

POLICY PROCEDURE TITLE: Title IX – Sexual Harassment Resolution Process

DIVISION: Student Affairs / Talent & Culture

POLICY OWNER/POSITION TITLE: Title IX Coordinator

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Purpose

NWTC is committed to providing a workplace and educational environment, including the many benefits, programs, and activities it offers its students and employees, free from sex discrimination in any form. To ensure compliance with applicable federal and state laws and regulations, including, without limitation, Title IX of the Education Amendments Act of 1972 and its implementing regulations (“Title IX”), and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational enterprise, NWTC has developed and enacted this policy process that provides a prompt, fair and impartial process to make clear that sexual harassment and retaliatory conduct related to sexual harassment, alleged or proven, will not be tolerated.

Overview

NWTC will act on any Notice, Complaint, or Knowledge of a potential violation of the Title IX – Sexual Harassment Policy (“the Policy”) that is received by the Title IX Coordinator or its designee or any other Mandated Reporter by applying the Resolution Process below. NWTC’s Title IX – Sexual Harassment Policy can be accessed online.

The procedures below apply to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined in the Policy), or retaliation, involving students, staff, administrators, faculty members, or third parties.

Scope

This process is only applicable to alleged incidents that occur after August 1, 2024. For alleged incidents of sexual discrimination/harassment occurring prior to August 1, 2024, the policy, and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Title IX Coordinator and [online](#).

Notice/Complaint

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the Title IX Coordinator or its designee will initiate a prompt initial evaluation to determine NWTC’s next steps. The Title IX Coordinator or its designee will contact the Complainant/source of the Notice to offer supportive measures and determine whether the Complaint wishes to file a Formal Complaint.

The Title IX Coordinator or designee will then initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a Formal Complaint
- 2) An Informal Resolution (upon submission of a Formal Complaint)
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a Formal Complaint)

Collateral Misconduct

Collateral misconduct is defined to include potential violations of other NWTC policies not incorporated into the Policy on Title IX – Sexual Harassment that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all charges. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Title IX Coordinator or its designee may consult with NWTC officials who typically oversee such conduct (e.g., Talent & Culture, student conduct/CARE) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of NWTC. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student and the employee handbook.

Statement of the Parties' Rights

Under this Policy and procedures, the Parties have the right to:

- An equitable investigation and resolution of all credible allegations of prohibited sexual harassment, retaliation, and Other Prohibited Behaviors, when reported in good faith to NWTC officials.
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the specific misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated Policies and procedures, and possible sanctions.
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations.
- Be informed in advance of any NWTC public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- Have all personally identifiable information protected from NWTC's release to the public without consent, except to the extent permitted by law.
- Be treated with respect by NWTC officials.
- Have NWTC Policy and these procedures followed without material deviation.
- Voluntarily agree to resolve allegations under this Policy through Informal Resolution without NWTC pressure, if Informal Resolution is approved by the Title IX Coordinator or its designee.
- Not be discouraged by NWTC officials from reporting sexual harassment, retaliation, and Other Prohibited Behavior to both on-campus and off-campus authorities.
- Be informed of options to notify proper law enforcement authorities, and the option(s) to be assisted by NWTC in notifying such authorities, if the party chooses. This also includes the right to not be pressured to report.
- Have allegations of violations of this Policy responded to promptly and with sensitivity.
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, visa and immigration assistance, and/or other services, both on-campus and in the community.

- A NWTC-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- Be informed of available assistance in changing academic, and/or employment situations after an alleged incident of sexual harassment, sex discrimination, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either institutional or criminal, needs to occur for this option to be available. Such actions may include, but are not limited to:
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Visa/immigration assistance
 - Rescheduling or adjusting an exam, paper, and/or assignment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Campus safety escorts
 - Alternative course completion options
- Have NWTC maintain supportive measures for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair NWTC's ability to provide the supportive measures.
- Receive sufficiently advanced written notice of any NWTC meetings or interviews involving another party, when possible.
- Identify and have the Investigator(s) and/or Decision-maker question relevant available witnesses, including expert witnesses.
- Provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant and permissible by the Investigator(s)/Decision-maker, may be asked of any party or witness.
- Have Complainant's inadmissible sexual interests/prior sexual history or any Party's irrelevant character evidence excluded by the Decision-maker.
- Access the relevant evidence obtained and respond to that evidence.
- A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- Receive a copy of all relevant and permissible evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law and be given ten (10) business days to review and comment on the evidence.
- The right to receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, and to have at least seven (7) business days to review the report prior to the determination.
- Be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- Regular status updates on the investigation and/or Resolution Process.
- Have reports of alleged Policy violations addressed by Resolution Process Pool members who have received relevant annual training as required by law.
- Preservation of confidentiality/privacy, to the extent possible and permitted by law.
- Meetings, interviews, and/or hearings that are closed to the public.

- Petition that any NWTC representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- Be able to select an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- Apply the standard of proof, preponderance of the evidence (“more likely than not”), to make a Finding and Final Determination after an objective evaluation of all relevant and permissible evidence.
- Be present, including presence via remote technology with approval of Title IX Coordinator or designee, during all testimony given and evidence presented during any hearing.
- Have an impact and/or mitigation statement considered by the Decision-maker following a determination of responsibility for any allegation, but prior to sanctioning.
- Be promptly informed of the Resolution Process finding(s) and sanction(s) (if any) and be given a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay).
- Be informed in writing of when a NWTC decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery.
- Be informed of the opportunity to appeal the Resolution Process finding(s) and sanction(s), and the procedures for doing so in accordance with NWTC’s grounds for appeal.
- A fundamentally fair resolution as defined in these procedures.

Initial Evaluation

The Title IX Coordinator or its designee conducts an initial evaluation typically within one to five (1-5) business days of receiving Notice/Complaint/Knowledge of alleged misconduct. The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
 - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Determining whether NWTC has jurisdiction over the reported conduct, as defined in the Policy.
 - If the conduct is not within NWTC jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate NWTC office for resolution.
- The Title IX Coordinator seeks to determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.
 - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint themselves [because a violence risk assessment indicates a compelling threat to health and/or safety].
- If a Formal Complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.

- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an Informal Resolution option, or a formal investigation and grievance process.
 - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their needs, determine the appropriate supports, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution, which informal mechanism may serve the situation best or is available, and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
 - If a Formal Grievance Process is preferred by the Complainant, the Title IX Coordinator determines if the alleged misconduct falls within the scope of the 2020 Title IX regulations:
 - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address, based on the nature of the complaint:
 - an incident, and/or
 - a pattern of alleged misconduct, and/or
 - a culture/climate issue

Title IX Coordinator or its Designee: Authority to Initiate a Complaint

If the Complainant does not wish to file a Formal Complaint, the Title IX Coordinator, or its designee, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Title IX Coordinator or its designee will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if NWTC cannot ensure equal access without initiating a Complaint. The Title IX Coordinator or its designee will consider the following non-exhaustive factors to determine whether to file a Complaint:

- The Complainant's request not to proceed with initiation of a Complaint.
- The Complainant's reasonable safety concerns regarding initiation of a Complaint.
- The risk that additional acts of sexual harassment would occur if a Complaint is not initiated;
- The severity of the alleged sexual harassment, including whether the sexual harassment if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the sexual harassment and prevent its recurrence.
- The age and relationship of the Parties, including whether the Respondent is a NWTC employee.
- The scope of the alleged sexual harassment, including information suggesting a pattern, ongoing sexual harassment, or sexual harassment alleged to have impacted multiple individuals.
- The availability of evidence to assist a Decision-maker in determining whether sexual harassment occurred.
- Whether NWTC could end the alleged sexual harassment and prevent its recurrence without initiating its resolution process.

If deemed necessary, the Title IX Coordinator or its designee may consult with appropriate NWTC employees, and/or conduct a violence risk assessment²⁴ to aid their determination whether to initiate a Complaint.

When the Title IX Coordinator or its designee initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

Violence Risk Assessment

Threat assessment is the process of assessing the actionability of violence by a person against another person or group following the issuance of a direct or conditional threat. A Violence Risk Assessment (VRA) is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

Implementing a VRA requires specific training. It is typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct professionals, and/or other Behavioral Intervention Team (BIT) (sometimes known as CARE team) members.

A VRA occurs in collaboration with the CARE team, and/or threat assessment team and must be understood as an ongoing process, rather than as a single evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California, Section XII in Massachusetts, Baker Act in Florida), nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations. It is supported by research from law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use(s) an evidence-based process consisting of:

- 1) An appraisal of **risk factors** that escalate the potential for violence.
- 2) A determination of stabilizing influences, or **protective factors**, that reduce the risk of violence.
- 3) A contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of the threat; fixation and focus on target; grievance collection; and action and time imperative for violence.
- 4) The application of **intervention and management** approaches to reduce the risk of violence.

To assess a person's level of violence risk, the Title IX Coordinator or its designee will initiate the VRA process through the NWTC CARE Team. The CARE Team will assign a trained person(s) to perform the assessment, according to the specific nature of the complaint.

The assessor(s) will follow the process for conducting a VRA and will rely on a consistent, research-based, reliable system that allows for the evaluation of the risk levels.

The VRA is conducted independently from the Resolution Process, informed by it, but free from outcome pressure. The person(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The CARE Team member(s) conducts a VRA process and makes a recommendation to the Title IX Coordinator or its designee as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to the health and/or safety of a person or the community.

In some circumstances, the Title IX Coordinator may determine that a VRA should be conducted by the CARE Team as part of the initial evaluation of a Complaint under this Policy. A VRA can aid in critical and/or required determinations, including:

- 1) Whether to remove the Respondent on an emergency basis because of an immediate threat to a person or the community's health/safety (Emergency Removal)
- 2) Whether the Title IX Coordinator or its designee should pursue/sign a Complaint absent a willing/able Complainant
- 3) Whether the scope of an investigation should include an incident, and/or pattern of misconduct, and/or climate of discrimination or harassment
- 4) To help identify potential predatory conduct
- 5) To help assess/identify grooming behaviors
- 6) Whether it is reasonable to try to resolve a Complaint through Informal Resolution, and if so, what approach may be most successful
- 7) Whether to permit the Respondent to voluntarily withdraw
- 8) Assessment of appropriate sanctions/remedies (to be applied post-determination)
- 9) Whether a Clery Act Timely Warning/Trespass order/Persona Non Grata is needed

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Institutions may be compelled to act on alleged employee or student misconduct irrespective of a Complainant's wishes.

Emergency Removal/Interim Suspension of a Student

NWTC may emergency remove a student accused of Sexual Harassment upon receipt of Notice/Knowledge, a Complaint, or at any time during the resolution process. Prior to an emergency removal, NWTC will conduct an individualized risk assessment and may remove the student if that assessment determines 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 and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Title IX Coordinator or its designee will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or lifted. If this meeting is not requested within two (2) business days, objections to

the emergency removal or interim suspension will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator or its designee determines it is equitable to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title IX Coordinator or its designee for review.

An emergency removal or interim suspension may be affirmed, modified, or lifted because of a requested review or as new information becomes available. The Title IX Coordinator or its designee will communicate the final decision in writing, typically within three (3) business days of the review meeting.

Placing an Employee on Leave

When the Respondent is an employee, or a student employee accused of misconduct in the course of their employment, existing provisions for employee disciplinary actions are typically applicable instead of the above student emergency removal process.

Dismissal

NWTC **MUST** dismiss a Complaint if any allegation therein if, at any time during the investigation or hearing, it is determined that:

- 1) A reasonable person would determine the alleged behavior (based on the totality of the circumstances) was NOT so severe, pervasive, and objectively offensive that it limited or denied a person's ability to participate in or benefit from NWTC's education program or activity.
- 2) The sexual harassment did not occur in NWTC's education program or activity, and/or NWTC does not have control of the Respondent
- 3) The sexual harassment did not occur against a person in the United States
- 4) At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in NWTC's education program or activity, and based on the available information, the Title IX Coordinator or designee has determined that they do not need to sign a Formal Complaint on behalf of the Recipient.

NWTC **may** dismiss a Complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) NWTC is unable to identify the Respondent after taking reasonable steps to do so
- 2) NWTC no longer enrolls or employs the Respondent
- 3) A Complainant voluntarily withdraws in writing that the Complaint any or all of the allegations in the Complaint, and the Title IX Coordinator or its designee declines to initiate a Complaint

NWTC determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven

The Title IX Coordinator or designee can recommend, if they believe the grounds are met. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, NWTC will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, NWTC will also notify the Respondent of the dismissal.

This dismissal decision is appealable by any party.

Counterclaims

NWTC is obligated to ensure that the grievance process is not abused for retaliatory purposes. Although NWTC permits the filing of Counterclaims, the Title IX Coordinator or its designee will use an initial evaluation, described above, to assess whether the allegations in the Counterclaim are made in good faith. When Counterclaims are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of the Policy.

Counterclaims determined to have been reported in good faith will be processed using the grievance Process below. At the Title IX Coordinator or its designee's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

Right to an Advisor

The Parties may each have an Advisor of their choice (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

NWTC may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Title IX Coordinator or its designee. The decision to grant this request is at the Title IX Coordinator or its designee's sole discretion and will be granted equitably to all Parties.

Who Can Serve as an Advisor?

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the Resolution Process. The parties may choose Advisors from inside or outside of the NWTC community.

The Title IX Coordinator or its designee will offer to assign a trained Advisor to any party if the party chooses. If the parties choose an Advisor from the pool available from NWTC, the Advisor will have been trained by NWTC and be familiar with the NWTC's Resolution Process.

If the parties choose an Advisor from outside the pool of those identified by NWTC, the Advisor may not have been trained by the Recipient and may not be familiar with NWTC policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the Resolution Process, prior to a hearing.

Advisor's Role in Meetings and Interviews

The parties may be accompanied by their Advisor in all meetings and interviews which the party is entitled to be present, including intake and interviews. Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

NWTC cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, NWTC is not obligated to provide an attorney to advise that party.

Where applicable under state law or Recipient Policy, Advisors or attorneys are permitted to fully represent their advisees or clients in the Resolution Process, including all meetings, interviews, and hearings. Although ~~Recipient~~ NWTC prefers to hear from Parties directly, in these cases, Parties are entitled to have their chosen representatives provide evidence.

Advisor's in Hearing/NWTC-Appointed Advisors

Under the Title IX Regulations, a form of indirect questioning is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, NWTC will appoint a trained Advisor for the limited purpose of conducting any questioning of the parties and witnesses.

Pre-Interview Meetings

Advisors and their advisees may request to meet with the Investigator(s) conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and NWTC's policies and procedures.

Advisor Violations of NWTC Policy

All Advisors are subject to NWTC's policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by NWTC. Advisors are expected to advise their advisees without disrupting proceedings.

The Parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the NWTC's established rules of decorum, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including NWTC requiring the party to use a different Advisor or providing a different NWTC-appointed Advisor. Subsequently, the Title IX Coordinator or its designee will determine how to address the Advisor's non-compliance and future role.

Sharing Information with the Advisor

NWTC expects that the parties may wish to have NWTC share documentation and evidence related to the allegations with their Advisors.

NWTC will provide a consent form that authorizes NWTC to share such information directly with a party's Advisor. The parties must complete and submit this form to the Title IX Coordinator or designee or provide similar documentation demonstrating consent to a release of information to the Advisor before NWTC is able to share records with an Advisor.

Privacy of Records Shared with Advisor

Advisors are expected to maintain the confidentiality of the records NWTC shares with them. Advisors may not disclose any NWTC work product or evidence NWTC obtained solely through the Resolution Process for any purpose not explicitly authorized by NWTC.

Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). NWTC may decline to share materials with any Advisor who has not executed the NDA. NWTC may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by NWTC's confidentiality expectations.

Expectations of an Advisor

NWTC generally expects an Advisor to adjust their schedule to allow them to attend NWTC meetings/interviews/hearings when planned, but NWTC may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

NWTC may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies.

All Advisors are subject to the same NWTC policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by NWTC. Advisors are expected to advise their advisees without disrupting proceedings.

Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title IX Coordinator or its designee of the identity of their

Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if more expeditious meeting is necessary or desired).

If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

Each party must have an advisor present during the hearing. During the 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 challenging credibility. If a party does not have an advisor present at the live hearing, the NWTC will provide, without fee or charge to that party, an advisor of NWTC's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

Resolution Processes

This Resolution Process, consisting of Informal Resolution or Live Hearing Resolution, is NWTC's chosen approach to addressing all forms of sexual harassment and retaliation.

Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with NWTC Policy.

Informal Resolution

Three options for Informal resolution are detailed in this section. n:

- 1) **Supportive Resolution.** When the Title IX Coordinator or its designee can resolve the matter informally by providing supportive measures (only) designed to remedy the situation. ([See Supportive Resolution](#))
- 2) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below. ([See Alternative Resolution Approaches](#))
- 3) **Accepted Responsibility.** When the Respondent is willing to accept responsibility for violating NWTC's Title IX – Sexual Harassment Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and NWTC are agreeable to the resolution terms. ([See Respondent Accepts Responsibility for Alleged Violations](#))

To initiate Informal Resolution, a Complainant must submit a Formal Complaint, as define above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator or its designee at any time prior to a final determination. NWTC will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Before initiation of an Informal Resolution process, NWTC will provide the Parties with a Notice of Investigation & Allegation ("NOIA") that explains:

- The allegations;

- The requirements of the Informal Resolution process;
- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume the NWTC's Resolution Process;
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the resolution process arising from the same allegations;
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties; and
- What information NWTC will maintain, and whether and how it could disclose such information for use in its Resolution Process.

The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision-maker, or Appeal Decision-maker.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Hearing Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Formal Hearing Resolution Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Hearing Process, should Informal Resolution not be successful, unless agreed to by all Parties.

If an investigation is already underway, the Title IX Coordinator or its designee has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Alternative Resolution Approaches

Alternative Resolution is an informal approach [, including mediation, restorative practices, facilitated dialogue, etc.] by which the parties reach a mutually agreed upon resolution of a complaint. All parties must consent to the use of an Alternative Resolution approach.

The Title IX Coordinator or its designee may consider the following factors to assess whether Alternative Resolution is appropriate, or which form of Alternative Resolution may be most successful for the Parties:

- The Parties' amenability to Alternative Resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed
- Skill of the Alternative Resolution facilitator with this type of Complaint
- Complaint complexity

- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in Alternative Resolution (e.g., time, staff, etc.)

The Title IX Coordinator or its designee has the authority to determine whether Alternative Resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the Alternative Resolution process. The Title IX Coordinator or its designee will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the Alternative Resolution.

The Title IX Coordinator or its designee maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the Agreement and resumption of the Formal Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the Agreement, etc.). The results of Complaints resolved by Alternative Resolution are not appealable.

If an Informal Resolution option is not available or selected, NWTC will initiate or continue an investigation and subsequent Formal Resolution Process to determine whether the Policy has been violated.

Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator or designee determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator or designee will determine whether all parties and NWTC are able to agree on responsibility, restrictions, and/or remedies. If so, the Title IX Coordinator or designee implements the accepted finding that the Respondent is in violation of NWTC policy and implements agreed-upon restrictions and remedies and determines the appropriate sanction(s) in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon resolution terms. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the sexual harassment or retaliation, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

Formal Grievance Process Pool

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process.

Pool Member Roles

Members of the Pool are trained, and can serve in the following roles, at the discretion of the Title IX Coordinator or its designee:

- Appropriate intake of and initial guidance pertaining to Complaints
- Advisor to Parties
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Hearing Facilitator
- Decision-maker for challenges to emergency removal and supportive measures
- Decision-maker
- Appeal of Dismissal Decision-maker
- Appeal Decision-maker

Pool Member Appointment

The Title IX Coordinator or its designee, in consultation with senior administrators as necessary, appoints the Pool, which acts with independence and impartiality. Pool members are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Complaints.

Notice of Investigation and Allegations

Prior to an investigation, the Title IX Coordinator or its designee will provide the Parties with a detailed written Notice of Investigation and Allegations (NOIA). Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated

- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator(s), along with a process to identify to the Title IX Coordinator or its designee, in advance of the interview process, any conflict of interest that the Investigator(s) may have
- A statement that NWTC presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share NWTC work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that the NWTC's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how a party may request disability accommodations during the Resolution Process
- A link to the NWTC's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the Parties as indicated in official NWTC records, or emailed to the Parties' NWTC-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

Resolution Timeline

NWTC will make a good faith effort to complete the Resolution Process within sixty to ninety (60-90) business days, including any appeals, which can be extended as necessary for appropriate cause by the Title IX Coordinator or its designee. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, NWTC reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

NWTC action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator or its designee, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator or its designee will vet the assigned Investigator(s), Decision-maker(s), and Appeals officers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator or its designee will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator or its designee, concerns should be raised with the Appeals Decision-maker.

The Formal Grievance Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

Investigation Timeline

NWTC will work to complete all investigations in a timely manner, normally within 60 business day, though some may take longer, depending on issues such as nature, extent and complexity of the allegations, witness availability, law enforcement involvement, etc.

NWTC may take a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay NWTC's investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. NWTC will promptly resume its Resolution Process as soon as feasible. During such a delay, NWTC will implement and maintain supportive measures for the Parties as deemed appropriate.

Investigation

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviews with all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

Once an investigation is initiated, the Title IX Coordinator or its designee may appoint an Investigator(s) to conduct it. These Investigators may be members of the Resolution Process Pool, or any other properly trained Investigator, whether internal or external to the NWTC community.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

NWTC may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or 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.

The Investigators typically take the following steps, if not already completed and not necessarily in this order:

- Determine the identity and contact information of the Complainant.
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- Assist the Title IX Coordinator or its designee, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Work with the Title IX Coordinator or its designee, as necessary, to prepare the initial Notice of Investigation and Allegations (NOIA). The NOIA may be amended with any additional or dismissed allegations.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.
- When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible.
- Interview the Complainant and the Respondent and conduct follow-up interviews with each, as necessary.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes or transcript or recording of the relevant evidence/testimony from their respective interviews and meetings.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigators to ask of another party and/or witnesses. Document in the investigation report which questions were asked, with a rationale for any changes or omissions.
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.
- Prior to the conclusion of the investigation, provide the Parties and their respective Advisors with a list of witnesses whose information will be used to render a finding.
- Ask the Parties to provide a list of questions they would like asked of the other party or any witnesses. The Investigators will ask those questions deemed relevant, and for any question deemed not relevant, will provide a rationale for not asking the question.

- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation, and party and witness interviews, and provides all relevant evidence.
- Provide the Parties and their respective Advisors an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.
- The Investigator may share the investigation report with the Title IX Coordinator or its designee and/or legal counsel for their review and feedback.

Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are required to cooperate with and participate NWTC's investigation and Resolution Process. Student witnesses and witnesses from outside the NWTC community cannot be required to participate but are encouraged to cooperate with NWTC's investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms or, in limited circumstances, by telephone. NWTC will take appropriate steps to ensure the security/privacy of remote interviews.

*NOTE: If a party or witness does not submit to cross-examination at the live hearing, the decision-maker will not rely on any statement of that party or witness in reaching a determination of whether or not there was a violation of the Title IX-Sexual Harassment policy.

Interview Recording

It is standard practice for Investigators to create records of all interviews pertaining to the Resolution Process (other than Informal Resolution meetings). Those interviewed will be provided with notes from these meetings to review and provide feedback to the investigators. No unauthorized audio or video recording of any kind is permitted during investigation meetings. All involved individuals should be made aware of audio and/or video recording.

Evidentiary Considerations

The Investigators and the Decision-maker will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.

The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Respondent Admits Responsibility

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would also waive all rights to appeal for the Respondent. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion.

Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator or designee will refer the matter for a hearing.

The hearing cannot be held less than ten (10) business days from the conclusion of the investigation—when the final investigation report is transmitted to the parties and the Decision-maker—unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator or designee will select an appropriate Decision-maker from the Pool and provide a copy of the investigation report and the file of directly related evidence.

The Decision-maker will not have had any previous involvement with the complaint. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of

interest. Otherwise, a designee may fulfill the facilitator role. The hearing will convene at a time and venue determined by the Title IX Coordinator or designee.

Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completing the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant and not impermissible, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing absent the new evidence.

The new relevant evidence will be admitted to the record if:

- All Parties and the Decision-maker assent to the new evidence being included in the hearing without remanding the Complaint back to the investigator, and
- The evidence is not duplicative of evidence already in the record, and
- It is not impermissible, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties with at least five (5) business days to review the relevant evidence.
- Remand the Complaint back to the Investigator for further investigation or analysis.
- Allow the Parties to review and comment on the new evidence.

If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing without allowing the new evidence.

Hearing Notice

The Title IX Coordinator or its designee will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, typically at least seven (7) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice includes:

- **Alleged Violations:** Description of the alleged violation(s), policies allegedly violated, applicable hearing procedures, and potential sanctions/responsive actions.
- **Hearing Details:** Time, date, and location of the hearing.
- **Technology:** Description of any technology used to facilitate the hearing.
- **Separate Rooms Option:** Information on the option for parties to be in separate rooms using technology to see and hear each other. Requests must be made to the Title IX Coordinator at least five (5) business days prior to the hearing.
- **Attendees:** List of all attendees and an invitation to object to any Decision-maker(s) based on bias or conflict of interest. Objections must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.

- **Recording:** Information on how the hearing will be recorded and how parties can access the recording.
- **Non-Appearence:** Statement that the hearing may proceed in the absence of any party or witness. The Chair may reschedule for compelling reasons.
- **Advisor Assistance:** Notification that parties may have an Advisor and must have one present for cross-examination. If a party does not have an Advisor, the Title IX Coordinator will appoint one.
- **Materials:** Copy of all materials provided to the Decision-maker(s) about the complaint.
- **Impact/Mitigation Statement:** Invitation to submit an impact and/or mitigation statement pre-hearing for the Decision-maker(s) to review during sanction determination.
- **Accommodations:** Invitation to contact the Title IX Coordinator for disability accommodations, language assistance, and/or interpretation services at least seven (7) business days prior to the hearing.
- **Mobile Devices:** Information on whether parties can bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by NWTC and remain within the 60-90 business day goal for resolution. Employees who do not have 12-month contracts are still expected to participate in Resolution Proceedings that occur during months between contracts.

Alternative Hearing Participation Option

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator as soon as possible, preferably at least five (5) business days prior to the hearing.

The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Chair know as soon as possible, preferably at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

Pre-Hearing Meetings

The Decision-maker may offer to convene a pre-hearing meeting(s) with the Parties and their Advisors and invite them to submit the questions or topics they wish to ask or discuss at the hearing. This allows the Decision-maker to consider their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Parties from submitting a question at the hearing for the first time or asking for a reconsideration on a Decision-maker's pre-hearing decision based on any new information or testimony offered at the hearing. The Decision-maker will document

and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each party.

The Decision-maker will work with the Parties to finalize a witness list for the hearing, and the Title IX Coordinator and its designee will notify any witnesses of the hearing's logistics. The Decision-maker, **only** with the agreement of all Parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the Final Investigation Report or during the hearing, and their presence is not essential to assess their credibility.

Pre-hearing meeting(s) will not be recorded. The pre-hearing meetings will typically be conducted as separate meetings with each party/Advisor, and can be done remotely, or as a written communication exchange. The Decision-maker will work with the Parties to establish the format and timing of the meetings and will circulate a summary of any rulings made to ensure all Parties and Advisors are aware.

Hearing Procedures

The Decision-maker has the authority to hear and make determinations on all allegations of sexual harassment and/retaliation under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred in concert with the sexual harassment and/or retaliation even though those collateral allegations may not specifically fall within the Policy.

Participants at the hearing will include the decision-maker, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties, Advisors to the parties, any called witnesses, and anyone providing authorized accommodations, interpretation, and/or assistive services. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The decision-maker will allow witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the Decision-maker(s) and the parties, and the witnesses will then be excused. The Investigator(s) will remain present for the duration of the hearing.

The Decision-maker will explain the hearing procedures and introduce the participants. The Decision-maker will answer any procedural questions prior to and as they arise throughout the hearing.

Joint Hearings

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator or its designee may permit the investigation and/or hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

Investigator Presentation of Final Investigation Report

The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then by the Parties advisors. The Investigator may attend the duration of the hearing or be excused after their testimony at the Decision-maker's discretion.

Testimony and Questioning

Once the Investigator(s) present(s) the report and respond(s) to questions, The parties and witnesses may provide relevant information in turn, beginning with the Complainant, then the Respondent's, and then questioning in the order determined by the Decision-maker. The Decision-maker will facilitate questioning of the Parties and witnesses first by the Decision-maker and then by the Parties advisors.

All questions are subject to a relevance determination by the decision-maker. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the decision-maker upon request if agreed to by all parties and the decision-maker), the proceeding will pause to allow the decision-maker to consider the question (and state it if it has not already been stated aloud), and the decision-maker will determine whether the question will be permitted, disallowed, or rephrased.

The decision-maker may invite explanations or persuasive statements regarding relevance with the Advisors if the decision-maker so chooses. The decision-maker will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The decision-maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The decision-maker has final say on all questions and determinations of relevance. The decision-maker may consult with legal counsel on any questions of admissibility. The decision-maker may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the decision-maker has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the decision-maker may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator or designee, and/or preserve them for appeal. If bias is not in issue at the hearing, the decision-maker should not permit irrelevant questions that probe for bias.

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 challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice (or one selected by NWTC) and never by a party personally, notwithstanding the discretion of the recipient.

Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Refusal to Submit to Questioning and Inferences

Any party or student witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the hearing if they are reasonably available. The Decision-maker can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility. The Decision-maker may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer any or all questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

Hearing Recordings

NWTC records hearings for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker, the Parties, their Advisors, Appeal Decision-makers, and other appropriate NWTC officials will be permitted to review the recording or review a transcript of the recording upon request to the Title IX Coordinator or its designee. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

Deliberation

After closing statements from the Parties, the Decision-maker will determine whether the Respondent is responsible for the alleged Policy violation(s) based on the preponderance of the evidence (more likely than not). Deliberations are not recorded.

When there is a finding of responsibility for one or more of the allegations, the Decision-maker may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate sanction(s). The Title IX Coordinator or its designee will ensure that any submitted statements are exchanged between the Parties if they are viewed by the Decision-maker. Impact/mitigation statements do not influence the finding, they only potentially influence the sanctions.

The Decision-maker will then prepare and provide the Title IX Coordinator or its designee with a written outcome letter detailing all findings and final determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible evidence used in support of the determination(s), the evidence not

relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s).

This statement is usually five to fifteen (5-15) pages in length and is typically submitted to the Title IX Coordinator or its designee within ten (10) business days from the conclusion of the hearing, unless the Title IX Coordinator or its designee grants an extension. The Title IX Coordinator or its designee will notify the Parties of any extension.

Notice of Outcome

Within ten (10) business days of the conclusion of the Resolution Process, the Title IX Coordinator or its designee provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, any applicable sanctions that NWTC is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-maker, supporting the findings to the extent NWTC is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to take to request an appeal, and when the determination is considered final if neither party appeals.

The Title IX Coordinator or its designee will provide the Parties with the outcome notification simultaneously. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official NWTC records, or emailed to the Parties' NWTC issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

Sanctions

Factors considered by the Decision-maker when determining sanctions and responsive actions may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the sexual harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment, and/or retaliation
- The need to remedy the effects of the sexual ~~based~~ harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

Student Sanctions

The following are the common sanctions that may be imposed upon students singly or in combination:

- **Reprimand:** A formal statement that the conduct was unacceptable and a warning that further violation of any NWTC Policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Restrictions:** A student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or from holding leadership in student organizations.
- **Probation:** An official sanction for violation of NWTC Policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any NWTC Policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Separation from the institution, or one or more of its facilities, for a definite period of time, typically not to exceed two years, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the student is eligible to return if the institution determines it is appropriate to re-enroll/readmit the student. The student is typically required to vacate institutional property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Title IX Coordinator or its designee or other appropriate official. During an institution-wide suspension, the student is banned from institutional property, functions, events, and activities unless they receive prior written approval from an appropriate institutional official. This sanction may be enforced with a trespass action, as necessary.
- **Expulsion:** Permanent separation from the institution. The student is banned from institutional property, and the student's presence at any institution-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary.
- **Other Actions:** In addition to, or in place of, the above sanctions, NWTC may assign any other sanctions as deemed appropriate.

Student Group and Organization Sanctions

The following are the common sanctions that may be imposed upon student organizations singly or in combination:

- **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any NWTC Policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Probation:** An official sanction for violation of institutional Policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any institutional Policy, procedure, or directive within a specified period of time. Terms of the probation

will be articulated and may include denial of specified social and event privileges, denial of NWTC funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.

- **Suspension:** Termination of student group or organization recognition and/or institutional support for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in NWTC-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from NWTC.
- **Expulsion:** Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- **Loss of Privileges:** Restricted from accessing specific NWTC privileges for a specified period of time.
- **Other Actions:** In addition to or in place of the above sanctions, NWTC may assign any other sanctions as deemed appropriate.

Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in sexual-based harassment and/or retaliation include:

- Verbal or Written Warning
- Performance Improvement Plan/Management Process
- Enhanced Supervision, Observation, or Review
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Shift or schedule adjustments
- Reassignment
- Assignment to New Supervisor
- Suspension/Administrative Leave with Pay
- Suspension/Administrative Leave without Pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions, NWTC may assign any other responsive actions as deemed appropriate.

Withdrawal or Resignation Before Complaint Resolution

Students

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from NWTC, the Resolution Process may continue, or the Title IX Coordinator or its designee may exercise their discretion

to dismiss the Complaint. If the Complaint is dismissed, NWTC will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex-based harassment, sex discrimination, and/or retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, NWTC will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to NWTC in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator or its designee has discretion to dismiss the Complaint. The Registrar and Office of Admissions will be notified, accordingly.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to NWTC unless and until all sanctions, if any, have been satisfied.

Employees

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent withdraws from NWTC with unresolved allegations pending, the Resolution Process may continue, or the Title IX Coordinator, or designee, may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, NWTC may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When an employee resigns and the Complaint is dismissed, the employee may not return to NWTC in any capacity. Talent & Culture, the registrar, and admissions will be notified, accordingly, and a note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with NWTC. The records retained by the Title IX Coordinator, or designee, will reflect that status.

Appeal

Any party may submit a written request for appeal ("Request for Appeal") to the Title IX Coordinator or its designee within five (5) business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

Appeal Grounds

Appeals are limited to the following grounds:

1. A procedural irregularity that would change the outcome
2. New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility or dismissal was made
3. The Title IX Coordinator or its designee, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that would change the outcome

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-maker will notify all Parties and their Advisors, the Title IX Coordinator or its designee, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Title IX Coordinator or its designee, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision -maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator or its designee, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties will be notified accordingly, in writing.

No party may submit any new Requests for Appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

A Notice of Appeal Outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which NWTC is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent NWTC is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official institutional records, or emailed to the Parties' NWTC-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the Appeal Outcome will be presumptively delivered.

Sanction Status During the Appeal

Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a "show cause" meeting on the justification for doing so must be permitted within two (2) business days of implementation.

Appeal Considerations

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeals Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions-apply the preponderance of the evidence standard.

An appeal is not an opportunity for the Appeal Decision-makers to substitute their judgment for that of the original Decision-maker merely because they disagree with the finding and/or sanction(s).

The Appeal Decision-maker may consult with the Title IX Coordinator or its designee and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title IX Coordinator or its designee will maintain documentation of all such consultation.

An appeal may be granted or denied, decision to be made within five (5) business days. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Title IX Coordinator or its designee (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new determination with new Pool members serving in the Investigator and Decision-maker roles.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the three available appeal grounds.

Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator or its designee may implement additional long-term remedies or actions with respect to the Parties and/or the NWTC community that are intended to stop the sex discrimination, sexual ~~base~~-based harassment, and/or retaliation, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator or its designee, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found.

When no Policy violation is found, the Title IX Coordinator or its designee will address any remedies NWTC owes the Respondent to ensure no effective denial of educational access.

NWTC will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair NWTC's ability to provide these services.

Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions terms within the timeframe specified by the final Decision-maker(s), including the Appeal Decision-maker or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from NWTC.

Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX Coordinator or its designee's satisfaction.

Accommodations and Support in the Resolution Process

Disability Accommodations

NWTC is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to NWTC's Resolution Process.

Anyone needing such accommodations or support should contact the Title IX Coordinator or its designee, who will work with disability support colleagues as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

Other Support

NWTC will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

Revision of these Procedures

These procedures succeed any previous procedures addressing sex discrimination, sexual-based harassment, and retaliation. The Title IX Coordinator or its designee will regularly review and update these procedures. NWTC reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

Recordkeeping

For a period of at least seven (7) years following the conclusion of the Resolution Process, NWTC will maintain records of:

- Each sexual harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation
- Any disciplinary sanctions imposed on the Respondent
- Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to NWTC's education program or activity

- Any appeal and the result therefrom
- Any Informal Resolution and the result therefrom
- All materials used to provide training to the Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitator, and any person who is responsible for implementing the NWTC's Resolution Process, or who has the authority to modify or terminate supportive measures. NWTC will post all training materials on its website.
- All materials used to train all employees will be consistent with the requirements in the Title IX Regulations.

NWTC will also maintain any and all records in accordance with state and federal laws.

Federal Statistical Reporting Obligations

Certain NWTC officials, specifically those deemed Campus Security Authorities, have a duty to report the following for federal statistical reporting purposes, as required by the Clery Act:

- All "primary crimes," which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson.
- Hate crimes, including any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property.
- VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking.
- Arrests and referrals for disciplinary action for weapons-related law violations, liquor related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private when fulfilling these obligations, but statistical information must be shared with NWTC's District Security Manager regarding the type of incident and its general location (on or off-campus or in the surrounding area, with no addresses given) for publication in NWTC's Annual Security Report and its daily campus crime log.

Definitions

For the purposes of the Title IX-Sexual Harassment policy and resolution process, the following have been identified as key definitions:

Advisor. Any person chosen by a party, or appointed by the institution, to accompany the party to all meetings related to the Resolution Process and advise the party on that process, and to conduct questioning for the party at the hearing, if any.

Appeal Decision-maker. The person who accepts or rejects a submitted appeal request, determines whether an error occurred that substantially affected the investigation or original determination, and directs correction action, accordingly.

Business day means a business day is defined as a weekday in which normal business operations are conducted.

Complainant means an individual who is alleged to be the victim conduct that could constitute sexual harassment or retaliation for engaging in a protected activity.

Complaint. An oral or written request to NWTC that can objectively be understood as a request for NWTC to investigate and make a determination about the alleged Policy violation(s).

Confidential Employee means an employee of NWTC whose communications are privileged or confidential under Federal or State Law. The employee's confidential status, for purposes of this policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.

- NWTC's Licensed Professional Counselors and healthcare professionals within Campus Care are confidential employees. That means that what you tell them cannot be shared (except in limited circumstances including suspected child abuse or threat of harm to others).

Consent is a mutual agreement to engage in sexual activity. It is informed, knowing, and voluntary. Regarding consent:

- No means no, but nothing also means no; Silence and passivity do not equal consent.
- To be valid, consent must be given immediately prior to or contemporaneously with the sexual or intimate activity
- Consent can be withdrawn at any time, so long as it is clearly communicated verbally or non-verbally
- Consent to one form of sexual activity does not necessarily imply consent to other forms of sexual activity
- Prior sexual engagements between individuals does not provide consent for any future activity

Credibility the process of weighing the accuracy and veracity of evidence within the Title IX process.

Day. A business day when NWTC is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.

Decision-maker. The person who hears evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.

Disciplinary sanctions means consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sexual harassment. .

Education Program or Activity. Locations, events, or circumstances where NWTC exercises substantial control over the context in which the sex discrimination, sex-based harassment, and/or retaliation occurs

Employee encompasses all NWTC classifications, including exempt, non-exempt, part-time; including student employees when acting within the scope of their employment, who receive a paycheck from NWTC.

Final Determination. A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.

Finding. A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).

Formal Complaint means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging a Respondent engaged in sexual harassment or retaliation for engaging in a protected activity and requesting that NWTC investigate the allegation(s).

Formal Grievance Process means a method of formal resolution designated by NWTC to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 C.F.R. § 106.45) and the Violence Against Women Act § 304.

Informal Resolution. A resolution agreed to by the Parties and approved by the Title IX Coordinator or its designee that occurs prior to a Final Determination in the Resolution Process.

Investigation Report. The Investigator’s summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.

Investigator. The person(s) authorized by NWTC to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.

Knowledge. When NWTC receives Notice of conduct that reasonably may constitute harassment, discrimination, or retaliation in its Education Program or Activity.

Mandated Reporter. A NWTC employee who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, and/or retaliation with the Title IX Coordinator or its designee

Notice. When an employee, student, or third party informs the Title IX Coordinator or its designee of the alleged occurrence of sexual harassment and/or retaliatory conduct.

Party means a complainant(s) or respondent(s), collectively.

Relevant means related to the allegations of sexual harassment under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sexual harassment occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sexual harassment occurred.

Relevant Evidence. Evidence that may aid a Decision-maker in determining whether the alleged sex discrimination, sex-based harassment, or retaliation occurred, or in determining the credibility of the Parties or witnesses.

Remedies means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient’s education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person’s access to the recipient’s education program or activity after a recipient determines that sex discrimination occurred.

Resolution Process. The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, or Formal Hearing Resolution.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or retaliation for engaging in protected activity under the Policy.

Retaliation means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

Sanction. A consequence imposed on a Respondent who is found to have violated this Policy.

Sexual Harassment is an umbrella category including the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence. (See [Conduct Prohibited](#) below for greater detail.)

Student is any person currently enrolled in a credit and/or non-credit course(s) at NWTC, either full-time or part-time.

Supportive measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- 1) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
- 2) Provide support during the recipient's grievance procedures or during an informal resolution process.

Title IX Coordinator. At least one official designated by NWTC to ensure ultimate oversight of compliance with Title IX and NWTC's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.

Title IX Team. The Title IX Coordinator, any deputy coordinators and any member of the Resolution Process Pool

[Conduct Prohibited by this Policy](#)

The section below describes the specific forms of legally prohibited harassment that are also prohibited under NWTC Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of NWTC Policy, though supportive measures will be offered to those impacted. All offense definitions encompass actual and/or attempted offenses.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

NWTC has adopted the following definitions of sexual harassment in order to address the unique environment of an academic community. Two definitions are required by federal law. While they overlap, they are not identical, and they each apply as noted.

Title VII Sexual Harassment applies to situations where an employee is subjected to workplace sexual harassment.

- a. Unwelcome verbal, written, graphic, and/or physical conduct;
- b. that is severe or pervasive and objectively offensive (hostile environment);
- c. on the basis of sex/gender, that
- d. unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

Title IX Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all formal complaints that fall within Title IX jurisdiction as determined by the Title IX Coordinator. Sexual harassment includes:

Conduct on the basis of sex, or that is sexual in nature, that satisfies one or more of the following:

1. Quid Pro Quo:

- a. an employee of the recipient,
- b. conditions the provision of an aid, benefit, or service of the recipient,
- c. on an individual's participation in unwelcome sexual conduct.

2. Sexual Harassment (Hostile Environment):

- a. unwelcome conduct,
- b. determined by a reasonable person,
- c. to be so severe, and
- d. pervasive, and,
- e. objectively offensive,
- f. that it effectively denies a Complainant equal access to the Recipient's education program or activity.

3. Sexual Assault, defined as:

- a. Any sexual act directed against a Complainant,
 - without their consent, or
 - instances in which the Complainant is incapable of giving consent.
- b. Incest:**
 - Non-forcible sexual intercourse,
 - between persons who are related to each other,
 - within the degrees wherein marriage is prohibited by WI law.
- c. Statutory Rape:**
 - Non-forcible sexual intercourse,
 - with a person who is under the statutory age of consent of 18 years of age in the State

- of Wisconsin.
 - Or as defined in Wisconsin state statute 940.225
4. **Dating Violence**, defined as:
- a. violence,
 - b. on the basis of sex,
 - c. committed by a person,
 - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - b) Dating violence does not include acts covered under the definition of domestic violence.
5. **Domestic Violence**, defined as:
- a. violence,
 - b. on the basis of sex,
 - c. committed by a current or former spouse or intimate partner of the Complainant,
 - d. by a person with whom the Complainant shares a child in common, or
 - e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
 - f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of [insert your state here], or
 - g. 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 Wisconsin.
 - h. Or as defined in Wisconsin State Statute 968.075
6. **Stalking**, defined as:
- a. engaging in a course of conduct,
 - b. on the basis of sex,
 - c. directed at the Complainant, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.
 - iv. Or as defined in Wisconsin State Statute 940.32

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to acts in which the Respondent 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.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Other Civil Rights Offenses

In addition to the forms of sexual harassment described above, which are covered by Title IX, NWTC additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is based upon the Complainant's actual or perceived protected characteristic.

Sexual Exploitation. The taking by a Respondent of non-consensual or abusive sexual advantage of a Complainant for the Respondent's own benefit or for the benefit of anyone other than the Complainant that does not otherwise constitute Sexual Harassment defined above in this Policy. Examples of Sexual Exploitation include, but are not limited to, the following:

- a. Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed).
- b. Invasion of sexual privacy.
- c. Taking pictures, video or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet
- d. and observe sexual activity or disseminating sexual pictures or videos without the photographed/videoed person's consent), including the making or posting of revenge pornography.
- e. Prostituting another person.
- f. Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease or infection.
- g. Causing or attempting to cause the Incapacitation of another person (through alcohol, drugs or any other means) for the purpose of compromising that person's ability to give consent to sexual activity or for the purpose of making that person vulnerable to non-consensual sexual activity.
- h. Misappropriation of another person's identity on apps, websites or other venues designed for dating or sexual connections.
- i. Forcing a person to take an action against that person's will by threatening to show, post or share information, video, audio or an image that depicts the person's nudity or sexual activity.
- j. Knowingly soliciting a minor for sexual activity.
- k. Engaging in sex trafficking.
- l. Creation, possession or dissemination of child pornography.

Hazing, defined as:

- Acts likely to cause physical or psychological harm or social ostracism
- To any person within the NWTC community,

- When related to admission, initiation, pledging, joining or any other group-affiliation activity (as defined further in the Hazing Policy)

Violation of any other NWTC policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived protected characteristic(s), and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.