

Section: 520

TITLE IX POLICY

Williston State College is committed to a positive learning, working, and living environment. WSC will not tolerate acts of sexual misconduct or related retaliation against or by any employee or student. In working to achieve this intent, WSC commits to: (1) taking action to stop sexual misconduct; (2) taking action to remedy its effects by providing advocacy, support and appropriate referral services for recipients of the behavior; (3) taking action to prevent recurrence; (4) educating individuals and promoting discussions on interpersonal abuse and violence; and (5) conducting impartial investigation of all reports/notices of sexual misconduct through fair, equitable and prompt procedures. Investigations will be independent of and separate from law enforcement investigations of criminal activity.

This policy is required by federal law and implementation of this policy is guided by the U.S. Department of Education, Office of Civil Rights and the State Board of Higher Education's policy 520.

- a) Sexual misconduct is prohibited in all forms, regardless of intent to harm. Sexual assault, sexual exploitation, coercion, and sexual harassment are examples of sexual misconduct, and all are prohibited.
- b) Also prohibited under Title IX is any rule violated on the basis of the recipient of the behavior's sex/gender which is severe enough to cause a discriminatory effect.

Definitions:

1. Definitions. For the purposes of this Policy, the listed terms shall have the following definitions:

- a. Actual Knowledge. Notice of sexual harassment or allegations of sexual harassment to an institution's Title IX Coordinator or any institution official with authority to institute corrective measures on the institution's behalf.
- b. Complainant. An individual who is alleged to be the victim of conduct which could, after investigation, constitute sexual harassment.

c. Dating Violence. Violence committed by the respondent:

- i. Who is or has been in a romantic or intimate relationship with the complainant; and
- ii. Where the existence of such a relationship shall be determined by considering the length of the relationship, the type of relationship, and the frequency of interactions between the complainant and respondent.

d. Deliberate Indifference. When an institution's response to sexual harassment is clearly unreasonable in light of the information known to the institution at the time.

e. Domestic Violence. Violence committed by the respondent, who is:

- i. a current or former spouse or intimate partner of the complainant;
- ii. a person with whom the complainant shares a child in common;
- iii. cohabiting with or has cohabited with the victim as a spouse or intimate partner;
- iv. similarly situated to a spouse of the complainant; or
- v. any person against whose acts the complainant is protected by N.D.C.C. ch. 14-07.1.

f. Education program or activity. Includes locations, events, or circumstances over which an institution exercises substantial control over both the respondent and the context in which the sexual harassment occurs, as well as in any building owned or controlled by a student organization that is officially recognized by an institution.

g. 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 incapacity.

h. Formal Complaint. A document filed by a complainant (which either contains the complainant's signature or indicates that the complainant is the one filing the complaint) or signed by the Title IX Coordinator alleging

sexual harassment against a respondent and requesting that the institution investigate.

i. Incest. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

j. Rape. Penetration, no matter how slight, of the vagina or anus of the complainant with any body part or object by the respondent, or oral penetration of the complainant by a sex organ of the respondent, without the consent of the complainant.

k. Respondent. An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

l. Sexual Assault. Either rape, fondling, incest, statutory rape or any of the sexual offenses listed in N.D.C.C. ch 12.1-20 or by the FBI's Uniform Crime Reporting system.

m. Sexual Harassment. Conduct, on the basis of sex, constituting one (or more) of the following:

i. An employee of the institution conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct;

ii. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution's education program or activity;
or

iii. Sexual assault, dating violence, domestic violence, or stalking, as defined in this section.

n. Stalking. 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.

o. Statutory Rape. Sexual intercourse with a person who is under the statutory age of consent.

p. Supportive Measures. Non-disciplinary, non-punitive individualized services offered as appropriate (as reasonably available) and without fee or charge to the complainant or respondent.

To ensure a fair and equitable process for all parties, WSC's Title IX Staff receives annual training on issues related to sexual and gender based harassment, domestic violence, dating violence, sexual assault, stalking, and other forms of sexual misconduct as well as training on properly conducting investigations and hearing processes in order to protect the safety of victims and to promote the accountability of staff members. In addition, all WSC students, staff and faculty members are provided with training regarding sexual violence and mandatory reporting responsibilities. All WSC Students are required to complete a Sexual Violence Prevention training before the end of their first term. Failure to complete will result in the inability to enroll for subsequent terms. All WSC Employees are required to complete annual Sexual Violence Prevention Mandated Reporter training. Failure to complete will result in a written statement placed in the employee's personnel filing stating they did not complete on the required date. They will have 10 days to complete or another written notice will be placed in their file.

HISTORY

Approved by Faculty Council July 30, 2020

SUBJECT: Student Affairs

EFFECTIVE: August 18, 2021

Section: 520

TITLE IX PROCEDURE

1. **Title IX Coordinator:** Megan Kasner; Title IX Deputy Coordinator: Kim Weismann
2. **Equitable Treatment**
 - a. At all times, WSC will treat complainants and respondents equitably by following a grievance process which complies with this Policy before the imposition of disciplinary sanctions, and by providing remedies to a complainant if a respondent is found to be responsible for sexual harassment.
3. **Reports**
 - a. **Method of Reporting Sexual Harassment.** Any person may report sex discrimination, including sexual harassment (whether or not the person making the report is the victim of the alleged sexual harassment or sex discrimination). Such report may be made in person, by mail, by telephone, or by email, using the Title IX Coordinator's contact information or any other means which results in the Title IX Coordinator receiving the report, regardless of the time of day.
4. **Actual Knowledge of Sexual Harassment.** With or without the filing of a formal complaint, once an institution has actual knowledge of sexual harassment within its educational program or activity in the United States, the institution must respond promptly and without deliberate indifference pursuant to this policy.
 1. Once the institution has actual knowledge of sexual harassment, the Title IX Coordinator must contact the complainant and:
 1. Discuss the availability of supportive measures;
 2. Consider the complainant's wishes regarding supportive measures;
 3. Inform the complainant that supportive measures are available with or without the filing of a formal complaint;

and

4. Explain the process of filing a formal complaint.
2. No disciplinary sanctions or other actions which are not supportive measures may be imposed against a respondent prior to the conclusion of the grievance process.
3. When there is actual knowledge of anything defined within the Title IX policy, a report should be filed.
4. Anyone can file a report who has knowledge of an experience or situation defined within the Title IX policy.
 1. A report may be filed in various ways:
 - Stop into the Human Resources Office Stevens Hall to speak with Megan Kasner (105E)
 - Call to speak with Title IX Coordinator and the Coordinator can write the statement with approval of the individual making the report.
 - Return a written statement to the Title IX Coordinator.
 - Mail a written statement to: Williston State College, c/o Title IX Coordinator, 1410 University Avenue Williston, ND, 58801
 - Email a written statement to the Title IX Coordinator.
 2. After a report is filed
 - Notice is given via phone call and then via email to the respondent
 - Intake
 - Formal Compliant
 - Informal or Formal resolution
5. **Supportive Measures.** The institution may offer the complainant supportive measures designed to restore or preserve equal access to the education program or activity without unreasonably burdening the respondent, including measures designed to protect the health and safety of both parties or the educational environment, or to deter further sexual harassment.
 1. **Examples of Permissible Supportive Measures.** WSC will tailor any supportive measures to the parties' situations. Some

possible supportive measures include, but are not limited to:

1. Counseling;
 2. Extensions of deadlines or other course-related adjustments;
 3. Modifications of work or class schedules;
 4. Campus escort services;
 5. Mutual restrictions on contact between the parties;
 6. Changes in work or housing locations;
 7. Leaves of absence; and
 8. Increased security or monitoring of certain areas of campus.
2. WSC will maintain confidentiality with respect to supportive measures unless disclosure is required to implement the supportive measures.
 3. The Title IX Coordinator shall coordinate the effective implementation of supportive measures.
 4. Supportive measures may not restrict any party's rights under the United States Constitution.
 5. Advisors.
 1. Parties to a grievance proceeding must be afforded the opportunity to select the advisor of their choice to assist them during the proceeding, including during the live hearing.
 2. If a party does not choose an advisor, the institution shall provide the party with an advisor free of charge. WSC will provide an advisor at the party's request at any point during the grievance process.
 3. Institutions are not required to provide attorneys to parties to act as advisors, but appointed advisors should be provided with access to the training provided to Title IX Coordinators, decision-makers, and investigators to ensure an understanding of the process.
 4. Institutions are not required to attempt to create equality of advisors between the parties, particularly where one party selects an outside advisor, but should endeavor to seek parity of advisors where the institution provides advisors to both parties.

6. **Emergency Removal.** The institution may remove a respondent from the education program or activity on an emergency basis, provided that the institution determines, based on an individualized safety and risk analysis, that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.
 - a. The institution must provide the respondent with written notice via email and an opportunity to challenge the decision immediately following the removal.
 - b. Emergency Suspension – The Dean of Students or designee may direct the temporary, immediate removal of a student in accordance with the Student Code of Conduct.
 - c. The respondent may follow the appeal process in the latter part of this procedure.
 - d. Administrative Leave. The institution may place a non-student employee respondent on administrative leave during the pendency of a grievance process.
7. **Informal/Formal Resolution:**
 - a. WSC offers both informal and formal resolution of sexual misconduct complaints involving WSC students, faculty or staff. Independent of the path chosen by the complainant, WSC will conduct an impartial, fair, and prompt investigation into the allegations and ensure that actions will be taken to prevent similar actions in the future. All parties have a responsibility to provide truthful information during the process. Typically, investigation/resolution of the complaint will occur within 60 calendar days from the time the case is assigned to investigators. If it is anticipated that the investigation/resolution process will take longer than 60 calendar days, parties will be notified in writing indicating the reason(s). Investigation/resolution (whether it is an informal or formal resolution) of the allegations shall include:
 - 1) The complainant and the respondent having equal opportunities to present relevant witnesses and other evidence;
 - 2) Providing both sides with similar and timely access to any information that will be used during the process;
 - 3) Equal opportunity to have an advisor present, and equal restrictions on how an advisor may participate during the process;

- 4) The right of the complainant and the respondent to be informed of the outcome of the investigation/resolution, and the right of either party to appeal; and
- 5) The right of the complainant and the respondent to receive periodic status updates throughout the investigation/resolution process.

1. Informal Resolution:

1. An institution may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, a waiver of the right to an investigation and adjudication of formal complaints, and may not require the parties to participate in an informal resolution process. Similarly, institutions may not offer an informal resolution process unless a formal complaint is filed. Notwithstanding, at any time before the written determination is issued, the institution may facilitate an informal resolution process that does not involve a full investigation and adjudication, so long as the institution:
 - Provides the parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
 - Obtains the parties' voluntary, written consent to the informal resolution process; and
 - Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

2. Complainants may choose to pursue informal resolution of their complaint. Informal resolution is entirely voluntary and the complainant and respondent may end informal resolution at any time and enter the formal process. Complainants should never attempt to resolve the complaint on their own or directly with the respondent. In cases of informal resolution, the Title IX Coordinator shall assign a College official with the authority to remedy the alleged violation (e.g. VP for Student Affairs, the alleged perpetrator's supervisor, etc.) to oversee the informal resolution process. The informal process provides the complainant and respondent with a forum to address the behavior; to express how the alleged behavior has impacted them and those close to them; and to communicate to the parties involved and WSC how this behavior will be addressed so that the behavior will not reoccur.
3. The College official may impose a sanction warranted by the information gathered during the informal resolution, any supporting information known to the College. If the sanction is agreeable to the parties, the informal resolution is complete, and the sanction is imposed. In cases where the parties are not in agreement with the informal resolution, they could then enter the formal process.

2. Formal Complaint and Notice of Allegations.

1. Once a formal complaint is received by the institution, the institution must provide the following written notice to the known parties:
2. Notice of the grievance process, including any informal resolution process;
3. Notice of the allegations of sexual harassment, including:
 - Sufficient details known at the time and with sufficient time to prepare a response, including, but not limited to, the names of the parties, the conduct allegedly constituting sexual harassment, and the date and location of the alleged conduct.

4. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
5. A statement that the parties may have an advisor of their choice, who may be an attorney, and may inspect and review evidence. The statement should also indicate that if the party does not have an advisor of choice, the institution will appoint an advisor to assist with cross-examination for the live hearing.
6. Notice of any provisions in the institution's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
7. If, during the course of the grievance process, additional allegations are added to the investigation which were not included in the initial notice, the institution must provide notice of the additional allegations to the parties.
8. A Hearing Panel of at least three members will be established. There will be at least one faculty member and one staff member. The panelists will be chosen based on who does not have conflicts of interest based on who is involved.

3. Investigation

1. Institutions are required to investigate every filed formal complaint unless the complaint is subject to dismissal under this policy.
2. At all times, the burden of proof and the burden of gathering evidence sufficient to make a determination regarding responsibility rests on the institution, and the institution may not seek to shift that burden to the parties.
 - Notwithstanding, the institution may not restrict the parties' ability to discuss the allegations or to gather or present relevant evidence.
3. At all times, the institution shall observe a presumption that respondent is not responsible for the alleged conduct until and unless there is a determination of responsibility

at the conclusion of the grievance process.

4. Institutions may not access, consider, disclose, or otherwise use a party's medical records made or maintained in connection with the provision of treatment to the party, unless voluntary, written consent to do so is provided by the party (or the party's parent, if the party is not eligible to provide consent).
5. Institutions may not require, allow, rely upon, or otherwise use evidence that constitutes, or questions that seek disclosure of, information protected under a legally-recognized privilege, unless that privilege is waived.
6. All evidence must come in at the time of investigation.
7. Institutions must provide to the parties written notice of the date, time, location, participation, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare.
8. The parties must be afforded an equal opportunity to have others present during any grievance proceeding, including their advisor, though the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, so long as the restrictions apply equally to both parties and comply with this Policy.
9. Both parties must have an equal opportunity to inspect and review any evidence obtained as part of the investigation related to the allegations raised in a formal complaint, including any evidence upon which the institution does not intend to rely in reaching a determination of responsibility and any inculpatory or exculpatory evidence, from whatever source.
10. At least 10 days prior to the preparation of the investigative report, the institution must provide each party and the party's advisor the evidence obtained in the investigation in an electronic format or hard copy. The parties may submit a written response to the evidence, which the investigator shall consider prior to completion of the investigative report.

11. At the conclusion of the investigation, the investigator must create an investigative report that fairly summarizes the relevant evidence. At least 10 days prior to the hearing, the investigator must send a copy of the investigative report to each party and the party's advisor, if any, for review and written response.

4. Adjudication

1. Pre-Grievance Process.

- **Timing.** This grievance process shall be carried out using reasonably prompt time frames, including time frames for filing and resolving appeals, and for informal resolution processes if offered. Notwithstanding, temporary delays or extensions of the time frames must be offered for good cause, with written notice to the parties setting forth the cause for the action.
- *Good cause.* May include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for accommodations for language or disability.

5. Consolidation of Formal Complaints.

1. An institution may consolidate formal complaints against more than one respondent, by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

6. Determination Regarding Responsibility.

1. **Standard of Evidence.** All decisions in grievance processes under Title IX in the North Dakota University System shall require a determination of responsibility based on the preponderance of the evidence.
2. After the conclusion of the live hearing, the decision-maker must issue a written determination regarding responsibility, which must include:
 - Identification of the allegations potentially constituting sexual harassment;

- Description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the institution's code of conduct to the facts
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the respondent, and whether remedies will be provided to the complainant; and
- The procedures, timelines, and permissible bases for the complainant and respondent to appeal.

3. Permissive Dismissal.

- The institution may dismiss the formal complaint if, at any time, during the investigation or hearing:
 - i. A complainant notifies the Title IX Coordinator, in writing, that the complainant would like to withdraw the formal complaint or any allegations contained in the formal complaint;
 - ii. The respondent is no longer enrolled or employed by the institution; or
 - iii. Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination as the formal complaint or allegations in the formal complaint.
- In the event that a formal complaint is permissively dismissed the institution will consult with its legal counsel prior to taking action under another provision of its code of conduct to avoid taking actions constituting retaliation.

4. Notice of Dismissal.

- Upon a dismissal pursuant to this section, the institution must promptly send written notice of the dismissal and reasons therefore to both parties simultaneously.
5. The written determination must be provided to the parties simultaneously. The determination regarding responsibility becomes final either on the date that notice of the result of any appeal is provided to the parties, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
 6. The Title IX Coordinator shall be responsible to implement any remedies provided by the written determination.
 7. **Mandatory Dismissal.**
 - The institution must dismiss the formal complaint if, at any time during the investigation or hearing:
 - i. The conduct alleged would not constitute sexual harassment as defined in this Policy even if proved;
 - ii. The conduct alleged did not occur in the education program or activity; or
 - iii. The conduct alleged did not occur against a person in the United States.
 - If the formal complaint is subject to mandatory dismissal, the institution may take action under another provision of the code of conduct without that action constituting retaliation under this Policy.

7. **Hearing**

1. **Live Hearing.**

- The grievance process must provide for a live hearing after the completion of the investigative report. All evidence obtained by the investigator as part of the investigative process must be made available to the parties and the decision-maker at the live hearing.

- The live hearing will be presided over by the decision-maker, who may not be the investigator or the Title IX Coordinator.
 - i. The decision-maker will be one individual. That person will be chosen based on the Title IX team and who does not have a conflict of interest with the case.
- At the request of either party, the hearing must be conducted with the parties located in separate rooms with technology enabling the decision-maker and parties to simultaneously see and hear the party or witness answering questions. Hearings may be conducted with all parties physically present in the same geographic location, or, any parties, witnesses, and other participants may appear at the live hearing virtually, so long as the participants are able to simultaneously see and hear each other.
- At the live hearing, the decision-maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those questioning credibility. This cross-examination must be conducted directly (the questions may not be asked by the decision-maker), orally, and in real time by the party's advisor and never by a party personally.
 - i. Prior to a party or witness answering a question, the decision-maker must rule on the relevance of the question and explain any decision to exclude a question as not relevant. The decision-maker will explain why they feel a question is relevant or not relevant for clarity during the hearing.
 - ii. Decisions-makers will not allow new evidence to be brought forward during a live hearing. At this point, the decision-maker may request that the hearing stop and go

back to investigation.

- iii. Decision-makers may request, but may not require, that questions by the parties be submitted in advance, to permit the decision-maker to rule on the relevance of questions.
 - iv. The institution may otherwise limit the extent to which the party's advisor may participate in the hearing by institution policy, but should consult with legal counsel prior to imposing any significant limitations. The decision makers will have discretion to establish limitations on a case-by-base basis.
- *Rape Shield*. Questions and evidence about the complainant's sexual predisposition or sexual history are not relevant, unless such questions are offered to prove that someone other than the respondent committed the alleged conduct, or regard specific incidents of the prior sexual behavior with respect to the respondent, and are offered to prove consent.
 - *Cross-Examination*. If a party or witness does not submit to cross-examination at the live hearing, the decision-maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility. Decision-makers may not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence or refusal to answer cross-examination or other questions. There are no exceptions to this exclusion as there are in legal proceedings.
 - *Hearing Decorum*. Decision-makers may enforce rules to ensure hearing decorum, such as requiring respectful treatment, specifying any objection process, governing timing of hearing and length of breaks, etc.

- The institution will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.
- The institution will have a standby advisor in the case of any party not having an advisor or if an advisor needs to be dismissed.
- The panel will make recommendations to the decision maker regarding the decision about the case. The decision-maker will make the final determination within 10 business days of the hearing. The adjudicator does have the right to ask for more investigation or more details before making a decision.
- The decision-maker will decide the sanctions/remedies for the case.

8. Disciplinary Sanctions. Disciplinary sanctions imposed after the conclusion of the grievance process shall be assessed pursuant to the institution's code of conduct, student handbook, employee handbook, or similar document which sets possible disciplinary sanctions for violations of Title IX or code of conduct, and shall be proportional to the determination of responsibility. Disciplinary sanctions may not be imposed until the conclusion of the Title IX appeal process.

9. Title IX Appeals Process

1. Both parties must be offered the opportunity to appeal from a determination regarding responsibility or from the dismissal of a formal complaint (or any allegations within the formal complaint). The following may form the basis for an appeal:
 - Procedural irregularity that affected the outcome of the grievance process;
 - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could have affected the outcome of the matter; or
 - The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias

for or against complainants or respondents generally or for or against the individual complainant or respondent, that affected the outcome of the grievance process.

- Other basis set forth in the campus-level processes, but which must be offered equally to both parties (for example, an appeal based on the severity of the sanctions).

2. Upon filing of an appeal, the institution will:

- Notify the non-appealing party in writing when an appeal is filed and implement appeal procedures equally for both parties.
- Ensure that the appeal's decision-maker is not the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator. The appeal decision maker will be someone chosen by the Title IX Coordinator and will be someone who does not have a conflict of interest with the parties involved in the case. WSC will have the appeal decision maker be one individual, not a panel.
- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- Issue a written decision describing the result of the appeal and the rationale for the result; and
- Provide the written decision simultaneously to both parties.

3. Upon conclusion of the Title IX appeal process or on the date following the deadline for filing an appeal pursuant to this section, institutions may implement any remedies or disciplinary sanctions imposed in the determination regarding responsibility or upheld on appeal, as appropriate. In the event that a disciplinary sanction of suspension or expulsion is imposed on a student by the decision-maker, institutions shall provide a method of

reviewing an additional appeal from a determination regarding responsibility for a period of at least one year following the original decision pursuant to SBHE Policy 514. Such appeals may only be filed based on new information, contradictory information, and information indicating that the student or student organization was not afforded due process, and such appeal may not be based on grounds previously raised during the Title IX appeal process.

2. Final adjudication

1. Disciplinary Sanctions

- Disciplinary sanctions imposed after the conclusion of the grievance process shall be assessed pursuant to the WSC's student code of conduct, WSC's policies and procedures, or similar document which sets possible disciplinary sanctions for violations of Title IX or code of conduct, and shall be proportional to the determination of responsibility.

2. Remedies

- Remedies offered after the conclusion of the grievance process on a finding of responsibility must be designed to restore or preserve equal access to the education program or activity. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

10. Trainings

1. All persons involved in the grievance process, including, but not necessarily limited to, Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must receive training on the following areas:
 - The definition of sexual harassment;
 - The scope of the education program or activity;
 - How to conduct an investigation and grievance

- process, including hearings, appeals, and informal resolution processes, as applicable;
- How to serve impartially, including by avoiding prejudgment of the facts at issue; conflicts of interest, and bias.
2. Additionally, decision-makers must receive training on the following areas:
 - Any technology to be used at a live hearing;
 - Issues of relevance or questions and evidence, including when questions about the complainant's sexual predisposition or prior sexual behavior are not relevant;
 3. Investigators must also be trained on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
 4. All materials used to train the foregoing individuals must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints.
 5. To the extent an institutions shall work with the NDUS Office to ensure that the foregoing training is sufficient and, to the extent practicable, uniform, along with any questions of shared services and costs.
 6. All training materials used to train the foregoing individuals must be made available to the public by posting on the institution's website. The link where the training materials can be found is <https://willistonstate.edu/students/Student-Policies/Title-IX/>

11. Recordkeeping

1. Each institution shall retain, for a period of seven years, records of:
 - Each sexual harassment investigation, including any determination regarding responsibility; any audio or audiovisual recording or transcript; any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant.
 - Any appeal and the result therefrom;

- Any informal resolution and the result therefrom;
 - All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, which the institution must make available on its website.
2. WSC will create and maintain for seven years, records of any actions, including records of supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, WSC will document the basis for its response was not deliberately indifferent, and document that it took supportive measures, or, if supportive measures were not provided, an explanation of why such a response was not clearly unreasonable in light of the known circumstances.

12. Retaliation

1. No institution or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by title IX or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part.
2. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this part, constitutes retaliation.
3. The exercise of rights protected under the First Amendment does not constitute retaliation.
4. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute

retaliation, although a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

5. Complaints alleging retaliation may be filed pursuant to the grievance procedures for sex discrimination under Title IX.
6. There will not be a live hearing for any retaliation cases.

13. Confidentiality

Notwithstanding Chapter 44-04 of the North Dakota Century code, the identity of any individual who has made a report or complaint of sex discrimination or sexual harassment, any complainant, any respondent, and any witness, including the conduct of any investigation, hearing or judicial proceeding arising thereunder, shall be confidential.

14. Employee Responsibility

All employees are considered “responsible employees” (as defined above). When a responsible employee becomes aware of any complaint or type of sexual misconduct, they must report it immediately to either the Title IX Coordinator or a Title IX Deputy. Employees who fail to immediately report any complaint or type of sexual misconduct are subject to disciplinary procedures.

Resources

The following are individuals and agencies that can assist victims of sexual assault and other sexual offenses:

<p>WSC Counseling Services Stevens Hall 130 701-774-4212 wsc.counseling@willistonstate.edu</p>	<p>Williston Police Department 223 E Broadway #201 Emergency: 911 Non-Emergency: (701) 577-1212</p>
<p>CHI St. Alexius Health - Williston Medical Center 1301 15th Ave West (701) 774-7400 Open 24 hours</p>	<p>WSC Campus Security On-Site Campus Security (701) 570-6699</p>
<p>Northwest Human Service Center Mental health agency in Williston (701) 774-4600 316 2nd Ave West</p>	<p>FirstLink National Hotline 24/7 located out of Fargo, ND Free listening, support, and suicide prevention WSC counseling office phone is forwarded to this number after hours, on holidays, and weekends 1 (800) 273-TALK (8255)</p>
<p>Family Crisis Shelter Program Domestic Abuse Treatment Center in Williston 723 Main St (701) 572-0757 - Preferred call first</p>	<p>Sexual Assault Nurse Examiners (SANE) CHI St. Alexius Health Williston Medical Center 1301 15th Avenue West Williston, ND 58801 (701) 774-7400 1 (800) 544-3579</p>
<p>Great Plain's Women's Health 1700 11th St. W. Williston, ND 58801 (701) 774-7687</p>	<p>Trinity Community Clinic 1321 W Dakota Pkwy Williston, ND 58801 (701) 572-7711</p>

HISTORY:

Faculty Council approved on August 17, 2021

President approved on August 18, 2021

REFERENCES:

Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq.,
Nondiscrimination on the Basis of Sex in Education Programs or Activities
Receiving Federal Financial Assistance, 85 Fed. Reg. 30,026; N.D.C.C. ch.
12.1-20; N.D.C.C. § 15-10-56 (3)(a); N.D.C.C. ch 44-04.

