

Section Six: Student Code of Conduct, Complaint, Grievance, Discrimination, Harassment, and Sexual Violence Response Policies and Procedures

COMPLAINT/GRIEVANCE PROCEDURE

WDT is committed to providing a safe environment that promotes intellectual growth and personal development. Students should be afforded the right to an environment free of unfair or improper action by any other member of the WDT academic community. To that end, WDT provides the following process for resolving any alleged violation of a student's rights.

WDT works to protect the rights of all students. It should be noted that students hold a responsibility for complying with all WDT policies and procedures and the requirements of individual courses as outlined on the course syllabus provided by each instructor.

Informal Resolution

WDT faculty and staff strive to resolve complaints and grievances at the lowest possible level. Any WDT student who feels their rights have been violated should first attempt to resolve the matter with the individual involved. The student may contact a Student Success Coach or their academic advisor for assistance with informal resolution and meeting facilitation.

If the student feels that the grievance/complaint has not been resolved at the informal level, the student may file for a formal resolution.

Formal Resolution

1. Within five working days of the completion of the informal resolution process, the student must submit a formal grievance to the Dean of Academics or designated official.
2. The Dean of Academics or designated official will, within five working days of receiving the formal grievance, request a response from the person with whom the grievance is made. That person should respond within five working days. Failure to respond will not stop the resolution process.
3. The Dean of Academics or designated official will review all submitted material and, within five working days, make a recommendation for resolution to the parties involved.

Appeal

Should the student feel the resolution reached by the Dean of Academics or designated official to be unsatisfactory, the student should submit a written appeal to the WDT President within five working days of the formal resolution. The President will conduct an investigation, and if necessary, appoint a committee to review the appeal. The President will issue a decision within 10 working days of the appeal.

DISCRIMINATION AND HARASSMENT

Western Dakota Tech will not tolerate racism, discrimination, harassment, exploitation or victimization of students, school employees, non-employees or any person who is an invitee of WDT for any reason, including but not limited to race, color, ethnic background, national origin, pregnancy, student marital status, religion, creed, age, sex, citizenship, political affiliation, mental and/or physical challenge, disability, sexual orientation, or status as a veteran. WDT is committed to providing an environment free from harassment and other forms of discrimination for students, school employees, non-employees and its invitees. WDT includes school facilities, school premises, school vehicles and non-school vehicles used to transport students, employees, non-employees and invitees to school sponsored activities/functions and any other area where WDT has control of the premises.

All employees, non-employees, and students have a responsibility to maintain a positive learning, work and school activity environment by reporting all incidents or suspected incidents of discrimination and/or harassment involving themselves or others. Students who believe they have suffered discrimination and/or harassment may, and are encouraged to, report such matters to any trusted adult. Employees and non-employees, who believe they have suffered discrimination and/or harassment may, and are encouraged to, report such matters to the building administrator, WDT Human Resources Manager or a WDT Ombudsperson.

NON-DISCRIMINATION STATEMENT AND COMPLAINT PROCEDURE

Western Dakota Technical Institute will not tolerate racism, discrimination, harassment, exploitation or victimization of students, school employees, non-employees, or any person who is an invitee of WDT for any reason, including but not limited to race, color, ethnic background, national origin, pregnancy, student marital status, religion, creed, age, sex, citizenship, political affiliation, mental and/or physical challenge, disability, sexual orientation, or status as a veteran. WDT is committed to providing an environment free from harassment and other forms of discrimination for students, employees, non-employees and its invitees. The following person has been designated to handle inquiries regarding the non-discrimination policies:

Debbie Toms
Director of Student Success
Western Dakota Technical Institute
800 Mickelson Drive
Rapid City, SD 57703
Phone: (605) 718-2958
E-mail: deborah.toms@wdt.edu

Title IX (Discrimination/Harassment) Complaint Procedure

Section I

If any person believes that Western Dakota Tech or any part of the school organization has inadequately applied the principles and/or regulations of Title IX or is in some way discriminatory, he/she may bring forward a complaint, which shall be referred to as a grievance, to the Human Resources Manager (Assistant Title IX Coordinator).

Section II

The person who believes he/she has a valid basis for grievance shall discuss the grievance informally and on a verbal basis with the Human Resources Manager, who shall in turn investigate the complaint and reply to the complainant within five (5) business days. If this reply is not acceptable to the complainant, he/she may initiate formal procedures according to school policy. The Human Resources Manager will advise the student of the procedure.

SECTION 504/ADA GRIEVANCE PROCEDURE

Western Dakota Technical Institute (hereinafter "the Institute") does not discriminate on the basis of disability in its education-related programs and activities and provides equal educational opportunities to persons with disabilities. The Institute has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the American with Disabilities Act and/or Section 504 of the Rehabilitation Act of 1973. These Laws and Regulations may be examined in the office of the Institute's Disability Coordinator ("the Coordinator/Director of Student Success"), 1-605-394-4034, who has been designated to coordinate the effort of the Institute to comply with the ADA and Section 504 of the Rehabilitation Act of 1973.

The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the U.S. Department of Education, Office for Civil Rights, and Department of Justice, Civil Rights Division.

The Institute will make appropriate arrangements to ensure that persons with disabilities are provided other accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the hearing impaired, providing recordings of material for the visually impaired, or assuring a barrier-free location for the proceedings. The Director of Student Success will be responsible for such arrangements.

Any person who believes he or she has been subject to discrimination on the basis of disability may file a grievance under this procedure. It is against the law for the Institute to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

Level 1 (Grievance): Grievances should be submitted as soon as possible, but no later than twenty-five (25) calendar days after the alleged act of discrimination. A grievance must be submitted to the Director of Student Success (or her/his designee), Western Dakota Technical Institute, 800 Mickelson Drive, Rapid City, South Dakota 57703. In the event the grievance is against an action taken by the Director of Student Success, the complainant may file his/her grievance with the Human

Resources Manager, Western Dakota Technical Institute, 800 Mickelson Drive, Rapid City, South Dakota 57703; 1-605-718-2402.

A grievance must be in writing and contain the following:

- The name, mailing address, e-mail address, and phone number of the individual filing the grievance;
- A full description of the problem; and
- A statement of the remedy or relief requested.

Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.

The Director of Student Success/Human Resources Manager (or his/her designee) shall conduct a prompt investigation of the complaint. This investigation may be informal, but must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Director of Student Success/Human Resources Manager, at his or her sole discretion, may gather additional information necessary to the consideration of the grievance, including, but not limited to, interviewing individuals who may possess relevant information. The Director of Student Success/Human Resources Manager will maintain the files and records of the Institute relating to such grievances. Complaints will remain confidential except to the extent necessary to conduct a review of facts and to the extent authorized by law.

Within thirty (30) calendar days after receipt of the grievance, the Director of Student Success/Human Resources Manager will respond in writing, and where appropriate, in a format accessible to the person filing the complaint, such as large print, Braille, or audio tape. This deadline may be extended for good cause, as determined by the Director of Student Success/Human Resources Manager, or by written agreement of the parties. The Director of Student Success/Human Resources Manager's written decision shall also include notice of complainant's right to appeal the decision.

If the Director of Student Success/Human Resources Manager finds that the requested accommodation is reasonable and does not create an undue burden, then the Director of Student Success/Human Resources Manager shall orally, or in writing, communicate with the student's instructors regarding the accommodation to be implemented. Instructors shall respond promptly, orally or in writing, to the Director of Student Success/Human Resources Manager's notification and work with the Director of Student Success/Human Resource Manager to ensure that the accommodation is implemented.

Level 2 (Appeal): If the complainant disputes the Director of Student Success/Human Resources Manger's verification of a disability, determination regarding the need for an accommodation, and/or denial of an accommodation, then the complainant may appeal the Level 1 decision to the WDT President of the Institute within fifteen (15) calendar days after receipt of the Level 1 decision. The appeal must be submitted to the Director of Student Success/Human Resources Manager.

The appeal must be in writing and contain the following:

- The name, mailing address, e-mail address, and phone number of the individual filing the grievance;
- The specific factual and/or procedural basis for the appeal or disagreement with the Level 1 decision.

An appeal must be directed only to issues raised in the original grievance, and cannot raise new issues. Upon receipt of an appeal, the Director of Student Success/Human Resources Manager shall submit the appeal and the materials prepared at the Level 1 grievance (including the results of the Level 1 investigation) to the President.

The President shall review the written appeal and the investigative materials. The President, at his or her sole discretion, may request additional information necessary for consideration of the appeal. Within thirty (30) calendar days of the filing of the appeal, the President shall issue a written decision. This deadline may be extended by the President for good cause.

SEXUAL VIOLENCE RESPONSE POLICY AND PROCEDURE (Pending RCAS Board Approval)

I. Policy Statement

Western Dakota Tech is committed to providing a safe educational and working environment for its students, faculty, staff, and other members of the WDT community. WDT prohibits sexual violence and sexual assault (which are forms of "sexual misconduct"), dating violence and domestic violence (collectively, "relationship violence"), and stalking. This conduct is disruptive to the learning and working environment and will not be tolerated by WDT. WDT is committed to preventing sexual misconduct, relationship violence, and stalking, as well as addressing its effects on the WDT community. WDT has adopted

this policy in order to inform students, faculty, and staff and other members of the WDT community of their rights and responsibilities in the event they are or have knowledge of someone involved in an incident of sexual misconduct, relationship violence, or stalking and of the services available to victims of sexual misconduct, relationship violence, and stalking.

II. Scope of Policy

This policy applies to all members of the WDT community, including, but not limited to, students, faculty and staff, and it covers prohibited conduct that: occurs on campus; occurs in connection with WDT programs or activities, including academic, educational, extracurricular, or other programs and activities; or otherwise affects the WDT community. In certain instances, this policy applies to third parties (e.g., visitors, volunteers, vendors, and contractors while on WDT property, participating in a WDT-sponsored activity, or providing services to the Institute, or applicants for admission to or employment with the Institute). This policy applies equally to all regardless of an individual's sex, gender, sexual orientation, gender identity, or gender expression. All academic and administrative units of the Institute must comply with this policy.

III. Monitoring Responsibility

WDT administrators and other administrators as designated by the WDT President will be responsible for implementing the provisions of this policy and procedures.

IV. Affirmative Consent

Sexual activity of any kind requires affirmative consent, which is defined as a clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity. Consent is active, not passive. Silence or lack of resistance cannot be interpreted as consent. Seeking and having consent accepted is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression. Consent may be initially given but withdrawn at any time. When consent is withdrawn or cannot be given, sexual activity must stop. Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness or being asleep, being involuntarily restrained or if an individual otherwise cannot consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

V. Definitions of Prohibited Conduct

A. Sexual Violence

Sexual violence encompasses sexual assault and is a form of sexual harassment. Sexual harassment, which is a form of discrimination, violates federal and state law and WDT Policy 2005.

Sexual violence includes physical sexual acts that are performed against a person's will or where a person cannot give consent. Physical resistance need not occur to fulfill the definition of sexual violence. Examples of sexual violence include, but are not limited to:

- Sexual intercourse or other sexual acts in the absence of consent;
- Rape (including "date rape") or attempted rape;
- Any unwanted sexual contact with another person's body;
- Nonconsensual oral sex; and
- Sexual assault (defined below), sexual battery, or sexual coercion.

B. Sexual Assault

Sexual assault includes non-consensual sexual intercourse and non-consensual sexual contact. Nonconsensual sexual intercourse is any act of sexual intercourse with another individual without affirmative consent. Sexual intercourse includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact. Non-consensual sexual contact is any intentional touching of the intimate parts of another person, causing another to touch one's intimate parts, or disrobing or exposure of another without consent. Intimate parts may include genitalia, groin, breast, or buttocks, or clothing covering them, or any other body part that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.

C. Dating Violence

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 victim. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

D. Domestic Violence

Domestic violence means “abuse” occurring between:

- current or former spouses or cohabitants;
- persons who have a child in common; or
- persons currently or formerly involved in a dating relationship,

where “abuse” means any of the following acts:

- an act that causes serious bodily harm;
- an act that places a person eligible for relief in fear of imminent serious bodily harm;
- assault in any degree;
- rape or sexual offense or attempted rape or sexual offense in any degree;
- false imprisonment; or
- stalking.

E. Stalking

Stalking means a malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear:

- of serious bodily injury; of an assault in any degree;
- of rape or sexual offense or attempted rape or sexual offense in any degree;
- of false imprisonment;
- of death; or
- that a third person likely will suffer any of the acts listed above.

VI. RESOURCES

WDT is committed to treating all members of the community with dignity, care and respect. The Institute recognizes that deciding whether or not to make a report, either to WDT or law enforcement, and choosing how to proceed can be difficult decisions. Making a report means telling someone in authority what happened, in person, by telephone, in writing, or by email. All individuals are encouraged to seek the support of campus and community resources. These trained professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to either party in the event that a report and/or resolution under this policy is pursued. Individuals are encouraged to use all available resources on- and off-campus, regardless of when or where the incident occurred.

There are many resources available on campus and in the surrounding community. As detailed below, there are Confidential Resources that by law cannot share information without the consent of the individual seeking assistance, except for extreme circumstances, such as a health and/or safety emergency.

On-campus Resources

On-campus options to obtain assistance and guidance include:

Title IX Coordinator (Director of Student Success)
(605)718-2955

WDT Student Success Center
(605)718-2958

WDT is bound by mandatory reporting laws in certain situations, including the sexual abuse of a minor. Any WDT employee who suspects that a child under 18 years of age has been neglected or physically abused (including sexual abuse and emotional abuse) by a parent or other person, will report orally or in writing this information to the Title IX Coordinator. The Title IX Coordinator will immediately report this information to the state’s attorney; or the

department of social services; or the county sheriff; or the city police.

In all cases, WDT staff will maintain the privacy of an individual's information within the limited circle of those involved in the resolution of a complaint under this policy.

Off-campus Resources

An off-campus option to obtain assistance and guidance confidentially (This outside option does not provide any information to the campus.):

1. Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency.

Working Against Violence
www.wavi.org
(605)341-4808

2. Off-campus healthcare providers (Medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered. Even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.)

Regional Health
www.regionalhealth.com/
(605)755-1000

3. Assistance can also be obtained through:

- Legal Momentum: <https://www.legalmomentum.org/>
- Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>
- GLBTQ Domestic Violence Project: <http://www.glbtqdv.org/>
- RAINN: <https://www.rainn.org/get-help>
- Safe Horizons: <http://www.safehorizon.org/>

(Note that these hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the campus. Victims/survivors are encouraged to additionally contact the Title IX Coordinator so that the campus can take appropriate action in these cases.)

VII. REPORTING

WDT encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual violence. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response.

The Institute encourages all individuals to make a report to the Institute and to local law enforcement. Reporting options are not mutually exclusive. Both internal and criminal reports may be pursued simultaneously.

WDT has a strong interest in supporting victims and survivors of sexual violence or other forms of prohibited conduct and encourages all individuals or third party witnesses to report any incident to the Institute.

Making a report means telling someone in authority what happened — in person, by telephone, in writing, or by email. At the time a report is made, a Complainant does not have to decide whether or not to request any particular course of action, nor does a Complainant need to know how to label what happened. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time.

WDT provides support that can assist each individual in making these important decisions, and to the extent legally possible, will respect an individual's autonomy in deciding how to proceed. In this process, WDT officials will balance the individual's interest with its obligation to provide a safe and nondiscriminatory environment for all members of the WDT community.

Any individual who reports sexual violence or other forms of prohibited conduct can be assured that all reports will be investigated and resolved in a fair and impartial manner. A Complainant, a Respondent, and all individuals involved can expect to be treated with dignity and respect. In every report under this policy, the Institute will make an immediate assessment of any risk of harm to the Complainant or to the broader campus community and will take reasonable steps necessary to address those risks. These steps will include interim measures to provide for the safety of the individual and the campus community.

A. Emergency and External Reporting Options

The Institute will help any WDT community member get to a safe place and will provide transportation to the hospital, coordination with law enforcement, and information about on- and off-campus resources and options for resolution.

1. To file a criminal complaint with local law enforcement:
 - a. Rapid City Police Department, (605)394-4131 at 300 Kansas City Street
 - b. Pennington County Sheriff, (605)394-6113 at 300 Kansas City Street
2. To disclose confidentially the incident and obtain services from the State of South Dakota, City of Rapid City, and Pennington County:
 - a. HOTLINE (605) 996-4440
 - b. Additional disclosure and assistance options are catalogued by the South Dakota Network Against Family Violence and Sexual Assault: <http://www.sdnafvsa.org/> or by calling (800)430-SAFE (7233)

B. Campus Reporting Options

WDT encourages all individuals to report misconduct to any Institute employee that they trust and with whom they feel comfortable. Under Title IX, WDT is required to take immediate and corrective action if a “responsible employee” knew or, in the exercise of reasonable care, should have known about sexual or gender-based harassment or violence that creates a hostile environment on the campus. WDT requires that all “responsible employees” share a report of misconduct with the Title IX Coordinator. The Title IX Coordinator will conduct an initial assessment of the conduct, the Complainant’s expressed preferences, if any, as to course of action, and the necessity for any interim remedies or accommodations to protect the safety of the Complainant or the community.

All WDT community members, even those who are not obligated to do so by this policy, are strongly encouraged to report information regarding any incident of sexual harassment or other forms of prohibited conduct directly to the Title IX Coordinator. The Institute cannot take appropriate action unless an incident is reported to the Institute. To report an incident:

Title IX Coordinator (Director of Student Success)
(605)718-2958

To report an incident where the accused is an employee of WDT:

Human Resources Manager
(605)718-2402

Reports will be investigated in accordance with Institute policy.

VIII. OPTIONS FOR PROTECTION AND ACCOMMODATION

Some options that may be offered to the student include:

- When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subject to interim suspension pending the outcome of a conduct process.
- When the accused is not a member of the WDT community, to have assistance from WDT administrators and local law enforcement in obtaining a persona non grata letter, subject to legal requirements and WDT policy.
- To obtain reasonable and available interim measures that effect a change in academic, employment, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment.

While victims/survivors may request accommodations through any of the offices referenced in this policy, the following office can serve as a point to assist with these measures: Title IX Coordinator, (605) 718-2958, Student Success Center.

IX. INSTITUTIONAL CRIME REPORTING

Reports of certain crimes occurring in certain geographic locations will be included in the WDT Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime nor the identity of the victim/survivor. WDT is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the victim/survivor). A victim/survivor will never be identified in a timely warning. Western Dakota Tech does reserve the right to notify parents when there exists a substantial concern for the student's safety and well-being, pursuant to the provisions of the Federal Education Right to Privacy Act.

X. CAMPUS CLIMATE ASSESSMENT

Climate assessments afford institutions the opportunity to better understand their campus and to make informed decisions when it comes to providing a safe educational environment. WDT will biennially conduct a uniform climate survey that analyzes prevalence and attitudes regarding sexual harassment, including sexual violence, and other related crimes. The survey will address student and employee knowledge about:

- The Title IX Coordinator's role;
- Campus policies and procedures addressing sexual assault;
- How and where to report sexual violence as a victim/survivor or witness;
- The availability of resources on- and off-campus, such as counseling and academic assistance;
- The prevalence of victimization and perpetration of sexual assault, domestic violence, dating violence, and stalking on- and off-campus during the last year;
- Bystander attitudes and behavior; and
- Whether victims/survivors reported to the Institute and/or police, and reasons why they did or did not report. This policy may be changed by the President or designee should Federal and/or State legislation require a different process or duplicate efforts to assess campus climate via survey.

XI. STUDENT ORIENTATION AND ONGOING ASSESSMENT

Western Dakota Tech believes that sexual violence prevention training and education cannot be accomplished via a single day or a single method of training. To that end, WDT will continue to educate all new and current students using a variety of best practices aimed at educating the entire WDT community in a way that decreases violence and maintaining a culture where sexual assault and acts of violence are not tolerated. All new first-year students will, during the course of their first semester at WDT, receive training on the following topics, using a method and manner appropriate to the institutional culture of the WDT campus:

- The institution prohibits sexual harassment, including sexual violence, other violence or threats of violence, and will offer resources to any victims/survivors of such violence while taking administrative action regarding any accused individual within the jurisdiction of the institution;
- Relevant definitions including, but not limited to, the definitions of sexual violence and consent;
- Policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression;
- The role of the Title IX Coordinator and other relevant offices that address sexual violence prevention and response;
- Awareness of violence, its impact on victims/survivors and their friends and family, and its long-term impact;
- The Sexual Assault Awareness, Prevention, and Reporting document and Sexual Violence Response Policy;
- How to report sexual violence and other crimes to college officials and/or local law enforcement;
- How to obtain services and support;
- Bystander intervention and the importance of taking action, when one can safely do so, to prevent violence;
- Risk assessment and reduction including, but not limited to, steps that potential victims/survivors and potential assailants and bystanders to violence can take to lower the incidence of sexual violence; and
- Consequences and sanctions for individuals who commit these crimes

The process is not limited to a single day of orientation, but recognizes that students enroll at different times and gives WDT the flexibility to best educate students at a time and manner that can most effectively bring these points to light. Students at WDT shall receive general and specialized training in sexual violence prevention. WDT will conduct a campaign, compliant with the requirements of the Violence Against Women Act, to educate the student population.

Further, the institution will, as appropriate, provide or expand specific training to include groups such as leaders and officers of registered/recognized student organizations and online and distance education students.

Methods of training and educating students may include, but are not limited to:

- Online training;
- Posters, bulletin boards, and other targeted print and email materials;
- Educational programs;
- Programming surrounding large recurring campus events;
- Partnering with state and local community organizations that provide outreach, support, crisis intervention, counseling and other resources to victims/survivors of crimes to offer training and education. Partnerships can also be used to educate community organizations about the resources and remedies available on-campus for students and employees seeking services.

XII. REPORTING PROCESS

Filing a Report

Any report of alleged sexual misconduct, relationship violence, or stalking by a student, member of the faculty, staff, or administration of Western Dakota Tech or a person who is not a member of the Western Dakota Tech community can be filed with the Title IX Coordinator. All members of the community are encouraged to consult with the Title IX Coordinator if they are unsure about how or what information to report. The Title IX Coordinator is obligated to act on any report to ensure measures are taken to stop adverse behavior and prevent its recurrence, as appropriate. Each report is reviewed individually.

In cases where an observer/concerned individual reports sexual misconduct, relationship violence, or stalking to the Title IX Coordinator, the Complainant will be notified by the Title IX Coordinator that a report has been received. The Title IX Coordinator will meet with the Complainant to discuss her/his options and available resources at the Institute and in the community. The Complainant has a right to withdraw involvement or withdraw the complaint, however, in some circumstances, the Institute nevertheless may need to investigate, such as where it is necessary to ensure the safety of the Western Dakota Tech community. In such instances where the Complainant withdraws the complaint or from involvement in the process, the Institute may proceed and serve as a Complainant in the matter.

Administrative Contacts for Making a Report

Anyone wishing to file a report of sexual misconduct, relationship violence, or stalking or is seeking information, accommodation and/or resource information should contact the Title IX Coordinator (Director of Student Success).

The Title IX Coordinator is responsible for coordinating the Institute's response, disciplinary process, and for working with all involved parties. The Title IX Coordinator will assist in identifying options for Complainants in situations when discipline of the Respondent is outside of the Institute's jurisdiction.

Reporting a Student's Use of Alcohol or Drugs

The health and safety of every student at Western Dakota Tech is of utmost importance. Western Dakota Tech recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including, but not limited to sexual misconduct, relationship violence, or stalking occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Western Dakota Tech strongly encourages students to report sexual misconduct, relationship violence, or stalking to Institute officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of sexual misconduct, relationship violence, or stalking to Institute officials or law enforcement will not be subject to the Western Dakota Tech's Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the sexual misconduct, relationship violence, or stalking.

Rights of Reporting Individual/Complainant

Upon receipt of a report of an incident of sexual misconduct, relationship violence, or stalking the Title IX Coordinator will ensure the Complainant has been advised of their rights (1) to make a report to local law enforcement and /or state police or choose not to report; (2) to be protected from retaliation by the Institute for reporting an incident; and (3) to receive assistance and resources from the Institute. The reporting individual can choose to meet with the Title IX Coordinator to discuss these rights.

Individuals reporting acts of sexual misconduct, relationship violence, or stalking may also choose to file a report with the Rapid City Police Department (or appropriate agency with jurisdiction). Western Dakota Tech's system and the police/legal system work independently from one another. Individuals can file reports with the Institute, or with Rapid City Police Department, or with both systems simultaneously. Individuals also have the right to decline reporting. Because the standards

for finding a violation of criminal law are different from the standards in this policy, criminal investigations or reports are not determinative of whether or not sexual misconduct, relationship violence, or stalking, under this policy, has occurred.

Advisor of Choice

Complainant and Respondent each have the right to be accompanied to any related meeting or proceeding by an advisor of their choice. An advisor may be an individual who attends as a supportive presence. An advisor may take notes and quietly confer with the party being advised, but may not speak on behalf of the party or in any way disrupt any meeting or proceeding. Witnesses or others involved in this process are not permitted to bring another person to any meeting or hearing.

Although the parties are not required to bring their advisor to all meetings, utilizing the same advisor throughout the process, unless there are extenuating circumstances, allows the process to move forward in an efficient fashion. In the event that a party wants to make a change to their advisor, they must provide notice to the Title IX Coordinator.

If a Western Dakota Tech student Complainant or Respondent desires to have an attorney serve as her advisor, they may retain counsel independently.

Timeframe

The Institute encourages prompt reporting, but does not limit the timeframe for filing a report of sexual misconduct, relationship violence, or stalking. Reports can be submitted at any time following an incident, although the Institute's ability to take any action may be adversely affected/limited by the length of time between the alleged incident and the report. The current relationship to the alleged perpetrator may also limit the available range of disciplinary action (e.g., if an individual is no longer employed by the Institute or enrolled as a student). Once a report is received, projected timelines are provided in the steps of the procedure outlined below.

Jurisdiction

The Institute is able to respond formally to alleged incidents of sexual misconduct, relationship violence, and stalking:

- that occurred or may have a continuing effect on campus,
- that occurred in the context of official Institute programs or activities (regardless of location), or
- where the Complainant and Respondent are students, or members of the faculty, staff or administration of Western Dakota Tech.

If the offender is unknown or is not a member of the Western Dakota Tech community, the Title IX Coordinator will assist individuals in identifying appropriate on- and off-campus resources and/or provide access to local law enforcement authorities if the individual would like to file a report. In addition, the Institute may take other actions such as providing interim measures or accommodations to protect the individual and the campus community, regardless of whether there is a disciplinary process to proceed.

Retaliation

Any action by a member of the Western Dakota Tech community to penalize, intimidate, harass, take adverse action against a person who makes a report of discrimination or harassment, participates in an investigation, or otherwise asserts rights protected by non-discrimination laws is prohibited. Retaliation may be found even when the underlying report does not constitute discrimination or harassment in violation of policy.

Any person who believes that he or she has experienced retaliation for reporting discrimination or harassment, participating in an investigation, or for acting as an advocate should immediately contact the Title IX Coordinator (Director of Student Success) or Assistant Title IX Coordinator (Human Resources Manager). The Institute takes such reports seriously, investigates reports of retaliation, and takes strong disciplinary action against individuals found to have engaged in retaliation, as appropriate. All members of the Western Dakota Tech community are expected to cooperate with investigations of violation of this policy.

Interim Measures

Based upon the nature of a report, and particularly where the presence of the Respondent may be a continuing threat to the health or safety of the community, the Institute may impose restrictions, or interim measures, during the investigative process, up to or including suspension or other access restrictions. Requests for specific measures to be considered can be discussed with the Title IX Coordinator.

When the Respondent is a student, the Institute may issue a “no contact directive” consistent with Western Dakota Tech policies and procedures, whereby continued intentional contact with the reporting individual would be a violation of the Western Dakota Tech policy subject to additional conduct charges. If the Respondent and the Complainant observe each other in a given campus space, it shall be the responsibility of the Respondent to leave the area immediately and without directly contacting the Complainant. The Institute may work with both parties to establish an appropriate schedule for the Respondent to access applicable buildings and property at a time when such buildings and property are not being accessed by the Complainant. No contact directives may also be imposed when the Respondent is a staff or faculty member of the Institute.

During an investigation and until resolution of the matter, other reasonable and available interim measures and accommodations may be provided, including bans from campus, and/or appropriate changes in academic schedules, campus work schedules, or other applicable arrangements in order to help ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Failure to adhere to the parameters of any interim measures is a violation of policy and may lead to additional disciplinary action.

Accommodations

All students affected by an experience of sexual misconduct, relationship violence, or stalking, whether or not the matter is to be adjudicated by the Institute, may request accommodations to support their safety, well-being, and access to education. The Title IX Coordinator will work with the student, in light of available information at the time of the request, to identify reasonable accommodation.

Accommodations may include, but are not limited to, adjustments to academic or campus work schedules, providing access to tutoring or academic support, or allowing a student to withdraw from or retake a course without penalty.

Informal Resolution Options

Informal resolution options are not available in cases involving allegations of sexual misconduct (e.g. sexual assault, sexual violence), even on a voluntary basis.

XIII. INQUIRY AND INVESTIGATION

Inquiry

Promptly following the receipt of a report, information will be reviewed by the Title IX Coordinator to determine if there may be reason to believe that a policy may have been violated. An initial inquiry will be undertaken by the Title IX Coordinator, if necessary, to determine whether a formal investigation will commence. If further information is necessary, it may involve prompt discussions with the Complainant and others, as appropriate. The Complainant may be accompanied by an advisor of choice to all meetings. An advisor may attend, but not participate in, all meetings and interviews. The Complainant may be offered reasonable accommodations and will be offered resources, as appropriate, regardless of whether or not there is reason to proceed with an investigation. If the findings of the initial inquiry indicate there is not sufficient reason to believe a violation may have occurred, the Complainant will receive prompt notice of this outcome and rationale. Inquiry is a prompt process that should not take longer than ten (10) days. If a formal investigation is to commence, the Respondent will be notified that a report has been filed. In cases of investigation of an employee as Respondent, the employee’s supervisor may be notified of the investigation at the same time the Respondent receives notification.

Vendors or other agencies in contract with the Institute will be promptly notified if any of their employees are alleged to have violated policy, and such employees may be banned from any or all college properties and may also be subject to action deemed appropriate by their respective employer. Restrictions regarding access to Institute property or events may also be imposed.

The Respondent and Complainant, with their respective advisor of choice, will be given the opportunity to meet separately with the Title IX Coordinator (or designee) to review the policy and procedure, as well as related rights.

Formal Investigation

Reports of alleged sexual misconduct, relationship violence, or stalking will be equitably investigated in a fair, impartial, thorough and prompt fashion, providing a meaningful opportunity for participants to be heard. Investigation will be conducted by individuals without a conflict of interest or bias for or against either party. Every effort is made to resolve complaints within sixty days. The formal investigation process may vary depending upon the nature and complexity of the case and the time of year (and thus availability of parties). Typically the investigation process may take 30-40 days (inclusive of initial inquiry, if applicable).

A trained Title IX Investigator (who may be a Western Dakota Tech employee or external investigator), will interview the Complainant, Respondent, and available witnesses, as appropriate. The Complainant and Respondent may each have an advisor of choice present at all meetings and interviews. The Investigator will also gather any pertinent evidentiary materials (this may include, but is not limited to, emails, written documents, or photographs).

During the investigation process, both the Complainant and the Respondent will have an equal opportunity to provide the Investigator with relevant evidence and/or specific witness information. It is possible that more than one meeting may be necessary for Complainant and Respondent to have opportunity to respond to information obtained.

The Investigator will prepare an investigative report that will include a summary of relevant information of each interview, provide a summary of factual information, and include any relevant documentation collected. It should be noted, some information disclosed during investigation may not be relevant or appropriate to include in the investigative report. Specifically, the parties' sexual history with anyone other than each other (to the extent relevant to the complaint) or disclosure of medical or mental health conditions, diagnoses, and/or treatment generally will not be included.

The Complainant and Respondent will each have opportunity to review the investigative report, in the presence of an Institute official, and deliver a response to the investigative report. An impact statement may be provided, in writing, for review by the Adjudicator. The investigative report is then delivered to the Adjudicator for review and adjudication.

At any point the Institute may institute community-based efforts such as educational initiatives and/or trainings, as appropriate for prevention.

Investigators

If the Respondent is an employee of Western Dakota Tech, the Human Resources Manager serves as Investigator. In all other cases, the Director of Student Success serves as the Investigator. If the Director of Student Success is the Respondent, the Human Resources Manager will serve as Investigator.

XIV. ADJUDICATION PROCESS

Administrative Resolution

Upon review of the investigative report, the Respondent will be given the opportunity to respond to the alleged violation of policy in the following ways: 1) No response; 2) Not Responsible; or 3) Responsible.

If the Respondent accepts responsibility, both parties will receive notification and that the matter has been forwarded for sanctioning. See Determination of Sanctions below.

If the Respondent declines responsibility, or chooses not to respond, the Complainant will be notified and the case will be forwarded to the appropriate Adjudicator for review and adjudication.

Review of Investigative Findings

The trained Adjudicator is charged with fairly, promptly and impartially determining, based on a preponderance of the evidence, whether it is more likely than not that policy has been violated upon a review of the investigative materials. Adjudication will be conducted by officials of the Institute without a conflict of interest or bias for or against either party. A party with concern about a conflict of interest or bias should contact the Title IX Coordinator.

The trained Adjudicator will review the investigative report and materials within ten (10) days of delivery. If the Adjudicator requires clarification on any of the materials, the Investigator and/or Title IX Coordinator will assist the Adjudicator in obtaining such clarification. Though it is typically not necessary, the Adjudicator may consult, as needed, with the Title IX Coordinator to request further information from the Respondent, Complainant and/or any of the witnesses to clarify information in the investigative materials. If such follow up is necessary, the Complainant and the Respondent, will again each have the opportunity to review and respond to the updated investigative report.

Adjudicator Findings

The trained Adjudicator will decide, upon a complete review of the investigative report and materials and based on a preponderance of the evidence, whether there has been a violation of any sexual violence policies. Preponderance of evidence means that the Adjudicator is convinced based on the information provided that a violation of policy was more likely than not

to have occurred.

If the Adjudicator determines that a violation has occurred, the Respondent is “Responsible” and the Adjudicator will then determine the appropriate sanctions. This determination will be made within fifteen (15) days of receipt of the investigative report. If found “Not Responsible”, both Respondent and Complainant will be notified in writing of the outcome, rationale for the not responsible finding, and any related action (including communication of continued measure such as a no contact directive).

Determination of Sanctions

If the Respondent has accepted responsibility or the Adjudicator has made a finding of responsibility, based on review of the investigative report and related materials, the Adjudicator will determine the appropriate sanctions.

Consideration may be given to the nature of and the circumstances surrounding the violation, prior disciplinary violations, precedent cases, Institute safety concerns and any other information deemed relevant by the Adjudicator. Past findings of sexual misconduct, relationship violence, or stalking may be admissible for consideration during sanctioning. The Adjudicator will render a written decision detailing the factual findings supporting the determination and the rationale for the sanction(s) imposed, if applicable.

The sanctioning determination is to be made by the Adjudicator within ten (10) days of receiving the investigative report with indication of the Respondent accepted responsibility or Adjudicator determination of responsibility. Both Respondent and Complainant will be notified in writing of the outcome, rationale for finding and sanctions, and/or remedies. Determination of sanctions is final.

Range of Sanctions

Faculty, staff, or administrators who are found in violation of this policy are subject to disciplinary action, up to and including discharge. Students are subject to disciplinary action, up to and including suspension or expulsion. In any case, educational programming or alcohol/substance assessment may be required. Sanctions may include reassignment of work duties or location; reassignment of class meetings; restrictions on contact with Complainant; access restrictions to Institute property and/or events; disciplinary probation, suspension or expulsion. More than one sanction may be imposed.

Guests and other persons who are alleged to have engaged in sexual misconduct, relationship violence, or stalking are subject to corrective action, which may include removal from campus, ban from campus, and/or termination of contractual arrangements. Vendors or other agencies in contract with the Institute will be promptly notified if any of their employees are alleged to have violated policy, and such employees may be banned from any or all college properties and may also be subject to action deemed appropriate by their respective employer. Restrictions regarding access to Institute property or events may also be imposed.

Regardless of how a matter proceeds in this process, remedies may be made by the Institute, such as reviewing protocol or providing or enhancing training to staff and/or students. Protective measures may also be taken, such as issuing no-contact directives or access restrictions or implementing reasonable accommodations. Accommodation requests are reviewed on a case by case basis, and may include, but are not limited to, measures such as adjusting a campus work schedule, assisting with academic support, seeking extensions for assignments, or allowing a student to withdraw and/or retake a course without penalty.

Adjudicators

The Dean of Academics serves as the Adjudicator. If the Dean of Academics is the Respondent, the Human Resources Manager will serve as the Adjudicator.

STUDENT CODE OF CONDUCT

Western Dakota Tech has a responsibility to protect its mission and the members of the WDT community. WDT has established reasonable standards for academic and personal conduct that allows others to learn, study, work, and relax in a safe and orderly environment. The following Code of Conduct, while not all inclusive, identifies conduct that infringes upon those expectations, disrupts the learning environment, and possibly exposes students and staff to injury. Such conduct will result in disciplinary action.

Any student, group of students, or student organizations found in violation of the WDT Student Code of Conduct is subject to the disciplinary sanctions.

Violations of the Code of Conduct include, but are not limited to:

1. Inappropriate behavior defined as conduct that disrupts the educational process and impedes the learning environment.
2. Physical or verbal abuse or detention of any person or persons on school property or at WDT activities.
3. Endangerment of the health and safety of oneself or others, or infringement upon the rights of others.
4. Theft or damage to WDT property or property of any member of the WDT community or campus.
5. Unauthorized entry to or use of WDT facilities or property.
6. Use, possession, manufacture, or distribution of alcohol, narcotics, illegal drugs, or other controlled substances, firearms, items commonly considered weapons, explosives, or dangerous chemicals on school-controlled property or during WDT sponsored activities.
7. Dishonesty, such as cheating, plagiarism, or knowingly furnishing false information to the school.
8. Reckless use of a vehicle on WDT property.
9. Failure, after due notice, to pay fees or other school financial obligations, i.e. Bookstore, Parts Store, damage, non-sufficient funds or no-account personal checks, department supply charges, et cetera.
10. Harassment or hazing of fellow students or staff members.
11. Smoking, the use of chewing tobacco, or the use of electronic cigarettes or vaporizers on WDT property other than within the confines of personal vehicles.
12. Failure to report to the WDT Administration Office or local sheriff and/or police agencies any knowledge of criminal activity on campus: i.e., murder, rape, robbery, aggravated assault, burglary, arson, vandalism, consumption of alcohol, or use of controlled or illegal substances or motor vehicle theft. Such a report must be provided in a manner that is timely and that will aid in the prevention of similar occurrences.
13. Illegal, improper, or unethical use of computer systems.
14. Disruptive behavior is behavior that detracts from maintaining classroom discipline, unnecessarily draws attention to the students involved and away from classroom activity, and prevents those students and/or other students from their pursuit of learning.

Procedural Due Process Principles

Allegations and Hearings

1. Student Code of Conduct allegations may be filed against any student by any member of the WDT community.
 - a. Allegations other than academic misconduct shall be directed to the Director of Student Success or designated representative.
 - b. Allegations of academic misconduct shall be directed to the Dean of Academics or designated representative.
 - c. The complaint shall state the specific facts that form the basis for the allegation, as well as the identities of any other witnesses and the location of any physical evidence of the misconduct. Allegations must be signed by the complainant. Any allegation should be submitted as soon as possible after the event takes place or after the complainant discovers the identity of the alleged perpetrator.
2. The Dean of Academics or Director of Student Success shall make an initial determination as to whether the allegations were timely, taking into account the seriousness of the incident and the degree to which delay may have impaired access to evidence. The Dean of Academics or Director of Student Success shall determine if the allegations have merit and whether the incident sufficiently affects WDT interest to warrant further proceedings.

Informal Resolution

1. If the Dean of Academics or Director of Student Success determines that the allegations have merit, the Dean of Academics or Director of Student Success shall next determine whether the allegations can be resolved by mutual consent of the parties involved on a basis acceptable to the Dean of Academics or Director of Student Success or by waiver of formal hearing where the charged student admits to the misconduct and accepts the proposed sanction.
2. Informal Resolution shall be final and there shall be no subsequent proceedings. If the allegations cannot be resolved informally, the formal resolution procedure will be implemented.

Formal Resolution

- A. Within fifteen working days of the final informal resolution attempt, the Dean of Academics or Director of Student

Success shall present all allegations to the student charged in written form and shall identify with specificity each section of the conduct code under which allegations are brought. A time shall be set for a hearing, not less than five nor more than fifteen calendar days after the student has been notified. The minimum time limits may be waived by the party charged. Maximum time limits for scheduling of hearings may be extended at the discretion of the Dean of Academics or Director of Student Success.

- B. Hearings shall be conducted by a Conduct Board according to the following guidelines:
- a. Hearings shall be conducted in private.
 - b. The chair of the Conduct Board shall have the power to exclude from the hearing any person whose conduct interferes with the hearing.
 - c. In hearings involving more than one accused student, the Conduct Board may permit the hearings concerning each student to be conducted separately.
 - d. The complainant and the defendant have the right to be assisted by an advisor of their choice, at their own expense. Ordinarily, no more than one advisor for each student shall be permitted. The advisor may be a faculty member, staff member, student, attorney, or family member. The complainant and the defendant are responsible for presenting their own cases, and, therefore, advisors are not permitted to speak or to participate directly in any hearing before a Conduct Board.
 - e. The complainant, the defendant, and the Conduct Board shall have the privilege of presenting witnesses, subject to the right of cross examination. Witnesses may only be present during the hearing while testifying.
 - f. Pertinent records, exhibits, and written statements may be accepted as evidence for consideration by a Conduct Board at the discretion of the chairperson.
 - g. At the hearing, the Conduct Board shall determine (by majority vote) whether the student has violated each section of the Code of Conduct which the student is charged with violating.
 - h. The fact that a student acted while under the influence of alcohol, marijuana, or an illegal controlled substance shall not be considered a mitigating factor.
 - i. There shall be a single written record of all formal evidentiary hearings before a Conduct Board. The record shall be the property of WDT.
 - i. The record and its contents shall be held in confidence and may be used solely for purposes of appeal. Any person who unnecessarily discloses the contents of the record to parties not involved in the appeal shall be subject to discipline.
 - ii. In the event of an appeal, the defendant shall be given access to the record for purposes of preparing the appeal. Access shall be provided at such places and times as the Dean of Academics or Director of Student Success may direct.
 - iii. Except as required by the Americans with Disabilities Act, WDT shall not be required to change the form in which the record is maintained.
 - j. Except in the case of a student charged with failing to obey the summons of a Conduct Board or WDT official, no student may be found to have violated the Code of Conduct solely because the student failed to appear before a Conduct Board. In all cases, the evidence in support of the allegations shall be presented and considered.

Sanctions

In each case in which a Conduct Board determines that a student has violated the WDT Code of Conduct, the sanction(s) shall be determined and imposed by the Conduct Board based on the principle of "like sanctions for like violations" and the principle of a sanction being commensurate with the violation.

In the case of a drug or alcohol violation the sanction imposed will reflect what is stated in the WDT Drug and Alcohol Policy.

Following the hearing, the Dean of Academics or Director of Student Success shall provide a written summary of the findings of fact, conclusions, and recommendations, if any, reached by the Conduct Board and of the sanction(s) imposed, if any, to the parties involved.