

Northwestern College
TITLE IX Sexual Assault & Discrimination Policy
Revised: August, 2015

Northwestern College is committed to providing a working, learning, and living environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of sex, which includes all forms of sexual misconduct. Sex discrimination is contrary to the standards of the college community, as it violates an individual's fundamental rights and dignity as a person made in the image of God. Northwestern College considers sex discrimination in all its forms to be a serious offense and it will not be tolerated. The college is dedicated to preventing and educating all students, faculty, and staff regarding all forms of sexual misconduct. This policy refers to all forms of sex discrimination, including but not limited to: unfair treatment based on sex, sexual harassment, hostile environment harassment, sexual assault, sexual misconduct, sexual exploitation, domestic violence, dating violence, and stalking by other students, employees, or third parties.

1. Statement on Non-Discrimination

Northwestern College does not discriminate on the basis of race, color, national origin, sex, age, or disability in admission, access to, or employment in its programs and activities.

Northwestern College complies with Title VI of the Civil Rights Act of 1964, Title IX of the Educational Amendments Acts of 1972, the Age Discrimination in Employment Act of 1975, and Section 504 of the Rehabilitation Act of 1973. To ensure compliance with these and other federal and state civil rights laws, Northwestern College has developed policies and procedures that prohibit sex discrimination in all of its forms.

2. Guidance on Reporting

Northwestern College encourages persons who have experienced any form of sexual harassment or sexual misconduct to report the incident promptly, to seek all available assistance, and where appropriate, to report the incident to local law enforcement. Helpful resources are also available at the Office for Civil Rights, United States Department of Education or at www.notalone.gov. Northwestern College takes reports of sexual discrimination, harassment and misconduct very seriously and will work with all parties to ensure their safety and to investigate and adjudicate the situation.

All college employees have a duty to report, unless they fall under the "Confidential Reporting" section below in Section 3. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator and/or Title IX Investigators. Employees must share all details of the reports they receive. Generally, climate surveys, classroom writing assignments, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Coordinator by employees. Remedial actions may result without formal college action.

If a victim does not wish for his/her name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the victim may make such a request to the Title IX Coordinator or Title IX Investigator(s), who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern, predation, threat, weapons and/or violence, the College will likely be unable to honor a request for confidentiality. In cases where the victim requests confidentiality and the circumstances allow the College to honor that request, the College will offer interim supports and remedies to the victim and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have reports taken seriously by the College when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy. [Additionally, anonymous reports can be made by victims and/or third parties. Note that these anonymous reports may prompt a need for the institution to investigate.]

Reports to the Title IX Coordinator can be made via email, phone or in person at the contact information listed below in section 3.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sexual harassment or sexual misconduct of which they become aware, is a violation of college policy and can be subject to disciplinary action for failure to comply with college policies.

3. Office Where a Complaint or Report May be Filed

Northwestern College encourages those who have experienced sex discrimination, including sexual assault, to report these offenses to a responsible employee, who in turn may report the incident to the Title IX Coordinator.

Title IX Coordinator

Deb Sandbulte, Dir. of Human Resources

101 7th St. SW

Zwemer Hall

Orange City, IA 51041

712-707-7224 (office)

712-441-4246 (cell)

debfs@nwciova.edu

Title IX Investigators

Julie Elliott, Dean of Student Life

101 7th St. SW

Ramaker Center

Orange City, IA 51041

712-707-7204 (office)

484-318-9063 (cell)

julie.elliott@nwciova.edu

Marlon Haverdink, Director of Residence Life

101 7th St. SW

Ramaker Center

Orange City, IA 51041

712-707-7205 (office)

712-454-0328 (cell)

marlon@nwciova.edu

Earl Woudstra, Director of Athletics

208 8th St. SW

Rowenhorst Student Center (RSC)

Orange City, IA 51041

712-707-7292 (office)

712-737-7115 (cell)

earl@nwciova.edu

4. Guidance on Taking Immediate Action

The college encourages victims of sexual discrimination, harassment and/or violence to talk to somebody about what happened—so victims can get the support they need, and so the college can respond appropriately. Different employees on campus have different abilities to maintain a victim's confidentiality.

- Some are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.” These persons are designated as “Responsible Employees (confidential)” below.
- Other employees are required to report all the relevant details of an incident to the Title IX Coordinator. A report to these employees [designated “Responsible Employees (non-confidential)” below] constitutes a report to the college—and may obligate the college to investigate the incident and take appropriate steps to address the situation. The Title IX Coordinator will maintain confidentiality if requested by a complainant unless the following conditions exist:
 - Increased risk of additional violence and/or sexual misconduct by the alleged perpetrator.
 - History of threat, pattern, or predation
 - Presence of a weapon.
 - Underage victim (under age of consent).
 - Evidence can be obtained by other means (cameras, physical evidence)

This policy is intended to make members of the college community aware of the various reporting and confidential disclosure options available to them so they can make informed choices about where to turn should they become a victim of sexual violence and/or discrimination. The college encourages victims to talk to someone identified in one or more of these groups.

Responsible Employees (confidential)

- Northwestern College Wellness Center
 - *Dr. Sally Oakes Edman, Psychologist*
 - *Joan Andres, Counselor*
 - *Dr. Michelle Van Wyhe, Nurse Practitioner*
- *Northwestern College Campus Ministries*
 - *Patrick Hummel, Director of Missions*
 - *Dr. Barb Dewald, Associate Dean for Christian Formation*

Responsible Employees (non-confidential)

- Northwestern College Office of Human Resources
 - *Deb Sandbulte, Director of HR*
- Northwestern College Campus Ministry Staff
 - *Kendall Stanislav, Justice and Service Ministries Coordinator*
- Northwestern College Student Life Office (Resident Assistant, Resident Director, Director of Residence Life, or Dean of Students)
 - *Lindsay Hubbell, Fern Smith RD*
 - *Kendall Stanislav, Bolks and Courtyard Village RD*
 - *Dustin Hamm, Colenbrander Hall RD*
 - *Robert James, Hospers Hall RD*
 - *Hannah McBride, Stegenga Hall RD*
 - *Tyler Zeutenhorst, North Suites RD*
 - *Marlon Haverdink, Director of Residence Life*
 - *Julie Elliott, Dean of Student Life*
- Director of Campus Safety and Security
 - *Andy Van Ommeren*
- Northwestern College Athletic Director
 - *Earl Woudstra*
- Any other faculty or staff member

Other Resources

- Orange City Police Department (911)
- Orange City Area Hospital (712-737-2000)
- Family Crisis Center (1-800-382-5603)

A victim of sexual assault should seek medical attention and should attempt to preserve evidence. The victim should not bathe, urinate, douche, brush teeth, or drink liquids. Clothes should not be changed; but if they are, bring all the original clothing to the hospital in a paper bag, as plastic bags may damage the evidence. When necessary, the victim should seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after the medical examination. Finally, items in the room or other specific locale in which the assault took place should not be disturbed.

Upon request, by either party, Northwestern College will help to prevent any unwanted contact between the complainant and the accused, for example, by making reasonable changes to academic schedules or housing assignments. Also upon request, the campus authorities may notify and seek assistance from the local law enforcement.

Northwestern College also recommends and encourages victims involved in such incidents to seek counseling and/or identify a support person. A support person plays an important role in providing personal encouragement to a victim in a crisis situation. Information regarding counseling options, both on campus and in the community, can be obtained from the Wellness Center, located in the Rowenhorst Student Center, or the Student Life Office, located in Ramaker Center, 2nd floor.

5. TITLE IX Grievance Procedure

Any person at Northwestern College who believes that s/he has been subject to sex discrimination or assault (the “complainant”) by a Northwestern College student, faculty, staff, or outside third party is encouraged to promptly take the following actions:

- a. Report the incident to a responsible employee. (See #4 for information about confidentiality).
- b. The information shall be brought to the Title IX Coordinator or to one of the Title IX investigators: the Dean of Student Life, the Director of Residence Life, and the Athletic Director.
- c. The Title IX Coordinator or designee will meet with the complainant to explain his/her rights and options and the method by which the investigation will be conducted.
- d. The Title IX Coordinator or designee will provide information about the formal reporting options and policies governing confidentiality, describe the rights of the victim regarding orders of protection (no contact orders, restraining orders), and explain how each reporting option works.
 - i. **Institutional complaint** – An institutional or criminal complaint initiates the investigation procedures by the Title IX Coordinator and the Title IX Investigator.
 1. The institutional complaint should provide the following information:
 - a. The names, addresses and telephone numbers, if available, of the complainant and respondent;
 - b. Specific acts alleged, including dates, times, and locations;
 - c. Names of any potential witnesses, including addresses and telephone numbers, if available;
 - d. Actions taken by any party to address the discrimination, if any.
 - ii. **Criminal complaint** – Each complainant has the option to notify or to decline to notify local police.

6. Investigation Procedures

The following procedures will govern all investigations of complaints alleging violations of this policy. Northwestern College reserves the right to deviate from these procedures when such deviation is necessary to ensure appropriate processing of the investigation. Should the Title IX Coordinator be unavailable to oversee the process and coordinate the process, his/her designee will act instead.

- a. An investigation into the report shall be conducted by a Title IX Investigator. The investigation should be conducted as quickly as possible, typically within 7-14 work days or within a reasonable amount of time required to complete the investigation.
- b. If law enforcement is involved, the college may delay its investigation for 7-10 work days while police engage in a legal investigation.
- c. The purpose of the college investigation is to establish whether there is a reasonable basis for believing that the alleged violation of this policy has occurred. During the course of an investigation, the investigating office will work collaboratively with other college offices to ensure that the investigation is handled properly and thoroughly.
- d. If the complainant or the respondent is under 16 years of age, his/her parent or legal guardian will be notified of the complaint via phone, e-mail or U.S. mail and we will notify the local police department.
- e. The investigation should include interviewing the complainant and the respondent, as well as any relevant witnesses.
- f. In conducting the investigation, the appropriate administrator or their designee may interview the complainant, the respondent, and other persons believed to have pertinent factual knowledge. He/she will take appropriate steps to ensure the confidentiality of the investigation and protection of all parties.
- g. During the investigation, the complainant and respondent are each entitled to have an advisor of choice present in the room. That advisor must be eligible; for example, a person who will be called as a witness may not serve as an advisor. The advisor must also be available to attend meetings when called. He or she is expected to refrain from interference with the college investigation and resolution, and to respect and preserve confidentiality throughout the process.
- h. In all procedures involving allegations of violations of this policy, regardless of any language found within any applicable policy, the standard of proof shall be "preponderance of the evidence." A preponderance of the evidence means that the information shows that it is "more likely than not" that the accused violated this policy.

Determination and Sanctions

After all available information is reviewed and interviews are completed, the Title IX Investigator will review all the information and

- i. Determine whether misconduct has occurred and the appropriate response. Sanctions may include disciplinary action up to suspension or termination of employees and suspension or expulsion of students.

- ii. Notify the complainant and the respondent simultaneously regarding the outcome of the investigation, the appeal procedures, and any changes to the results before it becomes final within (10) ten working days after the completion of the investigation.
- iii. Partner with departments, divisions, programs, and deans to take any corrective action as may be appropriate under the circumstances.
- a. If either party is unsatisfied with the handling of the investigation or the recommendations of the Title IX Investigator, she or he may request an initial review and clarification of sanctions with the Title IX Investigator. The request must be made in writing and must detail the reasons, in light of the established criteria for an appeal of sanctions, why the student objects to the sanctions and seeks further clarification.
- b. Protection of the campus community is paramount. Therefore, the college may take appropriate disciplinary action where a sexual assault has occurred, with or without concurrence of the complainant.
- c. All complaints will be adjudicated as expeditiously as possible and generally within sixty (60) work days.

Appeal to the Title IX Coordinator

If, after the initial review and clarification of sanctions with the Title IX Investigator, the complainant or respondent chooses to appeal the decision, she or he may, within three (3) work days, formally appeal to the Title IX Coordinator by written notice. This notice must include a rationale for the person's appeal, detailing why she/he objects to the decision. An appeal will be considered by the Title IX Coordinator only if one of the following is demonstrated:

- i. Irregularities that influenced the outcome of the disciplinary action. It is the burden of the person making the appeal to demonstrate the original decision would more likely than not have been different if the irregularity or error not occurred.
- ii. Prejudice against any party involved on the part of the Title IX Investigator or any other college personnel who participated in the process. The prejudice must be more than simple opposition to the appealing party's point of view; instead, evidence must show a significant conflict of interest, bias, pressure, or influence that prevented a fair and objective hearing.
- iii. Discovery of new and significant evidence not available at the time of the original hearing/investigation. A summary of this new evidence and its potential impact must be included.
- iv. A sanction that is extraordinarily disproportionate to the violation.

Upon receipt of this written notice, the Title IX Coordinator will evaluate the merits of the appeal request and will inform the appellant within 3 work days as to whether or not the full appeal will be considered. If the appeal request is accepted, the Title IX Coordinator may interview involved parties. Within fifteen (15) work days, the Title IX Coordinator will make a decision on the appeal. If the Title IX Coordinator denies the appeal, there is no further appeal.

Appeals are not intended to be a full re-investigation of the allegation. In most cases, appeals are confined to a review of the written documentation and investigation records, and pertinent documentation regarding the grounds for appeal. Appeals decisions are to be deferential to the original Title IX Investigator's findings and sanctions, making changes to the finding only where there is a clear error and to the sanction only if there is a compelling justification to do so.

Protection of Parties

To the extent possible, the proceedings will be conducted in a way that protects the confidentiality and safety of the complainant, respondent, and witnesses. The parties will be informed promptly about the outcome of the proceedings.

- a. At the time the investigation commences, the respondent will be informed of the nature of the allegations and the facts surrounding the allegations.
- b. At any time, the Title IX Coordinator or designee may recommend that interim protections or remedies for the parties involved or witnesses be provided by appropriate college officials. These protections or remedies may include: separating the parties, placing limitations on contact between the parties, temporary suspension, or making alternative workplace or student housing arrangements, which could include removing a student from campus housing at her or his own expense. These remedies may be applied to one, both, or multiple parties involved. The Title IX Coordinator will take any steps necessary to make sure that there is not a further violation of this policy. Failure to comply with the terms of interim protections may be considered a separate violation of college policy.
- c. A complainant found to have been intentionally dishonest in making the allegations or to have made them maliciously is subject to disciplinary action. False charges or complaints of sexual harassment are damaging to the total campus community and will be treated as a serious offense. Intentional false reports may also violate state criminal statutes and/or civil defamation laws.

Intent

The fact that a person did not intend to sexually harass or assault an individual is not considered a defense. In most cases, it is the effect of the behavior that determines if the behavior constitutes sexual harassment or misconduct. The use of alcohol or drugs does not excuse behavior that violates this policy.

Outcomes for Sexual Assault

Disciplinary action at the college will normally proceed even if criminal proceedings have been initiated. Northwestern College's action will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced, or that no criminal charges have been brought. The procedures and burdens of proof in a disciplinary action are different from those applicable to a criminal trial. If civil authorities are notified, students or employees can anticipate that Northwestern College may consult with and be in communication with such authorities. Persons violating the college's policy against sexual assault, sexual misconduct, relationship violence (domestic and dating), or stalking may be

subject to disciplinary action, up to and including loss of educational opportunities, loss of scholarship, suspension, dismissal, termination of employment, or expulsion.

7. Important Definitions and Examples

Sex Discrimination is defined as: behaviors and actions that deny or limit a person's ability to benefit from, and/or fully participate in, educational programs or activities or employment opportunities because of a person's sex. Examples of sex discrimination under Title IX include, but are not limited to, sexual harassment; sexual assault; failure to provide equal opportunity in education programs, activities, and co-curricular programs including athletics; discrimination based on pregnancy; and employment discrimination.

Sexual Harassment is any unwelcome sexual advance, request for sexual favors, or other unwanted visual, verbal, written, online and/or physical conduct of a sexual nature which is directed toward a person because of his/her gender, when:

- i. Submission to or rejection of such conduct is an explicit or implicit term or condition of an individual's employment, educational benefits, academic grades or opportunities, on-campus living environment, or participation in social, co- or extra-curricular activities;
- ii. Submission to or rejection of such conduct is used as a basis for decisions about employment, performance evaluation, selection for academic awards or benefits, participation in a college activity, education, or living environment decisions affecting the individual, or
- iii. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance by creating an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, or social environment. The purpose or effect will be evaluated based on the perspective of a reasonable person in the position of a complainant.

While sexual harassment encompasses a wide range of conduct, behaviors that may be considered sexual harassment include but are not limited to:

- i. Pressuring someone to engage in sexual behavior for some educational or employment benefit.
- ii. Making a real or perceived threat that rejecting sexual behavior will carry a negative consequence for or retaliation against the person.
- iii. Denying, directly or indirectly, a person an education or employment related opportunity if that person refuses to comply with a sexually oriented request.
- iv. Engaging in unwelcome physical contact such as touching, blocking normal movement, physical restraint, or assault.
- v. Retaliating against a person for filing a harassment complaint or threatening to report harassment.
- vi. Sexual harassment can involve males or females being harassed by members of either sex. Although sexual harassment sometimes involves a person in a position of greater authority than the harasser, individuals in positions of

lesser or equal authority can also be found responsible for engaging in prohibited harassment.

- vii. Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered separately would not rise to the level of harassment.

Hostile Environment Harassment — Sex harassment may also arise from unwanted conduct which is so severe, persistent or pervasive that it creates an intimidating, hostile, or offensive educational, living or working environment. Conduct may be physical, verbal, or nonverbal. For example, the following type of behaviors may constitute harassment:

- i. Inappropriate touching, hugging, or kissing.
- ii. Sexual remarks about a person's clothing, body, or sexual relations.
- iii. Repeated requests for a date or romantic advances toward a student or employee despite the person's rejection of the advances.
- iv. Conversations of a sexual nature or similar jokes and stories.
- v. Sexually explicit profanity.
- vi. Obscene gestures.
- vii. The display of sexually explicit materials in the workplace or campus housing.
- viii. The use of sexually explicit materials in the classroom which are without defensible educational purposes.

Sexual Misconduct is a broad term encompassing any sexual behaviors that violate Northwestern College's Title IX Policy. It includes **sexual assault**, inducing **incapacitation** for sexual purposes, **sexual exploitation**, and **relationship violence**. In general, any harassing behavior or nonconsensual physical contact of a sexual nature may constitute Sexual Misconduct. Sexual Misconduct may vary in its severity, and consists of a range of behaviors or attempted behaviors that may be grounds for disciplinary action under college policy.

Sexual Assault means having or attempting to have sexual intercourse or sexual contact with another individual without consent and against their will. This includes sexual intercourse or sexual contact achieved by the use or threat of force or coercion, where an individual does not consent to the sexual act, or where an individual is incapacitated. Examples of sexual assault include, but are not limited to, the following behaviors when consent is not present:

- i. Nonconsensual Sexual Contact, which is defined as any intentional sexual touching, however slight, with any object or body part, by a man or a woman upon a man or a woman, without consent.
- ii. Nonconsensual Sexual Intercourse, which is defined as any sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a man or woman upon a man or a woman, without consent.
- iii. Forced Sexual Intercourse, which is defined as unwilling or nonconsensual sexual penetration (anal, vaginal, or oral) with any object or body part that is committed either by force, threat, intimidation, or through exploitation of

another's mental or physical condition of which the assailant was aware or should have been aware.

Incapacitation: An individual who is incapacitated cannot consent to sexual activity. Incapacitation is defined as the inability, temporarily or permanently, to give consent, because an individual is mentally and/or physically helpless, unconscious, or unaware that the sexual activity is occurring. Where alcohol and/or other drugs (including prescription drugs) are involved, incapacitation is a state beyond drunkenness or intoxication. Warning signs that a person may be approaching incapacitation may include: slurred speech, vomiting, unsteady gait, odor of alcohol or other substance, combativeness, and/or emotional volatility.

An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of making a rational, reasonable decision about whether to engage in sexual activity is in violation of this policy. This includes a person whose incapacity results from ingestion of a "date-rape" or "predatory" drug. Possession, use and/or distribution of any of these substances, including but not limited to: Rohypnol, LEAN, Ketamine, GHB, or Burundanga is prohibited, and administering one of these drugs to another person for the purpose of inducing incapacity is a violation of this policy and state criminal statutes.

Sexual Exploitation involves taking nonconsensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples include, but are not limited to:

- i. Voyeurism – Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved.
- ii. Nonconsensual digital, video or audio recording of nudity or sexual activity.
- iii. Nonconsensual distribution or streaming of photos, images, or information of an individual's sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information.
- iv. Prostituting another person.
- v. Exposing one's genitals in nonconsensual circumstances, or inducing another to expose his or her genitals.
- vi. Inducing incapacitation for the purpose of making another person vulnerable to nonconsensual sexual activity.
- vii. Knowingly exposing another individual to a sexually transmitted disease or virus without his or her knowledge.
- viii. Possessing, distributing, viewing, or forcing others to view illegal pornography.

Relationship Violence (Domestic violence and Date violence) is abuse or violence against a person who is or has been involved in a sexual, dating, domestic, or other intimate relationship by the other person in the relationship. It may involve one act or an ongoing pattern of behavior. Relationship violence can include, but is not limited to:

- i. Physical violence that causes bodily injury.
- ii. Sexual violence (rape).
- iii. Emotional abuse creating apprehension of bodily injury or property damage. This can include violence or threat of violence to one's self, one's sexual or romantic partner, and/or to the family members or friends of the sexual or romantic partner.
- iv. Economic abuse.
- v. Repeated telephonic, electronic, or other forms of communication— anonymously or directly—made with the intent to intimidate, terrify, harass, or threaten.
- vi. Relationship violence often escalates from threats and verbal abuse to violence. While physical injury may be the most obvious danger, the emotional and psychological consequences of relationship abuse are also severe and usually cause a fear of the partner and feelings of helplessness and desperation.

Stalking includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device, or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death. Examples of stalking can include, but are not limited to:

- i. Nonconsensual communication including in-person communication, phone calls, voice messages, text messages, email messages, social networking site postings, instant messages, postings of pictures or information on websites, written letters, gifts, ordering goods or services, or any other communications that are undesired and/or place another person in fear.
- ii. Following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by a complainant.
- iii. Vandalism, including attacks on data and equipment.
- iv. Direct physical and/or verbal threats against a complainant or a complainant's loved ones.
- v. Gathering of information about a complainant from family, friends, co-workers, and/or classmates.
- vi. Manipulative and controlling behaviors such as threats to harm oneself, or threats to harm someone close to the complainant.
- vii. Defamation or slander against the complainant, posting false information about the complainant and/or posing as the complainant to post to websites, newsgroups, blogs, or other sites that allow public contributions, encouraging others to harass the complainant.
- viii. Arranging to meet complainant under false pretenses.

Consent — Effective consent is the basis of the analysis applied to unwelcome sexual contact. Lack of consent is the critical factor in any incident of sexual misconduct.

- i. Consent to participate in sexual activity is freely and actively given, and requires clear communication between all persons involved in the sexual encounter.
- ii. Consent is active, not passive. Consent can be communicated verbally or by actions, but in whatever way consent is communicated, it must be mutually understandable. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.
- iii. If at any time it is reasonably apparent that either party is hesitant, confused, or unsure, both parties should stop and obtain mutual verbal consent before continuing such activity.
- iv. Consent may be withdrawn by either party at any time. Withdrawal of consent must also be outwardly demonstrated by mutually understandable words or clear, unambiguous actions that indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.
- v. Consent to engage in sexual activity must exist from the beginning to end of each instance of sexual activity and for each form of sexual contact. Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- vi. Previous relationships or prior consent does not imply consent to future sexual acts.
- vii. Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another.
- viii. Effective consent cannot be given by minors, developmentally disabled individuals, or persons incapacitated as a result of consumption of drugs or alcohol.
 1. Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand the “who, what, when, where, why, or how” of their sexual interaction.
 2. This policy also covers someone whose incapacity results from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of a “date-rape” drug. [Possession, use and/or distribution of any of these substances, including Rohypnol, Ketomine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student or individual is a violation of this policy.]

- ix. As a Christian college and consistent with the position of the Reformed Church in America, <http://www.rca.org/Page.aspx?pid=501&srcid=491>, the college lifts up the Christian ideal of marriage between a man and a woman and contends that all sexual intimacy shall be within the bounds of such marriage. A couple that chooses to engage in a consensual sexual relationship outside the bounds of such a marriage will be subject to discipline or termination of employment.

8. Retaliation

Northwestern College prohibits retaliation against a complainant, respondent, or any individual or group of individuals involved in the investigation and/or resolution of an allegation of discrimination or (sexual) harassment. Such retaliation shall be considered a serious violation of the policy and independent of whether an informal or formal complaint of sexual harassment is substantiated. Encouraging others to retaliate shall constitute a violation of the policy. Examples of conduct that may constitute retaliation include, but are not limited to: unfair grading, evaluation, or assignments; having information withheld or made difficult to obtain in a timely manner, such as class information, recommendations, or grades; and not being informed about important events, such as meetings or changes in policies. It also includes ridicule (public or private), verbal or written threats or bribes, or refusal to meet with the person even though that person has a right to do so.

Any person who threatens, intimidates, or retaliates against another student, employee, or witness because of a complaint of sexual discrimination, harassment or misconduct, or because of participation in any investigation, will be subject to disciplinary action up to and including termination of employment (employees) or expulsion (students).

Persons who believe they have been retaliated against in violation of the policy should file a complaint with the Title IX Coordinator.

9. Confidentiality

- a. All inquiries, complaints, and investigations are treated with discretion. Information is disclosed as law and policy permit or require. However, the identity of the complainant may be disclosed to the person(s) accused of such conduct. Publicizing information about alleged sex discrimination or retaliation is strictly prohibited, and may be considered a violation of college policy.
- b. The Title IX Coordinator shall maintain all information pertaining to a complaint or investigation in secure files.
- c. Federal Statistical Reporting Obligations:
Campus security officials have a duty to report certain types of violations of this policy for federal statistical reporting purposes. All personally identifiable information is kept private, but statistical information must be passed along to campus security officials regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the annual Campus Security Report required by the Clery Act.

10. Special Provisions

a. Attempted Violations

In most circumstances, the college will treat attempts to commit any of the violations listed in this policy as if those attempts had been completed.

b. Encouraging Complaining Parties to Report Violations

The college community encourages the reporting of Title IX violations. Sometimes complaining parties are hesitant to report to college officials because they fear that they may be charged with policy violations, such as underage drinking at the time of the incident. It is in the best interest of this community that as many complaining parties as possible report to college officials. To encourage reporting, the college pursues a policy of offering complaining parties of sex discrimination immunity from being charged with policy violations related to the particular incident.

c. Encouraging Witnesses to Aid Victims (Good Samaritan policy)

Northwestern College subscribes to the concept of a “Good Samaritan” policy. For example, an underage student who has been drinking should not hesitate to help another student who is in danger. A student who chooses to intervene in the situation will be absolved from formal discipline sanctions.

d. Parental Notification

The college reserves the right to notify parents/guardians of dependent students regarding any health or safety emergency, change in student status, or conduct situation. The college also reserves the right to designate which college officials have a need to know about individual complaints pursuant to the Family Educational Rights and Privacy Act (FERPA).

e. Notification of Outcomes

- i. The outcome of a Title IX investigation involving students is part of the education record of the student parties involved, and is protected from release under a federal law, FERPA. However, the college observes the legal exceptions that allow for notification of the parties involved and others whom the college determines to inform based on the law and this policy.
- ii. Students who bring any sort of sex discrimination complaint against faculty or staff shall be informed of the outcome of the investigation and the resolution at the same time as the complaint respondent.
- iii. The college may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a college policy that is a “crime of violence,” including: sex offenses, arson, burglary, robbery, criminal homicide, assault, destruction/damage/vandalism of property, and kidnapping/ abduction. The college will release this information to the complainant in any of these offenses regardless of the outcome.
- iv. No record of a complaint shall be placed in the personnel file of an administrator, faculty member, or staff member or in the student conduct file if the complaint is found to be unsubstantiated and without merit. Where a complaint results in a finding that that the complaint was well-grounded and more likely than not occurred, an official notation will be placed in the personnel file of the administrator, faculty member, or staff

member or in the student conduct file of the student against whom the complaint is filed and any official punitive action will be noted in the file.

f. **Past Sexual History or Character of the Parties**

The unrelated past sexual history or sexual character of a party will not be admissible in an investigation.

11. Implementation and Dissemination of Information

To support this policy, Northwestern College will conduct periodic orientation and ongoing educational programs for faculty, students, and staff concerning all areas of Title IX, Clery Act, VAWA, and Campus SaVE Act. The Title IX Coordinator is charged with distributing copies of this policy and procedures to all current members of the college community. An annual letter from the Title IX Coordinator will be sent to all faculty and staff to remind them of the contents of the Title IX Policy, rights and privileges of individuals, and responsibility of faculty and staff regarding sexual misconduct, relationship violence, and stalking. Copies of this policy and procedures will be continuously available at appropriate college centers and offices.