

# NEBRASKA WESLEYAN UNIVERSITY

## Procedures for Addressing Student Sexual Misconduct and Sexual Harassment

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 this document in Section III – Definitions. 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

These procedures apply to Students, defined as any person enrolled in courses at the University, both full-time and part-time, including study abroad and auditing courses, and pursuing undergraduate or graduate studies. This policy pertains to acts of sexual misconduct committed by or against Students when:

- The conduct occurs on University grounds or other property owned or controlled by the University;
- The conduct occurs in the context of a University employment or education program or activity, including, but not limited to, University-sponsored study abroad, research, on-line, or internship programs; or
- The conduct occurs outside the context of University employment, education program, or activity but has adverse effects 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, education program, or activity.

#### **Group Violations:**

A Student Organization and its officers and membership may be held collectively and individually responsible when violations of this policy 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 leadership; or
- Were known or should have been known to the membership or its officers.

There is no minimum number of members who must be involved in a violation of the Sexual Misconduct and Sexual Harassment Policy for disciplinary action to be taken against the Student Organization. In order to decide whether the Student Organization is accountable for the misconduct of individual members, it must be determined whether it is likely that the individuals would have acted if they were not members of the group; if the group, either directly or indirectly, encouraged the behavior; or if the behavior was intentionally ignored.

The process to address sexual misconduct involving ~~students and~~ staff, faculty, or third parties are detailed in the Procedures for Addressing Faculty and Staff Sexual Misconduct and Sexual Harassment.

## II. Supports

**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, Omaha Campus - Room 103, (402) 827-3555, 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, 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](mailto:advocate@nebrwesleyan.edu); Voices of Hope 27/4 Support: 402-475-7273

- **Counseling Services:** is located at 2641 N. 49<sup>th</sup> Street (49<sup>th</sup> & 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](mailto:counseling@nebrwesleyan.edu); (402) 465-2464.
- **University Ministries:** is located in Old Main – Room 105; [ebousson@nebrwesleyan.edu](mailto:ebousson@nebrwesleyan.edu); (402) 465-2222
- **WCA (Women’s Center for Advancement):** 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](mailto:info@wcaomaha.org); Office Phone: (402) 345-6555; WCA 24/7 Support: 402-345-7273.

### 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, Hearing, and 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 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 without being required to report to a Title IX Coordinator.

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

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

**Investigators:** trained University-appointed faculty or staff members who, in allegations of sexual misconduct or sexual harassment, conduct an investigation, and prepare an official written report (the 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 confidential by the University; Responsible Employees are required to report the 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.

**Student Conduct Appellate Panel:** three faculty and staff members appointed by the President of the University to consider an appeal from a Complainant or Respondent in Complaints of sexual misconduct that involve only students.

**Student Conduct System Administrator:** the Vice President for Student Life or their designee who oversees the implementation of student conduct related policies and procedures and provides training to the Student Conduct Board, including the Title IX Review Panel, Title IX Hearing Panel, and Student Conduct Appellate Panel.

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

**Title IX Review Panel:** a group of three faculty and staff members (at least one faculty member and one staff member) who review the Investigative Report, determine a finding of "responsible" or "not responsible", determine any sanctions, or refer the matter to the Title IX Hearing Panel for further review.

**Title IX Hearing Panel:** a group of five faculty and staff members assigned to review the Investigative Report; interview Complainants, Respondents, and witnesses; and examine other available information as part of a Title IX Hearing. Hearing Panels members will determine a finding of "responsible" or "not responsible" and determine sanctions, when applicable.

**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 students may no longer be affiliated with the University. If an individual is no longer a Student 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.

### **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 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 the relevant details (obtained directly or indirectly) about an incident of sexual misconduct that involves any student 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 Lincoln Students:** Natasha Sutliff, Smith Curtis 330H, (402) 432-6925, [titleix@nebrwesleyan.edu](mailto:titleix@nebrwesleyan.edu)
- **Title IX Coordinator for Omaha Students:** Amy Harrison, Omaha Campus - Room 103, (402) 827-3555, [aharriso@nebrwesleyan.edu](mailto:aharriso@nebrwesleyan.edu) or [titleix@nebrwesleyan.edu](mailto: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 minor policy violations, such as underage drinking, at the time of the incident.
- **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.
- **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.
- **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, 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, 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.

**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 prevent to 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 15<sup>th</sup> 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 report 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 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 to provide support and guidance throughout the initiation, investigation, and resolution of a report of sexual misconduct. 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 their safety and 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 include but are not limited to: the issuing of a No Contact Order, change of work assignment, change of living space, interim suspension, change of class schedule, and/or security escort.

## **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 they are assisting. The Title IX Coordinator will not allow an Advisor of Choice's presence to inhibit their ability to gather information.

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

- Assess the nature of the reported misconduct to determine if the conduct is a 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 After Filing a Complaint.

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 the relevant details as reported to the Title IX Coordinator and will be shared with the Investigator and Student Conduct System Administrator 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 ~~and due process~~.

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 the 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 student they are assisting. The Title IX Coordinator will not **unduly** allow an Advisor of Choice's presence to inhibit their ability to gather information.



Before the start of an investigation, the Title IX Coordinator will simultaneously send written notice of the Complaint to the Complainant and Respondent. At this time, the Title IX Coordinator will also set up an informational meeting between the Student Conduct System Administrator and Complainant and Respondent, separately. The Student Conduct System Administrator will provide detailed information about the resolution process, including the right to decide whether or not to participate in the process.

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

The Investigator will contact the Complainant, Respondent, and relevant witnesses to schedule an interview. The Investigator is solely responsible for all aspects of the investigation. The University has designated staff and faculty members as Investigators of sexual misconduct Complaints; Investigators receive training annually. At its discretion, the University may also include or assign trained external investigators of its choosing.

The Complainant and Respondent may bring an Advisor of Choice to their interview. 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 student they are assisting. The Investigator will not unduly allow an Advisor of Choice's presence to inhibit their ability to gather information. 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. Scheduling, University closures, or holidays may affect this timing as well.

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, including residence halls, 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. Both the Complainant and the Respondent may review this report (with witness names redacted) and will have the opportunity to share any resulting follow-up responses or information with the Investigator.

At the conclusion of the investigation, the Investigator will prepare a report setting forth the facts gathered and will make a recommendation of finding to be considered by the Title IX Review Panel. 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.

The final Investigative Report will be forwarded to the Title IX Coordinator and the Student Conduct System Administrator. Upon receipt of the investigative report, the Student Conduct System Administrator will notify all parties that the investigation is complete and provide information about next steps in the process.

## **VIII. Title IX Review Panel**

The Title IX Review Panel is responsible for reviewing the investigative report, determining responsibility, and, if necessary, assigning sanctions. The panel will be composed of three staff or faculty members (at least one staff and one faculty member) from the Student Conduct Board who have received specialized training in issues related to sexual misconduct. The Title IX Review Panel will reflect diversity in the gender of its members, when possible, and will not have a conflict of interest or prejudice for or against either the Complainant or the Respondent.

While reviewing the Investigative Report, the panel members may ask the investigator questions about details included in the report. The Student Conduct System Administrator will be present to answer questions related to policies and disciplinary procedures. If no additional information is needed, the Title IX Review Panel will determine the finding of "responsible" or "not responsible", based on a preponderance of the evidence presented and in consideration of the Investigator's recommendation. Title IX Review Panel members must arrive at a unanimous

decision when determining findings. The Student Conduct System Administrator will prepare a written summary of this meeting.

If a finding is made by unanimous decision, the Title IX Review Panel will determine sanction(s), if necessary, taking into consideration any remedy the Complainant may have requested.

In the event the Respondent is a Student Organization, individual determinations of responsibility will be made, and sanctions may be assigned collectively and/or individually, depending on the circumstances of the Complaint. Sanctions will be proportionate to the involvement of each individual and the organization.

If the Title IX Review Panel determines that additional information is needed, or if the panel fails to arrive at a unanimous decision, the Student Conduct System Administrator will convene a Title IX Hearing.

The Complainant, Respondent, and Title IX Coordinator will be notified of the outcome of the Title IX Review Panel by the Student Conduct System Administrator. This information will be delivered in person as well as in writing.

In order to comply with laws protecting the privacy of education records and to provide a process for the consideration of relevant evidence free of intimidation or pressure, documentation related to the Title IX resolution process, including, but not limited to, the Title IX Assessment Report, Investigative Report, written testimony, oral testimony, other evidence introduced, or any written summary of the deliberations, will not be disseminated except as authorized or required by law. The University will maintain these records for seven years from the date of the incident, or indefinitely in cases involving a sanction of suspension or expulsion.

## **IX. Title IX Hearing**

The Title IX Hearing Panel is responsible for reviewing the Investigative Report, hearing oral testimony, determining responsibility, and, if necessary, assigning sanctions in situations when the Title IX Review Panel cannot render a finding due to lack of information or does not come to a unanimous decision. The Title IX Hearing Panel will be composed of five faculty and staff members of the Student Conduct Board who have received specialized training in issues related to sexual misconduct. The Title IX Hearing Panel will not have a conflict of interest or prejudice for or against either the Complainant or the Respondent. In cases in which a full hearing panel cannot be assembled in a timely manner, or where a potential conflict of interest prevents the assembly of a full hearing panel, trained former members of the Student Conduct Board may be asked to serve on a temporary basis.

The Student Conduct System Administrator will notify the Complainant and Respondent of the Title IX Hearing and convene the Title IX Hearing Panel. The hearing will be closed to the public. Present at the hearing will be the Title IX Hearing Panel, the Student Conduct System Administrator, and the Investigator. In addition, University Counsel may be present. The Complainant and Respondent may be present during the hearing; however, they have the right to decline to appear or participate. The Complainant and Respondent will appear before the panel separately and will not have the right to be present during the other's interview.

In addition, the Complainant and Respondent may each have one Advisor of Choice present to support and assist them during the Title IX Hearing. The Advisor of Choice may be an attorney. The Advisor of Choice cannot participate directly in the hearing and cannot direct questions or comments to the Title IX Hearing Panel or be present during the interviews of any witnesses,

but they may consult with the student they are assisting. The Student Conduct System Administrator will not allow an Advisor of Choice's presence to inhibit the parties' open testimony or the conduct of the hearing. The Advisor of Choice must sign the Role of Advisor of Choice form and return it to the Student Conduct System Administrator no less than two days in advance of the hearing.

The Title IX Hearing Panel will always interview the Complainant before the Respondent. If the Complainant chooses not to appear before the panel, the panel reserves the right to render a finding based on evidence submitted.

The Title IX Hearing Panel will then interview the Respondent. If the Respondent chooses not to appear before the panel, the panel reserves the right to render a finding based on evidence submitted.

If deemed necessary, after interviewing the Complainant and Respondent, the Title IX Hearing Panel has the discretion to interview witnesses who, in the judgment of the Panel, can provide information relevant to the reported misconduct that is not clearly provided in the Investigator's report. Neither the Complainant nor Respondent has the right to be present during witness interviews or have access to statements made by witnesses during the hearing. The Hearing Panel has the discretion to disclose to either party information gained from witnesses if, in its judgment, such disclosure would further the purpose of the proceeding. The Hearing Panel shall keep witnesses' names confidential. The Hearing Panel may request subsequent interviews with the Complainant, Respondent, or witnesses. There will be a single record, kept in the form of an audio or video recording, of all interviews before the Title IX Hearing Panel. This record is the sole property of the University; no other parties are permitted to record the proceedings.

Once the Title IX Hearing has concluded, the Title IX Hearing Panel will begin post-hearing deliberations. The Panel will review the evidence gathered and determine a finding of "responsible" or "not responsible" based on a preponderance of the evidence. The final determination will be based on a majority decision of the Title IX Hearing Panel. The Student Conduct System Administrator will prepare a written summary of ~~the deliberations~~ their Findings, Conclusions, and Sanctions, if any. There will be no audio or video recording of the post-hearing deliberations.

Should the Hearing Panel render a finding of "responsible", Hearing Panel members will assign sanctions. In the event the Respondent is a Student Organization, individual determinations of responsibility will be made, and sanctions may be assigned collectively and/or individually, depending on the circumstances of the Complaint. Sanctions will be proportionate to the involvement of each individual and the organization.

In order to comply with laws protecting the privacy of education records and to provide a process for the consideration of relevant evidence free of intimidation or pressure, documentation related to the Title IX resolution process, including, but not limited to, the Title IX Assessment Report, Investigative report, written testimony, oral testimony, other evidence introduced, or any written summary of the deliberations, will not be disseminated to third parties or law enforcement, except as required by law. The University will maintain these records for seven years from the date of the incident, or indefinitely in cases involving a sanction of suspension or expulsion.

## **X. Notice of Findings**

The Student Conduct System Administrator 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 Title IX Review Panel or Title IX Hearing Panel. In most circumstances, the notice of findings will also be delivered in person.

## **XI. Sanctions**

Sanctions for student violations of the Sexual Misconduct and Sexual Harassment Policy are listed in the Student Code of Conduct, Section 8, page 24. The full range of sanctions, up to and including expulsion, may apply to any violation of the Sexual Misconduct and Sexual Harassment Policy. Sanctions will be determined by the Title IX Review Panel or Title IX Hearing Panel.

## **XII. Appeals**

A Complainant or Respondent may choose to appeal either the findings of the Review or Hearing Panel, or a sanction imposed by the Review or Hearing Panel. The Student Conduct Appellate Panel reviews appeals and makes decisions to uphold either the appeal or the decision of the Title IX Review or Hearing Panel. The Appellate Panel will be composed of three staff or faculty members (at least one staff and one faculty member) appointed by the President of the University. Members of the Student Conduct Appellate Panel will serve two-year terms and can be reappointed. The Student Conduct System Administrator will see that any new appointees receive appropriate training and resources to fulfill this role.

A Complainant or Respondent may submit one appeal. An appeal must address all concerns related to the findings and/or sanctions determined by the Title IX Review or Hearing Panel. Appeals must be submitted to the Student Conduct System Administrator within five days of receipt of the Notice of Findings. The electronic form to submit the appeal can be found here: [https://cm.maxient.com/reportingform.php?NebrWesleyanUniv&layout\\_id=10](https://cm.maxient.com/reportingform.php?NebrWesleyanUniv&layout_id=10)

Subject to the approval of the Student Conduct System Administrator, this period may be extended if new information, sufficient to alter a decision is discovered.

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

- To determine whether the investigation, Title IX Review Panel, and/or Title IX Hearing Panel deliberations were conducted fairly and in accordance with the University’s procedures;
- To determine whether the Complainant was given a reasonable opportunity to prepare and present information that the Sexual Misconduct and Sexual Harassment policy was violated, and whether the Respondent was given a reasonable opportunity to prepare a response to the Complaint;
- 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 proceedings, because the person appealing did not know such information

and/or facts at the time of the original Title IX Review Panel and/or Title IX Hearing Panel deliberations.

Upon receipt of an appeal, the Student Conduct System Administrator will convene the Student Conduct Appellate Panel and will deliver to panel participants the appeal, the Investigative Report, verbatim record of the Title IX Hearing (if applicable), the Title IX Assessment Summary, and any other written materials submitted at the deliberations/hearing.

The Student Conduct Appellate Panel will review all available documentation. Based on the information provided, the Appellate Panel may:

- Affirm the findings and/or sanctions determined by the Title IX Review or Hearing Panel;
- Reverse the findings and/or modify the sanctions determined by the Title IX Review or Hearing Panel; or
- Return the matter with written guidance to the Student Conduct System Administrator for reconsideration by the panel who rendered the original finding.

The case will also be referred back to panel who rendered the original finding when there is new information that may significantly impact the outcome of the Complaint.

Once the Appellate Panel has completed their review, the Student Conduct System Administrator will forward the appeal file to the President of the University, who may reverse, affirm, modify or provide post relief of a previous finding. The President will prepare a document stating their decision. The President's decision is final and binding. The President will notify the Student Conduct System Administrator when the review is complete and notifications may be sent to the Complainant and Respondent. The document prepared by the President will be provided to the Complainant, Respondent, Student Conduct System Administrator and Title IX Coordinator.

The Student Conduct System Administrator will notify the Complainant, Respondent, and the Title IX Coordinator of the outcome of the appeal. This document will include the reasoning for the Appellate Panel and/or President's decision.

The Student Conduct System Administrator will make a reasonable effort to complete the appeal 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.

### **XIII. Additional Information**

Students who leave the University before a conduct complaint is resolved may be prohibited from future 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 DATE. ~~Reports~~ Incidents of sexual misconduct ~~received~~ committed on or after this date will be subject to this version of procedures.