Policy Overview

This policy applies to all faculty, staff, students, contractors, and visitors of the College. It incorporates the essential elements regarding sexual misconduct related to sexual harassment, sexual assault, dating violence, domestic violence, stalking, and sexual discrimination, 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 incidents of sexual misconduct/sexual harassment, to provide remedies to those affected by the behavior, and to impose necessary sanctions to the party(s) found to be responsible for the sexual misconduct/sexual harassment.

This document shall be available on the College website or a copy may be obtained from the Title IX Coordinator or in the Administrative Services Department. All College faculty, staff, and students are responsible for knowing the information, policies, and procedures outlined in this document.

The College reserves the right to make changes to this policy as necessary and once those changes are posted online, they are in effect. If federal regulations change in a way that impacts this policy, this policy shall be construed to comply with federal regulations in their most recent form.

Title IX Coordinator

In accordance with Title IX regulations, the College has designated Laura Gwinn, as the College's Interim Title IX Coordinator. She is responsible for tracking and monitoring incidents of gender-based discrimination, including all forms of sexual misconduct/sexual harassment and retaliation, to ensure the College responds effectively to each complaint, and where necessary, for coordinating investigations and grievance proceedings of particular situations. Questions regarding Title IX, as well as concerns and complaints of non-compliance, may be directed to her. The College's Title IX Coordinator is located in the Orendorff Building, 231 West 6th Street, Bldg. 1, Room 119, Powell, WY 82435; phone: 307-754-6159; email: Title9@nwc.edu.

The Title IX Coordinator is specially designated to avoid actual or potential conflicts of interest. It is also the responsibility of the Title IX Coordinator to ensure that individuals who play a role in receipt, investigation, hearing, appeal, or other resolution of complaints do not have actual or potential conflicts of interest, and have been adequately trained.

Title IX Coordinator Contact Information:

Laura Gwinn, Interim Title IX Coordinator
Orendorff Building
231 West 6th Street, Bldg. 1, Room 119
Powell, WY 82435
(307) 754-6159
Email: Title9@nwc.edu

Conflicts of Interest and Bias

The College is committed to ensuring that its grievance processes are free from actual or perceived bias or conflicts of interest that would potentially impact the outcome. Any party who feels that there is an actual or perceived bias or conflict of interest that would materially impact the outcome must submit a written statement requesting the person's removal from the process. The statement should include specifics as to the actual or perceived bias or conflict of interest, and why the party believes the bias or conflict could materially impact the outcome. The written statement should be submitted to the Title IX Coordinator, or to the College's Compliance Officer in the event that the potential bias or conflict involves the Title IX Coordinator. A failure to

provide a written statement evidencing any alleged bias or conflict of interest will be deemed a waiver to any later allegation of bias or conflict of interest.

Jurisdiction

This policy applies when the College has actual knowledge to any alleged form(s) of sexual misconduct/sexual harassment that are committed by any member of the College community when: (1) the alleged conduct meets the definition of sexual misconduct/sexual harassment, as defined in Section III. below; (2) the College has disciplinary jurisdiction over the Respondent; (3) the Complainant is participating in or attempting to participate in the College's education program or activity; (4) the conduct occurred on the College campus, and/or; (5) off College property, if in connection with a recognized College program or activity that occurs in the United States. 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); and anywhere that official College activities may be held or attended.

Additionally, the College may choose to respond to any alleged form of sexual misconduct/sexual harassment that does not meet the Title IX definition of sexual harassment and/or occurred off the College campus or outside an educational program or activity, only if an individual provides notice to the Title IX Coordinator, Vice President of Student Services, and/or Campus Security. The College maintains the right to conduct an investigation and/or commence grievance proceedings of any alleged form of sexual misconduct/sexual harassment under the definitions outlined in various Board Policies or the Student Code of Conduct policy.

I. Education/Training to Prevent and/or Respond to Sexual Misconduct/Sexual Harassment

In an effort to prevent incidents of sexual misconduct/sexual harassment on or off campus, the 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.

II. Title IX Compliance Statement of Nondiscrimination

The College does not discriminate on the basis of race, color, national origin, sex, disability, age, religion, genetic information, pregnancy, or veteran status in its programs and activities. The College 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 6th Street (Building 1), Powell, WY 82435-1898; phone: 307-754-6227.

Acts of sexual misconduct (including sexual harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation, sexual discrimination, and retaliation) are considered Title IX violations and must be directed to the College Title IX Coordinator who is responsible for implementing the College's Sexual Misconduct/Sexual Harassment policy. The College Interim Title IX Coordinator, Laura Gwinn, is located in the Orendorff Building, 231 West 6th Street, Building 1, Room 119, Powell, WY 82435; phone: 307-754-6159; email: Title9@nwc.edu.

Individuals may also contact the Office for Civil Rights, U.S. Department of Education, Cesar E. Chavez Memorial Building, 1244 Speer Blvd. Suite 310, Denver, CO 80204-3582; phone: 303-844-5695; FAX: 303-844-4303; TDD: 800-877-8339; email: OCR.Denver@ed.gov. Individuals may contact the Office for Civil Rights at any time.

III. Sexual Misconduct

This policy addresses acts of sexual misconduct such as sexual harassment, sexual assault, dating violence, domestic violence, and stalking as well as sexual exploitation, sex-based discrimination, and retaliation. These acts are prohibited at the College. In

addition, applicable federal and state laws prohibit 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/sexual harassment.

A. Definitions

1. **Dating/Acquaintance Rape**: Date rape involves act(s) of non-consensual sexual contact 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. **Dating Violence**, defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.
    a. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the following factors:
        i. The length of the relationship,
        ii. The type of the relationship, and
        iii. The frequency of the interactions between the persons involved in the relationship
    b. For purposes of this definition:
        i. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
        ii. Dating violence does not include acts covered under the definition of domestic violence.

3. **Domestic Violence**, defined as violence committed –
    a. By a current or former spouse or intimate partner* of the Complainant;
    b. By a person with whom the Complainant shares a child in common;
    c. By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
    d. By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws in the State of Wyoming;
    e. By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the State of Wyoming.

    *To categorize an incident as Domestic Violence, the relationship between Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

    Domestic violence behaviors include, but are not limited to:

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

4. **Retaliation**: Retaliation may be any adverse action or treatment because of reporting or participating in a sexual

misconduct/sexual harassment complaint or investigation under this policy. Any person retaliated against can file a complaint with the College and a full grievance proceeding shall be commenced.

5. **Sexual Assault**, defined as:
    a. Sex Offenses, Forcible—Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent.
        i. Forcible Rape—Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ or another person, without the consent of the Complainant.
        ii. Forcible Sodomy—Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
        iii. Sexual Assault With An Object—To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
        iv. Forcible Fondling—The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable to giving consent because of age or because of temporary or permanent mental or physical incapacity.
    b. Sex Offenses, Nonforcible—Nonforcible sexual intercourse.
        i. Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Wyoming state law.
        ii. Statutory Rape-- Nonforcible sexual intercourse with a person who is under the statutory age of consent, in the State of Wyoming.

6. **Sex-based Discrimination**: Conduct that is based upon an individual's sex, 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.

7. **Sexual Exploitation**, defined as: 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/sexual harassment 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.

8. **Sexual Harassment**: "Sexual Harassment" means conduct on the basis of sex that satisfies one or more of the following:
    a. An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct. This type of harassment is commonly referred to as

"quid pro quo" and examples 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. 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 College's education program or activity, thereby creating a hostile environment; or
c. "Sexual Assault," "Dating Violence," and "Domestic Violence" as defined above; and "Stalking" as defined below.

In determining whether harassment creates a hostile environment, the harassment shall be considered 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 educational programs or activity, or
ii. the individual's employment;
iii. the nature, scope, frequency, duration, and location of the incident or incidents;
iv. the identity, number, and relationships of the person involved.

Sexual 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.

9. **Stalking**, defined as engaging in a course of conduct 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.

   For the purposes of this definition-

   i. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property
   ii. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
   iii. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

B. Other Definitions

1. **Actual Knowledge**: means notice and/or allegations of sexual misconduct/sexual harassment to the College's Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College. (Such an official of the College would be the President in consultation with Vice-President(s).) Once the College has actual notice, they are required to respond and take action. Imputation of knowledge based solely

on constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the College with actual knowledge is the Respondent. The mere ability or obligation to report sexual misconduct/sexual harassment or to inform a student about how to report sexual misconduct/sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the College.

2. **Bystander Intervention**: The act of intervening to prevent further harm when there is a perceived or imminent threat of sexual misconduct/sexual harassment. This person may also assist to seek medical attention, secure a safe place to stay, and assist with reporting the sexual misconduct/sexual harassment.

3. **Complainant**: The individual who is alleged to be the victim of conduct that could constitute sexual misconduct/sexual harassment.

4. **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/or 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/sexual harassment. 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.

5. **Formal Complaint**: A document filed by a Complainant alleging a form of sexual misconduct/sexual harassment against a Respondent (or filed by parent or legal guardian of minor or disabled person), or signed by the Title IX Coordinator when an alleged victim will not or cannot file, but the Title IX Coordinator determines an investigation is appropriate. Once a formal complaint is filed the College is compelled to initiate an investigation. (The options for reporting are discussed in Section IV. "Sexual Misconduct Reporting Process" of this policy.) At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in an education program or activity of the College. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic email, using the contact information listed for the Title IX Coordinator.

6. **Investigation**: A process of gathering and compiling statements of a reported allegation from all parties involved, to include but not limited to the Complainant, Respondent, witnesses, and any and all evidence. This process is discussed in Section VI. "GREIVANCE PROCESS – Investigation of Formal Complaints."

7. **Party/Parties**: This phrase signifies the Complainant(s) and Respondent(s) that are in involved in a sexual misconduct/sexual harassment grievance process.

8. **Process Advisor**: A person (other than an individual who may be called to provide witness testimony) who aids either the Complainant or the Respondent in understanding the sexual misconduct/sexual harassment process,

rules, and proceedings, as well as conducts cross examination at any formal grievance process hearing. The College maintains a pool of trained staff and faculty advisors who are available to be assigned to the parties, and each party is entitled to one advisor to guide and accompany them throughout the grievance process. The advisor may be a friend, mentor, family member, or attorney. The parties may choose an advisor from outside the pool, or outside the campus community, but outside advisors are not eligible to be trained by the College. The College cannot guarantee equal advisory rights, meaning that if one party hires an attorney, the College is not obligated to provide an attorney to the other party. However, if a party does not have an advisor at any formal grievance process hearing, the College must appoint an advisor to conduct cross-examination. Furthermore, a party cannot remove an assigned advisor, unless said advisor is refusing to conduct cross-examination at a hearing. Then, the College must provide the party another process advisor to perform that function.

9. **Rape Shield Protection**: A provision designed to protect the privacy of rape victims. It limits the ability to introduce evidence or cross-examination of a Complainant concerning their past sexual behavior, unless it is deemed relevant by the decision-maker in a hearing. It also protects the publication of the identity of an alleged rape victim.

10. **Reporting Party**: A Reporting Party is an individual who reports an alleged incident of sexual misconduct/sexual harassment. A Reporting Party is someone other than the person who may have been subjected to the sexual misconduct/sexual harassment, such as a mandated reporter.

11. **Respondent**: An individual(s) who has been reported to be the alleged perpetrator of conduct that could constitute sexual misconduct/sexual harassment.

12. **Supporter**: Any person (other than an individual who may be called to provide witness testimony) who attends a sexual misconduct/sexual harassment grievance process hearing to provide support or guidance to the participants. The Complainant and Respondent have the right to a Supporter of their choice throughout the formal grievance process hearing. The Supporter is not allowed to participate in the questioning or present information during the hearing.

13. **Supportive Measures**: means non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties of the College's educational environment, or deter sexual misconduct/sexual harassment. Supportive measures may include, but are not limited to: counseling; disability services; extensions of deadlines or other course-related adjustments; timely warnings; provide alternative course completion options; modifications of campus work or class schedules; campus escort services; mutual restrictions on contact between the parties; changes in campus work or resident life housing locations on campus; leaves of absence; interim suspension of a student on an emergency basis after the College has performed (1) a safety and risk analysis, (2)provided notice to the effected party, and (3) an opportunity to challenge the decision; increased security of certain areas of the campus; and other similar measures. The College must maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

IV. Sexual Misconduct/Sexual Harassment Reporting Process

Sexual misconduct/sexual harassment 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/sexual harassment promptly to campus officials and to law enforcement authorities.

Individuals may, however, choose not to report sexual misconduct/sexual harassment 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 severe 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.

If the College has actual knowledge of an alleged act of sexual misconduct/sexual harassment in an educational program or activity, the College must respond promptly in a manner that is not deliberately indifferent. The Title IX Coordinator must promptly contact the Complainant to discuss the availability of supportive measures with or without the filing of a formal complaint, consider the Complainant's wishes with respect to any supportive measures, and explain the process for filing a formal complaint. The Title IX Coordinator shall also conduct a preliminary evaluation to determine jurisdiction.

The Complainant may file a formal complaint at any time, but the College strongly encourages Complainants to file a formal complaint promptly in order to preserve evidence for a potential legal and/or grievance process proceeding. It is important that evidence is preserved from the alleged incident by: (1) Going immediately (within 24 hours) to a hospital emergency room and requesting an examination (which may include a sexual assault exam) or accessing another facility which can perform an examination; and (2) Not taking a shower, changing clothes, or in any way destroying physical evidence relative to the alleged incident until after one has talked with a professional resource person, who are listed under the "On-Campus Resources" and "Off-Campus Resources" in this section of this policy.

A. Reporting to Law Enforcement

   You may contact law enforcement by dialing **911**, or by contacting the local Police Department as listed below. A criminal investigation into the matter does not relieve the College from the duty of conducting its own investigation. It should be known that a report to law enforcement may not 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 Complainant or the Respondent. The College and law enforcement may coordinate their investigatory protocol to determine the best outcome for all concerned. A criminal investigation, or the result of a criminal investigation, is not determinative of whether or not sexual misconduct/sexual harassment occurred under College policy. A Complainant can be assisted by Campus Security or the Title IX Coordinator in notifying law enforcement if the Complainant so chooses.

B. Reporting to the College

   Any person, whether the Complainant, or a parent, friend, or bystander, has a right to report an incident of sexual misconduct/sexual harassment. If a Complainant wants to make a formal complaint of an alleged act of sexual misconduct/sexual harassment to the College, she/he shall file a report with the College's Title IX Coordinator at Northwest College, 231 West 6th Street, Powell, WY 82435, email: title9@nwc.edu, phone: 307-754-6159. A formal complaint may be made in person, electronically through email, or by a written letter (paper).

   Complainants may choose not to report sexual misconduct/sexual harassment to campus officials. The College respects and supports the individual's decision with respect to reporting; however, if information about sexual misconduct/sexual

harassment comes to the attention of the College, the College reserves the right to: (1) start an investigation and resolution proceedings even in the absence of a formal complaint, and/or (2) notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware.

A Complainant may report sexual misconduct/sexual harassment 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/sexual harassment, and no employee is authorized to investigate or resolve incidents without the involvement of the Title IX Coordinator.

1. **Limited Confidential Report**: An individual may choose to discuss a sexual misconduct/sexual harassment 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 must be reported to the Title IX Coordinator, but can be done so on a limited/anonymous basis in reference to personally-identifiable information.

2. **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 an alleged sexual misconduct/sexual harassment incident are required to report the incident to the Title IX Coordinator.

C. Reporting to Confidential Resources

College personnel (other than counselors) 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:

- Title IX Coordinator, Laura Gwinn, Northwest College, 231 West 6th Street, Powell, WY 82435; Title9@nwc.edu; 307-754-6159
- Vice President for Student Services: 307-754-6102
- Counseling (Student Success Center): 307-754-6135
- Director of Residence and Campus Life (Housing): 307-754-6412
- Campus Security: 307-754-6067

Off-Campus Resources: Emergency calls: 911

Powell:

- Powell Police Department: 307-754-2212; 250 N. Clark, Powell, WY 82435
- Crisis Intervention Services: offers assistance to domestic violence/sexual assault survivors (24-hour crisis hotline: 877-864-9688); other calls: 307-754-7959; 335 N. Gilbert Street, Powell, WY 82435
- Powell Valley Hospital: (emergency number: 307-754-1175); other calls: 307-754-2267; 777 Avenue H, Powell, WY 82435
- NW WY Family Planning: 307-527-5174; 109 W. 14th Street, Powell, WY 82435

Cody:

- Cody Police Department: 307-527-8700; 1402 River View Drive, Cody, WY 82414
- Crisis Intervention Services: (Crisis Hotline: 877-864-9688); other calls: 307-587-3545; 1220 13th Street, Cody, WY 82414
- Cody Regional Health: 307-527-7501; 707 Sheridan Avenue, Cody, WY 82414
- NW WY Family Planning: 307-527-5174, 1231 Rumsey Avenue, Cody, WY 82414

Lovell:

- Lovell Police Department: 307-548-2215; 355 5th Street #1, Lovell, WY 82431
- North Big Horn Hospital: 307-548-5200; 1115 Lane 12, Lovell, WY 82431

Worland:

- Worland Police Department: 307-347-4253; 100 N. 10 Street, Worland, WY 82401
- Washakie Medical Center: 307-347-3221; 400 S. 15th Street, Worland, WY 82401

D. Reporting Considerations

1. **Confidentiality**: All complaints of unlawful harassment (race, color, sex, religion, genetic information, national origin, age, disability, pregnancy, or veteran status) shall be considered confidential (particularly complaints of sexual misconduct/sexual harassment) and only those persons necessary for the investigation and resolution of the complaint shall be given any information about the alleged incident or the parties involved. The College shall respect the confidentiality of the Complainant and the Respondent to the extent possible consistent with the College's legal obligations to protect the rights and security of its employees and students. The final determination on issues of confidentiality is made by the Title IX Coordinator.

2. **Amnesty**: In an effort to remove barriers to the reporting of acts of sexual misconduct/sexual harassment, the College may offer immunity from violations of some Student Code of Conduct policies related to the sexual misconduct/sexual harassment if one has knowledge of and reports an act of sexual misconduct/sexual harassment, so long as the violations are not violent or dangerous in nature.

3. **Statement of Non-Retaliation**: The College affirms the rights of individuals to bring complaints of discrimination and/or harassment without fear of reprisal. Each employee or student, who, in good faith, complains about illegal discrimination of any kind, is protected from retaliation and any act of retaliation shall result in appropriate disciplinary action in accordance with the College's policies and procedures. Complaints of retaliation shall be treated as separate and distinct from original complaints of discrimination and shall be investigated.
    a. Staff, students, and faculty who are found to be participating in any form of employment or educational based retaliation against any employee or student may be subject to disciplinary action up to and including termination from employment, or student discipline procedures where appropriate.
    b. The College may issue "Mutual No Contact" orders to parties identified in the sexual misconduct/sexual harassment complaint. The "Mutual No Contact" orders may include third parties. Specifics of such an order shall vary from case to case. However, under no circumstances may the College restrict the rights protected under the U.S. Constitution, including the First Amendment, the Fifth Amendment, and the Fourteenth Amendment.

4. **False Reporting**: Sexual misconduct/sexual harassment 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 an 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.

5. **Detailed Account of the Alleged Sexual Misconduct/Sexual Harassment**: It is important for the Complainant to provide as much detail of the alleged sexual misconduct/sexual harassment as one can. The location, time, and a description of what happened are essential to investigating the case, as well as any witnesses.

6. **Third Party Reporting**: If a Complainant is impaired and/or unable to make a coherent report, the Title IX Coordinator may make a formal complaint on behalf of the Complainant. Where the Title IX Coordinator signs a formal complaint, they are not the Complainant or otherwise a party to the action.

7. **No Statute of Limitation**: A formal complaint of alleged sexual misconduct/sexual harassment may be filed any time. The College encourages the prompt reporting in order to preserve evidence for a potential legal or disciplinary proceeding. A delay in filing a formal complaint may compromise the subsequent investigation, particularly if neither the Complainant nor Respondent is employed by the College or enrolled as a student at the time.

8. **Withdrawal or Resignation While Allegations are Pending**: If a student withdraws from the College and has an allegation pending for a violation of this policy, the College shall place a hold on their official transcript, and/or prohibit graduation as necessary to permit the grievance process to be completed. Should an employee resign with unresolved allegations pending, the records of that employee will reflect that status and any College response to future inquiries regarding employment references for that individual will disclose the unresolved status.

V. Campus Sexual Misconduct/Sexual Harassment Data Reporting

The College is required to report all investigative and reported statistics of sexual misconduct/sexual harassment 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/sexual harassment at the College and provides a basis for addressing issues of sexual misconduct/sexual harassment in a corrective and constructive manner to prevent recurrences.

VI. GRIEVANCE PROCESS – Investigation of Formal Complaints

Throughout the entire Grievance Process, the College shall not discriminate against the Complainant or Respondent on the basis of sex. Nor shall any credibility determinations be made on the basis of a person's status as a Complainant, Respondent, or witness. Furthermore, there is a presumption that the Complainant filed the formal complaint in good faith, as well as a presumption that the Respondent is not responsible until a final determination is reached.

In addition, during the entire grievance process, the College shall employ the Preponderance of Evidence standard (i.e., more likely than not) when determining responsibility for and resolution of any violations of this policy. This Preponderance of Evidence standard shall be employed for all formal complaints of sexual misconduct/sexual harassment against students and staff, including faculty.

The College shall investigate in a prompt, efficient, and thorough manner all allegations of sexual misconduct/sexual harassment when a formal complaint has been filed. (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,

holidays, illnesses, etc.) If temporary delays are encountered, the investigator assigned to the case shall serve each party with written notice of the reason for such delay. If law enforcement is performing 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 if a violation occurred as defined in this Sexual Misconduct/Sexual Harassment policy, and the sanctions for such violations deal with the future of the relationship between the student(s), employees (and others), and the College. Investigation by law enforcement is a criminal investigation and the penalties are legally determined.

A. Investigation Process

Upon receipt of a formal complaint of sexual misconduct/sexual harassment, the Title IX Coordinator shall conduct an initial assessment to determine if the report falls within the scope of this policy. If it does, 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/sexual harassment investigations and not have any known conflict of interest or bias. 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, equitable, and thorough manner.

B. Investigatory Actions

The investigation must include, but is not limited to:

1. Providing written notification to parties about Title IX rights and options including opportunity to informal resolution of complaint, 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.
2. Providing written notice to all parties of any reasonable delays in the investigation, any additional allegations, and notice of all hearings, interviews, and meetings requiring attendance with sufficient time to prepare.
3. Conducting recorded interviews with the Complainant, 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.
4. Reviewing law enforcement investigation documents (if applicable)
5. Reviewing student files or employee personnel files
6. Gathering and objectively examining all relevant and reasonably available documents or evidence, both inculpatory (i.e. evidence favorable to the Complainant) and exculpatory (i.e. evidence favorable to the Respondent).
7. Preparation of a final investigative file that summarizes all relevant information and which is sent to all parties and their process advisors at least 10 business days prior to any grievance process hearing. The report must be presented in either an electronic format or hard copy to all parties and allow time for written response.
8. The original final investigative report, along with all documentation produced during the investigation, shall then be sent to the Title IX Coordinator to maintain in their office.

C. Rights of the Parties/Witnesses During the Investigation

1. Upon receipt of the formal complaint, and before investigatory interviews, parties shall be notified in writing with a Notice of Allegation(s) by the Title IX Coordinator (via secure College email, hand delivered, or by postal service mail) of the following: (1) the allegation with sufficient details including the identity of the parties, implicated policies, date, and location if known; (2) all relevant grievance procedures; (3) a statement that the Respondent is presumed not responsible; (4) the right to have a process advisor of their choice; (5) the right to inspect and review all evidence; (6) information regarding the code of conduct, retaliation and false statements; (7) right to sufficient

time to prepare a response; and (8) right to amend the allegations as more information becomes available.

2. The burden of proof and burden of gathering evidence rests with the College. However, throughout the investigation, no gag orders can be initiated and all parties must have an equal opportunity to present relevant witnesses and evidence, while respecting the "rape shield" provision.
3. Parties have the right to be notified of the timeframes and of each stage of the investigation, including scheduled interviews with time to prepare.
4. Prior to the completion of the investigative file, both parties and their advisor, if any, must receive notice of all inculpatory and exculpatory evidence subject for inspection and review in an electronic format or hard copy, and each party must have at least 10 business days to submit a written response, which the investigator(s) shall consider prior to the completion of the investigative report. Prior to the release of any evidence in an electronic or written format, the investigator shall provide a confidentiality agreement form that authorizes such sharing. This form must be completed before the College is able to share records with the process advisors and/or parties.
5. Parties must receive the finalized investigative report to review and submit written responses at least 10 business days prior to any formal hearing proceeding.
6. Both parties may choose to have a person (other than an individual who may be called to provide witness testimony, or their process advisor) to provide support and/or guidance to the parties during an investigation and the grievance process. This person, known as a Supporter, is not allowed to participate in the questioning or present information.
7. No information protected by a legal privilege, such as an attorney-client or doctor-patient privilege, can be used during the investigation unless the person holding that privilege voluntarily agrees to waive it.
8. Witnesses are expected to cooperate with and participate in the College's investigation. Any witness who declines to participate in or cooperate with an investigation shall not be permitted to offer evidence or testimony later in a live hearing.
9. During the investigation, the Title IX Coordinator may need to provide additional, equitable supportive measures (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 (see previous Section II., B., 11 for more information). These services may include, but are not limited to:
    a. Relocating from one College residential facility to another;
    b. Arranging for needed College counseling services within the ability of those services offered on campus;
    c. Arranging for alternative academic completion (change classes, online completion, etc.);
    d. Adjusting employment schedules/duties;
    e. Issuing "Mutual No Contact" orders to protect the party(s) from potential threats or physical and/or emotional harm;
    f. Providing protective services to accompany Complainant and/or Respondent while attending classes and/or College-related activities (music, athletic, Student Senate, forensics, etc.) during the investigative/resolution process;
    g. Other services deemed necessary by the Title IX Coordinator, investigatory personnel, and/or other personnel connected with the case.
    h. Interim suspension of a student from the College's education program or activities on an emergency basis, provided that the investigator(s) undertakes an individualized safety and risk analysis to determine if there is an immediate threat to the physical health or safety of students or employees on campus. If such a threat exists, the College must provide the student with notice and an opportunity to challenge the suspension. If the Respondent is a non-student employee, the College may place them on administrative leave during the pendency of the investigation, without a safety and risk analysis being performed.
10. Each party has the right to one process advisor throughout the Grievance Process (see Section III., B., 2.). The process advisor may be present at any and all meetings and interviews, but may not participate by asking

questions or offering evidence during the investigation process.

VII. GRIEVANCE PROCESS – Resolution of the Formal Complaint

Grievance process resolution of a formal complaint can be accomplished through an Informal Resolution process, a Mandatory or Discretionary Dismissal, or a Formal Resolution/Live Hearing proceeding.

A. Informal Resolution

Before pursuing a complete formal resolution process, every reasonable effort should be made to constructively resolve conflict when both parties are students. This process is available for all incidents of sexual misconduct/sexual harassment. Exceptions for informal resolution proceedings are: (1) when the Respondent is an employee/faculty member of the College; (2) when the Title IX Coordinator determines a situation is not eligible; or (3) either of the parties are reluctant to participate in good faith.

Requirements of Informal Resolution Process:

1. An informal resolution process may be attempted if each party enters into the process completely voluntarily. The College can never force, threaten, or require any party to enter into an informal resolution process.
2. Prior to the beginning of any voluntary informal resolution process, the College must provide written notice to the parties, which includes: notice of the allegations, requirements of the process, date and time of the scheduled informal resolution process, information about the confidential nature of the process, consequences of participation and ability to withdraw from the process and commence formal resolution.
3. The College must provide an informal resolution decision-maker, who is free from conflicts of interest or bias, and who has received special training. The decision-maker shall explain the process, encourage conversations, monitor the parties for safety, and create an informal resolution agreement that both parties would be required to sign.
4. If informal efforts are unsuccessful, a formal resolution process consisting of a live hearing shall be initiated.

B. Mandatory or Discretionary Dismissal

The College **must** dismiss a formal complaint when: (1) it does not describe conduct that meets the definition of sexual misconduct/sexual harassment; and/or (2) it alleges sexual misconduct/sexual harassment that did not occur in the College's educational program or activity; and/or (3) it alleges sexual misconduct/sexual harassment that did not occur in the United States; and/or (4) the Complainant is not participating or attempting to participate in the educational program or activity at the time of filing the formal complaint. The College can still address these complaints under the Board Policy Manual, or the Student Code of Conduct policy.

The College **may** dismiss a formal complaint when: (1) the Complainant notifies the Title IX Coordinator in writing that they wish to withdraw the formal complaint or some of its allegations; (2) if the Respondent is no longer enrolled or employed by the school; or (3) specific circumstances prevent the College from gathering evidence sufficient to reach a determination about the allegations. Such discretionary dismissal will be on a case by case basis and the College reserves the right to place a hold on the Respondent's College records.

Whenever the College dismisses a formal complaint, or any allegations in it, the College must promptly notify all parties by sending a written notice of the dismissal, the reasons for the dismissal, and the right of either party to appeal the decision.

C. Formal Resolution/Live Hearing Process

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, along with all notices and a summary of evidence.

If the alleged act of sexual misconduct/sexual harassment is found not to have merit, the Claimant and Respondent shall be simultaneously notified that the allegations have been dismissed and what their rights are, as outlined above.

If the allegation of sexual misconduct/sexual harassment is found to be substantiated (according to the Preponderance of Evidence standard), steps must be taken by the Title IX Coordinator to facilitate the scheduling of a formal resolution by means of a live hearing with cross examination of all parties and witnesses.

1. Hearing Policy
    a. The College shall provide an equal opportunity for the parties to present witnesses and evidence.
    b. The College shall treat the Complainant and Respondent equitably by providing remedies (see Section VII., G. "Sanctions/Remedies") to a Complainant if a Respondent is found responsible, and by following the prescribed grievance process imposing sanctions on a Respondent.
    c. The live hearing process is strictly confidential.
    d. The hearing decision-maker(s) shall make an objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence. Furthermore, any credibility determinations shall not be made on the basis of a person's status as a Complainant, Respondent, or witness.
    e. The decision-maker(s) shall be fully trained in their role and not have any bias or conflict of interest. If a bias or conflict of interest is known, the decision-maker(s) must recuse themselves from the grievance process.
    f. Throughout the live hearing process, there is a presumption that the Complainant filed the formal complaint in good faith, as well as a presumption that the Respondent is not responsible until a final determination is reached.
    g. The formal live hearing process shall be concluded in a reasonably prompt time frame, with temporary delays permitted only for good cause.
    h. No documents and/or evidence shall be allowed that are protected by a legal privilege, unless the person holding that privilege waives it. Furthermore, neither party is allowed to seek, permit questions about, or allow the introduction of evidence that is protected by a recognized privilege, including the Rape-Shield Protection, unless prior sexual behavior is specifically relevant, which shall be determined by the hearing decision-maker(s).
    i. All parties are required to have a process advisor accompany them to the hearing for support and to conduct cross examination. At no time shall either party be allowed to personally ask questions or cross-exam anyone. Process advisors should help their advisees prepare for the hearing and are expected to advise ethically, with integrity and in good faith.
    j. Process advisors are expected to refrain from interfering with the College's formal hearing resolution process. Any process advisor who steps out of their role in any hearing shall be warned once, and if they continue to disrupt or otherwise fail to respect the limits of their role, or the Colleges formal resolution process, they shall be asked to leave the hearing. The decision to have the advisor leave is in the College's sole discretion. If an advisor is removed from the hearing, a new advisor shall be provided to the affected party and the hearing shall continue to a later date, which shall then be determined by the hearing decision-maker(s).
    k. Process advisors are expected to maintain the privacy of all documentation and evidence shared with them by the College. These documents/evidence may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any advisor who does not respect the sensitive nature of the resolution process or who fails to abide by privacy expectations.
    l. The College expects the parties, process advisors, and any witnesses to adjust their schedules to allow them

to attend the noticed hearing. The College shall not typically change scheduled meetings to accommodate a party, advisor, or witness's inability to attend.

m. If a process advisor is unable or unwilling to conduct cross examination, the College must provide the affected party with a new process advisor to perform that function.

n. The College will create an audio, or audiovisual recording, or transcript of any live hearing and make it available to the parties for inspective and review, upon request.

2. Hearing Procedures

a. All parties and their process advisors must receive written notice at least 10 business days before any scheduled hearing.

b. All formal grievance process resolutions shall be performed with live hearings. If either party requests it, the entire hearing must be held on campus with the parties located in separate rooms and with technology enabling everyone to see and hear each other.

c. Each party, speaking on their own behalf, shall be allowed a five-minute opportunity to conduct both an opening and closing statement, if they so desire.

d. Process advisors and the parties shall be required to meet with the hearing decision-maker(s) at a pre-hearing conference. This shall be held jointly, unless the parties request separate rooms. This pre-hearing conference shall include, but not be limited to the following:

i. allow the process advisors to clarify any questions they may have;

ii. allow the hearing decision maker(s) an opportunity to clarify the role the process advisor is expected to take during the hearing;

iii. a determination of relevant issues to be resolved;

iv. presentation of a list of all witnesses that shall be called; and

v. presentation of a complete list of all relevant evidence either party plans to introduce in support of their position.

e. Only process advisors shall be allowed to perform cross-examination of the other parties and witnesses. Those cross-examination questions must have been submitted to the process advisor by their advisee (i.e. either the Complainant or Respondent) prior to the hearing, including any questions challenging credibility. An exception would be any follow-up questions.

f. Any cross-examination questions must be relevant. The decision-maker(s) must decide if the question is relevant BEFORE the party or witness has to answer it and explain any decision to exclude a question as not relevant.

g. All parties and witnesses have a right to participate in or not participate in the live hearing. If a party or witness chooses not to appear at the live hearing, or not to answer cross-examination questions, the decision-maker(s) must exclude that party's or witnesses' statements and evaluate any evidence that does not involve those statements. The hearing decision-maker(s) must never make inferences about the determination regarding responsibility based on the fact that a party or witness did not attend the hearing or submit to cross-examination.

h. The decision-maker(s) shall conduct all direct examination of the parties, prior to any cross-examination being performed by the parties' process advisors.

i. The investigator(s) may provide testimony and introduce evidence at the live hearing.

3. Hearing Decisions

a. Upon final completion of the hearing, the decision-maker shall prepare a written determination of responsibility within five (5) business days after the hearing. Both the Complainant and the Respondent shall receive simultaneous notification, in person or by mail, of the final determination of responsibility. Such

written determination shall include, but is not limited to the following:

i. The portion of the College's Sexual Misconduct/Sexual Harassment policy that was violated;
ii. A description of the procedural steps taken by the College to reach the determination;
iii. Findings of facts and rationale used to support the final determination. Any questions that were deemed not relevant by the decision maker(s) at the hearing may be excluded from the rationale provided;
iv. A determination on each allegation regarding responsibility, any resulting sanctions imposed on the Respondent, and any remedies provided to the Complainant;
v. A statement and rationale for any remedies for the Complainant, addressing how those remedies shall restore and preserve equal access;
vi. The College's procedures and permissible basis for an appeal; and
vii. An explanation on how the College's response was not deliberately indifferent.

4. Sanctions/Remedies

If the Respondent is found to be responsible (according to the standard of the Preponderance of Evidence) for an act of sexual misconduct/sexual harassment, appropriate sanctions shall be imposed, based on the severity of the violation. The purpose of sanctions is for the College to end the discrimination, prevent its recurrence, and remedy its effects on the Complainant and the College community by implementing effective remedial actions. Such remedial actions for the Complainant may include any previous supportive measures and/or any additional measures that are designed to restore and preserve access to the College's educational programs and activities. Furthermore, any remedies provided to the Complainant can, at this point, be punitive and/or disciplinary against the Respondent.

Sanctions may include, but are not limited to, any one or a combination of the following:

a. **Warning**: an official written or verbal notice to the Respondent stating such conduct is in violation of College policies. If the conduct or actions continue, the College shall take further disciplinary action.

b. **Disciplinary probatio**n: 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.

c. **Disciplinary suspension**: from the residence hall, school activities, 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 Services. Written proof documenting completion of specified conditions must be provided with the reinstatement application.

d. **Mandatory counseling**: for a specific period of time.

e. **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 the College at a future time.

f. **Employee disciplinary action up to and including termination of employment**: In addition, employee sanctions may include any of the above-mentioned sanctions, sanctions may be multiple/combined, and sanctions may include any of the following depending on the severity of the violation: enhanced supervision; observation or review; transfer; performance improvement plan including additional training; reassignment; assignment to a new supervisor; demotion; denial of wage increase, bonus, or other compensation; restriction of stipends, research, and/or professional development resources; demotion; loss of salary increases, bonus, or other compensation; paid or unpaid administrative, disciplinary, decision-making leave; and/or paid/unpaid suspension.

g. **A No Contact order**: restricts the Respondent's ability to communicate with or access College personnel, Complainant, and/or witnesses.

h. **Criminal trespass**: the Respondent may not enter specified College facilities or property. Trespassing charges shall be filed if this sanction is violated.

i. **Notation on transcript/employment record**: which indicates that the Respondent was found to be in violation of this policy.

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

Factors considered when determining a sanction action may include, but are not limited to:

i. The nature, severity of, and circumstances surrounding the violation(s)
ii. The Respondent's disciplinary history
iii. Previous allegations or allegations involving similar conduct
iv. The need for sanctions to bring an end to the discrimination, harassment, and/or retaliation
v. The need for sanctions to prevent the future recurrence of the discrimination, harassment, and/or retaliation
vi. The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
vii. The impact on the parties
viii. Any other information deemed relevant by the decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal.

VIII. APPELLATE PROCEEDINGS – Sexual Misconduct/Sexual Harassment

Either party involved in a sexual misconduct/sexual harassment grievance process may appeal either after a mandatory or discretionary dismissal, or after the conclusion of the formal hearing process.

A. Appeals

1. Either party or parties may appeal the outcome of the grievance process by submitting a Petition for Appeal no more than five (5) business days after receipt of the written final determination of responsibility, or dismissal. Petitions for Appeal are to be delivered in person to the Title IX Coordinator or designee.
    a. The grounds for appeal are:

i. Procedural irregularity affected the outcome of the matter.
ii. New evidence has been discovered that was not reasonably available at the time of the determination on responsibility or when the dismissal was entered, and that could affect the outcome of the matter.
iii. A conflict of interest or bias on the part of the Title IX Coordinator, an investigator who compiled evidence, or a decision-maker, and the conflict of interest or bias affected the outcome.

2. *Sanctions Status During the Appeal*: Any sanctions imposed as a result of the formal hearing/informal resolution are stayed/suspended during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures listed above.
3. Any and all appeal decision-maker(s) shall be fully trained, free of conflict of interest and will have had no conflicting involvement with earlier parts of the grievance process.

B. Appeals Process
1. Upon receipt of the written appeal, the Title IX Coordinator or designee shall serve the Petition for Appeal to the other party(s) and their advisors along with information detailing each party's rights and the appeals process.
2. Parties wishing to file a response to the Petition for Appeal must do so in writing to the Title IX Coordinator or designee within three (3) regular business days from the date they receive notification of the pending appeal. This response shall be shared with the other party(s).
3. 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.
4. The appeal petition, responses, and applicable documentation shall be forwarded to the appeals decision-makers for review to determine if the Petition for Appeal and any response meets the limited grounds and time considerations. Within ten (10) business days of receipt, the appeal decision-maker(s) shall render a written decision on the appeal based on the written request, responses, or on any interviews deemed necessary.

C. Appeals Procedures
1. All parties shall be provided with the appeals petition, responses, the status of the appeal consideration, and the results of the appeal decision.
2. Every opportunity to return the appeal to the original hearing decision-maker(s) for reconsideration (remand) shall be pursued.
3. Appeals are not intended to be full re-hearings of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal.
4. Appeal decisions are to be deferential to the original live hearing body, making changes to the findings only where there is clear error and to the sanctions only if there is a compelling justification to do so.
5. An appeal is not an opportunity for appeal decision-maker(s) to substitute their judgment for that of the original hearing decision-maker(s) merely because they disagree with its finding and/or sanctions.
6. The appeal decision-maker(s) shall render a written decision on the appeal to all the parties within ten (10) business days from receipt of all appeal material necessary to render the decision.

D. Appeals Decision-Maker(s) Ruling

The appeals decision-maker(s) shall serve a written decision of outcome on both parties and their advisors simultaneously. The written decision of outcome must document the rationale and shall be based on one of the following actions:

1. 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 is ineligible because it did not meet the requirements stated in the

"grounds for appeal" mentioned above. This decision made by the appeals decision-maker(s) is final.

2. If the appeal has merit, the appeals decision-maker shall grant the appeal and remand the findings for further investigation and/or reconsideration at the formal live hearing level.
3. If remanded to re-open the investigation, the results of a revised investigation can be subsequently forwarded for reconsideration at the hearing level, at the discretion of the Title IX Coordinator. If the appeal remands to the live hearing decision-maker(s), the reconsideration of the hearing decision-maker(s) is not appealable.
4. Where a procedural error cannot be cured by the original hearing decision-maker(s), as in the case of a bias or conflict of interest, the appeal decision-maker(s) may order a new hearing with a new body of hearing officers. The results of a reconvened hearing cannot be appealed

IX. Release of Information

Every effort is made to keep information regarding sexual misconduct/sexual harassment cases confidential; however, once the case has been adjudicated, and if media sources are aware of a sexual misconduct/sexual harassment incident, the College may release summary details of the name, nature of the violation, and sanctions for any Respondent who is found in violation of the College's policy. In doing so, the College shall not release any information that could lead to the identification of the Complainant. 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/sexual harassment 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 grievance proceedings and any appeals proceedings in cases of sexual misconduct/sexual harassment shall be shared with both the Complainant and Respondent. Upon request, the College shall 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 sexual violence or a non-forcible sex offense (e.g., statutory rape, incest).

X. Record Keeping

The College shall create, retain, and make available to the parties the following documentation of any sexual misconduct/sexual harassment incident for a period of seven (7) years:

1. Every allegation of sexual misconduct/sexual harassment, even if no formal complaint was filed, and the College's response, including documentation of supportive measures offered and implemented to both parties.
2. All documentation of every formal complaint, all investigative documents, including informal resolution, appeals and live hearing documents, all responsibility determinations, and any sanctions imposed, as well as remedies implemented.
3. All documents indicating the measures the College took to preserve and restore access to its educational programs or activity.

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 shall protect the confidentiality of victims/Complainants and other necessary parties by not including personally-identifiable information about them when completing publicly available record-keeping including Clery Act reporting and disclosures.

XI. Training of All Personnel Implementing these Policy and Procedures

All individuals tasked with implementing this policy and procedures, including the Title IX Coordinator, Investigators, Hearing decision-maker(s), Informal Resolution decision-maker(s), and Appellate decision-maker(s) shall be trained at least annually.

This training shall include, but not be limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to sexual misconduct/sexual harassment and discrimination allegations; the College's Sexual Misconduct Policy, including definitions of applicable terms; confidentially and privacy; conflicts of interests and bias; and applicable laws, regulations and federal regulatory guidance.

All training materials, used to train these individuals mentioned above, shall be maintained for seven (7) years and the training shall be listed each year on the College's Title IX webpage for inspection by members of the public.

XII. Complaints Against Title IX Coordinator

Complaints against the Title IX Coordinator, including retaliation, may be made to the Compliance Officer at Northwest College:
Lisa Watson, Compliance Officer
Email: lisa.watson@nwc.edu
Phone: 307-754-6098
Location: Orendorff Building
Office: ORB106K

Adopted 12/14/2015
Revised & Adopted 03/13/2017
Revised & Adopted 04/09/2018
Revised & Adopted 08/13/2018
Revised & Adopted 05/11/2020
Revised & Adopted 08/10/2020
Revised & Adopted 06/17/2025