

# NEBRASKA WESLEYAN UNIVERSITY

## Procedures for Resolution of Complaints of Sexual Misconduct Against Students

*This policy applies to sexual misconduct of all forms, including sexual assault, sexual and gender-based harassment, stalking, and intimate partner violence.*

Sexual harassment, sexual misconduct, sexual assault, and intimate partner/relationship violence are broad terms designed to capture a spectrum of behavior. Sexual harassment, sexual assault, intimate partner/relationship violence, sexual exploitation, and stalking are specifically defined within the campus Sexual Misconduct and Harassment policy. In general, sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to incapacitation. In general, sexual misconduct is a broad term that refers to all of the prohibited behaviors under this policy. Hereinafter all behavior referenced in this policy will be termed sexual misconduct.

### **I. To Whom this Policy Applies**

This policy applies to Students defined as any person enrolled and taking courses at Nebraska Wesleyan 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 Prohibited Conduct 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 the University employment or education program or activity, but has continuing or adverse effects on the Complainant or creates a hostile environment for Students while on University Grounds or other property owned or controlled by the University or in any University employment or education program or activity.

### **II. Procedural Options**

As outlined in the Reporting section of the Sexual Misconduct and Harassment Policy, an individual who wishes to make a report of sexual misconduct is encouraged to make a report directly to the [Title IX Coordinator](#). In every report of sexual misconduct, the Title IX Coordinator will conduct a Title IX Assessment. At the conclusion of the Title IX Assessment, in consideration of the Complainant's wishes and the safety of the campus community, the report may be referred for remedial and protective measures

and/or investigation to determine if there is sufficient information to proceed with the sexual misconduct resolution process. Remedial and protective measures do not involve disciplinary action against a Respondent. The sexual misconduct resolution process is a sanctions-based approach that may involve discipline up to and including expulsion.

### III. Supports

**Title IX Coordinator:** The Nebraska Wesleyan University Title IX Coordinator is [T.J. McDowell, Jr.](#), Vice President for Campus Community, Smith Curtis - Room 303, (402) 465-2149, [tmcdowe2@nebrwesleyan.edu](mailto:tmcdowe2@nebrwesleyan.edu)

The Title IX Coordinator oversees Nebraska Wesleyan University's review, investigation, and resolution of reports of sexual misconduct or harassment. The Title IX Coordinator also ensures the University's compliance with [Title IX](#). The Title IX Coordinator can be contacted by telephone, email, or in person during regular office hours.

The Title IX Coordinator is:

- Responsible for oversight of the investigation and resolution of all reports of sexual misconduct or harassment;
- Knowledgeable and trained in relevant state and federal laws and University policy and procedures;
- Available to provide information to any individual, including a Complainant, a Respondent, or a third party, about the courses of action available at the University, both informally and formally;
- Available to provide assistance to any University community member regarding how to respond appropriately to reports of sexual misconduct or harassment;
- Responsible for oversight of sexual violence prevention education and employee training;
- Responsible for monitoring full compliance with all requirements and timelines specified in the complaint procedures; and
- Responsible for compiling annual reports.

**Deputy Title IX Coordinators:**

- [Dr. Susan Wortmann](#), Associate Professor of Sociology, Smith Curtis - Room 140F, (402) 465-2305, [swortman@nebrwesleyan.edu](mailto:swortman@nebrwesleyan.edu)
- [Amy Harrison](#), Academic Advisor - Omaha Adult and Graduate Programs, Omaha Campus - Room 103, (402) 827-3555, [aharriso@nebrwesleyan.edu](mailto:aharriso@nebrwesleyan.edu)

#### **Confidential Supports**

A Confidential Employee will not disclose information about Prohibited Conduct to the University's Title IX Coordinator without the reporting Student's permission (subject to the exception set forth in the Confidentiality section of this policy). The University has identified the Campus Advocate from Voices of Hope, Counseling Services, University Student Health Services, and University Ministries as Confidential Employees.

- **Campus Advocate (Voices of Hope):** An advocate can help students access on- and off-campus resources and can also support a student who chooses to report to the Title IX Coordinator. Lindsay Spaulding, NWU Campus Advocate

utilizes space in the GAP Office (Lower Level of Story Student Center) and Counseling Services; [lindsay@voicesofhopelincoln.org](mailto:lindsay@voicesofhopelincoln.org); (402) 465-2533.

- **Counseling Services:** Counseling Services is located at 2641 N. 49<sup>th</sup> Street (49<sup>th</sup> & St. Paul Avenue). Counseling Services serves students Monday-Friday from 8:00 a.m. to 5:00 p.m. (402) 465-2464.
- **Student Health Services:** Student Health Services is located on the First Floor of Burt Hall North. The Health Center is open Monday-Friday from 8:00 a.m. to 12:00 p.m. and from 1:00 p.m. to 5:00 p.m. Student Health Services is a walk-in clinic providing a variety of health services to students without cost (student fees cover most services).  
Nancy Newman, B.S., R.N.C. - (402) 465-2375, [njn@nebrwesleyan.edu](mailto:njn@nebrwesleyan.edu)  
Kim McLaughlin, R.N. - (402) 465-2377, [kam@nebrwesleyan.edu](mailto:kam@nebrwesleyan.edu)
- **University Ministries:** NWU University Ministries is located in Old Main - Room 105; [ebousson@nebrwesleyan.edu](mailto:ebousson@nebrwesleyan.edu); (402) 465-2222.

## IV. Title IX Assessment

Upon receipt of a report, the [Title IX Coordinator](#) or Deputy Title IX Coordinator, will provide resources and support information and will conduct an initial Title IX assessment.

The first step of the assessment will typically include a preliminary meeting between the Complainant and the Title IX Coordinator or Deputy Title IX Coordinator. The purpose of the preliminary 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. At this meeting, the Complainant will be provided with information about resources, procedural options, and interim measures/remedies. During this initial assessment, the Title IX Coordinator or Deputy Title IX Coordinator will make a reasonable assessment of the safety of the individual and the campus community and will determine whether the University has sufficient information to determine the appropriate course of action.

During the Title IX assessment, the Title IX Coordinator or Deputy Title IX Coordinator will:

- Assess the nature and circumstances of the Complaint;
- Address the immediate physical safety and emotional well-being of the Complainant and University community;
- Notify the Complainant of the range of interim measures and remedies, including options for changes in living, academic, working situations;
- Provide the Complainant with information about on- and off-campus resources including the Campus Advocate from Voices of Hope, on-campus counseling services, and an advisor of their choice;
- Obtain the Complainant's expressed preference for the manner of the solution and assess any barriers to proceeding;
- Provide the Complainant with an explanation of the limitations on the University's response should the Complainant wish to remain anonymous;
- Provide contact information for off-campus law enforcement;
- Determine if concerns exist for discrimination or harassment based on other protected classes;

- Explain the University's policy for confidentiality and prohibiting retaliation, as described in the Sexual Misconduct and 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 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 his or her designee;
- Enter non-identifying information about the report into the University's daily crime log if the report includes a Clery-reportable crime;
- Provide the Complainant with a written explanation of the Complainant's rights and options, including:
  - The right to report, or decline to report, the incident to law enforcement. The University is available to assist in this process;
  - The right to submit an application for a Protection Order from the local Court and/or a right to obtain a No Contact Order from the University;
  - The right and importance of seeking medical treatment to address physical health and to preserve evidence;
  - The right to file a Complaint through the University Complaint resolution process;
  - The right to receive an explanation of the University Complaint resolution process and the preponderance of the evidence standard of proof used to resolve the Complaint ("more likely than not");
  - The right to be provided a prompt, fair, and impartial investigation and resolution; and
  - The right to receive an explanation of potential remedies and resources, as well as possible sanctions against respondents.

The Title IX Coordinator or Deputy Title IX Coordinator will take all reasonable steps to respond to a Complaint consistent with a Complainant's request. However, the Title IX Coordinator's ability to do so may be limited based on the nature of a Complainant's request. Where a Complainant requests confidentiality, that a name or other identifiable information not be shared with the Respondent or that no formal action be taken, the University may be limited in its ability to fully respond to the Complaint. The University will balance the Complainant's requests with its responsibility to provide a safe and non-discriminatory environment for all University community members and to afford a Respondent fundamental fairness and due process. The Title IX Coordinator will also consider the interest of the Complainant and the Complainant's expressed preference for the manner of resolution. Where possible and as warranted by an assessment of the facts and circumstances, the University will seek action consistent with the Complainant's request.

*In the event that a Complainant does not wish to proceed with formal action, the Title IX Coordinator will decide, based on the available information, whether additional steps are required. In making this decision, the Title IX Coordinator or Deputy Title IX Coordinator will consider, but is not limited by, the following factors: whether the Complainant has requested confidentiality; whether the Complainant wants to*

participate in additional steps; the severity and impact of the sexual misconduct or harassment; the respective ages of the parties, including whether the Complainant is a minor under the age of 18; whether the University can undertake any action without the participation of the Complainant; whether the Respondent has a pattern of committing sexual misconduct; the existence of independent evidence; the extent of prior remedial methods taken with the Respondent; and any legal obligation to proceed based on the nature of the conduct.

At the conclusion of the Title IX assessment, the Title IX Coordinator or Deputy Title IX Coordinator will determine whether to refer the report for remedies-based resolution and/or further investigation. An investigation does not necessarily initiate a Title IX Hearing (see page 7). Even if an Investigation is not pursued, the University has the discretion to take interim measures that ensure Complainant and campus safety.

The Title IX Coordinator or Deputy Title IX Coordinator will discuss the determination with the Complainant and provide information to assist in understanding available resources and procedural options, which will be communicated to the Complainant in writing.

The Title IX Coordinator will notify the Respondent in writing within 5 days when the University seeks action that would impact the Respondent, such as protective measures that restrict the Respondent's movement on campus and/or the initiation of an investigation.

The University will inform the Complainant and the Respondent that retaliation is prohibited by law under the Violence Against Women Act (VAWA) and University policy and that the University will take strong responsive action to protect the safety of any individual. If the University determines that retaliation has occurred, it will not be tolerated and will result in disciplinary action.

The Title IX Coordinator will document each report or request for assistance in resolving a case involving charges of sexual misconduct or harassment, whether by the Complainant or a third party and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law.

## **V. Pre-Hearing Investigation**

After a Title IX assessment, if the Title IX Coordinator deems it appropriate, a formal investigation can be initiated by the University or requested by the Complainant. The initiation of an investigation does not necessarily mean that a Title IX Hearing is inevitable or that a Complainant must pursue the student conduct process. In matters initiated by the Complainant, it is the prerogative of the Complainant to decide whether to participate in the student conduct process, even after an investigation has begun or has been concluded.

It is not the burden of the Complainant, Respondent, or witnesses, or other community members to investigate these matters. The Investigator(s) is solely responsible for all aspects of the investigation. The University has designated specially trained staff and

faculty members as Investigators of sexual misconduct Complaints. These specially-trained Investigators receive regular training. At its discretion, the University may also include or assign trained external investigators of its choosing.

The Investigator(s) will conduct a thorough, impartial, and unbiased investigation. All individuals will be treated with appropriate compassion and respect and in a manner considerate of individual privacy concerns. An investigation may include multiple meetings with the investigator(s). 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. With the permission of the Complainant, the Investigator(s) will seek to obtain relevant communications between the parties, including electronic records, voice mail messages, social media, and/or letters. If needed, the Investigator may request permission from the Respondent to access additional relevant communications. The Complainant and Respondent will have an equal opportunity to participate in the investigation with an Advisor of Choice, provide statements, submit additional information, and/or identify witnesses who may have relevant information.

Once the investigation is initiated, it will typically be completed within 30 (thirty) 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. At the conclusion of the investigation, the Investigator(s) will prepare a report setting forth the facts gathered. The report will be factual in nature and will make a recommendation of finding to be considered by the Title IX Review Panel. During the investigation process, all those interviewed will have an opportunity to review their interview summaries for accuracy and submit modifications or additional information. Additionally, in the presence of the Title IX Investigator, both the Complainant and the Respondent may review all interview summaries (with witness names redacted), and will have the opportunity to share any resulting follow-up responses or information with the Title IX Investigator. Along with interview summaries, written statements, and other information the University deems relevant, the Investigator(s) may also include in the report prior allegations of, or findings of responsibility for, similar conduct by the Respondent. In evaluating Complaints, the Investigator(s) will use a 'preponderance of the evidence' standard (i.e., that it is more likely than not that sexual misconduct or harassment occurred).

Upon the conclusion of the investigation, the report will be forwarded to the Title IX Coordinator and the Student Conduct System Administrator responsible for initiating disciplinary resolution proceedings. 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.

## **VI. Deliberations**

The Title IX Review Panel will begin by reviewing the report prepared by the Investigator and will attempt to learn all that is relevant to the matter subject to the NWU Procedures for Resolution of Complaints of Sexual Misconduct Against Students and the Code of Student Conduct. If no additional information is needed, the Title IX Review

Panel will determine the finding of responsible or not responsible, considering the Investigator's recommendation. If the Respondent is found responsible, the Review Panel will determine sanction(s), taking into consideration the remedy the Complainant requested. The Student Conduct System Administrator will prepare a written summary of the deliberations.

If the Hearing Panel determines that additional information is needed, the Student Conduct System Administrator will convene a Title IX Hearing.

In order to comply with law protecting the privacy of education records of students and to provide an orderly process for the presentation and consideration of relevant evidence without intimidation or pressure, the deliberations and hearing process (if applicable – see VII. Title IX Hearing below) is confidential. Therefore, documents prepared in anticipation of the Title IX Hearing (notice of hearing, complaint, investigators' report, any written testimony or evidence), oral testimony, or other evidence introduced at the hearing, or any written summary of the hearing, will not be disseminated except as authorized by law.

## **VII. Title IX Hearing**

The Student Conduct System Administrator shall convene and facilitate the Title IX Hearing. The hearing shall be closed to the public. 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 Title IX Review Panel. Post-hearing deliberations will not be recorded. The Student Conduct System Administrator will prepare a written summary of the deliberations which follow a Title IX Hearing. Except as specifically outlined below, only the Title IX Review Panel, the Student Conduct System Administrator, the Investigator and University legal counsel will be allowed at the deliberations or the hearing.

Both the Complainant and the Respondent may have an 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 may not participate directly in the hearing and may not direct questions or comments to the Title IX Review 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 shall 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](#).

The Title IX Review Panel will always interview the Complainant before the Respondent. The Respondent shall not have the right to be present during the interview between the Complainant and the Title IX Review Panel. If the Complainant chooses not to appear, and the Review Panel is unable to make a finding without the Complainant's testimony, the Review Panel reserves the right to declare the complaint withdrawn and the case closed.

The Complainant shall not have the right to be present during the interview between the Respondent and the Title IX Review Panel. If the Respondent chooses not to appear

before the panel, the panel reserves the right to render a finding on the basis of evidence submitted.

If deemed necessary, after interviewing the Complainant and the Respondent, the Title IX Review Panel shall have 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 the Respondent has the right to be present during witness testimony or to have access to statements made by witnesses during the hearing. The Review Panel has the discretion to disclose to either party information gained from witness testimony if, in its judgment, such disclosure would further the purpose of the proceeding. The Review Panel shall keep witnesses' names confidential. The Review Panel may require subsequent interviews with the Complainant, the Respondent, or the witnesses.

## **VIII. Decisions – Notice of Outcome**

At the conclusion of the deliberations/hearing, the Title IX Review Panel will determine whether to uphold the recommendation of findings from the Investigator, or to rescind the recommendation. In making this determination, the Review Panel will use a 'preponderance of the evidence' standard (i.e., that it is more likely than not that sexual misconduct or harassment occurred). Further the Title IX Review Panel will:

- 1) Direct the Student Conduct System Administrator to prepare a notice of findings which will contain the following information: the name of the Respondent; whether the Respondent has been found responsible or not responsible for the Complaint(s) of sexual assault or harassment; a rationale for the decision of the Title IX Review Panel related to the Complaint(s); and sanctions imposed, if any. Both the Respondent and the Complainant have a right to this information.
- 2) Direct the Student Conduct System Administrator to prepare a summary of the hearing and an explanation of the panel's reasoning for its determination. This summary will be reviewed by the Title IX Review Panel and is the property of Nebraska Wesleyan University and will not be disclosed except as authorized or required by law.
- 3) The Student Conduct System Administrator delivers the notice of findings to both the Complainant and the Respondent via email not more than five business days following the conclusion of the hearing.

## **IX. Sanctions**

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 Dean of Students.
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 Assistant Dean for Student Success and Residential Education. 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 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 their 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 Dean of Students. During the suspension period, the student is banned from university property, functions, events and activities without prior written approval from the Dean of Students. 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 Dean of Students 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 Dean of Students 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 their 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 Dean of Students or their designee in consultation with the student.

More than one of the sanctions listed above may be imposed for any single instance of misconduct.

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

Sanctions are cumulative and may carry over from year to year.

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 the last incident. 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.

## **X. Appeals**

A decision reached by the Title IX Review Panel or a sanction imposed by the Review Panel may be appealed by the Complainant or Respondent to the Student Conduct Appellate Panel. An individual or organization may appeal only one-time for each Title IX Review Panel decision. Such appeals will be in writing and will be delivered to the Student Conduct System Administrator within five days of receipt of the notification of the Review Panel decision.

Except as required to explain the basis of new information, an appeal will be limited to review of the deliberations/hearing and supporting documents for one or more of the following purposes:

1. To determine whether the original Investigation and Title IX Deliberations/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 Sexual Misconduct and Harassment policy was violated, and giving the Respondent a reasonable opportunity to prepare 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 the sexual misconduct as described in the Sexual Misconduct and Harassment policy 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 the person appealing did not know such information and/or facts at the time of the original Title IX Deliberations/Hearing.

**Procedures:**

1. 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 verbatim record of the Title IX Hearing (if applicable), any supporting documents, including the original complaint and any written materials submitted at the deliberations/hearing. The Student Conduct System Administrator will not participate in the appeal process beyond this point.
2. The Student Conduct Appellate Panel will review the verbatim record and all supporting information from the Title IX Hearing and make a decision either to uphold the appeal or to uphold the original Title IX Review Panel decision. At least two members of the Student Conduct Appellate Panel must participate in any appeal.
3. In any case where the Student Conduct Appellate Panel decides to uphold the appeal, the Panel will then make one of several decisions:
  - A. Make a decision concerning the substance of the appeal or the sanctions that have been imposed, or both.
  - B. Return the case to the Title IX Review Panel for reconsidering their decision. In this case, the Student Conduct Appellate Panel will prepare a written document addressed to the Student Conduct System Administrator providing guidance to the Title IX Review Panel in reconsidering their original decision. This document could include a recommendation to re-open the hearing. A copy of this document should be included in the disciplinary file. The Student Conduct Appellate Panel should also produce a document addressed to the student who filed the appeal stating the Panel's decision, with copies so that the Complainant, the Respondent, and Student Conduct System Administrator are informed. A copy of the document should also be included in the disciplinary file. In cases where an appeal is upheld citing, "to consider

new information,” the case should always be referred back to the Title IX Review Panel.

- C. Make a decision regarding changes in sanctions, and prepare a written description addressed to the individual filing the appeal with copies so that the Complainant, Respondent, and the Student Conduct System Administrator are informed of the decision. A copy should also be included in the disciplinary file.
4. In any of these instances the materials provided by the Student Conduct Appellate Panel should include a clear reference to the reasons for upholding the appeal.
5. In any case where the Student Conduct Appellate Panel decides to uphold the decision of the Title IX Review Panel they should prepare a written document addressed to the individual filing the appeal with copies so that the Complainant, Respondent, and Student Conduct System Administrator are informed of the decision. This process must be completed within 10 days of receipt of the appeal and supplementary materials.
6. 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. The President will notify the Appellate Panel when the review is complete, and will direct the Panel regarding what materials may be sent to the various parties and when they may be sent. The President’s documentation must state that the President’s decision is final.

This process is confidential and the highest ethical standards must be maintained throughout.

*This Policy is thoroughly reviewed on an annual basis. The Policy may be updated periodically for accuracy and clarity. The most up to date and current version can be found on the Title IX website.*

[The NWU Board of Governor’s approved these procedures on September 8, 2017.]