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I. PURPOSE AND NOTICE OF NON-DISCRIMINATION

It is the Policy of Northwestern Health Sciences University (the "University") to maintain an environment that is free from all forms of sexual harassment, sexual intimidation, sexual exploitation, domestic violence, sexual assault, stalking, discrimination,[1] and other forms of sexual violence, including when these crimes are based on actual or perceived race, color, creed, religion, national origin, sex/gender, ethnicity, gender identity, marital status, familial (or parental) status, disability, status with regard to public assistance, sexual orientation, age, family care leave status or veteran status or any other protected class defined by law. The University prohibits any form of harassment, violence or discrimination based on actual or perceived protected class status.

It is a violation of University Policy for any student, employee, or third party to (1) sexually harass another individual through conduct or communication (e.g., physical, verbal, graphic or written) or to (2) discriminate against an individual based on that individual's actual or perceived protected class status; or to (3) inflict, threaten to inflict or attempt to inflict violence against another individual.

NWHSU also prohibits sexual misconduct, as defined by the Minnesota Campus Sexual Misconduct Policy Law, which includes sexual violence, intimate partner violence, domestic violence, sexual assault, sexual harassment as defined by Minnesota law, nonconsensual distribution of sexual images, sexual extortion, nonconsensual dissemination of a deepfake depicting intimate parts or sexual acts, sex trafficking, or stalking.

The University is committed to promptly and fairly investigating and addressing incidents of sexual misconduct. **Retaliation against a person who makes a complaint about sexual misconduct or who participates in or supports the investigation or resolution of a complaint is also prohibited and will not be tolerated.**

The University will promptly and appropriately investigate all complaints of sexual misconduct, sex discrimination, and sexual harassment—whether formal or informal, verbal or written—based on an individual's actual or perceived protected class status, and will discipline or take appropriate action against any student, employee, or third party who is found to have violated this Title IX & Related Misconduct Policy or other applicable University policies. Following an investigation, when appropriate, the University will conduct prompt, fair, and impartial resolution proceedings for all complaints of sexual violence, sex discrimination, and sexual harassment under the procedures that apply to the conduct at issue.

Any student or employee who needs a reasonable accommodation to be able to make or respond to a Complaint, or engage in any other activity detailed in this Policy, should contact the University's Disability Coordinator in Student Affairs, the Student Title IX Coordinator, or the Employee Title IX Coordinator (Vice President of Human Resources) to request an accommodation.

[1] Please see the University's Non-Discrimination and Non-Harassment Policy.

II. APPLICATION OF THIS POLICY AND GENERAL PRINCIPLES

This Title IX & Related Misconduct Policy and the procedures described herein apply to sexual harassment, sexual assault, sexual & related misconduct, domestic violence, dating violence, and stalking, as defined in this Policy.

This Title IX Policy applies to all students, employees, and third parties of the educational programs and activities of the University, and applies to conduct that occurred on University property, owned or leased, including University-hosted social functions, or events sponsored by the University but held at other locations, and any buildings owned or controlled by student organizations. Although this Title IX & Related Misconduct Policy applies only in these circumstances, students, employees, and third parties are encouraged to report any instances of sexual harassment, sexual assault, sexual misconduct, domestic violence, dating violence, and stalking to the University, and if such report falls outside this Policy, the University will assist the student, employee, or third party in reporting the incident to the proper party or authorities.

Any instance of sexual harassment, sexual assault, sexual misconduct, dating violence, domestic violence, or stalking that falls outside the jurisdiction of Title IX because it did not occur against a person in the United States or did not occur in the University's education program or activities, but which causes or threatens to cause a substantial and material disruption at the University, will be addressed through the processes detailed in this Policy, except that the procedures set out in Section V(G)(3-4) will not apply. Instead, the procedures set out in Section V(G)(5) will apply to these cases. In cases involving students, if the alleged conduct falls outside the jurisdiction of Title IX but within the jurisdiction of the Minnesota Campus Sexual Misconduct law, the parties will be offered the option of resolution through a live hearing under Sections V(G)(3-4) or resolution without a live hearing under Section V(G)(5).

In implementing this Policy, the University will treat Complainants and Respondents equitably. All provisions, rules, and practices under this Policy apply equally to both parties. Remedies will be designed to restore or preserve equal access to the University's education program and activities.

All violations detailed in this Policy can occur between individuals of the same or different sexes or genders.

All reports and formal complaints made under this Policy will be addressed within reasonably prompt timeframes, as described in specific sections below.

III. DEFINITIONS OF CONDUCT PROHIBITED UNDER THIS TITLE IX POLICY AND RELATED DEFINTIONS

Definitions of Prohibited Conduct.[2]

1. **Title IX Sexual harassment.** Title IX sexual harassment is conduct on the basis of sex that satisfies one or more of the following:

   - An employee of the University conditions the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
   - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
   - Sexual assault, dating violence, domestic violence, or stalking as defined herein.

   Determining whether sexual harassment has taken place requires an analysis of all available facts, the situation, and the context. When Title IX sexual harassment is alleged, a complaint will be

[2] State law definitions and examples of conduct prohibited under this Policy can be found in Appendix B.

resolved through a live hearing under Section V(G)(3-4).

2. **Non-Title IX sexual harassment.** Non-Title IX sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

When non-Title IX sexual harassment is alleged, the parties will be offered the option of resolution through a live hearing under Section V(G)(3-4) or resolution without a hearing under Section in Section V(G)(5).

3. **Sexual assault**. Sexual assault is any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. This includes the following offenses:

1. Rape—The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of his/her temporary or permanent mental or physical incapacity.
2. Sodomy—Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
3. Sexual Assault With An Object—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of their temporary or permanent mental or physical incapacity.
4. Fondling—The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of his/her temporary or permanent mental or physical incapacity.
5. Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
6. Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent.

4. **Stalking**. Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

- Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through others, 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 in the victim's circumstances.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.

5. **Dating violence.** Dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on the reporting party'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, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

6. **Domestic violence.** Domestic violence is defined as a felony or misdemeanor crime of violence committed

   - by a current or former spouse or intimate partner of the victim.
   - by a person with whom the victim shares a child in common. by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
   - by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
   - by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

7. **Sexual misconduct** means the conduct covered by this term in the Minnesota Campus Sexual Misconduct Policy Law, including sexual violence, intimate partner violence, domestic violence, sexual assault, sexual harassment, nonconsensual distribution of sexual images, sexual extortion, nonconsensual dissemination of a deepfake depicting intimate parts or sexual acts, sex trafficking, or stalking.

8. **Sexual exploitation**, a form of sexual harassment**,** is taking non-consensual sexual advantage of another person. For example, Sexual Exploitation includes taking non-consensual video and/or audio recordings, photographs, or images of an individual while that individual is engaged in intimate or sexual utterances, sounds, or activities; voyeurism; possession of child pornography; prostituting another person; exposing one's genitals in non-consensual circumstances; distributing intimate or sexual information about a person without their consent; lying about contraception; or knowingly transmitting a sexually transmitted disease to another person.

9. **Retaliation.** Retaliation means an adverse action taken against any individual for the purpose of interfering with any right or privilege under this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing provided under this Policy. Retaliation includes, but is not limited to, intimidation, threats, coercion, reprisal, discrimination, or harassment.

Definitions of Process Participants

10. **Advisor.** Any individual who provides the alleged Complainant or Respondent support. During all resolution proceedings, Complainants and Respondents are entitled to be accompanied by an advisor of their choice. During formal resolution hearings, the University will provide an advisor if a party does not have one.

11. **Complainant** mean a person who is alleged to be the victim of conduct that could constitute sexual harassment, sexual assault, dating violence, domestic violence, or stalking, as defined by this Policy. The complainant who is alleged to have been subject to conduct that violates this Policy may not always be the person who reports under this Policy. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the University.

12. **Decision-maker.** The decision-maker is the individual designated to determine in a formal resolution process whether the Respondent is responsible for a violation of this Policy. The decision-maker also determines what sanctions the University will impose on a Respondent who is determined to have violated the Policy.

13. **Employee**, for the purposes of this Policy, means all non-student employees of the University, including faculty, staff, adjuncts, and administrators.

14. **Employee Title IX Coordinator.** The Employee Title IX Coordinator, also the VP of Human Resources, is responsible for implementing and monitoring Title IX compliance on behalf of the University. This includes coordination of training, education, communications, and administration of the complaint procedures for the handling of suspected or alleged violations of this Policy. The Employee Title IX Coordinator's responsibilities are focused on Title IX matters relating to Employees.

15. **Investigator**. Investigators are individuals assigned to investigate possible violations under this policy. An investigator may be a member of the University's Title IX team or may be an outside consultant.

16. **Respondent** means a person who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

17. **Student**, for the purposes of this Policy, means all students at the University, except for full- time Employees of the University who are also taking classes at the University (for the purposes of this Policy, those individuals are considered Employees). The term "Student" otherwise includes all individuals taking classes at the University, including all degree and non-degree Students.

18. **Student Title IX Coordinator.** The Student Title IX Coordinator is responsible for implementing and monitoring Title IX compliance on behalf of the University. This includes coordination of training, education, communications, and administration of the complaint procedures for the handling of suspected or alleged violations of this Policy. The Student Title IX Coordinator's responsibilities are focused on Title IX matters relating to students.

19. **Third party**, for the purposes of this Policy, includes certain third-party affiliates, including volunteers, vendors, visitors, and independent contractors.

Other Definitions Related to the Title IX Resolution Process

20. **Coercion or force** includes conduct, intimidation, and expressed or implied threats of physical or emotional harm that would reasonably place an individual in fear of immediate or future harm and that are used in order to persuade or compel someone to engage in sexual contact. Any sexual contact occurring after a person has engaged in coercion or force will be presumed non-consensual, even if the particular sexual contact that occurs is different from the form of sexual contact in which the individual was attempting to engage, and even if the other individual uses words or actions that would otherwise appear to convey consent.

21. **Consent** means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the Complainant or that the Complainant failed to resist a particular sexual act. Instead, Consent means a freely given "yes," not failure to resist, silence, or the absence of a "no." Past consent does not imply future consent.

    Consent can be withdrawn at any time. Consent cannot be obtained via threats, force, coercion, or other forms of intimidation. Corroboration of the Complainant's testimony is not required to show lack of consent.

22. **Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the recipient investigate the allegation of sexual harassment. A formal complaint must contain the Complainant's or the Title IX

Coordinator's physical or digital signature. A formal complaint maybe filed with the Title IX Coordinator in person, by mail, or by electronic mail.

23. **Hearing.** A hearing is a live proceeding in the presence of a decision-maker during which relevant questions, including cross-examination questions, may be asked of the Complainant, the Respondent, and witnesses. The hearing follows a thorough investigation of the case. After a hearing, the decision-maker reaches a determination about whether Respondent is responsible for a Policy violation.

24. **Incapacitation** means an individual's physical and/or mental inability to make informed, rational judgments that is known or reasonably should have been known to the individual initiating sexual contact. An individual who is incapacitated is unable to give consent to sexual contact. States of Incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact.

With respect to incapacitation due to drugs or alcohol, incapacitation requires more than simply being under the influence of drugs or alcohol—a person is not incapacitated simply because they have used drugs or alcohol. Instead, facts surrounding the situation will be considered to determine (1) if the individual could understand the circumstances, (2) if the individual was able to communicate consent (or lack thereof), and (3) whether a reasonable person in the Respondent's position would have known that the individual was incapacitated.

Regardless of their own level of intoxication, individuals who are initiating sexual contact are always responsible for obtaining consent before proceeding. Intoxication is never an excuse for or a defense to committing sexual assault or any other sexual harassment. Use of drugs or alcohol does not diminish one's responsibility to obtain consent, or reduce one's personal accountability or criminal liability. The issue is whether the individual initiating sexual contact knew, or a reasonable sober person in the position of the individual initiating sexual contact should have known, that the other person was incapacitated.

25. **Informal Resolution** means any voluntary, structured interaction between a Complainant and Respondent intended to resolve allegations of sex discrimination, sexual harassment, or sexual misconduct. The Informal Resolution Process may only occur after the filing of a Formal Complaint. The Informal Resolution Process is intended to be flexible while also providing for a full range of possible outcomes and may happen in the form of mediation, shuttle diplomacy, or other means devised by and agreed to by the parties. Typically, the Student or Employee Title IX Coordinator facilitates Informal Resolution, but the Title IX Coordinator may designate a trained, external facilitator. Informal Resolution may be used to address any form of sex discrimination, sexual harassment, or sexual misconduct. The Informal Resolution Process may not be used to address allegations that an employee sexually harassed a student. The University reserves the right to determine whether Informal Resolution is appropriate for each specific case.

26. **Preponderance of evidence.** The standard of evidence used to determine responsibility under this Policy is the preponderance of evidence standard which means "more likely than not" that our Title IX policy was violated.

27. **Proceeding.** All activities related to a non-criminal resolution of a University disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. "Proceeding" does not include communications and meetings between officials and Complainants concerning accommodations or protective measures to be provided to a Complainant.

28. **Relevant** means related to the allegations of sex discrimination under investigation as part of these Complaint Resolution Processes. Questions are relevant when they seek evidence that may aid in

showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged sex discrimination occurred.

29. **Report.** A report is information provided to the Student Title IX Coordinator or the Employee Title IX Coordinator, or to another University official who has the authority to institute corrective action on behalf of the University, that indicates that sexual harassment, as defined by this Policy, may have occurred.

30. **Sexual contact** includes, but is not limited to, the non-consensual intentional touching of someone's intimate parts, including the touching of clothing covering someone's intimate parts and the touch with seminal fluid or sperm on a person or a person's clothing.

31. **Supportive measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after filing a of a formal complaint or where no formal complaint has been filed. Supportive measures are designed to restore or preserve equal access to the University's educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment or deter sexual harassment.

Other Definitions Related to Institutional Reporting and Education

32. **Awareness programs**. Community-wide or audience specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration

33. **Bystander intervention.** Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes:

- Recognizing situations of potential harm, and
- Understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking actions to intervene.

34. **Campus** means any building or property owned, leased or controlled by the University within the same reasonably contiguous geographic area of the University and used by the University in direct support of, or in a manner related to, the University 's educational purposes, and property within the same reasonably contiguous geographic area of the University that is owned by the University but controlled by another person, is used by students, and supports University purposes (such as a food or other retail vendor).

35. **Campus Safety Officer**. The person who is responsible for compliance with the requirements of the Clery Act.

36. **Non-campus building or property** means any building or property owned, leased, or controlled by a student organization recognized by the University; and any building or property (other than a branch campus) owned, leased, or controlled by the University that is used in direct support of, or in relation to, the University's educational or employment purposes, is used by students, and is not within the same reasonably contiguous geographic area of the University. This term includes the location of any activity, program, organization, or event sponsored by the University.

37. **Ongoing prevention and awareness programs.** Programming, initiatives, and strategies that are

sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the University.

38. **Primary prevention programs.** Programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

39. **Public property** means all public property that is within the same reasonably contiguous geographic area of the University, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned, leased, or controlled by the University if the facility is used by the University in direct support of, or in a manner related to the University's educational or employment purposes.

40. **Risk reduction.** Options designed to decrease perpetration and bystander inaction, and to increase empowerment for Complainants in order to promote safety and to help individuals and communities address conditions that facilitate violence.

IV. REPORTING INCIDENTS OF SEXUAL HARRASMENT, SEXUAL ASSAULT, SEXUAL MISCONDUCT, DATING VIOLENCE, DOMESTIC VIOLENCE AND STALKING UNDER THIS TITLE IX POLICY

A. Reporting Overview

The University strongly encourages reporting of sex discrimination, sexual harassment, sexual misconduct, and sexual violence in any form. Anyone who has observed or experienced sex discrimination, sexual harassment, sexual misconduct, or sexual violence in the context of University programs can report by contacting either the University Student Title IX Coordinator or the University Employee Title IX Coordinator in person by mail, by telephone, or by electronic mail, or by any other means that results in the Student Title IX Coordinator or Employee Title IX Coordinator receiving the report. A report may be made at any time.

In the case of a student Complainant, the reporter is encouraged to contact the Student Title IX Coordinator at (952) 887-1381 or through the contact information provided on the University website.

In the case of an employee Complainant, the reporter is encouraged to contact the Employee Title IX Coordinator at (952) 885-5437 or through the contact information provided on the University website.

Anyone who has observed or experienced sex discrimination, sexual harassment, sexual misconduct, or sexual violence in the context of University programs may also report on the University's Title IX Reporting Hotline. The University's hotline is hosted by a secure, independent provider, EthicsPoint, and reports are treated confidentially. Reporters may remain anonymous, and the IP address of computers cannot be traced. Reports will be provided to the Vice President of Human Resources. It should be understood that response to a report and investigation may be hampered or be impracticable if the reporter cannot be identified and questioned about the incident and related facts. There are two ways to use the hotline:

- Online: **https://secure.ethicspoint.com/domain/media/en/gui/35060/index.html**
- Phone: toll-free, within the United States, Guam, Puerto Rico and Canada: **855-748-5772.**

Although confidentiality cannot be assured in all cases, all reports of sex discrimination, sexual harassment, and sexual violence will be handled with sensitivity to confidentiality issues, and information will only be communicated as appropriate to those with a need to know.

The University recognizes that the decision to report sexual violence to authorities, including the police, is the right of the Complainant. A Complainant has the right to report to the University, the police, neither, or both. If the Complainant chooses to report to the police, the University will assist the Complainant in that process.

In some cases, unless prohibited by law, an individual may pursue criminal action and a University internal complaint concurrently. In certain circumstances, the University is prohibited from waiting for a criminal case to conclude before proceeding in its own internal investigation.

It is important for Complainants to preserve any evidence resulting from sexual violence that could be needed for criminal prosecution. Complainants have the right to complete and prompt assistance of campus authorities, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence. Campus security will also provide assistance in preserving materials considered relevant to the internal resolution process and, when requested by the police, provide assistance in obtaining, securing, and maintaining evidence needed for criminal prosecution.

The University also encourages Complainants of sexual harassment and sexual violence to seek immediate medical and emotional assistance, as applicable, including treatment for injuries and preventative treatment for sexually transmitted diseases. Assistance is available by calling 911, the Bloomington Police (952) 563-4900, or Campus Safety Officer (952) 452-9124. Medical treatment, including rape kits, may help Complainants preserve evidence of sexual assault. University security staff responding to an incident of sexual violence will inform the Complainant of their options to notify law enforcement authorities, seek medical assistance, and the University's reporting process; and security staff will assist the Complainant with these contacts if the Complainant requests such assistance.

Note that the University may be limited in its ability to take action again a third party.

B. Initial Response to a Report of Sexual Harassment Under this Policy

Upon receipt of a report of sexual harassment, sexual assault, sexual misconduct, dating violence, domestic violence, or stalking, the Student Title IX Coordinator or Employee Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures and to explain the process for filing a formal complaint. Supportive measures are available to a Complainant with or without the filing of a formal complaint.
Supportive measures may include, but are not limited to:

- Extensions of deadlines or other course-related adjustments,
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between Complainants and Respondents
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of campus
- Other similar measures

Supportive measures will be designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party. The Student or Employee Title IX Coordinator will consider the Complainant's wishes with respect to supportive measures and will coordinate the implementation of supportive measures.

Supportive measures are also available to Respondents before or after the filing of a formal complaint.

The University may not impose any disciplinary sanctions or other actions that are not supportive measures

against a Respondent absent the filing of a formal complaint and resolution of the complaint, as described in this Policy.

The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining confidentiality will not impair the University's ability to provide the supportive measures.

When applicable, the University will also notify the Complainant of their rights and the University's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court (see Resources section below).

C. Emergency Removal and Administrative Leave

Upon receiving a report of sexual harassment, sexual assault, sexual misconduct, dating violence, domestic violence, or stalking, the University may conduct an individualized safety and risk analysis to determine whether a Respondent should be removed from the University's education program or activity on an emergency basis. In conducting the individualized safety and risk analysis, the University will determine whether there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations that justifies removal.

If the University determines that removing a Respondent is justified, it will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal. The Student Title IX Coordinator or the Employee Title IX Coordinator should be notified of any challenge to the removal decision. The final decision regarding an emergency removal decision will be made as soon as practicable after the Student Title IX Coordinator or Employee Title IX Coordinator is notified of the challenge.

The emergency removal determination, including the specific parameters of the removal, will be made by a member of the Title IX team not otherwise involved in the case. A final decision about any challenge to the emergency removal determination will be made by the Vice President of Academic Affairs.

If the Respondent is a non-student employee, in non-emergency situations, the University may place the Respondent on administrative leave after a formal complaint is filed and during the pendency of a resolution process. In this case, the administrative leave determination, including the specific parameters of the administrative leave, will be made by a Human Resources staff member not otherwise involved in the case.

D. Other Resources

Complainants who have experienced sexual harassment or sexual violence may also wish to utilize the following services:

Confidential Student Resource:

- University Counseling Services (952) 885-5458. Counseling services is a confidential resource for students and conversations are protected by privilege

Confidential Employee Resource:

- Employee Assistance Plan (888) 628-4824
- Website: www.guidanceresources.com

Off Campus Resources:

- Local Police
  - 9-1-1
  - Bloomington Police (952) 563-4900

- Cornerstone is a violence prevention organization based in Bloomington,
  - MN: http://cornerstonemn.org/about-us/. 24-hour crises line: 1-866-223-1111 or 952-884-0376
- Hennepin County Medical Center (HCMC) Acute Psychiatric Services, Phone: 612-873-3161
  - Suicide Hotline: 612-873-2222
  - 24-hour phone and walk-in service for evaluation and treatment of behavioral emergencies and significant life crisis.
- Sexual Violence Center - 612-871-5111, Minneapolis Office: 3757 Fremont Ave. N.; Chaska Office: 500 North Pine St., Suite 303.
- 24-hour phone counseling, support groups, education, and individual counseling for victims, and loved ones of victims, who have experienced any form of unwanted sexual contact.
- The Walk in Counseling Center: Phone: 612-870-0565, www.walkin.org, 2421 Chicago Avenue South, Minneapolis. Crisis intervention and short-term counseling to individuals, couples and families. No appointment is necessary during counseling hours. These services are free, but donations are appreciated.
- Minnesota Coalition Against Sexual Assault, 161 St. Anthony Avenue, Suite 1001, St. Paul, MN 55103, Phone: 651-209-9993, Toll-Free: 1-800-964-8847, www.mncasa.org
- National Domestic Violence Hotline (800) 799-SAFE (7233)

Health Care Resources: We encourage Complainants who have experienced any form of sexual violence to seek immediate medical attention regardless of whether a report is made to law enforcement or the University.

- Fairview Southdale Hospital, 6401 France Avenue South, Edina, MN (952) 924-5000
- Allina Health, Abbott Northwestern Hospital, 800 East 28th Street, Minneapolis, MN (612) 863-4000
- Park Nicollet-Methodist Hospital, 6500 Excelsior Blvd, St. Louis Park, MN (952) 993-6600

County Resources regarding orders of protection, no contact order, or restraining orders:

- Hennepin County Domestic Abuse Service Center (612) 348-5073
- Ramsey County Protection and Restraining Order Office (651) 266-5130

E. Employee Responsibility to Report Potential Violations of this Policy

All Employees (except University Counseling Office staff, who are designated as confidential resources) are expected to report any incident of sexual harassment, sexual assault, sexual misconduct, dating violence, domestic violence, or stalking directed at a student or employee that they become aware of. Employees should report incidents involving students to the Student Title IX Coordinator[3] at (952) 887-1381. Employees should report incidents involving other employees to the Employee Title IX Coordinator at (952) 885-5437.

Students who are not also employees of NWHSU are not required to report information about conduct that reasonably may constitute sex discrimination, sexual harassment, or sexual misconduct. But students are encouraged to report that information to the Title IX Coordinator or to provide the Title IX Coordinator's contact information to the individual reporting the conduct.

An employee or student who has personally been subject to conduct that reasonably may constitute sex

[3] An Employee need not report if they are exempt from reporting requirements under applicable law.

discrimination, sexual harassment, or sexual misconduct does not have an obligation to report that information.

F. False Reports

The willful filing of a false report is a violation of University Policy. Allegations of false reporting will be addressed under the Student Code of Conduct if the alleged false reporting involves a student reporter. Allegations of false reporting will be addressed under the Employee Personal Conduct Policy if the alleged false reporting involves an employee reporter.

V. RESOLUTION PROCESS FOR RESOLVING FORMAL COMPLAINTS

A. General Principles

1. Presumption of Non-Responsibility

Under this Policy, a Respondent is presumed not responsible for alleged conduct until a determination regarding responsibility is made at the conclusion of a formal resolution process.

2. Standard of Evidence

The standard of evidence used to determine responsibility under this Policy is the preponderance of evidence standard.

3. Burden of Proof

Throughout the process for resolving a formal complaint, the burden of proof and the burden of gathering sufficient evidence to reach a determination regarding responsibility rests on the University and not on the parties.

4. Use of Medical Records

The University may not access, disclose, consider, or otherwise use a party's privileged medical or counseling records during a resolution process unless the party provides voluntary, written consent for such use.

5. Advisors

Under this Policy, the Complainant and the Respondent are each entitled to have another person present (in a support role) during a University disciplinary proceeding and may be accompanied to any related meeting or proceeding by an advisor of their choice. The purpose of the advisor is to support the individual throughout the investigation and resolution process. The advisor may be, but is not required to be, an attorney.

Advisors may not participate in the meetings or proceedings, but may attend and observe, except that during a formal Title IX hearing, advisors will be responsible for conducting cross-examination of the other party or witnesses, as described below in section V(G)(4). The advisor's access to information is subject to the same limitations as those placed upon the Complainant and Respondent and is conditioned upon the advisor's agreement to maintain the confidentiality of certain information.

During a formal Title IX resolution process hearing, the University will provide an advisor to a Complainant or Respondent who does not select their own advisor.

The University will allow the parties an equal opportunity during a hearing to consult an additional support person other than the party's advisor, if requested and deemed appropriate by the Title IX Coordinator.

6. No Restrictions on Parties' Speech

This Policy does not in any way restrict the right of any party to a resolution process to discuss the allegations or to gather and present evidence during the process.

7. Participation Expected for Non-Parties

To ensure the University can gather the information necessary to uphold University policies, each non-party faculty, staff, or student who is requested to participate in an investigation is expected to fully cooperate with the investigator. Unless otherwise directed by the investigator, non-party faculty, students, and staff will be expected to limit their discussion of the matter under investigation to those who need to know the information for the purposes of assisting in the resolution of the complaint. Nothing in this paragraph is intended to limit or restrict a Complainant or Respondent from speaking about the allegations under investigation or contacting at any time the police or governmental agencies responsible for the enforcement of any applicable laws.

8. False evidence

Willfully submitting evidence that a party or witness knows to be false is a violation of University Policy. Allegations of submitting false evidence will be addressed under the Student Code of Conduct if the evidence was submitted by a student. Allegations of submitting false evidence will be addressed under the Employee Personal Conduct Policy if the evidence was submitted by an employee.

9. Limitations on Imposing Disciplinary Sanctions

NWHSU may not impose any disciplinary sanctions on a Respondent for sexual harassment or sexual misconduct under this Policy unless a decision-maker determines at the conclusion of a Complaint Resolution Process that the Respondent engaged in prohibited sex discrimination, sexual harassment, or sexual misconduct.

10. Confidentiality

Throughout a resolution process, the University will respect the confidentiality of the Complainant, the Respondent, and the witnesses as much as possible, consistent with the University's obligations to investigate, to take appropriate action, to publish recordkeeping, and to comply with any legal obligations.

The University will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including the identity of any individual who has made a report or filed a formal complaint of sexual harassment or sexual misconduct; any Complainant; any individual who has been reported to be the perpetrator of sex discrimination, sexual harassment, or sexual misconduct; any Respondent; and any witness, except as may be permitted by the Federal Educational Rights Privacy Act. This includes keeping confidential any investigation, hearing, or judicial proceeding conducted under this Policy.

11. Consolidation of Formal Complaints

The University may consolidate formal complaints of allegations of sexual harassment, sexual

assault, sexual misconduct, dating violence, domestic violence, or stalking made under this Policy when the allegations arise out of the same facts and circumstances. This includes complaints against more than one Respondent; complaints made by more than one Complainant against one or more Respondents; and complaints made by one party against another party. If formal complaints are consolidated, the University may issue a single investigative report and determination of responsibility (as described below), although the determination of responsibility may be different with respect to each allegation, depending on the facts of the case.

12. Notice of Meetings

The University will provide any party whose participation is expected or invited written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, and other meetings, with sufficient time for the party to prepare to participate.

13. Bias and Conflict of Interest

The University will ensure that any individual designated as a Title IX Coordinator, investigator, decision-maker, appeals officer, or informal resolution facilitator under this Policy does not have a conflict of interest or bias against any Complainant or Respondent or against Complainants or Respondents generally.

If there is a conflict of interest with respect to any party affected by this Policy, appropriate accommodations will be made, such as, but not limited to, appointing or contracting with a consultant to conduct the investigation, or recusing the person from the process for whom a conflict or potential conflict of interest exists.

14. Waiver of Alcohol/Drug Violations

The University strongly encourages students to report instances of sexual harassment, sexual misconduct, dating violence, domestic violence or stalking. As such, students who report such information—either witnesses or Complainants—will not be disciplined by the University for any violation of its drug and alcohol policies that arises in connection with the reported incident. The use of alcohol or drugs does not make the Complainant at fault for Sexual Violence.

15. Training

The University will ensure that any individual serving as a Title IX Coordinator, investigator, decision-maker, appeals officer, or informal resolution facilitator under this Policy receives appropriate training, as required by law, including annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking. As required by law, training also includes information about interacting with Complainants of sexual assault, including how to reduce the emotional distress resulting from the reporting, investigatory, and disciplinary process. All investigations under this Policy will be conducted by individuals who have been trained on how to conduct a prompt, fair, and impartial investigation; how to provide safety to individuals during an investigation; and how to promote accountability. All materials used to train Title IX Coordinators, investigators, decision-makers, appeals officers, and informal resolution facilitators will be posted on the University's website.

B. Initiating a Formal Complaint

All processes for resolving complaints of sexual harassment, sexual assault, sexual misconduct, dating violence, domestic violence, or stalking under this Policy begin with the filing of a formal complaint. A formal complaint can be any document that contains a Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and that requests the

University to investigate the allegations of sexual harassment, sexual assault, dating violence, domestic violence, or stalking. A formal complaint may be filed with the Student Title IX Coordinator or Employee Title IX Coordinator in person, by mail, by electronic mail, or by using the contact information provided for those University officials on the University website or elsewhere.

A formal complaint is required to begin either an informal or a formal resolution process (described below). Once a formal complaint is filed, the University has an obligation to investigate the allegations.

At the time a Complainant files a formal complaint, they must be participating in or attempting to participate in the University's education program or activities. If a Complainant's status at the University is unclear, determination of whether a Complainant is participating in or attempting to participate in the University's education program or activities will be made on a case-by-case basis by the Student Title IX Coordinator or the Employee Title IX Coordinator.

Under some circumstances, the Student Title IX Coordinator or the Employee Title IX Coordinator may sign the formal complaint to initiate an investigation under this Policy. This may occur when the Student Title IX Coordinator or the Employee Title IX Coordinator determines that there is an ongoing threat to the safety of the University community that must be addressed through a formal complaint. This may occur when, for example, an incident involved violence or the use of weapon, the Respondent has been involved in a pattern of conduct that must be addressed, or there are egregious or multiple allegations against the same Respondent, but no individual Complainant wishes to or is eligible to file a formal complaint.

If the Student Title IX Coordinator or the Employee Title IX Coordinator signs the formal complaint to initiate an investigation, they do not thereby become a Complainant or otherwise a party in the case.

C. Notice of Formal Complaint

When the University receives a formal complaint of sexual harassment, sexual assault, sexual misconduct, dating violence, domestic violence, or stalking, as defined by this Policy, it will provide the following information, in writing, to all known parties:

- Notice of the University's resolution process;
- Notice of the allegations potentially constituting sexual harassment, including details about the identity of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the incident, if known;
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination of responsibility is made at the conclusion of the resolution process;
- Notice that each party may have an advisor of their choice, who may be, but is not required to be, an attorney;
- Notice that the parties may inspect and review evidence used during the resolution process, as detailed in the Policy;
- Notice that the University's Code of Conduct prohibits knowingly making false statements or submitting false information during the process.
- Notice of the possible sanctions for a policy violation.

The notice of a formal complaint will be sent to the parties as soon as practicable but no more than 3 business days after the receipt of a formal complaint.

If, in the course of an investigation, the University decides to investigate allegations about the Complainant or the Respondent that were not included in the notice provided initially, the University will provide notice of the additional allegations to the known parties.

D. Choice of Procedures after a Formal Complaint is Filed

After a formal complaint is filed, two avenues are available for resolution of an allegation of sexual harassment, sexual assault, sexual misconduct, dating violence, domestic violence, or stalking under this Policy: informal resolution and formal resolution.

An informal resolution process is intended to facilitate a resolution of the conflict that is agreeable to all parties. It does not involve a full investigation of the complaint and does not result in a determination of whether a Respondent is responsible or not responsible for violating this Policy. Informal resolution is only available if all parties voluntarily consent in writing to the informal resolution process. During an informal resolution process, any party has the option to move the Complaint to the formal process at any time before the resolution is finalized. The University may not require a party to participate in an informal resolution process and may not offer an informal resolution process to resolve allegations that an employee sexually harassed a student. The informal resolution process is described in more detail in Section V (F) (below).

A formal resolution process involves thorough investigation of the complaint, including an objective evaluation of all relevant evidence, and, in the case of a Title IX case, a live hearing, followed by a determination of whether the Respondent is responsible for violating this Policy. Following a determination of responsibility, the University may provide remedies, including sanctions for the Respondent, that are designed to restore or preserve equal access to the University's education program or activity, and may also continue to provide supportive measures. The formal resolution process is described in more detail in Section V (G) (below).

Every attempt should be made to determine the option for resolution within 5 business days of the submission of the formal complaint.

E. Dismissal of a Formal Complaint

Under certain circumstances, the University is required to or has the discretion to dismiss a formal complaint. The University **must** dismiss the formal complaint, or a specific allegation in the complaint, for purposes of Title IX, if the conduct alleged in the formal complaint

- would not constitute sexual harassment, sexual assault, sexual misconduct, dating violence, domestic violence, or stalking, as defined in this Policy;
- did not occur in the University's education program or activity; or
- did not occur against a person in the United States.

A dismissal on this basis does not preclude the University from taking action under another University Policy, or, in the case of sexual harassment, sexual assault, sexual misconduct, dating violence, domestic violence, or stalking that falls outside the jurisdiction of Title IX, addressing the conduct through the procedures set out in Section V(G)(5) of this Policy.

The University **may** dismiss a formal complaint or any allegation made in the complaint, if

- at any time during the investigation or hearing a Complainant notifies the Student Title IX Coordinator or Employee Title IX Coordinator in writing that the Complainant would like to withdraw

the formal complaint or any allegations made in the complaint;
- the Respondent is no longer enrolled at or employed by the University; or
- specific circumstances prevent the University from gathering evidence sufficient to reach a determination as the formal complaint or the allegations in the complaint.

When the University dismisses a formal complaint, the Student Title IX Coordinator or the Employee Title IX Coordinator will promptly send written notice of the dismissal, including reasons for the dismissal, simultaneously to the parties. The parties will also be informed of other University procedures for resolving the complaint and of other resources that may be available to them. The Student or Employee Title IX Coordinator may also refer the matter to another, applicable, disciplinary procedure.

Note that any instance of sexual harassment, sexual assault, dating violence, sexual misconduct, domestic violence, or stalking that falls outside the jurisdiction of Title IX because it did not occur against a person in the United States or did not occur in the University's education program or activities, but which causes or threatens to cause a substantial and material disruption at the University, will be addressed through the resolution processes detailed in this Policy, except that Sections V(G)(3-4) will not apply. Instead, instances of sexual harassment, sexual assault, dating violence, sexual misconduct, domestic violence, and stalking that fall outside the jurisdiction of Title IX will be addressed according to the procedures set out in Section V(G)(5).

F. Informal Process for Resolving Complaints

1. Overview

After a formal complaint is filed, and at any time before a determination of responsibility is reached in a formal process, either party may request that the complaint be resolved by an informal resolution process. NWHSU encourages the use of the informal resolution process, recognizing that parties' participation in the informal resolution process is voluntary, and the process will only be implemented with the full written consent of all parties, in accordance with the requirements of this Section. NWHSU cannot require the parties to participate in an informal resolution of a complaint. An informal resolution process may not be used to address a formal complaint that an employee sexually harassed a student.

NWHSU has the discretion to determine whether it is appropriate to offer an informal resolution process in each situation and may decline to offer the informal resolution process despite one or more of the parties' wishes. NWHSU may decline to offer the informal resolution process if, for instance, it determines that the alleged conduct would present a future risk of harm to others.

When a complaint is resolved through an informal resolution process, the Title IX Coordinator managing the case will also take steps, as appropriate, to ensure that the sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual misconduct does not continue or recur.

NWHSU will not require a party to waive the right to investigation and adjudication of a complaint, as outlined in the complaint resolution process, as a condition of enrollment, continuing enrollment, employment, continuing employment, or provision of any other right.

2. Timeframes for the Informal Resolution Process

Generally, an Informal Resolution Process will be completed within 60 calendar days from receipt of the request for Informal Resolution. This timeline may be extended if necessary, including a

temporary delay or the limited extension of time for good cause.

Note that the formal resolution process calendar pauses when an informal process commences. If the parties then later return to the formal resolution process, the formal resolution process calendar will restart from the time when the parties entered the informal process.

The parties will simultaneously be notified in writing of any extension of the timeframe and the reasons for such extension.

3. Notice to the Parties

Before initiating an informal resolution process, NWHSU will provide written notice to the parties that explains the following:

- The allegations in the formal complaint;
- The requirements of the informal resolution process, including the fact that final resolution in an informal process precludes them from later resuming a formal resolution process;
- Their right to withdraw from the informal resolution process at any time before it is final and resume the formal resolution process;
- Information about records that will be maintained or could be shared about the informal resolution process.

4. Informal Resolution Process Facilitator

The facilitator for the informal resolution process will be the Student Title IX Coordinator, the Employee Title IX Coordinator, or a person designated by the Student or Employee Title IX Coordinator. A facilitator designated by the Student or Employee Title IX Coordinator may be an employee of NWHSU or may be an external consultant. The facilitator will not be the same person as the investigator or decisionmaker in the formal complaint resolution process.

The facilitator for an informal resolution process will not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The facilitator will be trained consistent with the Title IX regulations.

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5. Description of Process

The facilitator, in consultation with the Title IX Coordinator managing the case, will work with the parties to determine a structure for the informal resolution process that all parties agree to. Working with the facilitator, the parties generally have latitude to determine the structure of the process, which may include mediation or other alternative dispute resolution procedures. The parties are not required to meet face-to-face during the process.

The Complainant and Respondent each have the option to discontinue the informal process and request that the formal resolution process be resumed by notifying the informal process facilitator in writing. The University also has the discretion to bypass or discontinue the informal process and move forward with a formal resolution process at any time. If at any point during the informal

process, the Complainant, the Respondent, or the University wishes to cease the informal process and proceed instead through the formal process, the formal process described below will be invoked.

Once the parties have arrived at an agreement and finalized an agreement, the process is concluded, and the parties are precluded from entering a complaint resolution process arising from the same allegations.

6. Potential Terms and Outcomes of an Informal Resolution Process

The parties generally have latitude to determine the terms and potential outcomes of an informal resolution agreement. The facilitator can assist the parties in developing possible terms and outcomes. Potential terms and outcomes may include, but are not limited to,

- Restrictions on contact between the parties;
- Restrictions on the Respondent's participation in one or more University activities or programs;
- Priority in class registration, to ensure parties are not registered for the same classes;
- Restrictions on physical presence in certain areas;
- Required attendance at educational programs
- Required assessment and/or counseling
- Apology and recognition of harm.

At the conclusion of an informal resolution process, the parties will be asked to sign an informal resolution outcome agreement. If all parties to the complaint agree in writing to the terms and conditions of the Informal Resolution within 5 business days, the case will be resolved without additional process, including a formal complaint resolution process, under this Policy. If all parties to the complaint do not agree in writing to the terms and conditions of the informal resolution within 5 business days, the complaint will move to the formal complaint process for resolution.

NWHSU will simultaneously provide the parties with the final, signed written summary of the outcome.

The Title IX Coordinator managing the case or their designee is responsible for ensuring that the terms of an Informal Resolution agreement are adhered to.

7. Records

Records about Informal Resolution Processes will be maintained by the Student Title IX Coordinator or Employee Title IX Coordinator, consistent with this Policy's recordkeeping provision, and will only be shared with University employees who have a need to know. Records from an informal resolution process, including statements made by the parties during the process, will not be shared in a later complaint resolution process.

G. <u>Formal Process for Resolving Complaints</u>

1. Overview

A formal process for resolving complaints under this Policy involves an investigation of the allegations raised in the formal complaint, followed by a determination of whether the allegations are substantiated and the Respondent is responsible for a Policy violation. This process involves an objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence. If the decision-maker determines that the allegations are substantiated and that the Respondent is responsible for a violation of this Policy, remedies will then be imposed that may include disciplinary sanctions and other actions. Supportive measures may also be provided for the Complainant.

Throughout the formal resolution process, Complainants and Respondents will be treated equitably. All provisions, rules, and practices applied throughout the process apply equally to both parties. Complainants and Respondents will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

2. Timeframes

The University will make every effort to conclude a formal process for resolving a formal complaint under this Policy within a reasonably prompt time frame, generally within 120 to 150 calendar days. Occasionally, a process may be temporarily delayed or a time frame extended for good cause. Good cause may include, but is not limited to, absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. If the University anticipates that a resolution process will be delayed or a time frame extended, the Title IX Coordinator managing the case will provide written notice to the Complainant and Respondent of the delay or extension and the supporting reasons. Any party to the case may request an extension for good cause. The Title IX Coordinator managing the case will determine whether extensions are warranted for good cause.

3. Investigation of Cases that Fall within the Jurisdiction of Title IX

Investigation of a formal complaint that falls within the jurisdiction of Title IX will be conducted by a member of the University's Title IX team trained to conduct Title IX investigations or by an outside consultant trained to conduct Title IX investigations. The University will ensure that investigators are free of bias against individual Complainants and Respondents or against Complainants or Respondents in general.

In cases involving students, if the allegations in a complaint do not fall within the jurisdiction of Title IX, but do fall within the jurisdiction of the Minnesota Campus Sexual Misconduct law, the parties will be offered the opportunity to resolve the complaint using the processes out in this section and section 4 OR using the process set out in section 5, below.

The investigation may, as appropriate, consist of personal interviews with the Complainant, the Respondent, and other witnesses who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of other methods designed to gather information and documents deemed pertinent by the investigator. Parties may submit any evidence they wish to have considered in the investigation to the investigator. Parties may be accompanied by an advisor of their choice to all investigation meetings.

The investigation will not include questions or evidence that constitutes or seeks disclosure of information protected under a legally recognized privilege unless the person holding that privilege has waived it.

The investigation phase of the process, leading up to the inspection and review of evidence and

sharing of the preliminary report (described below), will usually be completed in no more than 20 business days, but may be extended with written notice to the parties explaining the reason for the extension.

After completing an investigation, the investigator will create a preliminary investigative report that summarizes relevant evidence collected during the investigation. Before the investigator finalizes the investigative report, the parties will be given an opportunity to inspect and review all evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including any evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and any inculpatory or exculpatory evidence obtained from any source. To facilitate this review of evidence, the University will send to each party and the party's advisor, if any, the evidence subject to inspection and review and the preliminary investigative report in an electronic or a hard copy. The parties then have 10 business days to submit a written response, which the investigator will consider before finalizing the investigative report. After the 10-day response period, the University will share each party's written response, if any, with the other party. The parties will then have 3 business days to submit additional responses.

At the conclusion of the evidentiary review and response period, the investigator will finalize the investigation report within 5 business days, or, alternately, may provide the parties with written notice extending the investigation for up to an additional 5 business days and explaining the reason for the extension.

The University will then send the final investigative report to each party and the party's advisor at least 10 business days before the hearing that will determine whether Respondent is responsible for a Policy violation. If a party wishes to submit a written response to the investigative report, they must do so at least 24 hours before the hearing. The investigative report will also be provided to the decision-maker before the hearing is convened, as described below.

4. Hearing to Determine Responsibility

In cases that fall within the jurisdiction of Title IX, or in non-Title IX student cases when the parties opt for a live hearing, before a decision-maker determines whether alleged conduct constitutes a violation of this Policy, the University will conduct a live hearing. At the hearing, a decision-maker will hear evidence related to the allegations that supplements the investigative report. The decision-maker will then determine whether Respondent is responsible for a Policy violation.

The decision-maker will be an individual chosen from the University's Title IX team or an outside consultant who has received appropriate training regarding Title IX decision-making.

In reaching a determination, the decision-maker will consider the evidence provided in the final investigative report and any materials provided with the report, in addition to testimonial evidence presented at the hearing that the decision-maker deems relevant. The decision-maker may consider, among other things, the facts and surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationship between the parties, and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this Policy requires a determination based on all the facts and surrounding circumstances, applying a preponderance of the evidence (more likely than not) standard. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. The decision-maker will determine the weight and relevance of evidence and may ask questions on their own initiative at the hearing.

Evidence about the Complainant's sexual predisposition or prior sexual behavior is not relevant and will not be allowed at the hearing, in the form of questions or otherwise, unless it is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant,

or it concerns specific incidents of Complainant's prior sexual behavior with the respect to the Respondent and is offered to prove consent.

The University will make all evidence gathered during the investigation available at the hearing to give each party the opportunity to refer to such evidence during the hearing. No new evidence may be introduced at the hearing.

Cross-examination of all parties and witnesses is permitted at the hearing, including all relevant questions and follow-up questions. This may include questions challenging credibility. Cross-examination will be conducted directly, orally, and in real time by the party's advisor, not by a party personally. Only relevant cross-examination and other questions maybe asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision-maker will first determine whether the question is relevant. The decision-maker will explain any decision to exclude a question as not relevant.

If a party does not have an advisor present at the hearing to conduct cross-examination on their behalf, the University will provide an advisor of the University's choice without charge to that party. The advisor may be, but is not required to be, an attorney. At the hearing, the advisor's role is limited to asking cross-examination questions. The advisor may not otherwise speak or participate in the hearing and must follow the hearing rules of decorum established by the University.

Any party or 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 decline to participate in some or all questioning. In determining responsibility, the decision-maker may not draw any inference about responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

At the request of either party, the hearing will occur with the parties located in separate rooms, with technology enabling the decision-maker and parties to simultaneously see and hear the party or witness answering questions. Hearings may be conducted with the parties physically present in the same geographic location or, at the University's discretion, may be conducted virtually, with technology enabling participants simultaneously to see and hear each other.

The University will make an audio or audio/visual recording or transcript of a hearing and make it available to the parties for inspection and review after the conclusion of the hearing.

The University expects all parties, advisors, and witnesses to follow established rules of decorum during the hearing. Individuals who violate the established rules of decorum may be barred from the hearing by the decision-maker.

5. Investigation and Determination of Cases that Do Not Fall within the Jurisdiction of Title IX

In cases involving students, if the allegations in a complaint do not fall within the jurisdiction of Title IX, but do fall within the jurisdiction of the Minnesota Campus Sexual Misconduct law, the parties will be offered the opportunity to resolve the complaint using the process set out in this section OR using the processes set out in sections 3 and 4, above.

Under this section, investigation of a formal complaint of sexual assault, dating violence, sexual misconduct, domestic violence, or stalking will be conducted by a member of the University's Title IX team trained to conduct sexual misconduct investigations or by an outside consultant trained to conduct sexual misconduct investigations. The University will ensure that investigators are free of bias against individual Complainants and Respondents or against Complainants or Respondents in general.

The investigation may, as appropriate, consist of personal interviews with the Complainant, the Respondent, and other witnesses who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of other methods designed to gather information and documents deemed pertinent by the investigator. Parties may submit any evidence they wish to have considered in the investigation to the investigator. Parties may be accompanied by an advisor of their choice to all investigation meetings.

The investigation will not include questions or evidence that constitutes or seeks disclosure of information protected under a legally recognized privilege unless the person holding that privilege has waived it.

The investigation phase of the process, leading up to the inspection and review of evidence and sharing of the preliminary report (described below), will usually be completed in no more than 20 business days, but may be extended with written notice to the parties explaining the reason for the extension.

After completing the investigation, the investigator will create a preliminary investigative report that summarizes relevant evidence collected during the investigation. Before the investigator finalizes the investigative report, the parties will be given an opportunity to inspect and review all evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including any evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and any inculpatory or exculpatory evidence obtained from any source. To facilitate this review of evidence, the University will send to each party and the party's advisor, if any, the evidence subject to inspection and review and the preliminary investigative report in an electronic or a hard copy. The parties then have 10 business days to submit a written response, which the investigator will consider before finalizing the investigative report. After the 10-day response period, the University will share each party's written response, if any, with the other party. The parties will then have 3 business days to submit additional responses.

At the conclusion of the evidentiary review and response period, the investigator will finalize the investigative report within 5 business days, or, alternately, may provide the parties with written notice extending the investigation for up to an additional 5 business days and explaining the reason for the extension.

The University will then send the final investigative report and any attachments to the report to the decision-maker in the case. The decision-maker will be an individual chosen from the University's Title IX team or an outside consultant who has received appropriate training regarding Title IX decision-making.

The decision-maker will review the investigative report and all attachments and make a determination of whether a Policy violation has occurred.

In reaching a determination, the decision-maker will consider the evidence provided in the final investigative report and any materials provided with the report. The decision-maker may consider, among other things, the facts and surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationship between the parties, and the context in which the alleged incidents occurred.

Evidence about the Complainant's sexual predisposition or prior sexual behavior is not relevant and will not be considered by the decision-maker, unless it is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or it concerns specific incidents of Complainant's prior sexual behavior with the respect to the Respondent and is offered to prove consent.

Whether a particular action or incident constitutes a violation of this Policy requires a determination based on all the facts and surrounding circumstances, applying a preponderance of the evidence (more likely than not) standard. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. The decision-maker will determine the weight and relevance of evidence.

6. Written Determination of Responsibility

In all cases, the decision-maker will issue a written determination of responsibility, applying the preponderance of evidence standard. The written determination will include

- Identification of the allegations potentially constituting a violation of this Policy;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notification to the parties, interviews with the parties and witnesses, methods used to gather evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of this Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, a detailed description of any disciplinary sanctions the University will impose on the Respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will to be provided by the University to the Complainant; and
- The University's procedures and permissible bases for the Complainant and Respondent to appeal.

The University will provide the written Determination of Responsibility to the parties simultaneously within 10 business days of the conclusion of the hearing. The University will inform the parties of the pending release of the Determination of Responsibility no later than 24 hours before the release. When the University issues the Determination of Responsibility, it will also offer the parties information about community and on-campus support resources. The Determination of Responsibility will not be released at the end of a day or on a weekend or holiday, to ensure that the parties have access to supportive services.

If an appeal is filed, the determination of responsibility becomes final on the date the University provides the parties with the written determination of the appeal outcome. If an appeal is not filed, the determination of responsibility becomes final on the date on which an appeal would no longer be considered timely.

The Student or Employee Title IX Coordinator is responsible for effective implementation of any remedies provided in the notice of determination.

7. Appeals

Either party may appeal from a determination of responsibility or from the University's dismissal of a formal complaint or any allegations in a formal complaint. Grounds for appeals include

- Procedural irregularities that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination of responsibility or dismissal was made that could affect the outcome of the case; and

- The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against Complainants and Respondents generally or for or against the individual Complainant or Respondent that affected the outcome of the case.

An appeal can be filed in writing with the Title IX Coordinator managing the case, within 5 business days of the receipt of the written Determination of Responsibility. This initial notice of an appeal should set forth the grounds for the appeal with a brief supporting explanation. The Title IX Coordinator will then notify the other party in writing that an appeal has been filed. Once all parties have been notified of the appeal, parties will have 10 business days to submit a written statement setting out the facts and arguments supporting or challenging the grounds for appeal.

The Title IX Coordinator managing the case will forward the parties' written submissions, along with other materials from the case necessary to decide the appeal, to the Title IX Appeal Officer, who will review the appeal and make a final determination. The Title IX Appeal Officer will issue a written determination describing the result of the appeal and the rationale for the result, and will provide a copy of the written decision simultaneously to both parties.

The Title IX Appeal Officer will complete a determination regarding the appeal within 10 business days of receipt of the parties' written submissions. The Title IX Appeal Officer will notify the Complainant and Respondent if the determination will take longer than 10 business days.

Appeals are not intended to be full reinvestigations or rehearings of complaints. In most cases, appeals are confined to a review of the written determination of responsibility and any supporting materials, and the appeal documents.

Possible remedies on appeal include reinvestigation of the case, rehearing of the case, revision of sanctions, or dismissal of the case. Appropriate remedies on appeal are fact specific and are determined on a case-by-case basis.

The Title IX Appeal Officer will be a member of the Title IX team who has not otherwise been involved in the case, a University staff member who has received appropriate training regarding Title IX decision-making, or an outside consultant who has received appropriate training regarding Title IX decision-making. The Title IX Appeal Officer will not be the staff member who served as the decision-maker in the initial determination of responsibility phase of the case, the investigator, or the Title IX Coordinator who managed the case. The Title IX Coordinator managing the case, in their discretion, will determine the Appeals Officer on a case-by-case basis.

8. Sanctions

The University Title IX team, in consultation with the decision-maker in the case, determines sanctions on the Respondent and any remedies for the Complainant following a finding of responsibility by the decision-maker.

If an employee Respondent is found responsible for a violation of this Policy in a formal resolution process, the University may impose any of the following sanctions, depending on the facts and circumstances:

- No-contact directive
- Corrective action
- Change in job position
- Required counseling, training, and/or assessment
- Unpaid suspension
- Termination of employment
- Other available sanctions as deemed appropriate under the circumstances
- Discontinuation of relationship or association (in the case of a third party)

If a student Respondent is found responsible for a violation of this Policy in a formal resolution process, the University may impose any of the following sanctions, depending on the facts and circumstances:

- No-contact directive
- Restriction of privileges
- Required attendance at educational programs
- Restitution
- Revocation of an honor or degree
- Probation
- Written warning
- Suspension
- Dismissal
- Any other sanctions listed in the Code of student Conduct or deemed appropriate under the circumstances

A Complainant will be notified of sanctions imposed on the Respondent in the written determination of responsibility.

The University may also provide remedies designed to restore or preserve Complainant's equal access to the University's education program. Remedial action may include academic or other supportive measures requested by the Complainant. Specific remedies provided to the Complainant will only be disclosed to the Respondent when necessary to effectuate the remedy.

VII. RETALIATION PROHIBITED

Retaliation is prohibited against any individual who, under this Policy, makes a report or files a complaint, or who testifies in, assists with, participates in or refuses to participate in an investigation, resolution proceeding, or hearing. The University will investigate and take appropriate action against any student or employee who retaliates against any person who makes a good-faith report or complaint; or who testifies in, assists with, participates in or refuses to participate in an investigation, resolution proceeding, or hearing. Retaliation includes, but is not limited to, intimidation, threats, coercion, or discrimination. Appropriate action may include disciplinary or corrective action, up to and including termination or expulsion.

In addition, neither the University, nor any officer, employee, or agent of the University may retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their right to avail themselves of the University's resolution procedures.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a resolution proceeding does not constitute retaliation.

Retaliation allegations will be addressed under the University's Discrimination and Harassment Policy.

VIII. RECORDKEEPING

The University will maintain records of its response to all formal complaints addressed under this Policy for seven years. Records will document

- Each sexual harassment, sexual assault, dating violence, domestic violence, or stalking investigation conducted by the University, including any determination regarding responsibility, any audio or audiovisual recording or transcript of a formal resolution process hearing, any disciplinary sanctions

imposed on a Respondent, and any remedies provided to the Complainant;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom; and
- All materials used to train Title IX Coordinators, investigators, decision-makers, appeals officers, and Informal Process Facilitators.

The University will also maintain records about all reports of sexual harassment, sexual assault, dating violence, domestic violence, and stalking for seven years. Records maintained will include documentation about any actions taken, including the provision of supportive measures, in response to a report or formal complaint. If supportive measures are not provided in response to a report or formal complaint, the University will document the reasons for that action.

IX. UNIVERSITY REPORTING OBLIGATIONS

Under the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), the University has a legal duty to track and publish information about certain types of Sexual Misconduct. The University will collect, prepare, publish, and distribute, through appropriate publications or mailings, to all current Students and Employees, and to any applicant for enrollment or employment upon request, an annual security report containing, among other things, information relating to the Campus crime statistics of the University and statistics concerning the occurrence on Campus, in or on non-campus buildings or property, and on public property, all criminal offenses reported to Campus security authorities related, among other things, to forcible or non-forcible sex offenses, dating violence, domestic violence, sexual assault, and stalking. The University will not disclose the Complainant's name or other personally identifiable information in its report.

In addition to its reporting obligations under the Clery Act, under Minnesota Law, the University has a legal duty to track and report similar information about sexual assault on its website and to the Minnesota Office of Higher Education.

The University also must issue timely warnings to students and employees for certain types of incidents reported to them that pose a substantial threat of bodily harm or danger to members of the University community. The University will make every effort to ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. Compliance with this Policy does not constitute a violation of section 444 of the General Education Provisions Act (20 U.S.C. § 1232g), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

X. COOPERATION WITH LAW ENFORCEMENT

The University will comply with law enforcement's request for cooperation and such cooperation may require the University to suspend temporarily the fact-finding aspect of a Title IX investigation while the law enforcement agency gathers evidence. The University will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, which typically takes three to ten calendar days, although the delay in the University's investigation could be longer in certain instances.

The University will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the Complainant(s) and the campus community and the avoidance of retaliation.

When appropriate or legally obligated, the University may share investigative information with the law enforcement.

XI. ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include, but is not limited to, filing a charge with the United States Department of Education Office for Civil Rights (OCR).

The OCR office for Minnesota is located at

U.S. Department of Education
Office for Civil Rights Citigroup
Center
500 W. Madison Street, Suite 1475
Chicago IL 60661-4544

Tel: 312.730.1560
TDD: 877.521.2172
Email: OCR.Chicago@ed.gov

XII. PROGRAMS DESIGNED TO PREVENT DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

Pursuant to the Clery Act, the University has designed and implemented programs meant to prevent domestic violence, dating violence, sexual assault, and stalking. Notably, the University has created education programs to promote the awareness of rape, domestic violence, dating violence, sexual assault, and stalking. These education programs include primary prevention and awareness programs for all incoming students and employees. In these programs, participants will

a. Be provided a statement that the University prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking;

b. Receive documentation with the definitions of domestic violence, dating violence, sexual assault, stalking, and Consent;

c. Learn safe and positive options for Bystander Intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, and stalking against a person other than such individual to encourage bystanders to intervene and to overcome any barriers to intervening;

d. Receive information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;

e. Learn the possible sanctions or protective measures that the University may impose following a final determination of a University disciplinary procedure regarding rape, domestic violence, dating violence, sexual assault, or stalking;

f. Be informed regarding the procedures Complainants should follow if domestic violence, dating violence, sexual assault, or stalking has occurred, including receiving information in writing about:
   i. The importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order;
   ii. To whom the alleged offense should be reported;
   iii. Options regarding law enforcement and campus authorities, including notification of the Complainant's option to notify proper law enforcement authorities, including on-campus officials and local police; be assisted by campus authorities in notifying law enforcement authorities if the Complainant so chooses; and decline to notify such authorities;

g. Be notified that, when applicable, Complainants have rights and the University has responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court;

h. Learn procedures for University disciplinary action in cases of alleged domestic violence, dating violence, sexual assault, or stalking, which shall include a clear statement that the proceedings will provide a prompt, fair, and impartial investigation and resolution; and will be conducted by officials who receive annual training on the issues related to these crimes and how to conduct an investigation and hearing process that protects the safety of Complainants and promotes accountability;

i. Be notified of the fact that the Complainant and Respondent are entitled to the same opportunities to have others present during a University disciplinary proceeding related to domestic violence, dating violence, sexual assault or stalking, including the opportunity to be accompanied to any related meeting or proceeding by an Advisor of their choice;

j. Be notified in writing that both the Complainant and Respondent shall be simultaneously informed, in writing, of – the outcome of any University disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking; and where a Student is involved, the University's procedures for the Complainant or Respondent to appeal the results of the University disciplinary proceeding when such results become final.

k. Obtain information about how the University will protect the confidentiality of Complainants to the extent required by the law, including how publicly available recordkeeping will be accomplished without the inclusion of identifying information about the Complainant, to the extent permissible by law;

l. Receive written notification about existing counseling, health, mental health, Complainant advocacy, legal assistance, and other services available for Complainants both On-campus and in the community; and

m. Receive written notification of Complainants' options for, and available assistance in, changing academic situations, if so requested by the Complainant and if such accommodations are reasonably available, regardless of whether the Complainant chooses to report the crime to campus officials or local law enforcement.

n. The University will also offer ongoing prevention and awareness campaigns for Students and Employees and will provide attendees with, at minimum, the same information listed above. These campaign programs will occur on a regular basis and no less frequently than once per year.

The University provides individuals responsible for investigating or adjudicating Complaints of sexual assault with training on preventing and responding to sexual assault in collaboration with the Bureau of Criminal Apprehension or another law enforcement agency with expertise in criminal sexual conduct. The training includes a presentation on the dynamics of sexual assault; responses to trauma; and preventing, responding to, and investigating sexual assault. The training also includes presentations on preventing sexual assault, responding to incidents of sexual assault, the dynamics of sexual assault, responses to trauma, and compliance with state and federal laws on sexual assault.

The University also provides sexual assault training to students who attend one or more courses on campus or will participate in on-campus activities and who are pursuing a degree or certificate, and any other categories of students determined by the University. This training includes information about topics including but not limited to sexual assault, Consent, preventing and reducing the prevalence of sexual assault, procedures for reporting campus sexual assault, and campus resources on sexual assault, including organizations that support Complainants of sexual assault.

XIII. QUESTIONS

Please direct any questions to:

Student Questions	Employee Questions
Student Title IX Coordinator (952) 887-1381	Employee Title IX Coordinator (952) 885-5437

APPENDIX A

STATEMENT OF THE COMPLAINANT'S RIGHTS

- The right to choose to report an incident to University officials and the option to notify local law enforcement, including the right to file criminal charges with local law enforcement officials in sexual assault cases. This also includes the right to request that campus authorities promptly assist the Complainant in notifying the appropriate law enforcement officials of a sexual assault incident. This also includes the right not to report, if this is the Complainant's desire;

- The right to be treated with dignity by campus authorities, including the right to be free from campus authorities suggesting that the Complainant is at fault for the crimes or violations that occurred or that the Complainant should have acted in a different manner to avoid the crime;

- The right to complete and prompt assistance of campus authorities, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a sexual assault incident. This right includes the right to the assistance of campus authorities in preserving for a sexual assault Complainant or Complainant materials relevant to a campus disciplinary proceeding;

- The right to a prompt, fair, and impartial investigation and appropriate resolution of all credible complaints of Sexual Misconduct made in good faith to university administrators;

- The right to decide when to repeat a description of the incident of sexual assault;

- The right to be notified of the timeframes for all major stages of the investigation;

- The right to present witnesses and evidence;

- In instances of reports of domestic violence, dating violence, sexual assault, or stalking, the right to have another person which may be an attorney, present (in a support role) during all phases of the investigation, including at any meeting with campus officials concerning the Complainant's Complaint or campus disciplinary proceeding concerning a sexual assault Complaint;

- The right to be notified of available counseling, health, mental health, Complainant advocacy, legal assistance, visa and immigration assistance, student financial aid, or student services for Complainants of sexual assault, both on Campus and in the community;

- During and after the process of investigating a Complaint and conducting a campus disciplinary procedure, the notification of and options for, and available assistance in, shielding a Complainant from unwanted contact with the alleged assailant, including changing classes after an alleged sexual assault incident, if so requested by the Complainant and if such changes are reasonably available and feasible. Accommodations may include: exam (paper, assignment) rescheduling; transferring class sections; or alternative course completion options. This right includes the right to the assistance of University personnel, in cooperation with the appropriate law enforcement authorities, in implementing the requested changes;

- The right to a campus no contact order against another Student or Employee who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior;

The right to a written notice of the outcome and, when applicable, resulting sanction of the investigation,

generally within 24 hours of the decision. After a disciplinary proceeding involving an allegation of Sexual Assault, Dating Violence, Domestic Violence, or stalking, this right includes the right to be informed of the outcome in writing, including a summary of any sanctions and the rationale for the decision.

- If a Student is a party, the right to appeal[4] the findings and sanction, in accordance with the standards for appeal established in this Policy;

- The right to preservation of privacy, to the extent possible and allowed by law;

- Consistent with applicable law, the right for a Student or Employee who reported an incident of sexual assault to be provided access to his/her description of the incident as it was reported to the University, including if that Student transfers to another postsecondary institution;

- In instances in which a Student reported a sexual assault to the University and subsequently chose to transfer to another postsecondary institution, the right to be provided with information about resources for Complainants of sexual assault at the institution to which the Complainant is transferring; and

- The right to notification of and options for changing classes after an alleged sexual assault incident, if requested by the Complainant.

- Complete information about Complainant's rights under Minnesota law can be found at: https://dps.mn.gov/divisions/ojp/help-for-crime-Complainants/Pages/crime-Complainants- rights.aspx

This document is provided to alleged Complainants in conjunction with NWHSU's Title IX Policy

[4]Appeals are not intended to be full re-investigation of the Complaint. In most cases, appeals are confined to a review of the written documentation and the appeal notice. Additionally, an appeal is only permitted in limited circumstances. Please see Section V(F)7 to review the grounds for an appeal.

STATEMENT OF THE RESPONDENT'S RIGHTS

- The right to a prompt, fair, and impartial investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to University administrators against the Accused individual;

- The right to be notified of the timeframes for all major stages of the investigation;

- The right to present witnesses and evidence;

- In instances of reports of domestic violence, dating violence, sexual assault, or stalking, the right to have another person, which may be an attorney, present (in a support role) during all phases of the investigation;

- The right to be informed of and have access to campus resources for counseling and advisory services;

- If a Student is a party, the right to appeal[5] the findings and sanction, in accordance with the standards for appeal established in this Policy;

- The right to a decision based solely on evidence presented during the investigative process. Such evidence shall be credible, relevant, based in fact, and without prejudice;

- The right to a written notice of the outcome and, when applicable, resulting sanction of the investigation, generally within 24 hours of the decision. After a disciplinary proceeding involving an allegation of sexual assault, dating violence, domestic violence, or stalking, this right includes the right to be informed of the outcome in writing, including a summary of any sanctions and the rationale for the decision.

- The right to preservation of privacy, to the extent required by law.

This document is provided to Respondents in conjunction with NWHSU's Title IX Policy

[5]Appeals are not intended to be full re-investigation of the Complaint. In most cases, appeals are confined to a review of the written documentation and the appeal notice. Additionally, an Appeal is only permitted in limited circumstances. Please see Section VII to review the grounds for an Appeal.

APPENDIX B

Information about Minnesota State Law Definitions of Prohibited Conduct and Examples of Prohibited Conduct

A. Sexual assault is criminal sexual conduct in the first, second, third, or fourth degrees, as well as incest, as defined by Minnesota Statutes §§ 609.342, 609.343, 609.344, 609.345, or 609.365.

Criminal sexual conduct is a sexual act directed against another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent. Some examples include, but are not limited to:

- **Rape**: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant, including if circumstances existed at the time of the act that caused the Complainant to have a reasonable fear of imminent great bodily harm to the Complainant or another (including but not limited to if the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the Complainant to reasonably believe it to be a dangerous weapon and the actor uses or threatens to use the weapon or article to cause the Complainant to submit or the actor causes personal injury to the Complainant).

- **Forcible Sodomy**: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against that person's will where the Complainant is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

- **Sexual Assault with an Object**: The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that persons' will; or not forcibly or against this person's will where the Complainant is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

- **Forcible Fondling**: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.

- **Incest**: Sexual intercourse with another nearer of kin to the actor than first cousin, computed by rules of the civil law, whether of the half or the whole blood, with knowledge of the relationship

- **Statutory Rape**: Sexual intercourse with a person who is under 13 years of age and the actor is more than 36 months older than the Complainant; the Complainant is at least 13 years of age but less than 16 years of age and the actor is more than 24 months older than the Complainant; the Complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the Complainant and in a position of authority over the Complainant; the actor has a significant relationship to the Complainant and the Complainant was at least 16 but under 18 years of age at the time of the sexual penetration; the actor has a significant relationship to the Complainant, the Complainant was under 18 years of age at the time of the sexual penetration and the actor or an accomplice used force or coercion to accomplish the penetration, the Complainant suffered personal injury, or the sexual abuse involved multiple acts committed over an extended period of time.

B. Sexual Contact includes, but is not limited to, the non-consensual intentional touching of someone's intimate parts, including the touching of clothing covering someone's intimate parts and the touch with seminal fluid or sperm on a

person or a person's clothing. *See* Minn. Stat. § 609.341, subd. 11.

C. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

- Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through others, 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 in the victim's circumstances.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.

Stalking behavior may include, but is not limited to:

- Repeated, unwanted, and intrusive communications by phone, mail, text message, email, and/or other electronic communications, including social media.
- Repeatedly leaving or sending the victim unwanted items, presents, or flowers.
- Following or lying in wait for the victim at places such as home, school, work, or recreational facilities.
- Making direct or indirect threats to harm the victim or the victim's children, relatives, friends, or pets.
- Damaging or threatening to damage the victim's property.
- Repeatedly posting information or spreading rumors about the victim on the internet, in a public space, or by word of mouth that would cause a person to feel threatened or intimidated.
- Unreasonably obtaining personal information about the victim.

Stalking is prohibited by Minnesota law. *See* Minn. Stat. § 609.746, *et seq.*

D. Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant and where the existence of such a relationship shall be determined based on consideration of the following factors:

- the length of the relationship,
- the type of relationship, and
- the frequency of interaction between the persons involved in the relationship.

Dating violence includes a pattern of abuse or threat of abuse among dating partners. It includes verbal, emotional, physical, sexual, and digital (Internet) abuse and may have both immediate and long term effects.

Dating Violence is prohibited by Minnesota law. *See* Minn. Stat. § 518B.01, *et seq.*

E. Domestic violence is any of the following, if committed against a family or household member by a family or household member:

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- physical harm, bodily injury or assault;
- the infliction of fear of imminent physical harm, bodily injury, or assault; or
- terroristic threats, criminal sexual conduct, or interference with an emergency call.

Domestic violence is prohibited by Minnesota law. *See* Minn. Stat. § 518B.01, *et seq.*