



Sexual Misconduct Policy addressed under the 2020 Final Rule for Federal Title IX Regulations



NEBRASKA
WESLEYAN
UNIVERSITY

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This policy applies to sexual harassment and sexual misconduct of all forms, including sexual and gender-based harassment/bullying, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation within the jurisdictions of the 2020 Final Rule for Federal Title IX Regulations.

Sexual harassment, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation are broad terms intended to capture a spectrum of behavior labeled sexual misconduct. These terms are specifically defined in Section V – Prohibited Conduct, of this document.

This policy is based on the 2020 Final Rule for Title IX of the Education Amendments of 1972 (Title IX), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), and corresponding guidance from the Department of Education.

I. Statement of Intent

Nebraska Wesleyan University (“University”) is committed to establishing and maintaining a community that is free from all forms of discrimination and illegal harassment. The University seeks to create an environment in which the greatest academic potential of students and professional potential of employees may be realized. In order to create and maintain such an environment, the University recognizes that all who work and learn at the University are responsible for ensuring that the community is free from illegal discrimination based on sex, gender, gender identity, or sexual orientation, including sexual harassment, sexual assault, stalking, sexual exploitation, dating violence, and domestic violence. These behaviors threaten our learning, living, and work environments and are considered prohibited conduct for all University Students and Employees.

When the Title IX Coordinator (or designee) has actual knowledge of allegations of sexual harassment and sexual misconduct, it will take prompt action while ensuring fundamental fairness for all parties. The Title IX Coordinator oversees the University’s response to all allegations of sexual harassment and sexual misconduct which fall under the 2020 Final Rule for Federal Title IX Regulations. To make a report, contact titleix@nebrwesleyan.edu or connect with the appropriate staff member:

- Head Title IX Coordinator: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, mharder@nebrwesleyan.edu

- Deputy Title IX Coordinator: Natasha Sutliff, Nebraska Wesleyan University, Smith Curtis 325, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 432-6925, nsutliff@nebrwesleyan.edu or titleix@nebrwesleyan.edu

The Head Title IX Coordinator, or designee, will manage reports and complaints for Employees. The Deputy Title IX Coordinator, or designee, will manage reports and complaints for Students. All reports and complaints of sexual harassment and sexual misconduct made to a Title IX Coordinator, or any official who has authority to institute corrective measures on behalf of the University, will trigger the mandatory response of the University.

II. Jurisdiction

This policy applies to:

- **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.
- **Students:** Any person enrolled in courses at the University, both full-time and part-time, pursuing undergraduate or graduate studies, including those who audit courses.
- **Student Organizations:** Any group of persons who have complied with the formal requirements for University recognition as an organization or University-sponsored team.
- **Third Parties:** Any person or entity providing services for the University or visiting the University. This includes, but is not limited to, contractors, vendors, visitors, guests, volunteers, or other third parties within the University's control.

This policy follows the 2020 Final Rule for Federal Title IX Regulations and pertains to acts of Prohibited Conduct (defined in Section V – Prohibited Conduct, of this document) when:

- The conduct occurs on University grounds or other property owned or controlled by the University;
- The conduct occurs in the context of University employment or an education program or University-sponsored activity within the United States, including, but not limited to, school trips, research, on-line classes or meetings, or internship programs;
- The University has substantial control over both the respondent and the context in which the sexual harassment or sexual misconduct occurs; or
- The conduct occurs on property owned or in buildings controlled by any officially-recognized student organization.

All Formal Complaints under this policy must be made and resolved while the parties are participating in or attempting to participate in the education program, employment, or activity of the University. Furthermore, the University retains jurisdiction over students who have withdrawn from courses or who have been temporarily separated from the University due to sanctions imposed by the University; their status is categorized as a student attempting to participate in an education program or activity of the University.

The University retains jurisdiction over students who graduated for misconduct that occurred prior to graduation through the NWU Sexual Misconduct Outside of Federal Title IX Regulations Policy. Misconduct, if determined to have occurred, may result in a hold placed on the

graduated student's ability to obtain official transcripts and/or graduate, and all sanctions must be satisfied prior to re-enrollment eligibility. The University also may elect to retain jurisdiction over students who are not currently enrolled, or are not attempting to participate in NWU's education programs if deemed necessary to protect a student's access to educational services and resources.

Additionally, sexual harassment and sexual misconduct by an Employee prior to a leave of absence and/or misconduct that falls outside of the 2020 Final Rule for Federal Title IX Regulations will be addressed using the NWU Sexual Misconduct Outside of Federal Title IX Regulations Policy and related procedures in consultation with the Staff and Faculty Handbooks.

III. Notice of Non-Discrimination

Nebraska Wesleyan provides equal opportunity to all qualified persons in all areas of University operation, including education, employment, and decisions regarding faculty appointment, promotion or tenure, without regard to race, religion, age, sex, creed, color, disability, marital status, national or ethnic origin, ancestry, sexual orientation, gender identity, genetic material, or any other legally protected class under city, state, or federal law.

IV. Privacy and Confidentiality

The University is committed to protecting the privacy of all individuals involved in a report of sexual harassment and sexual misconduct, whenever possible. A report to a confidential employee will remain confidential and will not be deemed "actual knowledge" by the University. Once a report is made to the Title IX Coordinator (or designee), however, reasonable efforts will be made to protect the privacy of all individuals involved in a manner consistent with the need for a thorough review of the reported information. Privacy means that once the Title IX Coordinator has received a report of sexual harassment or sexual misconduct, information related to the report of sexual harassment or sexual misconduct will only be shared with individuals who "need to know" in order to assist in the assessment, investigation, and resolution process. Individuals who are involved in the University's Title IX response receive specific training and guidance about safeguarding private information. Annual training programs include, but are not limited to, the definition of sexual harassment, the scope of the University's education program or activity, how to conduct an investigation and resolution process including hearings, appeals, and how to serve impartially, including to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Moreover, any materials used to train Title IX Coordinators, investigators, and hearing decision-makers do not rely on sex stereotypes and promotes impartial investigations and adjudications of formal complaints of sexual harassment. Training materials can be found on the NWU Title IX website.

While the privacy of Student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), as outlined in the University's FERPA policy, 2020 Final Rule of Federal Title IX regulations and related procedures may outweigh FERPA protections.

Confidentiality exists in the context of laws that protect certain relationships, including relationships with mental health providers (and those who provide administrative services related to the provision of mental health care), counselors, victim advocates, and ordained clergy, all of whom may engage in confidential communications under Nebraska law. The University has designated individuals able to have confidential communications as "Confidential Employees." A report to these "Confidential Employees" will not be considered actual knowledge, or notice to the University, of the alleged occurrence, but will allow the harmed party to proceed as they so choose. Confidential Employees are further defined in Section VI – Reporting, of this document.

The University has the right to share appropriate information with Law Enforcement to ensure campus safety. All employees, including Confidential Employees, are mandatory reporters of suspected abuse or neglect of a vulnerable adult or abuse of a minor by an adult, including sexual/physical assault, witness to domestic violence, dating/intimate partner violence, and stalking. In Nebraska, minors are considered all persons under the age of 19.

V. Prohibited Conduct

The 2020 Final Rule for Federal Title IX Regulations identifies three types of misconduct that constitute **Sexual Harassment**:

1. quid pro quo harassment by any University Employee;
2. any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal employment or educational access; and
3. any instance of sexual assault (as defined in the Clery Act), dating violence/domestic violence, or stalking (as defined in the Violence Against Women Act (VAWA)).

Clery Act Definitions of Violence Against Women Act Crimes

Sexual assault, as defined in 20 U.S.C. § 1092(f)(6)(A)(v), means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation:

1. Sex Offenses, Forcible—Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.
 - a. Rape—(Except Statutory Rape) The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
 - b. Sodomy—Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

- c. Sexual Assault With An Object—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity
 - d. Fondling—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity
- 2. Sex Offenses, Non-forcible—(Except Prostitution Offenses) Unlawful, non-forcible sexual intercourse.
 - a. Incest—Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law
 - b. Statutory Rape—Non-Forcible sexual intercourse with a person who is under the statutory age of consent
- 3. Dating violence, as defined in 34 U.S.C. § 12291(a)(10), which means violence committed by a person—
 - a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship.
 - ii. The type of relationship.
 - iii. The frequency of interaction between the persons involved in the relationship.
- 4. Domestic violence, as defined in 34 U.S.C. § 12291(a)(8), which includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

A **Crime of Violence** is an offense that has an element of the use, attempted use, or threatened use of physical force against the person or property of another, or any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

5. Stalking, as defined in 34 U.S.C. § 12291(a)(30), which means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
 - a. fear for his or her safety or the safety of others; or
 - b. suffer substantial emotional distress.

Elements of Consent as it relates to Prohibited Conduct

Consent is 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 stop and clarify 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.

Consent is not present when there is sexual contact with someone who is known, or should have been known, to be **incapacitated** or otherwise mentally or physically incapable of resisting or appraising the nature of conduct. Likewise, consent is not present if the use of **force** or **coercion** of another person to engage in sexual contact against their will has occurred.

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.

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 physically 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 or impairment from alcohol and other drugs vary from person to person (e.g. vomiting, sleeping, blacking out, unconsciousness). Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual assault or harassment in any form and does not diminish the responsibility to obtain informed and freely given consent.

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 harassment or 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 under University policies and related procedures, just as a complaint of sexual harassment is handled.

Non-compliance with a No/Limited Contact Order: Failure to comply with the directives of a No/Limited Contact Order administered by the Title IX Office, will also be addressed as a separate violation of University policies.

*Please Note: As permitted by the 2020 Final Rule for Federal Title IX Regulations, the University recognizes additional forms of sexual harassment and sexual misconduct that fall outside the scope of the 2020 Final Rule in a separate University policy. Refer to the NWU Sexual Misconduct Policy Outside the 2020 Final Rule for Federal Title IX Regulations to reference further definitions of sexual harassment and sexual misconduct recognized by the University as Prohibited Conduct.

VI. Reporting

There are multiple channels for reporting sexual harassment and sexual misconduct. An individual may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. An individual may simultaneously pursue a criminal investigation and the University sexual harassment and sexual misconduct resolution process. The Title IX Coordinator will support all parties involved in understanding and assessing all options. Questions should be directed to a Title IX Coordinator.

Reporting to the University: The University encourages anyone who becomes aware of an incident of sexual harassment or sexual misconduct to promptly report the incident to a Title IX Coordinator. Any Campus Security Authority (CSA) identified by the University who receives a disclosure of sexual harassment or sexual misconduct by a harmed party or witness is required to report to the Title IX Office. While there is no time limit for reporting sexual harassment or sexual misconduct to the University, the University's ability to respond may diminish over time, as evidence may erode, memories fade, and individuals may no longer be affiliated with the University. If an individual is no longer affiliated with the University, the University will provide reasonably appropriate supportive measures, assist individuals in identifying external and/or other internal reporting options, and take reasonable steps to eliminate sexual harassment and sexual misconduct, prevent its recurrence, and remedy its effects.

Anonymous Reporting to the University: Individuals may report sexual harassment and sexual misconduct concerns anonymously to the University through the University website by clicking on the link [Report a Concern](#), located at the bottom of every webpage. Please note, the University may be limited in its ability to respond to concerns reported anonymously or reports without sufficient details.

Making a Report vs. Filing a Formal Complaint:

Making a Report is the notification of an incident of sexual harassment or sexual misconduct to a Title IX Coordinator by any Reporting Party. A report may be accompanied by a request for any of the following: resources, no further action, supportive measures, and/or initiation of the Formal Complaint process. The University recognizes that not every individual will be prepared to request supportive measures or to file a Formal Complaint; therefore, Reporting Parties may pursue these options any time in the future. Individuals are not expected or required to pursue any specific course of action.

The University will make a reasonable effort to respect the wishes of the person who experienced sexual harassment or sexual misconduct.

The University reserves the right to file a formal complaint over the complainant's objection if the University deems it in the University's best interest to do so, including without limitation in order to render the respondent eligible for potential disciplinary sanction following the completion of a resolution process that complies with Section 106.45 of the 2020 Final Rule for Federal Title IX Regulations. This is done by the Title IX Coordinator signing a Formal Complaint, on behalf of the University, and can be done with or without consent/permission of the original Complainant. Upon the filing of the Formal Complaint, the Title IX Coordinator will not become a party to the procedure.

To ensure the harmed party of sexual harassment or sexual misconduct is informed of their rights and options, Campus Security Authorities (excluding Confidential Employees) will be required to report the relevant details about an incident of sexual harassment or sexual misconduct that involves any Student or Employee as a Complainant, Respondent, and/or Witness. This includes dates, times, locations, and names of parties and witnesses, if known. The Title IX Coordinator will contact the harmed party to provide information and ask how they wish to proceed.

Filing a Formal Complaint is a request to initiate either the University's formal Title IX investigative and resolution process or informal resolution process. A **Formal Complaint** is a signed, written formal allegation against an individual for violation of the University's sexual harassment and sexual misconduct policies that is submitted by the Harmed Party, parent of the Harmed Party or the Title IX Coordinator. The decision to file a Formal Complaint may be made at any time during Title IX jurisdictional time frames. A Report or Formal Complaint can be made at any time via email, phone, physical mail, or in person during regular business hours.

Title IX Coordinators: Nebraska Wesleyan University has two Title IX Coordinators, each responding to specific members of the campus community. The Coordinators oversee Nebraska Wesleyan University's processes regarding the review, investigation, and resolution of reports of

sexual harassment and sexual misconduct. A report can be made at any time via email, phone, or physical mail, or in person during regular business hours.

- Head Title IX Coordinator: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, mharder@nebrwesleyan.edu
- Deputy Title IX Coordinator: Natasha Sutliff, Nebraska Wesleyan University, Smith Curtis 325, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 432-6925, nsutliff@nebrwesleyan.edu or titleix@nebrwesleyan.edu

The Head Title IX Coordinator, or designee, will manage reports and complaints for Faculty and Staff. The Deputy Title IX Coordinator, or designee, will manage reports and complaints for Students. All reports and complaints of sexual harassment and sexual misconduct made to a Title IX Coordinator, or any official who has authority to institute corrective measures on behalf of the University, will trigger the mandatory response of the University.

A "**Confidential Employee**" is an individual designated by the University to provide support to Students and Employees without being required to report to a Title IX Coordinator. The University has identified the Voices of Hope Campus Advocate, the University Minister, Counselors within NWU Counseling Services (for Students), and the Employee Assistance Program (for Employees) as Confidential Employees.

When an individual shares information with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee cannot reveal the information to any third party except when an applicable law or court order requires or permits disclosure of such information. For example, information will be disclosed when:

1. The individual gives written consent for the disclosure;
2. There is concern that the individual will likely cause serious physical harm to self or others; or
3. The information concerns conduct involving suspected abuse or neglect of a vulnerable adult or abuse of a minor by an adult. In Nebraska, minors are considered anyone under the age of 19.

Additionally, Confidential Employees must share non-identifying statistical information related to crimes found in the Annual Security Report with a Clery Compliance Officer, as required by the Clery Act.

Campus Security Authorities are required to report to a Title IX Coordinator all relevant details about an incident of sexual harassment or sexual misconduct, including dates, times, locations, and names of parties and witnesses, if known. Disclosure at public awareness events (e.g., "Take Back the Night") and certain research-based disclosures (e.g., where a Student is a subject in an Institutional Review Board-approved human subjects research project) will not trigger an individual investigation. Further, disclosures which occur as part of a classroom assignment will not require faculty or staff to report to a Title IX Coordinator, unless there is abuse or neglect of a vulnerable adult or abuse of a minor by an adult. Faculty and staff members are required to share reporting options with all students.

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

To Contact Lincoln or Omaha Police:

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

Anonymous Reporting to Law Enforcement:

There are options to report a sexual assault or other crimes to law enforcement anonymously. These processes vary depending on the police department receiving the report. Please note, law enforcement may be limited in their ability to respond to anonymous reports or reports without sufficient details.

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.

VII. Confidential Resources

As indicated in Section VI, a Confidential Employee or other confidential resource will not disclose information about sexual harassment or sexual misconduct without the Reporting Party's permission. Confidential Employees must share non-identifying statistical information related to crimes found in the Annual Security Report, as required by the Clery Act. A report to these "Confidential Employees" will not be considered Actual Knowledge, or notice to the University, of the alleged occurrence, but will allow the harmed party to proceed as they so choose.

Confidential Resources for Students:

- **Voices of Hope Campus Advocate:** provides free and confidential support to students, staff, and faculty to empower those who have experienced relationship violence, sexual assault, or abuse; 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. Voices of Hope is located at 2545 N St., Lincoln, NE 68510; advocate@nebrwesleyan.edu; or info@voicesofhopelincn.org; Office Phone: (402) 476-2110; Voices of Hope 24/7 Support: 402-475-7273.
- **NWU Counseling Services:** serves traditional undergraduate students. Counseling Services is located at 2641 N. 49th Street (49th & St. Paul Avenue) and is open Monday-Friday from 8:00 a.m. to 5:00 p.m.; counseling@nebrwesleyan.edu; (402) 465-2464.
- **University Minister:** can help students, faculty and staff and is located in Old Main - Room 105; 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; Office Phone: (402) 345-6555; WCA 24/7 Support: 402-345-7273.

Confidential Resources for Employees:

- **Directions EAP (Employee Assistance Program):** can help faculty and staff and is located at 1919 S. 40th Street, Ste. 212 in Lincoln, NE 68506; directionseap@directionseap.com; (402) 434-2900.
- **University Minister:** can help students, faculty and staff and is located in Old Main – Room 105; ebousson@nebrwesleyan.edu; (402) 465-2222.
- **Voices of Hope Campus Advocate:** provides free and confidential support to students, staff, and faculty to empower those who have experienced relationship violence, sexual assault, or abuse; 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. Voices of Hope is located at 2545 N St., Lincoln, NE 68510; advocate@nebrwesleyan.edu; or info@voicesofhopelincn.org; Office Phone: (402) 476-2110; Voices of Hope 24/7 Support: 402-475-7273.

VIII. Supportive Measures

The University offers a wide range of resources for Students and Employees to provide support and guidance throughout the initiation, investigation, and resolution of a report of sexual harassment or sexual misconduct. Upon receipt of Actual Knowledge, of an alleged occurrence of sexual harassment or sexual misconduct, the University will offer supportive measures to the alleged victim (“Complainant”). These offered measures will be reasonable and appropriate measures to facilitate continued access to University employment or education programs and activities for all involved parties. Non-disciplinary, non-punitive individualized services will be offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a report or formal complaint.

The University will keep private any supportive measures provided under this policy to the extent practicable and will promptly address any violation of the supportive measures. The Title

IX Coordinator has the discretion to determine the appropriateness of any supportive measure based on all available information and is available to meet with all involved parties to address any concerns about the provision of supportive measures. Supportive measures may include but are not limited to: facilitation of connections to on- and off-campus resources, issuance of a No Contact/Limited Contact Order, change of work or class assignment/location/schedule, change of living space, change of class schedule, and/or security escort.

IX. Resolution

The University has the responsibility to address sexual harassment and sexual misconduct that violates Federal Title IX and Clery Act regulations through the University's formal and informal resolution procedures for current Students and Employees. The resolution procedures are guided by the principle of fundamental fairness and respect for all parties, which requires notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a Formal Complaint under this policy. All parties involved with the University's sexual harassment and sexual misconduct resolution processes, including investigators and adjudicators, receive regular and ongoing training. Annual training programs include, but are not limited to, how to conduct an investigation and all resolution processes including informal resolution where applicable, hearings, appeals, and how to serve impartially, including how to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Training materials can be found on the NWU Title IX website. Training will include, among other topics required under Title IX, the fact that Title IX requires a presumption that the accused is not responsible, and that presumption applies throughout the resolution process (including the investigation, through the live hearing); and that the culmination of a formal complaint is to occur in a live hearing which allows cross examination. See 34 CFR 106.45(b)(1). For additional information about resolving Title IX Complaints, refer to the Resolution Procedures for Addressing Complaints of Sexual Misconduct under the 2020 Final Rule for Federal Title IX Regulations.

Any question of interpretation of this policy will be referred to the Head Title IX Coordinator. The Head Title IX Coordinator will consult with the University President, whose interpretation is final.

X. Additional Information

This document is thoroughly reviewed on an annual basis and may be updated periodically for accuracy and clarity. The most current version can be found on the Sexual Harassment and Sexual Misconduct Prevention and Response Page of the University's website.

The NWU Board of Governors approved this policy on September 10, 2021. All incidents of sexual harassment and sexual misconduct reported on or after this date will be subject to this policy. However, the University will apply sexual harassment and sexual misconduct definitions in effect at the time of the incident.