

### **3.6.5 Northwest College Sexual Misconduct Policy Adopted 12/14/15; Revised and Adopted 3/13/17**

(Includes Domestic Violence and Stalking when these acts are sex or gender based)

#### **Policy Overview**

This policy incorporates the essential elements regarding sexual misconduct related to sexual assault, harassment, domestic violence, and stalking, as well as sexual nondiscrimination provisions contained in state and federal legislation such as Title IX, Title VII, the Clery Act, the SaVE Act, and Violence Against Women Act.

The College is mandated by these acts to report all incidents of sexual misconduct, to provide remedies to those affected by the sexual misconduct, and to impose necessary sanctions to the party(s) found to be responsible for the sexual misconduct.

#### ***Scope Of Policy Application***

This policy applies to all students enrolled in classes or who are involved in college-related activities (sports, music, forensics, etc.), all employees, visitors, and people who provide services for the College who may have contact (physical or electronic) with College personnel or students. The College campus includes the main campus and extended facilities such as the Paul Stock Agriculture Pavilion; the Equine Center; the Physical Plant; the West Campus; the Cody Center; the A.L. Mickelson Field Station; the Trapper Arena (rodeo); the Worland Center; and anywhere that official Northwest College activities may be held or attended.

#### **3.6.5.1 Education/Training to Prevent and/or Respond to Sexual Misconduct**

In an effort to prevent incidents of sexual misconduct on or off campus, Northwest College provides primary prevention and awareness programs for students and College employees. The College also provides ongoing prevention and awareness campaigns. For a description of the education/training programs provided, see Appendix A.

#### **3.6.5.2 Title IX Compliance Statement of Nondiscrimination**

Northwest College does not discriminate on the basis of race, color, national origin, sex, disability, age, religion, sexual orientation, gender identity, genetic information, or veteran status in its programs and activities. NWC is an Equal Opportunity Employer and Institution (EOE/EOI). Student inquiries concerning disability services shall be directed to the Disability Support Services Coordinator, Student Success Center, 231 West 6<sup>th</sup> St., (Building. 4)—located in the lower level of Colter Hall—Powell, WY, 82435-1898, phone: 307.754.6227.

Acts of sexual misconduct (including sexual assault, domestic violence and stalking) are considered Title IX violations and must be directed to the Northwest College Title IX Coordinator who is responsible for implementing the College's Sexual Misconduct Policy. The

Northwest College Title IX Coordinator is located in the Orendorff Building, 231 West 6<sup>th</sup> St., (Building 1) Powell WY, 82435; phone: 307.754.6102; (email) [Title9@nwc.edu](mailto:Title9@nwc.edu).

If the campus Title IX Coordinator has been contacted and the case has not been resolved to the satisfaction of one or more parties involved with the case, then they may contact the Office of Civil Rights, U.S. Department of Education, Federal Building, 1244 Speer Blvd., #310, Denver, CO, 80204-3582; phone: 303.844.5695; FAX: 303.844.4303; TDD: 308.844.3417; (email): [OCR\\_Denver@ed.gov](mailto:OCR_Denver@ed.gov).

### **3.6.5.3 Sexual Misconduct**

This policy addresses acts of sexual misconduct such as sexual assault, dating violence, domestic violence, and stalking as well as sexual harassment and sex-based discrimination. These acts are prohibited at Northwest College. Northwest College policy, as well as applicable federal and state laws, prohibits retaliation, intimidation or reprisal against anyone who files a report and/or who cooperates with or participates in any procedures or investigations related to reports of sexual misconduct.

#### **Definitions:**

- 1. Dating/Acquaintance Rape:** Date rape involves act(s) of sexual violence committed in a social relationship of a romantic or intimate nature. The most prevalent form of sexual assault on college campuses is “acquaintance rape (assault).” Those involved know each other either through classes, activities, mutual friends, and/or in a residence hall or otherwise.
- 2. Domestic Violence:** Domestic violence is committed by a current or former spouse, current or former cohabitant, or any other person who has or had a primary legal or social connection. Domestic violence behaviors include:
  - a. Physically abusing, threatening to physically abuse, attempting to cause physical harm or acts which unreasonably restrain the personal liberty of any with whom the perpetrator has a substantial relationship;
  - b. Placing an individual, with whom the perpetrator has a significant relationship, in fear of imminent physical harm; and
  - c. Causing an individual, with whom the perpetrator has a significant relationship, to engage involuntarily in sexual activity by force, threat of force or duress.
  - d. Physical action done in self-defense is not included in the definition of domestic violence.
- 3. Dating Violence:** Dating violence is committed by someone who is or has been in a social relationship of a romantic or intimate nature with the victim.

- a. 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 the relationship
  - iii. The frequency of the interaction between the persons involved in the relationship
- b. Dating violence behaviors include:
  - i. Physically abusing, threatening to physically abuse, attempting to cause physical harm or acts which unreasonably restrain the personal liberty of any with whom the perpetrator has a substantial relationship;
  - ii. Placing an individual, with whom the perpetrator has a significant relationship, in fear of imminent physical harm; and
  - iii. Causing an individual, with whom the perpetrator has a significant relationship, to engage involuntarily in sexual activity by force, threat of force or duress.

Physical action done in self-defense is not included in the definition of dating violence.

4. **Sexual Assault:** Sexual assault is a general term that covers a range of crimes. It includes rape (also known as nonconsensual or forced sexual intercourse), acquaintance rape, stranger rape, nonconsensual sodomy (anal intercourse), and gang rape (rape by multiple perpetrators). Depending on the nature of the acts, domestic violence and stalking may be included.
  - a. **Sexual coercion:** (1) unreasonable pressure for sexual activity; or (2) use of words or actions that cause a person to fear that the “coercer” shall inflict bodily harm. When a person says “no” or “stop” and indicates a desire to stop the sexual activity, any further coercive pressure to continue constitutes sexual coercion.
  - b. **Non-consensual sexual contact:** (1) any unwarranted or unwanted touching of another’s body; and (2) on areas such as breasts, buttocks, genital area or inner thigh; or (3) subjecting another to sexually suggestive acts or gestures.
  - c. **Non-consensual sexual intercourse (rape):** (1) any sexual intercourse or penetration, no matter how slight (anal, oral or vaginal) by a penis, tongue, finger, or other body part or any object; and (2) without consent and/or by force.
5. **Sexual Harassment:** “Sexual Harassment” is any unwelcome verbal, nonverbal, written, electronic or physical conduct of a sexual nature. Sexual harassment also includes acts of

intimidation, bullying, aggression or hostility based on gender or gender-stereotyping, even if the acts do not involve conduct of a sexual nature. Examples of sexual harassment include instances in which:

- a. Submission or consent to the behavior is reasonably believed to carry consequences for the individual's education, employment, on-campus living environment, or participation in a college activity. Examples of this type of harassment include:
  - i. Pressuring an individual to engage in sexual behavior for some educational or employment benefit; or
  - ii. Making a real or perceived threat that rejecting sexual behavior shall carry a negative educational or employment consequence for the individual.
  
- b. The behavior is so severe or pervasive that it has the effect of substantially interfering with the individual's work or educational performance by creating an intimidating, hostile, or demeaning environment for employment, education, on-campus living, or participation in a college activity. Examples of sexual harassment include:
  - i. One or more instances of sexual assault;
  - ii. Persistent unwelcome efforts to develop a romantic or sexual relationship;
  - iii. Unwelcome sexual advances or requests for sexual favors;
  - iv. Unwelcome commentary about an individual's body or sexual activities;
  - v. Repeated and unwelcome sexually-oriented teasing, joking, flirting; and verbal abuse of a sexual nature.

*Note:* Offensiveness is not enough to create a hostile environment but repeated incidents increase the likelihood that this harassment has created a hostile environment. A serious incident, even if isolated, can be sufficient to constitute a hostile environment.

In determining whether harassment creates a hostile environment, the harassment shall be considered not only from the perspective of the individual who feels harassed, but also from the perspective of a reasonable person in a similar situation. Also, factors including but not limited to the following shall be considered:

- i. the degree to which the conduct affected one or more student's education or

- ii. the individual's employment
- iii. the nature, scope, frequency, duration, and location of the incident or incidents;
- iv. the identity, number, and relationship of the person involved.

Harassment does not include verbal expressions or written material that is relevant and appropriately related to course subject material or curriculum, and this policy shall not abridge academic freedom or the College's educational mission. In particular, the policy does not limit classroom teaching concerning topics legitimately related to the content or purposes of a course, even though such topics may elicit discomfort in a class member. Nor is this policy intended to limit scholarly research, publication, or public speaking on gender-related or protected class-related topics.

- 6. Sexual Exploitation:** Occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:
- a. Invasion of sexual privacy;
  - b. Non-consensual electronic recording of sexual activity;
  - c. Engaging in or encouraging others to engage in voyeurism;
  - d. Knowingly transmitting a sexually transmitted disease (STD) or HIV to another person;
  - e. Exposing one's genitals in non-consensual circumstances for one's sexual gratification.
- 7. Stalking:** Stalking means engaging in a course of conduct, either directly or indirectly, that is 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.
- 8. Sex-based Discrimination:** Conduct that is based upon an individual's sex, gender identity, or sexual orientation that excludes an individual from participation, denies the individual the benefits of, treats the individual unfavorably, or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a college program.

### 3.6.5.4 Other Definitions

1. **Supporter:** Any person (other than an individual who may be called to provide witness testimony) who attends a sexual misconduct discipline hearing to provide support or guidance to the participants. The Reporting Party and respondent have the right to a Supporter of their choice throughout the investigatory and finding process. The Supporter is not allowed to participate in the questioning or present information during the investigation; there is no right to legal representation during discipline proceedings.
2. **Process Advisor:** A person (other than an individual who may be called to provide witness testimony) who aids the Reporting Party and the Respondent in understanding the sexual misconduct processes, rules, and proceedings. Process Advisors are College personnel and provided by the College. A Process Advisor will be offered to the Reporting Party and Respondent at the beginning of the investigation. The Process Advisor is not allowed to participate in the questioning or present information during the investigation.
3. **Bystander intervention:** One who intervenes to prevent further harm when there is a perceived or imminent threat of sexual misconduct. This person may also assist to seek medical attention, secure a safe place to stay, and assist with reporting the sexual misconduct.
4. **Reporting Party:** A Reporting Party is an individual who reports or files a report. A Reporting Party may be someone other than the person who may have been subjected to the sexual misconduct.
5. **Report:** A report is an allegation of sexual misconduct asserted against another party and reported to or filed with the College.
6. **Consent:** Giving permission to another to act in specific ways (in this case, sexually). Consent must be informed, given freely and with full knowledge and understanding. It must be given in mutual agreement through understandable words and actions. If an individual is mentally or physically impaired or incapacitated so that she/he cannot fully and clearly understand the nature or extent of the sexual situation, there is no consent. This includes conditions resulting from alcohol and drug consumption, or being asleep or unconscious.

If force, coercion, threats, and/or physical or emotional intimidation are used to obtain consent, the consent is invalid. Prior sexual activities as well as dress are not implied consent and cannot be used to justify sexual misconduct. Once given, consent can be withdrawn at any point and all sexual activity is to immediately cease.

If at any time during a sexual act any confusion or ambiguity is or should reasonably be apparent on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify the other's willingness to continue and capacity to consent. Neither party shall make assumptions about the other's willingness to continue.

7. **Investigation:** A process of gathering and compiling statements of a reported allegation from all parties involved, to include but not limited to the Reporting Party, Respondent, witnesses, and evidence. This process is discussed in the “Response and Resolution” section (see Section 3.6.5.7).
8. **Official Report:** The official record conveyed from the Reporting Party to a College official for official action by the College. This can be done in person, electronically, or in writing, and once reported the College is compelled to initiate an investigation. The options for reporting are discussed in the “Reporting” sections of this policy.
9. **Respondent:** The Respondent is the one accused of sexual misconduct by the Reporting Party in their report.

### 3.6.5.5 Sexual Misconduct Reporting Process

Sexual misconduct may in some instances constitute both a violation of College policy and criminal activity, and because the college grievance process is not a substitute for instituting legal action, the College encourages individuals to report alleged sexual misconduct promptly to campus officials **and** to law enforcement authorities.

Individuals may, however, choose not to report sexual misconduct to such campus officials and/or law enforcement authorities. The College respects and supports the individual’s decision with respect to reporting; nevertheless, the College may notify appropriate law enforcement authorities if required or warranted by the nature of the allegations at issue.

Information regarding obtaining a court-issued protection and/or restraining order can be obtained from Campus Security or the Title IX Coordinator.

Individuals may file a Report at any time, but the College strongly encourages individuals to file Reports promptly in order to preserve evidence for a potential legal or disciplinary proceeding. It is important that evidence is preserved from the assault by: (1) Going immediately (within 24 hours) to a hospital emergency room and requesting a sexual assault exam or accessing another facility which can perform a sexual assault exam, and (2) Not taking a shower, changing clothes or in any way destroying physical evidence relative to the sexual assault until after one has talked with a professional resource person—listed under the Reporting Sexual Assault section of this policy.

1. **Reporting to Law Enforcement:** You may contact law enforcement by dialing **911**, or contacting the local Police Department as listed below. A criminal investigation into the matter does not preclude the College from conducting its own investigation. It should be known that a report to law enforcement may delay the College’s investigation if a report is also made to the College. The College may not wait until the law enforcement officers have completed their investigation before providing necessary assistance to the Reporting Party or the Respondent. The College and law enforcement may coordinate their investigatory protocol to determine the best outcome for all concerned. A criminal investigation nor the

result of a criminal investigation is determinative of whether or not sexual misconduct occurred under College policy. A Reporting Party can be assisted by Campus Security or the Title IX Coordinator in notifying law enforcement if the Reporting Party so chooses.

2. **Reporting to the College:** If an individual wants to make an official report of an act of sexual misconduct to the college, she/he shall file a report with the College Title IX Coordinator at Northwest College 231 West 6<sup>th</sup> Street Powell, WY 82435, email: [title9@nwc.edu](mailto:title9@nwc.edu), phone:307.754.6102. The report does not have to be made by the individual subjected to the misconduct. A report may be made in person, electronically or by a written letter (paper).

Individuals may choose not to report sexual misconduct to campus officials. The College respects and supports the individual's decision with respect to reporting however, if information about sexual misconduct comes to the attention of the College, the College may (1) start an investigation even in the absence of a filed report and/or (2) notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware.

An individual may report sexual misconduct to a faculty or staff member other than the Title IX Coordinator. No member of the College community may discourage an individual from reporting alleged incidents of sexual misconduct. An employee with any knowledge about a known or suspected incident of sexual misconduct must report the incident to Campus Security or the Title IX Coordinator. No employee is authorized to investigate or resolve Complaints without the involvement of the Title IX Coordinator.

- a. **Limited Confidential Report:** An individual may choose to discuss a sexual misconduct situation with a licensed professional counselor in the Student Success Center in order to access help/services. Any reports made to the Student Success Center, to either a College Counselor or the Student Health Services Manager, must be reported to the Title IX Coordinator, but can be done so on a limited/anonymous basis in reference to personally identifiable information.
  - b. **Non-Confidential Report:** An individual may make a report to College personnel and any such report received by College personnel, other than those indicated under a limited confidential report, must fully disclose the report to the Title IX Coordinator. All College personnel made aware of a sexual violation are required to report the violation to the Title IX Coordinator.
3. **Reporting to Confidential Resources:** College personnel are not considered confidential resources and any discussion with an individual would be subject to limited or non- confidential reporting requirements. College personnel in the Student Success Center can help you identify local resources for the purpose of Confidential Reporting, without the requirement of advising the Title IX Coordinator if a request for resources is requested and no other details are provided. All confidential reports must be made to resources outside of the College and may include, but are not limited to, licensed mental health providers, clergy, or other confidential resources such as physicians.

**On-Campus Resources:**

1. Title IX Coordinator, Northwest College 231 West 6<sup>th</sup> Street Powell, WY 82435, [Title9@nwc.edu](mailto:Title9@nwc.edu), Phone: 307.754.6102
2. Vice President for Student Services: 307.754.6102
3. Counseling (Student Success Center): 307.754.6135
4. Student Health Center (Student Success Center): 307.754.6442 (8:00 a.m.-4:00 p.m.)
5. Director of Residence and Campus Life (Housing): 307.754.6412
6. Campus Security: 307.754.6067

**Off-Campus Resources: *Emergency calls: 911***

**Powell:**

1. Powell Police Department: 307.754.2212 Powell, WY
2. Crisis Intervention Services: offers assistance to domestic violence/sexual assault survivors (24- hour crisis hotline: 877.864.9688); other calls: 307.754.7959
3. Powell Valley Hospital: (emergency number: 307.754.1175); other calls: 307.754.2267; Ave H and Mountain View Street, Powell, WY 82435

**Cody:**

1. Crisis Intervention Services: (Crisis Hotline: 877.864.9688); other calls: 307.587.3545
2. West Park Hospital: 307.527.7501; 707 Sheridan Ave. Cody, WY 82414
3. Northwest Family Planning: 307.754.5023 Cody, WY
4. Cody Police Department: 307.527.8700 Cody, WY

**Lovell:**

1. North Big Horn Hospital: 307.548.5200; 1115 Lane 12 Lovell, WY 82431
2. Lovell Police Department 307.548.2215 Lovell, WY

**Worland:**

1. Washakie Medical Center: 307.347.3221; 400 S. 15<sup>th</sup> St., Worland, WY 82401
2. Worland Police Department 307. 347.4253 Worland, WY

**4. Reporting Considerations**

- a. **Confidentiality:** Every effort shall be made to protect the identities of those involved in a sexual assault. However, if it is determined by the Title IX Coordinator and/or other College officials that there is potential harm to the campus community from the one(s) involved in the alleged assault, then some details may need to be revealed. The final determination on issues of confidentiality is made by the Title IX Coordinator.
- b. **Amnesty:** In an effort to remove barriers to the reporting of acts of sexual misconduct, the College may offer immunity from violations of any Student Code of Conduct policies related to the sexual misconduct if one has knowledge of and reports an act of sexual misconduct, so long as the violations are not violent or dangerous in nature.
- c. **Statement of non-retaliation:** The Reporting Party, Respondent, and witnesses shall be protected from retaliatory actions. Individuals or groups who communicate threats and other acts of harm and/or intimidation to any parties involved in a sexual misconduct case shall be dealt with according to College policies addressing such actions. The College may issue “no contact” orders to parties identified in the sexual misconduct report. The “no contact” order may include third parties. Specifics of the “no contact” order shall vary from case to case.
- d. **False Reporting:** Sexual misconduct is taken very seriously by the College and reports of such acts are assumed to be given in good faith. If, after careful investigation, it is determined that a intentionally false report was made by a student or employee, disciplinary action up to and including student expulsion and/or termination of employment may be imposed.
- e. **Detailed Account of the Sexual Assault:** It is important for the Reporting Party to provide as much detail of the assault as one can. The location, time, and a description of what happened are essential to investigating the case. If possible, a

bystander, friend or roommate may need to assist one who has impaired cognitive functioning either from the shock of the assault or from the use of alcohol or other substances.

- f. **Third Party Reporting:** If an individual is impaired and/or unable to make a coherent report, a bystander (friend, roommate, etc.) may make the report on the Reporting Party's behalf.
- g. **No Statute of Limitation:** A report of sexual misconduct may be filed any time. The College encourages the prompt reporting of sexual misconduct in order to preserve evidence for a potential legal or disciplinary proceeding. A delay in filing a report may compromise the subsequent investigation, particularly if neither the Reporting Party nor Respondent is employed by the College or enrolled as a student at the time.
- h. **Title IX Rights:** Under Title IX, the Reporting Party and the Respondent have the right to available resources which may be provided by the College. These resources include advocacy, College housing assistance, academic support, counseling, physical and mental health services, and disability services. The College shall provide accommodations, services and remediate harassment regardless of whether the Reporting Party chooses to report the crime to law enforcement. These measures shall be provided to the extent that maintaining confidentiality would not impair the ability of the College to provide accommodations or protective measures. These resources may be provided following the initial contact with College personnel and may be available throughout the investigatory/resolution process.
  - i. Specific resources include, but are not limited to:
    1. Being accompanied by security;
    2. Having students change residence halls;
    3. Reschedule exams and assignments
    4. Provide alternative course completion option;
    5. Change in work schedules/job assignments/class schedules;
    6. Voluntary leave of absence limiting an individual's or group's access to certain campus facilities/functions;
    7. Limiting an individual's or group's access to certain campus facilities/functions;
    8. Written notification about existing counseling, health, mental

health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, academic situations, living situations, transportation situations, working situations, protective measures, and other services available within the College or the community.

### **3.6.5.6 Campus Sexual Misconduct Data Reporting**

The College is required to report all investigate and report statistics of sexual misconduct (including sexual assault/violence) under Title IX, the Clery Act, the SaVE Act and the Violence Against Women Act. Reporting such acts indicates transparency in recognizing the extent of sexual misconduct at Northwest College and provides a basis for addressing issues of sexual misconduct in a corrective and constructive manner to prevent recurrences.

### **3.6.5.7 Response to and Resolution of Sexual Misconduct Reports**

The College shall investigate all reported incidents of sexual assault in a prompt, efficient and thorough manner. Reports of sexual harassment and/or sex discrimination may have a resolution mediated prior to a full investigation if both parties are willing to mediate. The Title IX Coordinator provides information to the parties about this option. Reports of sexual assault or sexual violence do not have this option of mediation.

Most cases shall be investigated and resolved within 60 days of receipt of the sexual misconduct report. (Time extensions may be warranted when the College is working with other agencies (law enforcement, etc.), or when there are delays due to extenuating circumstances such as witness availability, etc.) If law enforcement is doing an investigation, the College shall not wait for that investigation to end before initiating its own investigation. The two may coordinate their investigations and share their information. If law enforcement decides not to pursue the case, the College may continue its investigation and determine appropriate actions to be taken to ensure a safe environment for the College community.

The College investigation is based on determining the violation of Conduct Codes specified in the *Student* and *Employment Handbooks* and the sanctions for such violations deal with the future of the relationship between the student, employee (and others), and the College. Investigation by law enforcement is a criminal investigation and the penalties are legally determined.

#### **1. Investigation Process:**

- a. Upon receipt of a report of sexual misconduct, the Title IX Coordinator shall determine if the report falls within the scope of this policy. If it does, the Title IX Coordinator shall initiate an investigation. For sexual harassment or sex discrimination reports, the Title IX Coordinator may facilitate resolution through mediation prior to a full investigation if both parties are willing to mediate. The Title IX Coordinator shall appoint an investigator(s) to initiate a fact-finding investigation of the alleged actions. The investigator(s) shall

be specifically trained in sexual misconduct investigations. The appropriate investigator(s) shall be determined by the Title IX Coordinator and/or other designated College personnel. The investigation shall be conducted in a prompt, impartial and thorough manner. The investigation shall provide a basis for determining: (1) whether or not the conduct occurred and (2) of remedies and sanctions to bring resolution to the case.

## **2. Investigatory actions:**

The investigation may include, but is not limited to:

- a. Provide written notification to parties about Title IX rights and options including existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available within the College or the community.
- b. Conducting interviews with the Reporting Party, Respondent and any witnesses. No individual who is knowingly under the influence of alcohol or illegal drugs shall be interviewed until such substances are no longer an influence on their mental faculties.
- c. Reviewing law enforcement investigation documents (if applicable)
- d. Reviewing student files or employee personnel files
- e. Gathering and examining other relevant documents or evidence

## **3. Rights Of The Parties During The Investigation:**

- a. Parties shall be notified in writing (via secure College email, hand delivered or by postal service mail) of the alleged sexual misconduct and the investigation.
- b. Parties have the right to be notified of the timeframes and of each stage of the investigation.
- c. Throughout the investigation, both parties must have an equal opportunity to present relevant witnesses and evidence. If possible, the Reporting Party shall document the date, place, approximate time, and pertinent descriptive details regarding the alleged sexual misconduct.
- d. Both parties may have a person (other than an individual who may be called to provide witness testimony) to provide support and guidance to the student participant during an investigation or a discipline hearing. The Supporter is not allowed to participate in the questioning or present information; there is no right to

legal representation during discipline proceedings. The College must use a preponderance of evidence standard (i.e., more likely than not) to determine responsibility for and resolution of the act.

- e. During the investigation, the College may need to provide additional services (other than those provided at the time of the initial reporting) to ensure the safety, physical and/or emotional health, and academic freedom to one or more parties. These services may include, but are not limited to:
  - i. Relocating from one NWC residential facility to another;
  - ii. Arranging for needed NWC medical and/or counseling services within the ability of those services offered on campus;
  - iii. Arranging for alternative academic completion (change classes, online completion, etc.);
  - iv. Adjusting employment schedules/duties;
  - v. Issuing “no contact” orders to protect the party(s) from potential threats or physical and/or emotional harm;
  - vi. Providing protective service to accompany Reporting Party and/or Respondent while attending classes and/or college-related activities (music, athletic, Student Senate, forensics, etc.) during the investigative/resolution process;
  - vii. Other services deemed necessary by the Title IX Coordinator, Vice President for Student Affairs, investigatory personnel and/or other personnel connected with the case.

### **3.6.5.8 Resolution of the Reported Case**

After the investigation is completed, the investigator(s) shall write findings in a report to be presented to the Title IX Coordinator who shall file the report in his/her office. If the Title IX Coordinator is the investigator, then the report shall be filed in his/her office.

1. If the alleged act of sexual misconduct is found not to have merit, the Reporting Party and Respondent shall be simultaneously notified that the allegations have been dismissed.
2. If the allegation of sexual misconduct is found to be substantiated (according to the standard of the preponderance of evidence), steps must be taken by the College to end the sexual misconduct, eliminate the hostile environment (if determined to exist), prevent the recurrence, and remedy the situation through sanctions deemed appropriate. The Reporting Party and Respondent shall be simultaneously notified of the outcomes.

### 3.6.5.9 Sanctions

If the respondent is found to be responsible (according to the standard of the preponderance of evidence) for an act of sexual misconduct, sanctions may include, but are not limited to any one or a combination of the following:

1. **Warning:** an official written or verbal notice to the Respondent stating such conduct is in violation of Northwest College policies. If the conduct or actions continue, the College shall take further disciplinary action.
2. **Disciplinary probation:** which may include restrictions involving access to campus facilities, class attendance/academic completion, participation in campus activities, limitations on employment activities and/or relationships, and any other restrictions deemed applicable to the situation. The probation may be for a specified time period and may include specified conditions to be met. The Respondent may be given a specific time frame in which to complete the conditions. At the end of the probationary period, a review of the respondent's behavior and completion of required conditions may be conducted by the Title IX Coordinator or his/her designee(s) to determine if the respondent shall have any or all restrictions lifted.
3. **Disciplinary suspension:** from the residence hall and/or physical attendance of classes. This action terminates a respondent's enrollment and/or residence hall contract without financial reimbursement. The suspension may be for a specific period of time and may be tied to specified conditions to be met. The Respondent may apply in writing for reinstatement to the Vice President for Student Affairs. Written proof documenting completion of specified conditions must be provided with the reinstatement application.
4. **Mandatory counseling**
5. **Expulsion from the College:** expulsion is the withdrawal of the privilege of attending the College. There is no promise that the respondent may return to Northwest College at a future time.
6. **Employee disciplinary action up to and including termination of employment:** warnings may be administered and/or contractual commitments are terminated either immediately or within a fixed time to be determined by the appropriate administrative personnel.
7. **A No Contact Order:** restricts the Respondent's ability to communicate with or access College personnel, Reporting Party, and/or witnesses.
8. **Criminal trespass:** the Respondent may not enter specified College facilities or property. Trespassing charges shall be filed if this sanction is violated.

9. Other actions deemed appropriate to bring resolution to the case.

### **3.6.5.10 Decision Regarding Appropriate Sanctions: Resolution Of Case—With Sanctions**

Upon review of the findings of the investigative report, the Title IX Coordinator or designee is responsible for determining the sanctions to be administered in resolution of the case. The Title IX Coordinator or designee may consult with the Vice President for Student Affairs and/or with other personnel knowledgeable of the specific case or who have professional expertise subject to the decision-making process involved in the case.

### **3.6.5.11 Sexual Misconduct Hearing Board/Student Appeals Board**

Either party involved in a sexual misconduct investigation may appeal the outcome of the report.

#### **1. Appeals:**

- a. Either party or parties may appeal the outcome or sanctions in writing no more than three (3) College business days after receipt of the written notice of the outcome. Appeals are to be directed to the Title IX Coordinator.
  - i. The grounds for appeal are:
    - 1) New evidence or previously unavailable relevant evidence that could have significant impact on the findings of the investigation and/or deliberations of the hearing board.
    - 2) Procedural and/or substantive errors that substantially compromised the fairness of the hearing.
    - 3) The sanctions imposed are substantially disproportionate to the severity of the violation.
- b. *All sanctions imposed by the Title IX Coordinator or his/her designee shall be in effect during the appeal process. A request may be made to the Title IX Coordinator or designee for special consideration, but the presumptive stance of the College is that the sanctions stand. Graduation, study abroad, participation in competitive activities (athletics, forensics, etc.), internships, etc. do NOT in and of themselves constitute exigent circumstances and students may not be allowed to participate in those activities during the time of their appeal. In cases where the appeal results in reinstatement to the College or of privileges, all reasonable attempts shall be made to restore the student to his/her prior status. However, some opportunities lost may be irretrievable.*

## 2. Appeals Process:

- a. Upon receipt of the written appeal, the Title IX Coordinator or designee shall share the petition for appeal with the other party(s) along with information detailing each party's rights and the appeals process.
- b. Parties wishing to file a response to the appeals petition must do so in writing to the Title IX Coordinator or designee within three (3) regular College business days from the date they receive notification of the pending appeal. This response shall be shared with the other party(s).
- c. After applicable documentation is submitted according to the time frames indicated, the Title IX Coordinator or designee shall write a response indicating receipt of the materials within three (3) business days and shall send that response to the involved parties.
- d. The appeal petition, responses, and applicable documentation shall be forwarded to the Chairperson of the Student Appeals Board (for students) or the Dispute Resolution Officer (for employees) for review to determine if the appeal request meets the limited grounds and time considerations.
  - i. The original findings and any sanction(s) shall stand if it is determined that the appeal was not submitted within the time frame required or that the appeal did not meet the requirements stated in the "grounds for appeal" (see 3.6.5.11, Section 1, a., i.) This decision (made by the Chairperson of the Student Appeals Board or the Dispute Resolution Officer) is final.
  - ii. If the appeal has merit, the documentation is retained by the Chairperson of the Student Appeals Board/Dispute Resolution Officer to be considered by the Sexual Misconduct Hearing Board.
  - iii. The Student Appeals Board hears student issues and acts as the Sexual Misconduct Hearing Board. For employees, the Sexual Misconduct Hearing Board shall be formed according to the Grievance Panel selection process provided in the employee Dispute Resolution Policy, 3.7.
  - iv. The Sexual Misconduct Hearing Board must convene and render a decision to be delivered in writing to all parties within seven (7) regular College business days from the date of receipt of the petition and applicable documentation from the Title IX Coordinator.

### **3. Appeals Hearing Procedures:**

- a. All parties shall be notified of the date, place, and time of the Appeals Hearing and shall be provided with the appeals petition, responses and documentation pertinent to the appeal.
- b. The hearing is confidential.
- c. Legal counsel cannot represent the Respondent or the Appellant at the hearing.
- d. The primary focus of the hearing is to review the written documentation regarding the grounds for appeal. As necessary, records from previous deliberations and investigation in this case may be reviewed.
- e. The Student Appeals Board or the Sexual Misconduct Hearing Board (see 3.6.5.11, Section 3., iii.), as applicable, shall make decisions regarding sanctions/previous deliberations only if there is clear error in previous deliberations, presentation of new evidence, or justification for adjustment in the sanctions.
- f. The Board shall not interview or talk to any of the parties involved concerning the appeal or the documentation presented.
- g. Shall the Board have questions or need clarification about any of the documentation, they shall:
  - i. Prepare a list of questions or points of clarification about the documentation and present it to the Title IX Coordinator for follow up by the Title IX Coordinator or designee.
    - 1) This information shall be compiled into a written document and presented back to the Board.
    - 2) This documentation shall become a part of the compiled appeal packet.
  - ii. This process may extend the time period that the Board has to render a decision on the appeal, but only by the number of days that it takes to complete this action.

### **4. Appeals Board Decisions:**

- a. If the Sexual Misconduct Appeals Hearing Board determines that new evidence shall be considered, it shall return the report to the Title IX Coordinator for reconsideration in light of the new evidence. This reconsideration decision of

the Appeals Board is not appealable.

- b. If the Appeals Board determines that there was a procedural or substantive error in the deliberations involved in determining sanctions, it shall return the report to the Title IX Coordinator to who shall determine necessary action to correct the error.
- c. If the Appeals Board determines that the sanctions imposed are disproportionate to the severity of the violation, the Board shall return the report to the Title IX Coordinator or designee who may increase, decrease, or otherwise modify the sanctions. This action by the Board and the Title IX Coordinator is final.

#### **3.6.5.12 Release of Information:**

Every effort is made to keep information regarding sexual misconduct cases confidential; however, once the case has been adjudicated, and if media sources are aware of an act of sexual misconduct, the College may release summary details of the sanctions applied in resolution of the case. Access to student disciplinary files is governed by FERPA (Family Educational Rights and Privacy Act). Access to the file of the student or employee sanctioned for a sexual misconduct act is limited to the student or employee and to College officials who have a legitimate educational interest in disciplinary information regarding these persons. Results of disciplinary proceedings and any appeals proceedings in cases of sexual misconduct shall be shared with both the Reporting Party and respondent. Upon request, the College will disclose to the alleged victim or to the victim's next of kin if the victim is deceased, the results of any disciplinary proceeding conducted by the College against a student who is the alleged perpetrator of any crime of violence or a non-forcible sex offense (e.g. statutory rape, incest).

#### **3.6.5.13 Record Keeping:**

All correspondence regarding a specific sexual misconduct case (including the initial report, the investigation process, and report and the resolution of the case) shall be kept in a secure file by the Title IX Coordinator. Records of sanctions and any other resolutions to the case shall be placed in a student's conduct file. Records of sanctions and other resolutions to the case for employees shall be placed in their personnel file.

The College will protect the confidentiality of victims and other necessary parties by not including personally-identifiable information about the victim when completing publicly available record-keeping including Clery Act reporting and disclosures.

## **Appendix A**

Sexual misconduct prevention efforts to comply with Title IX, SaVE, and Clery Act guidelines and requirements:

- Employees are required to complete online compliance training modules regarding the Campus Sexual Violence Elimination Act (Campus SaVE Act) and Title IX, and Anti-Harassment and Equal Employment Opportunity.
- Training for Residence Assistants on topics that may include, but not limited to, community building, sexual assault report taking, report writing, resource referral, confidentiality, bystander intervention, dating and relationship violence, sexual harassment, and an overview of Title IX and their responsibilities.
- Students can voluntarily attend Kick Off Weekend and Orientation program presentations on topics that address sexual assault prevention and awareness. These topics may include, but are not limited to, alcohol's role in sexual assault, bystander intervention strategies, cultural influences related to sexual assault, healthy relationships, and sexual consent.
- The College provides information on Title IX issues in courses such as First Year Seminar. The topics may include, but are not limited to, sexual violence, overview of Title IX policy and procedures, sexual consent, reporting options at the College, resources available on campus and in the community, role of alcohol in sexual assaults, emotional effects of trauma, how to support a survivor, bystander intervention strategies, and sexual communication skills.
- The College is committed to providing a sexual assault prevention and awareness program in each hall during each semester. Topics may include, but are not limited to, alcohol's role in sexual assault, bystander intervention strategies, sexual consent, sexual coercion, reporting options, and intimate partner violence.
- The College is committed to partnering with student clubs and organizations to promote discussion and awareness on topics that include, but are not limited to, sexual violence, cultural and social diversity, and domestic violence.
- The College is committed to partnering with community clubs and organizations to increase community wide awareness on Title IX issues along with other social topics that impact learning, understanding, and awareness of the world they live in.

## Sources and references

Arthur J. Gallagher and Company: *Top Ten Steps to Comply with Title IX, September, 2014*

Hobart and William Smith Colleges: *Interim Sexual Misconduct Policy, August, 2014\**  
<http://knowyourtitleix.org/understanding-the-campus-save-act>

Laramie County Community College: *Student Discipline Adjudication Procedure, January, 2015\*\**

Northwest College: *Sexual Misconduct Policy (prior to the 2015 interim policy)*

Shelton State Community College: *SSCC Sexual Misconduct/Title IX/Campus SAVE Act Policy and Procedures--August, 2014*

United States Department of Education/Office of Civil rights: *Know Your Rights: Title IX Requires Your School to Address Sexual Violence*

University of St. Thomas: *Sexual Misconduct Policy, June, 2014*

\* *These Colleges acknowledge adapting language from the Sexual Misconduct Policies from Occidental College and Swarthmore College to develop their policy.*

\*\**The LCCC "Adjudication Procedure" was used as a basis for the "hearing" part of the interim NWC Sexual Assault Policy*

## Specific References:

Policy Overview and Scope: *Know Your Title IX, p. 2*

Title IX Compliance Statement: NWC statement

Definitions--"What is Sexual Assault?": Hobart and Wm. Smith Colleges, pp. 17-19; Shelton State CC, pp. 4-7; U. of St. Thomas, pp. 4-6 (stalking and sexual exploitation taken primarily from Shelton State CC)

Immediate Actions to take if one is Sexually Assaulted/Helpful Responses: "Old" NWC policy--prior to 9-2015

Reporting Sexual Assaults: Hobart/Smith Colleges, pp. 32-37 Also, Cynthia Garhart and Sean Fox provided some guidance on the "confidentiality" distinctions.

*Amnesty*: Shelton St. p. 12; ***non-retaliation***: Hobart/Smith, p. 37; ***False reporting***: Hobart/Smith, pp. 37-38

Title IX Rights: Know Your Rights--Title IX Requires.

Response to Reported Sexual Assault (by NWC): The opening section may have come from the training workshop manual that Sean Fox had.

Investigation Process and Actions: Hobart and Smith, pp. 42-43

Rights of parties during the Investigation: St. Thomas, Appendix pp. 3-4; Shelton St. pp. 15-16

Resolution of Reported Case: LCCC Adjudication Procedure; Sean Fox (including the workshop manual)

Sanctions: NWC Student Handbook and Employee Policy Manual; Hobart/Smith, p. 58

Disciplinary Hearing Board: Sean Fox; Hobart/Smith, p. 56

Appeals: (Grounds for appeals)--Hobart/Smith, p. 60; Appeals Process: Sean Fox, LCCC Adjudication Procedure

Release of Information: LCCC Adjudication Procedure, p. 7

Record Keeping: Hobart/Smith, p. 61