the Advisor of Choice a minimum of two days prior to the hearing.

Complainant: An individual who files a disciplinary complaint. The University may also serve as a complainant.

Consent: Words and actions that clearly convey to both parties intentions to engage in mutually agreed-upon sexual activity. Consent is not the absence of resistance. Consent to one form of sexual contact or act does not imply consent for other sexual contact or acts or for consent of similar future sexual activity.

Day: University working day, not including Saturday, Sunday, or University holidays. Time deadlines may be extended during breaks and University holidays.

Educational Conference: Meeting with the Student Conduct Officer authorized to adjudicate a Level 1 or 2 conduct complaint.

Evidentiary Standard: In order for a student to be found responsible, the information must support a determination that it is *more likely than not* that a violation of the Student Code of Conduct occurred. Hearsay evidence may be considered but will be weighed accordingly.

Faculty Member: Any person employed by the University to conduct teaching activities or who is otherwise considered by the University to be a member of its faculty.

FERPA (Family Educational Rights and Privacy Act): A federal law originally passed in 1974 that defines student educational records and regulates who may access those records and under what circumstances. The purpose of FERPA is to protect the privacy of student education records.

Investigative Conference: Meeting with a Student Conduct Officer to gather information regarding a complaint for the use of the Student Conduct Board Review Committee and/or the Student Conduct Board in their adjudication of that complaint.

Member of the University Community: Any person who is a student, faculty member, University official, or any other person employed by the University. A person's status in a particular situation will be determined by the Vice President for Student Life.

Parental Notification: FERPA permits educational institutions to notify parents of students under the age of 21 when a student has been found responsible for an alcohol- or drug-related violation. Students are generally notified when parents or guardians will be contacted and are given the opportunity to contact the parents first.

Policy: The written regulations of the University as found in, but not limited to, the Code of Student Conduct, the official Nebraska Wesleyan webpage and University catalogs.

Respondent: The student or student organization whose conduct is the subject of a conduct proceeding under this Code.

Sanction: A fair and consistent consequence to a policy violation that a student is given to encourage behavior modification. Sanctions may be educational and/or punitive, depending upon the situation and the individual. Sanctions can range from a verbal warning to suspension or expulsion.

Student: Any person enrolled in courses at Nebraska Wesleyan University, both full-time and part-time, including study abroad and auditing courses, and pursuing undergraduate or graduate studies. Any person who withdraws after potentially engaging in misconduct as outlined in the Code of Student Conduct, or who is not officially enrolled for a particular term but who has a continuing relationship with the University is considered a "student" for the purposes of this Code of Student Conduct. Students who leave the University before a conduct complaint is resolved may be prohibited from future enrollment and have a hold placed on their Nebraska Wesleyan University transcript until the matter is resolved.

Student Conduct Appellate Panel: Persons authorized by the President of Nebraska Wesleyan University to consider an appeal from a complainant or respondent in any Student Conduct proceeding. The document entitled "Student Conduct Appellate Panel Procedures, Revised 2016" defines membership and procedures for this panel. The document is approved by the President of Nebraska Wesleyan University and is available in the Student Life Office.

Student Conduct Officer: University administrative employee authorized to conduct an Educational Conference for the purpose of adjudicating a Level 1 or Level 2 conduct complaint (i.e. Residential Education Coordinator, Assistant Dean for Student Success and Residential Education, Assistant Dean for Student Success and Campus Community) or an Investigative Conference for the purpose of adjudicating a Level 3 conduct complaint.

Student Conduct Hearing Board Review Committee: Three members of the Student Conduct Hearing Board, including at least one faculty member or administrative staff member and at least one student who review the results of the preliminary investigation by the Student Conduct Officer, to determine whether or not the offense falls within the Student Conduct Hearing Board's jurisdiction, and to recommend whether or not a hearing is warranted. The Student Conduct Hearing Board Review Committee may determine that a hearing is not warranted and may make decisions about the complaint(s). If the respondent is found responsible for code violations, the committee may also impose sanctions. The Student Conduct System Administrator will communicate this decision to the student. The student has a procedural right to request a hearing. This request for a hearing must be communicated to the Student Conduct System Administrator within two days of decision notification.

Student Conduct System Administrator: The Vice President for Student Life or their designee. The role of the Student Conduct System Administrator will be to provide administrative and procedural support to the Student Conduct Hearing Board. In no event will the Student Conduct System Administrator serve as a member of the Student Conduct Hearing Board. Because the Student Conduct System Administrator has no role in the process that would influence the decision of the Student Conduct Hearing Board, and is not a member of the Student Conduct Hearing Board, the Student Conduct System Administrator cannot be removed from a hearing on allegation of personal bias, although specific interpretations or recommendations of the Student Conduct System Administrator may be included in the justification for an appeal.

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

Title IX: Title IX of the Educational Amendments of 1972 is a federal Law that states "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Title IX not only applies to athletics, but it also prohibits sexual harassment, gender-based discrimination, and sexual violence. For more information about our Title IX resolution process, please refer to the Title IX Policy.

University: Nebraska Wesleyan University.

University Premises: Includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the University, including adjacent streets and sidewalks, whether or not leased to, or operated, occupied or used by unrelated entities.

University-Sponsored Activity: Any activity on University premises or at an off-campus location that is directly initiated or supervised by the University or a University-recognized group or organization. This includes fraternity and sorority organizations, study abroad programs, and sporting events. In addition, University-operated or leased transit is included in this activity even if the behavior occurs off of University premises.

Witness: An individual who, being present, personally sees or perceives a detail or event and is willing to attest to that effect. If a witness is involved, the Student Conduct System Administrator must be notified of the identity of any witnesses a minimum of two days prior to any conduct proceedings. Information from witnesses whose sole purpose is to provide character information will not be considered. The Student Conduct Officer may also involve witnesses.

SECTION 6: PROHIBITED CONDUCT

Behavioral Standards and Expectations

The University considers the behavior described in the following sub-sections as inappropriate for the University community and in opposition to the behavioral standards set forth in this document. These expectations and rules apply to all students, whether undergraduate or graduate. The University encourages community members to report to University officials all incidents that involve the following actions. Any student found to have committed or to have attempted to commit the following misconduct is subject to the sanctions outlined in SECTION 7: The Student Conduct Process.

Integrity: University students exemplify honesty, honor and a respect for the truth in all of their dealings.

Behavior that violates this standard includes, but is not limited to:

- 1) Falsification.** Knowingly furnishing or possessing false, falsified or forged materials, documents, accounts, records, identification or financial instruments; Knowingly initiating or causing to be initiated any false report, warning, or threat of fire, explosion, or other emergency;
- 2) Academic Dishonesty.** Faculty members have full authority in determining the action to be taken in cases of academic misconduct. Faculty members may choose to take one or a combination of these actions: assign a failing grade in the course; lower or assign a failing grade to an examination or assignment; require the student to take another examination or redo the assignment; report the action to the Student Life Office; file a complaint with the Student Conduct Board. Examples of academic misconduct include, but are not limited to:
 - a) Cheating:** using electronic means; copying homework assignments from another person; working together on a take-home test or homework when not permitted by the instructor; looking at and receiving information from a source not authorized by the instructor during an examination; looking at and using notes during an examination when not specifically permitted.
 - b) Tendering of information:** giving one's work to another student to be copied; providing answers to another person for examination questions before, after, or during an exam; giving or selling a term paper or any work that is to be handed in to the instructor.
 - c) Plagiarism:** copying assignments from a text, either printed or electronic, to hand in for a grade; quoting text or other works on an examination, term paper, or homework without citations; handing in a paper purchased from a research service; reproducing someone's paper and

handing it in as one's own; citing resources deceptively for written assignments.

- d) Unauthorized collaboration:** planning with one or more students to commit any form of academic misconduct; giving one's work to another student whom one suspects will represent it as their own; working with one or more students on any assignments unless specifically allowed by the faculty member.
- e) Misrepresentation:** having another student do one's work; lying to improve one's grade; having another student take one's exam; submitting the same work for a grade in two different courses without permission from the course instructors; misrepresenting the amount or type of work done; altering a graded work after it has been returned and then submitting it for a re-grading without the instructor's knowledge.
- f) Bribery:** offering money or any item or service to a faculty member or another person to gain academic advantage for oneself or another student.
- g) Abetting misconduct:** observing cheating on an examination or any other form of academic misconduct without reporting it to the faculty member; passing answers for an examination from one student to another; failing to report plagiarism by another student; assisting a student in obtaining a paper from a research service.

3) Instructional Technology and Acceptable Use. Theft or abuse of University electronic resources, including but not limited to:

- a)** Unauthorized access of a file to use, read, or change the contents, or for any other purpose.
- b)** Unauthorized transfer or duplication of a file.
- c)** Use of another individual's identification or password.
- d)** Use of computing facilities or resources to interfere with the work of another student, faculty, or staff member.
- e)** Use of computing facilities or resources to send obscene, abusive, or harassing messages or other communication.
- f)** Use of computing facilities or resources in violation of any laws, including copyright laws.
- g)** Use of computing facilities or resources to interfere with normal operation of the University computing systems or the systems of any other person or organization.
- h)** Unauthorized use of computing facilities or resources to support or advocate any commercial, political or non profit organization.
- i)** Unauthorized operation or attempted operation of servers, routers, switches, bridges, wireless access points or other network equipment.

4) Unauthorized Access. Unauthorized access to any University building (i.e. keys, cards, etc.) or unauthorized possession, duplication or use of means of access to any university building or failing to timely report a lost University identification card or key;

5) Collusion. Action or inaction with another or others to violate the *Code of Student Conduct*;

6) Trust. Violations of positions of trust within the community;

- 7) Taking of Property.** Intentional and unauthorized taking of University property or the personal property of another, including goods, services, intellectual property, and other valuables;
- 8) Stolen Property.** Knowingly taking or maintaining possession of stolen property;

Community: University students build and enhance their community.

Behavior that violates this standard includes, but is not limited to:

- 9) Disruptive Behavior.** Substantial disruption of University operations including obstruction of teaching, research, administration, other University activities, and/or other authorized non-University activities, which occur on or off campus;
- 10) Rioting.** Causing, inciting or participating in any disturbance that presents a clear and present danger to self or others, causes physical harm to others, or damage and/or destruction of property;
- 11) Obstruction.** Inhibiting the free flow of pedestrian or vehicular traffic on University premises or at University-sponsored or supervised functions;
- 12) Unauthorized Entry.** Misuse of access privileges to University premises or unauthorized entry to or use of buildings, including trespassing, propping or unauthorized use of alarmed doors for entry into or exit from a University building; unauthorized entry, duplication or use of keys;
- 13) Trademark.** Unauthorized use (including misuse) of University or organizational names and images;
- 14) Damage and Destruction.** Intentional, reckless and/or unauthorized damage to or destruction of University property or the personal property of another;
- 15) Weapons.** Possession, use, or distribution of explosives (including fireworks and ammunition), guns (including air, BB, paintball, facsimile weapons and pellet guns), or other weapons or dangerous objects such as arrows, axes, machetes, nunchucks, throwing stars, or knives with a blade of longer than three inches, including the storage of any item that falls within the category of a weapon in a vehicle parked on University property. In addition to the items listed above, any item that is used to intentionally and deliberately harm or threaten another student can be categorized as a weapon;
- 16) Tobacco/Vaping/Smoking.** Smoking (the definition of smoking includes burning of any type of lighted pipe, cigar, cigarette, or any other vaping/smoking equipment – e.g. electronic cigarettes/Juuls, hookah pens, etc.) or tobacco use in any area of campus must be 20 feet from any building and/or outdoor athletic facility;
- 17) Fire Safety.** Violation of local, state, federal or campus fire policies including, but not limited to:
- a)** Intentionally or recklessly causing a fire which damages University or personal property or which causes injury.
 - b)** Failure to evacuate a University-controlled building during a fire alarm. Such action can result in a \$250 fine in addition to University sanctions.
 - c)** Improper use of University fire safety equipment.
 - d)** Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on University-controlled property. Such action will result in a \$250 fine in addition to University sanctions.

18) Animals. Animals, with the exception of those that provide assistance (service animals and approved emotional support animals), as outlined in the Housing Policies, are not permitted on campus except as permitted by law. For more information contact the Coordinator of Services for Students with Disabilities;

19) Wheeled Devices. Skateboards, roller blades, roller skates, bicycles and similar recreational wheeled devices are not permitted to be used inside University-controlled buildings, residence halls or on tennis courts. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities, and individuals may be liable for damage to University property caused by these activities. Hoverboards or similar devices are never permitted on campus;

Social Justice: Students are just and equitable in their treatment of all members of the community and act to discourage and/or intervene to prevent unjust and inequitable behaviors.

Conduct that violates this standard includes, but is not limited to:

20) Discrimination. Any act or failure to act that is based upon an individual or group's actual or perceived status (sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, or sexual orientation, or other protected status) that is sufficiently severe that it limits or denies the ability to participate in or benefit from the University's educational program or activities;

21) Harassment. Any unwelcome conduct based on actual or perceived status including: sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, sexual orientation or other protected status. Any unwelcome conduct should be reported to campus officials;

a) Hostile Environment. Sanctions can and will be imposed for the creation of a hostile environment only when harassment is sufficiently severe, pervasive (or persistent) and objectively offensive that it unreasonably interferes with, limits or denies the ability to participate in or benefit from the University's educational or employment program or activities¹.

22) Retaliatory Discrimination or Harassment. Any intentional, adverse action taken by a responding individual or allied third party, absent legitimate nondiscriminatory purposes, against a participant or supporter of a participant in a conduct proceeding or other protected activity under this Code;

23) Bystanding.

a) Complicity with or failure of any student to address known or obvious violations of the *Code of Student Conduct* or law.

b) Complicity with or failure of any organized group to address known or obvious violations of the *Code of Student Conduct* or law by its members.

¹ This policy seeks to balance the University's need to create and maintain a civil climate with the right of persons within the University to make statements that are simply offensive.

24) Abuse of Conduct Process. Abuse or interference with, or failure to comply in, law enforcement or University processes including conduct and academic integrity hearings including, but not limited to:

- a) Falsification, distortion, or misrepresentation of information.
- b) Failure to provide, destroying or concealing information during an investigation of an potential policy violation.
- c) Attempting to discourage an individual's proper participation in, or use of, the campus conduct system or law enforcement processes.
- d) Harassment (verbal or physical) and/or intimidation of a member of a campus conduct body prior to, during, and/or following a campus conduct proceeding.
- e) Failure to comply with the sanction(s) imposed by the campus conduct system.
- f) Influencing, or attempting to influence, another person to commit an abuse of the campus conduct system.
- g) Making public confidential information from a conduct proceeding.
- i) Failing to comply with the directives of a No Contact Order.

Respect: University students show positive regard for each other and for the community.

Behavior that violates this standard includes, but is not limited to:

25) Harm to Persons. Intentionally or recklessly causing physical harm or endangering the health or safety of any person;

26) Threatening Behaviors:

- a) **Threat.** Written or verbal conduct that causes a reasonable expectation of injury to the health or safety of any person or damage to any property.
- b) **Intimidation.** Intimidation defined as implied threats or acts that cause a reasonable fear of harm in another.

27) Bullying and Cyberbullying. Bullying and cyberbullying are repeated and/or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally, and are not protected by freedom of expression;

28) Hazing. Defined as an act that endangers the mental or physical health or safety of a student, or that destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Participation or cooperation by the person(s) being hazed does not excuse the violation. Failing to intervene to prevent and/or failing to discourage and/or failing to report those acts may also violate this policy;

29) Title IX Prohibited Conduct:

A. Sexual Harassment: any unwelcome conduct of a sexual nature or based on sex or gender, sexual orientation, gender identity, or gender expression, including acts of verbal, nonverbal, or physical aggression, intimidation, hostility, or bullying based on sex/gender or sex/gender-stereotyping, even if the acts do not involve conduct of a sexual nature. Sexually harassing behaviors differ in type and severity. Key determining factors are that the behavior is unwelcome, is sex- or gender-based, and is reasonably perceived as offensive and

objectionable under both a subjective and objective assessment of the conduct. Sexual harassment involves one of the following conditions (hostile environment or quid pro quo):

Hostile Environment: conduct that has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently serious, pervasive, or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both an objective and subjective standard. A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical.

Quid Pro Quo: occurs when it is stated or implied that an individual's submission to, or rejection of, conduct of a sexual nature is a condition of employment, evaluation of academic work, or involvement in any University program or activity.

B. Sexual Assault: any intentional sexual contact with another person without that person's consent; sexual contact with someone who they knew, or should have known, was incapacitated or otherwise mentally or physically incapable of resisting or appraising the nature of their conduct; or forcing or coercing another person to engage in sexual contact against their will.

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

Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual assault or harassment in any form and does not diminish one's responsibility to obtain informed and freely given consent.

Related Sexual Assault Definitions

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

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

or force or by taking advantage of the incapacitation of another individual.

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

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

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

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

Incapacitation may result from the use of alcohol and/or drugs. The impact of alcohol and other drugs varies from person to person.

C. Intimate Partner/Relationship Violence: any act of physical, sexual, or emotional violence or threatened act of violence in person, in writing, or electronically, against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with that person. It may also take the form of threats, assault, property damage, or violence or threat of violence to one's self, one's sexual or romantic partner, one's family members or friends, or to the family members or friends of the sexual or romantic partner. It may involve one act or an ongoing pattern of behavior.

D. Sexual Exploitation: violating the sexual privacy of another, or taking sexual advantage of another without consent, and that behavior does not otherwise constitute sexual assault.

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

- Voyeurism – watching or taking picture, videos, or audio recordings of another person in a state of undress or of another person engaging in a sexual act without the consent of all parties;
- Creating, disseminating, streaming, or posting pictures or video of another in a state of undress or of a sexual nature without the person's consent;
- Exposing one's genitals to another person without consent;
- Trafficking of another individual;

- Knowingly exposing another individual to a sexually transmitted infection or virus without the other individual's knowledge and consent; or
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

E. Stalking: when a person engages in a course of conduct or repeatedly communicates and/or commits acts toward another person, including following the person without proper authority, under circumstances that would cause a reasonable person to:

- (1) Fear for their safety or the safety of others; or
- (2) Suffer substantial emotional distress.

A course of conduct involves two or more acts that include, but are not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveys, threatens, or communicates to or about a person in a prohibited way, or interferes with a person's property.

Stalking includes the concept of cyberstalking, in which electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person.

F. Retaliation: any act or attempt to seek retribution from any individual or group of individuals involved in the report, investigation, and/or resolution of a sexual misconduct allegation. Retaliation can take many forms, including, but not limited to, continued abuse or violence, threats, exclusion, and intimidation. Any individual or group of individuals can engage in retaliation. Acts of Retaliation will be addressed as a separate violation of the Sexual Misconduct and Sexual Harassment Policy.

G. Failure to comply with the directives of a No Contact Order administered by the University.

- 30) Public Exposure.** Includes deliberately and publicly exposing one's intimate body parts, public urination, defecation, and public sex acts;

Responsibility: University students are given and accept a high level of responsibility to self, to others and to the community.

Behavior that violates this standard includes, but is not limited to:

- 31) Alcohol.** Public intoxication, use, possession, manufacture, or distribution of alcoholic beverages or paraphernalia except as expressly permitted by law and the University's Alcohol and Drug Policy. See Alcohol and Drugs Policy for further information: <https://www.nebrwesleyan.edu/about-nwu/policies-and-procedures/alcohol-and-drugs-policy>

- 32) Drugs.** Use, possession, manufacture, or distribution of illegal drugs and other controlled substances or drug paraphernalia except as expressly permitted by law and the University's Drug Policy. See Alcohol and Drugs Policy for further information: <https://www.nebrwesleyan.edu/about-nwu/policies-and-procedures/alcohol-and-drugs-policy>

- 33) Prescription Medications.** Abuse, misuse, sale, or distribution of prescription or over-the-counter medications;
- 34) Gambling.** Gambling as prohibited by the laws of the State of Nebraska. (Gambling may include raffles, lotteries, sports pools and online betting activities);
- 35) Failure to Comply.** Failure to comply with the reasonable directives of University officials or law enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so;
- 36) Financial Responsibilities.** Failure to promptly meet financial responsibilities to the University, including, but not limited to, knowingly passing a worthless check or money order in payment to the University, or to an official of the University acting in an official capacity;
- 37) Arrest.** Failure of any student to accurately report an off-campus arrest by any law enforcement agency for any crime (including non-custodial or field arrests) to the Student Life Office within seventy-two (72) hours of release;
- 38) Other Policies.** Violating other published University policies or rules, including all Residential Education/Housing Policies;
- 39) Health and Safety.** Creation of health and/or safety hazards (dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs, etc.);
- 40) Violations of Law.** Evidence of violation of local, state or federal laws, when substantiated through the University's conduct process;
- 41) Offensive behavior.** Conduct which is disorderly, lewd, or indecent; disturbing the peace; aiding, abetting, or procuring another person to disturb the peace on University premises or at functions sponsored, or participated in, by the University whether or not on University premises. Disorderly conduct includes, but is not limited to an audio or visual depiction of any person without their prior knowledge, or without their effective consent when such a depiction is likely to cause injury or distress. This also includes the display or distribution of any unauthorized audio or visual depiction without the subject's prior knowledge, or without the subject's effective consent when such a depiction is likely to cause injury or distress.

SECTION 7: THE STUDENT CONDUCT PROCESS

This overview gives a general description of how the University's campus conduct proceedings work, but it should be noted that not all situations are of the same severity or complexity. Thus, these procedures are flexible, and are not exactly identical in every situation, though consistency in similar situations is a priority. The campus conduct process and all applicable timelines commence with notice to an administrator of a potential violation of the Code of Student Conduct.²

NOTICE. Once notice is received from any member of the University community (complainant, PA, 3rd party, faculty, staff, etc.), the University may schedule an

² In Title IX related issues, the "administrator" is any "responsible employee" as defined under Title IX and/or campus policy.

Investigative Conference or an Educational Conference with the responding student to explain the conduct process and gather information.

Conduct Levels

LEVEL 1: Residential Education Coordinator (REC), Assistant Dean for Student Success and Residential Education or Assistant Dean for Student Success and Campus Community as Student Conduct Officer

Violations, which are first time and less serious, perpetrated by a residential student within a campus residential facility. Examples include, but are not limited to, candles/incense, alcohol, noise and guest violations.

- All such violations are handled by the REC of the hall in which the student resides.
- Appeals at this level are heard by the Assistant Dean for Student Success and Residential Education.

Violations which are first time and less serious, perpetrated by non-residential students or students living within Greek facilities that occur within a campus residential facility, or violations, which are first time and less serious, perpetrated by any student on campus, but not within a residential facility. Examples include alcohol, and noise violations.

- All such violations are handled by the Assistant Dean for Student Success and Campus Community.
- Appeals at this level are heard by the Vice President for Student Life.

LEVEL 2: REC, Assistant Dean for Student Success and Residential Education or Assistant Dean for Student Success and Campus Community as Student Conduct Officer

Violations that occur within the residence halls and involve multiple students, or multiple or repeat violations, or residents from multiple facilities; more serious first time violations.

- Cases are heard by the REC.
- Appeals at this level are heard by the Assistant Dean for Student Success and Residential Education.

LEVEL 3: Student Conduct Board

Violations of University policy, which are egregious and/or habitual, regardless of where perpetrated. These violations include, but are not limited to, flagrant violation of policy; abuse of or non-cooperation with University staff; incidents involving threats or violence; repeated violations of policy; or failure to comply with directions or sanctions issued at Conduct Level 1 or 2.

Violations involving sexual assault or sexual misconduct. Such violations are handled in accordance with NWU Procedures for Resolution of Student Complaints of Sexual Misconduct Against Other Students. The complete Title IX policy is available in the office of the Title IX Coordinator. It is also available online at <https://www.nebrwesleyan.edu/inside-nwu/sexual-misconduct-prevention>.

Violations involving academic dishonesty.

Violations affecting the University community as a whole.

Additional Level 3 examples include: assault, hazing, drugs, and other behaviors that put self or other member(s) of the University community in danger or harm.

- All such complaints are adjudicated by members of the Student Conduct Board.
- Appeals of Level 3 decisions are heard by the Student Conduct Appellate Panel.

Conduct Policies

Complaint:

1. Student misconduct complaints may be filed by any member of the University community. The complaint form may be found online at: <https://www.nebrwesleyan.edu/inside-nwu/office-student-life/student-conduct-system>. Any complaint should be submitted as soon as possible after the event takes place.
2. The Student Conduct Officer or the Conduct Body involved will determine the disposition of the complaint and may decide among the following options:
 - a) The complaint has no merit.
 - b) The complaint has merit and may be adjudicated by the appropriate Student Conduct Officer or the Student Conduct Board Review Committee depending upon the level of the violation. Note: the complainant, the respondent and the Student Conduct Board Review Committee all have the right to request a full Student Conduct Board hearing.
 - b) The complaint has merit and may be administratively settled through mediation if both parties are students and there is mutual consent of the involved parties and a basis acceptable to the Student Conduct Officer or Student Conduct Board Review Committee. If an agreement is reached, that disposition shall be final, and there shall be no subsequent proceedings. Should an agreement not be reached, the complaint will be referred to the student conduct process. Mediation is not an option in sexual misconduct cases.
3. In cases involving an allegation of sexual misconduct, see Title IX policies. In Title IX situations, NWU follows the Procedures for Addressing Student Sexual Misconduct and Sexual Harassment.

Group Violations:

A student group or organization and its officers and membership may be held collectively and individually responsible when violations of this code by the organization or its member(s):

- Take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or tacit;

- Have received the consent or encouragement of the organization or of the organization's leaders or officers; or
- Were known or should have been known to the membership or its officers.

Hearings for student groups or organizations follow the same general student conduct procedures. In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual and the organization.

Accountability: Any group or organization may be held accountable for the actions of any of its members if the misconduct described in this Code of Student Conduct is in any way related to the group or organization. Group misconduct need not have been officially approved by the entire membership in order to be considered grounds for possible disciplinary action against the group. There is no minimum number of group members who must be involved in an incident before disciplinary action may be taken against the entire group. In some instances, the conduct of a single member may provide sufficient grounds for action against the entire group. An appropriate test to determine whether a group may be held accountable for the conduct of individuals is to ask whether it is likely that the individuals would have been involved in the incident if they were not members of the group or, if, by group action, the incident was encouraged, fostered, or might have been prevented.

Amnesty:

1. 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 minor policy violations, such as underage drinking, at the time of the incident.

2. For Those Who Offer Assistance

To encourage Students to offer help and assistance to others, the University pursues a policy of amnesty for minor violations when Students offer help to others in need. At the discretion of the Vice President for Student Life, or designee, amnesty may also be extended on a case-by-case basis to the person receiving assistance.

3. For Those Who Report Serious Violations

Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the University are offered amnesty for their minor violations.

4. For Those Who Witness Serious Violations

Students who witness serious violations by others are offered amnesty for any minor violations if they are called on as a witness to a serious violation.

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

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

Parental Notification:

The University reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly alcohol and other drug violations. The University may also notify parents/guardians of non-dependent students who are under the age of 21 of alcohol and/or other drug violations. Parental notification will be given at the discretion of administrators and when permitted by FERPA or consent of the student.

Adjudication Processes:

Educational Conference

Responding students, against whom Level 1 or Level 2 violation complaints have been filed, meet one-on-one with a Student Conduct Officer. The Officer has the authority to determine responsibility, and if appropriate, identify educational sanctions. If a decision on the allegation is made and the finding is that the responding student is not responsible for violating the *Code of Student Conduct*, the process will end. If the Student Conduct Officer's finding is that the responding student is in violation, the Officer conducting the Educational Conference will then determine the sanction(s) for the misconduct.

Student Conduct Board Committee Review

Responding students, against whom Level 3 violation complaints have been filed, meet with the Assistant Dean for Student Success and Campus Community, serving as the Student Conduct Officer, for an Investigative Conference. If, upon conclusion of the Investigative Conference, there is reasonable cause to believe that the NWU Code of Conduct has been violated, the Assistant Dean for Student Success and Campus Community prepares a report for the Student Conduct Board Review Committee. Reasonable cause is defined as some credible information to support each element of the offense, even if that information is merely a credible witness or a complainant's statement. Specifics pertaining to the purpose, composition, and procedures of the Student Conduct Board Review Committee may be found in the Student Conduct Board Hearing Procedures. If the Student Conduct Board Review Committee comes to a unanimous finding that the responding student is in violation, they then determine the sanction(s) for the misconduct; however, upon reviewing the report, the Student Conduct Board Review Committee may decide to immediately forward the complaint to the Full Student Conduct Board for adjudication. The complaint will also go to the Full Student Conduct Board if the Student Conduct Board Review Committee is unable to come to a unanimous decision. The complainant and the respondent also have a procedural right to request a hearing with the full Student Conduct Board. This request for a hearing must be communicated to the Student Conduct System Administrator within two days of decision notification.

Full Student Conduct Board Hearing

If a complaint moves to a Full Student Conduct Board Hearing, a formal notice of the complaint and scheduled meeting will be issued to the complainant and the responding student. The Hearing is conducted before a minimum of five members of the Student Conduct Board.

If the Student Conduct Board determines that the student is responsible, the Board will assign sanctions. If the finding is that the responding student is not responsible, the process ends. Specifics pertaining to the purpose, composition, and procedures of the Student Conduct Board may be found later in this section - SECTION 7: The Student Conduct Process, Hearing Procedures.

Student Conduct Appellate Panel

A decision reached by the Student Conduct Board or a sanction imposed by the Student Conduct Board may be appealed by the Complainant or the Respondent. The purpose, composition and procedures of the Panel may be found in the document "Nebraska Wesleyan University Student Conduct, Student Conduct Appellate Panel Procedures, Revised 2016" available in the Student Life Office. A decision by the Student Conduct Appellate Panel is final and binding upon all involved.

Student Conduct Board Hearing Procedures:

The Student Conduct System Administrator should insure that a copy of the complaint and the notice of hearing are sent to Student Conduct Board members at the same time that they are sent to the respondent. This will help the members of the Student Conduct Board to be better prepared for the hearing.

In cases where an organization is the respondent, a maximum of four student members may represent the organization. The organization is entitled to have an advisor of choice present.

The Student Conduct Board should consider itself both as a fact-finding body and as a body for conducting educational discussions about ethical issues with students.

Confidentiality is absolutely imperative, and must be maintained by members of the Student Conduct Board with respect to all proceedings.

During the hearing all members of the Student Conduct Board should feel free to call recesses whenever it would appear that there are matters before the Student Conduct Board that should be resolved privately rather than in front of the other participants in the hearing. These deliberations will not be part of the official record of the hearing.

The Student Conduct System Administrator will communicate the decision in writing to the complainant and respondent(s) within five days of the conclusion of the hearing. Any member of the Student Conduct Board may assist the Student

Conduct System Administrator in preparing the statement. After the decision has been made by the Student Conduct Board, the case shall be referred to the proper persons for appropriate action. All correspondence will be reviewed for completeness and accuracy by the Student Conduct System Administrator prior to distribution through the Student Life Office.

A complete record of the Student Conduct Board's decision and the official record of the hearing will be kept in the Student Life Office. There will be a single record, kept in the form of an audio recording, a video recording or a hand transcription of all hearings before the Student Conduct Board, not including deliberations. Deliberations will not be recorded. The record is the property of the University and will be maintained by the University. Records of cases involving a sanction of suspension or expulsion are maintained indefinitely. Records of other cases are maintained for seven years from the date of file closure.

If an appeal is filed, the Student Conduct System Administrator should notify members of this situation. A member of the Student Conduct Appellate Panel should also notify members of the decision in the appeal. If the appeal is upheld, and the Student Conduct Appellate Panel decides to return the matter with written guidance for reconsideration, the Student Conduct System Administrator will convene those members of the Student Conduct Board who were involved in the original hearing to reconsider the original decision. This process must be concluded within 10 days of the Student Conduct Appellate Panel decision.

All correspondence related to complaints filed with the Student Conduct Board will include a statement referencing the rights of students involved in the Student Conduct process as outlined in Section 3: Student Rights.

In cases where the Student Conduct Board Review Committee imposes sanctions without a hearing, the respondent(s) will have two days from receipt of written notification of sanctions to request a hearing.

The complainant(s) shall have the right to attend the hearing.

The respondent and the complainant shall be entitled to question each other if they are present at the hearing. Student Conduct Board members may also question the complainant, the respondent, the Student Conduct System Administrator, or any witness.

Both the complainant and the respondent have a right to have an advisor of choice present, at their own expense, for a hearing. The Student Conduct System Administrator must be notified of the identity of the advisor of choice a minimum of two days prior to the hearing. The complainant and the respondent are responsible for presenting their own case and, therefore, advisors are not permitted to address the Student Conduct Board or to participate directly in any hearing before the Student Conduct Board, although they may consult with the individual(s) for whom they are serving as advisor of choice.

All correspondence related to any case subject to the *Code of Student Conduct* will be distributed through the Student Life Office using official means of University communication. Communication sent to complainants and respondents is presumptively delivered.

Following the educational conference or Student Conduct Board Committee Review, the Student Conduct Officer shall advise the respondent in writing of their determination and the sanction(s) imposed, if any. Following a Full Student Conduct Board Review, the Assistant Dean for Student Success and Campus Community shall advise the respondent in writing of their determination and the sanction(s) imposed, if any. The complainant will be notified in writing of the determination and, on a need-to-know basis, the sanctions imposed.

Police involvement in disciplinary cases:

Any information shared with the University may be subpoenaed.

SECTION 8: SANCTIONS

One or more of the following sanctions may be imposed upon any student for any single violation of the *Code of Student Conduct*:

1. *Warning*: An official written notice that the student has violated University policies and/or rules and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the University.
2. *Restitution*: Compensation for damage caused to the University or any person's property. This could also include situations such as failure to return a reserved space to proper condition – labor costs and expenses. This is not a fine but, rather, a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen.
3. *Fines*: Previously established and published fines may be imposed.
4. *Community/University Service Requirements*: For a student or organization to complete a specific supervised University service.
5. *Loss of Privileges*: The student will be denied specified privileges for a designated period of time.
6. *Confiscation of Prohibited Property*: Items whose presence is in violation of University policy will be confiscated and will become the property of the University. Prohibited items may be returned to the owner at the discretion of the Student Conduct System Administrator and/or the Vice President for Student Life.
7. *Behavioral Requirement*: This includes required activities including, but not limited to, seeking academic support or substance abuse screening, completing a reflection paper regarding the conduct violation, writing a letter of apology, etc.
8. *Educational Program*: Requirement to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a

- specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
9. *Restriction of Visitation Privileges*: May be imposed on a resident or non-resident student. The parameters of the restriction will be specified.
 10. *University Housing Probation*: Official notice that, should further violations of Residence Life or University policies occur during a specified probationary period, the student may immediately be removed from University housing. Regular probationary meetings may also be imposed.
 11. *University Housing Reassignment*: Reassignment to another University housing facility. Residential Education personnel will decide on the reassignment details.
 12. *University Housing Suspension*: Removal from University housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to University housing may be specified. Under this sanction, a student is required to vacate University housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Vice President for Student Life. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for University housing, the student must gain permission from the Vice President for Student Life in consultation with the Assistant Dean for Student Success and Residential Education (or designee). This sanction may include restrictions on visitation to specified buildings or all University housing during the suspension. No housing payment refunds will be made if a student is suspended from the residence halls. A letter imposing residence hall suspension will be sent to a dependent student's parent or guardian.
 13. *University Housing Expulsion*: The student's privilege to live in, or visit, any University housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary. No housing payment refunds will be made if a student is expelled from the residence halls. A letter imposing residence hall expulsion will be sent to a dependent student's parent or guardian. When this sanction is imposed, the related conduct records will be maintained indefinitely.
 14. *University Probation*: The student is put on official notice that, should further violations of University policies occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed. A letter will be sent to a dependent student's parent or guardian.
 15. *Eligibility Restriction*: The student is deemed "not in good standing" with the University for a specified period of time. Specific limitations or exceptions may be granted by the Student Conduct System Administrator and terms of this conduct sanction may include, but are not limited to, the following:
 - a. Ineligibility to hold any office in any student organization recognized by the University or hold an elected or appointed office at the University; or
 - b. Ineligibility to represent the University to anyone outside the University community in any way including: participating in the study abroad program, attending conferences, or representing the University at an official function, event or intercollegiate competition as a player, manager or student coach, etc.
 16. *Administrative Holds*: Administrative holds may be placed on a student's registration, transcripts, diploma, or graduation to ensure that students respond

to a disciplinary matter, and to enforce certain disciplinary sanctions. These holds may prevent a student from registering or graduating, or from receiving copies of his/her diploma or transcripts pending the resolution of a disciplinary matter or while a sanction of suspension, expulsion or delay of graduation is in force.

17. *University Suspension*: Separation from the University for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. The student is required to vacate the campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Vice President for Student Life. During the suspension period, the student is banned from university property, functions, events and activities without prior written approval from the Vice President for Student Life. This sanction may be enforced with a trespass action as necessary. No refunds of tuition, fees, room and board will be made if a student is suspended from the University. Notice of this action will appear on the student's transcript until such time as the student is re-admitted or is eligible for re-admission. A letter imposing disciplinary suspension will be sent to a dependent student's parent or guardian. When this sanction is imposed, the related conduct records will be maintained indefinitely.
18. *University Expulsion*: Permanent separation from the University. The student is banned from university property and the student's presence at any University-sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary. No refunds of tuition, fees, room and board will be made if a student is expelled from the University. Notice of this action will appear permanently on the student's transcript. A letter imposing disciplinary expulsion will be sent to a dependent student's parent or guardian. When this sanction is imposed, the related conduct records will be maintained indefinitely.
19. *Withholding Degree*: The University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Code of Student Conduct, including the completion of all sanctions imposed, if any.
20. *Other Sanctions*: Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Student Conduct System Administrator or designee.
21. *Interim suspension*: In certain circumstances, the Vice President for Student Life or their designee, may impose University disciplinary or residence hall suspension prior to the hearing before the Student Conduct Board. Interim suspension may be imposed:
 1. To ensure the safety and well-being of members of the University community or preservation of University property.
 2. To ensure the student's own physical or emotional safety and well-being.
 3. If the student poses a credible threat of disruption to or interference with the normal operations of the University.During the interim suspension, students will be denied access to the residence halls or to the campus (including classes), and/or to all other University activities or privileges for which the student might otherwise be eligible, as the Vice President for Student Life or their designee may determine to be appropriate. However, the student should be notified in writing of this action and the reasons for the suspension. The notice should

include the time, date, and place of a subsequent hearing at which the student may explain why his or her continued presence on the campus does not constitute a threat and at which they may contest whether a campus rule was violated. A Student Conduct Board Hearing will take place within ten (10) calendar days of the effective date of the Interim Suspension, unless circumstances warrant an extension as determined by the Vice President for Student Life or their designee in consultation with the student.

Suspensions can be of indeterminate length, depending on the severity of the violation.

Sanctions are cumulative and may carry over from year to year. More than one of the sanctions listed above may be imposed for any single instance of misconduct.

Other than University expulsion, disciplinary sanctions shall not be made a part of the student's permanent academic record, but shall become part of the student's confidential record. Cases involving the imposition of sanctions other than residence hall expulsion, University suspension or University expulsion will be expunged from the student's confidential record seven years after the date of file closure. For those students who have not completed their assigned sanctions but have not been enrolled at the University for over seven years, or who voluntarily withdrew while a disciplinary process was pending, a decision regarding retention of the record may be made by the Student Conduct System Administrator or designee on a case by case basis.

The following sanctions may be imposed on groups or organizations:

- a. Those sanctions listed above.
- b. The loss of the privilege to live as an intact unit in University-approved housing.
- c. Deactivation: loss of all privileges, including University recognition, for a specified period of time.

The Vice President for Student Life shall have final authority to determine the appropriateness of sanctions.

Sanctions are in effect immediately upon notice of outcome, though deadlines may be extended upon application to, and at the discretion of, the Vice President for Student Life.

SECTION 9: STUDENT CONDUCT AUTHORITY

A. Authority

The Vice President for Student Life is vested with the authority over student conduct by the Nebraska Wesleyan University Board of Governors. The Assistant Dean for Student Success and Campus Community serves as the Student Conduct System Administrator who oversees and manages the student conduct process. The Vice President for Student Life and Student Conduct System Administrator appoint Student Conduct Officers as deemed necessary to efficiently and effectively supervise the student conduct process.

The Student Conduct Officers have the authority to assume responsibility for the investigation of an allegation of a Level 1 or 2 violation of the *Code of Student Conduct* to determine if the complaint has merit. If they determine it does, they have the authority to adjudicate the complaint in an Educational Conference.

B. Gatekeeping

No complaint will be adjudicated unless there is reasonable cause to believe a policy has been violated. A complaint wholly unsupported by any credible information will not be adjudicated.

C. Mediation

The Student Conduct System Administrator has discretion to refer a complaint in which both the complainant and respondent are students for mediation. All parties must agree to mediation. If an agreement is reached, that disposition shall be final, and there shall be no subsequent proceedings. Should an agreement not be reached, the complaint will be referred to the student conduct process. However, at no time will complaints of physical violence be mediated as the sole University response. Mediation is not an option in sexual misconduct cases. The Student Conduct System Administrator may also suggest that complaints that do not involve a violation of the *Code of Student Conduct* be referred for mediation or other appropriate conflict resolution.

D. Composition of the Student Conduct Board

The Student Conduct System Administrator will be responsible for ensuring that the Student Conduct Board is assembled according to the following guidelines:

Faculty: Three faculty members with voting privileges serving overlapping two-year terms, to be elected by the faculty during the spring semester. The term shall begin the first day of fall semester following the election. Faculty are eligible to be re-elected a second term.

Administrative personnel: Two administrative personnel, to be appointed by the President of the University, to serve a two-year term. These individuals should be appointed on alternate years to assure continuity of membership. Administrative personnel are eligible to be re-appointed.

Traditional Undergraduate Students: Four traditional undergraduate students appointed by the President of Student Affairs Senate. Students will be appointed each spring semester, with the term beginning the first day of the fall semester. The term shall be for one year. Students are eligible to be re-appointed.

Adult Undergraduate Students and Graduate Students: When a conduct situation occurs that involves an adult undergraduate student or a graduate student, the Student Conduct System Administrator will work with Program Directors to identify a student to serve as an ad hoc representative on the Student Conduct board for that circumstance. The Student Conduct Board representative should be of the same student type as the student(s) involved in the conduct situation (adult undergraduate / graduate), but should not be in the same program.

When a complaint involves a traditional undergraduate student, only traditional undergraduate student members of the Student Conduct Board will be involved in the disposition of the complaint; similarly, when a complaint involves an adult undergraduate student, only adult undergraduate students who are members of the Student Conduct Board will be involved in the disposition of the complaint.

No student, faculty member or administrative staff member shall be eligible for membership on the Student Conduct Board if they are a voting member of the Board of Governors or Student Affairs Senate. No Student Conduct Officers are eligible for membership on the Student Conduct Board.

To serve on the Student Conduct Board, students must:

- 1) Be in academic good standing and have completed 15 hours of academic credit at Nebraska Wesleyan University with a cumulative GPA of at least 2.5.
- 2) Be in good standing with the conduct process throughout the semester in which they serve. Good standing is defined as having no record of misconduct during the semester(s) in which a student wishes to serve on the panel. A serious history of misconduct could disqualify a student for service.
- 3) Submit a letter of application.

The membership of the Student Conduct Board is trained for at least 8 hours³ annually by the Student Conduct System Administrator and the Title IX Coordinator.

In cases in which a full conduct board cannot be assembled in a timely manner, or where a potential conflict of interest prevents the assembly of a full conduct board, trained former members of the conduct board may be asked to serve on a temporary basis.

For each Level 3 violation for which a complaint is filed, a minimum of a three-person Review Committee will be chosen from the available Student Conduct Board members to review and adjudicate the complaint or refer the complaint to a full Student Conduct Board Hearing. This Review Committee is always comprised of at least one student, but can never be made up solely of students. Member availability may result in the Review Committee having a different composition at different points in time.

In complaints involving gender discrimination, sexual misconduct, or other Title IX issues, the Student Conduct System Administrator will gather a minimum of three administrative/staff members for the Hearing Panel. The Student Conduct System Administrator serves as the non-voting chair of the Hearing Panel, who assures that University procedures are followed throughout the process.

D. Student Conduct Officers

³ Minimal competence requires 8 hours of training, and panel members ought to be more than minimally competent.

The Vice President for Student Life; the Assistant Dean for Student Success and Campus Community; the Assistant Dean for Student Success and Residential Education; and the Residential Education Coordinators may serve as Student Conduct Officers during Educational Conferences.

The Student Conduct System Administrator (or designee) is also a non-voting advisor to the Student Conduct Board. The Student Conduct System Administrator is responsible for training the Student Conduct Board, conducting preliminary investigations, and ensuring a fair process for both the party bringing the complaint and the responding student. Decisions made, and sanctions imposed, by the Student Conduct Board, or by a Student Conduct Officer will be final and implemented, pending the normal appeal process.

E. The Appellate Panel

A four-member Appellate Panel is comprised of one staff member, one faculty member, one staff or faculty member, and one student, and is appointed by the University President. The Appellate Panel reviews appeal requests submitted to the Student Conduct System Administrator.

SECTION 10: APPEALS

A. A decision reached by the Student Conduct Board or a sanction imposed by the Student Conduct Board may be appealed by the complainant or the respondent to the Student Conduct Appellate Panel. An individual or organization may appeal only one time for each Student Conduct Board decision. Such appeals will be in writing and will be delivered to the Student Conduct System Administrator within five days of receipt of the notice of the Student Conduct Board's decision. For situations in which new information becomes available beyond the five day limit, the five day deadline for an appeal may be waived on a case by case basis.

B. Except as required to explain the basis of new information, an appeal will be limited to review of the taped or transcribed record of the initial hearing and supporting documents for one or more of the following purposes:

1. To determine whether the original Student Conduct Board hearing was conducted fairly in light of the complaint and the information presented, and in conformity with prescribed procedures giving the complainant a reasonable opportunity to prepare and present information that the Code of Student Conduct was violated, and giving the responding student a reasonable opportunity to prepare and present a response to the complaint.
2. To determine whether the decision reached regarding the respondent was based on substantial information, that is, whether the facts in the case were sufficient to establish that it was more likely than not that misconduct as described in the Code of Student Conduct did occur.
3. To determine whether the sanction(s) imposed were appropriate for the misconduct for which the respondent was found responsible.
4. To consider new information, sufficient to alter a decision or other relevant facts not brought out in the original hearing, because such information and/or

facts were not known to the person appealing at the time of the original Student Conduct Board hearing.

C. A decision by the Student Conduct Appellate Panel to uphold the original decision of the Student Conduct Board is final and binding upon all involved. However, at the conclusion of any appeal, the Student Conduct Appellate Panel will forward the appeal file and resulting correspondence to the President of the University, who may or may not reverse, affirm, modify or provide post relief of a previous judgment.

D. If the Student Conduct Appellate Panel upholds the appeal, the members will determine whether to return the matter with written guidance to the Student Conduct Board for reconsideration, or to make a final decision themselves.

E. All decisions regarding appeals will be communicated in writing within ten days of the filing of the appeal to the complainant(s), the respondent(s), and the Student Conduct Board.

SECTION 11: INTERPRETATION AND REVISION

The Student Conduct System Administrator may vary procedures with notice upon determining that changes to local, state, or federal law or regulation require policy or procedural alterations not reflected in this Code. The Student Conduct System Administrator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party. Any question of interpretation of the *Code of Student Conduct* will be referred to the Vice President for Student Life, whose interpretation is final. The *Code of Student Conduct* will be updated annually under the direction of the Student Conduct System Administrator with a comprehensive revision process being conducted every three years.

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