

# WESTERN DAKOTA TECHNICAL COLLEGE

## 2024 Annual Security Report

**Campus Policies**  
2024-2025 Academic Year

**Crime Statistics Reporting Period**  
January 1, 2023 to  
December 31, 2023

*Proud member of*



Published September 10, 2024

# 2024 Annual Security Report

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## Introduction

Campus security and safety are vital in maintaining a positive learning environment for students and work environment for employees. It is important for the College to keep students, parents, and employees informed about campus safety and security.

WDTC, through the office of Institutional Effectiveness, prepares an annual security report (ASR) with all required elements as stated in the Clery Act and in 34 C.F.R. §668.46(b) and publishes the single-document report as a safety service to the WDTC community. Each employee and student receives an electronic notification of the report by October 1 of each year through email. The electronic notification includes notice of the report's availability, a link to its exact electronic address, a description of its contents, and a notice that a paper copy will be provided upon request. Prospective employees and prospective students are also notified of the report's availability, a link to its exact electronic address, a description of its contents, and a notice that a paper copy will be provided upon request. Prospective employees are notified via job postings, and prospective students are notified via the student application. The report can also be accessed electronically through the WDTC consumer information website at <https://www.wdt.edu/assets/docs/uploads/consumer-information/securityreport.pdf>.

The ASR contains important information for employees and students but is not intended to replace key documents students and employees are required to be aware of and read. Some of the documents provided to the campus community that are vital for student and employee well-being include:

- Campus Safety and Security Handbook <https://www.wdt.edu/assets/docs/uploads/consumer-information/campus-safety-and-security-handbook.pdf>
- Emergency Plan – Students may access the plan through the My.WDT portal (<https://my.wdt.edu>) on the How To tab under the Resources section. Employees may access the plan through the WDT intranet in the Health & Safety section.
- Student Handbook <https://www.wdt.edu/current-students/student-handbook/>
- Policy 2012/4012 – Drug-Free Schools and Communities <https://www.wdt.edu/assets/docs/uploads/about/policies/2012.pdf>
- Policy 2001/4001 – Sexual Harassment – Title IX (and associated procedures) <https://www.wdt.edu/assets/docs/uploads/about/policies/2001-4001.pdf>  
<https://www.wdt.edu/assets/docs/uploads/about/policies/2001procedure001.pdf>  
<https://www.wdt.edu/assets/docs/uploads/about/policies/2001procedure002.pdf>
- Policy 4002 – Tobacco and Smoke-Free Campus <https://www.wdt.edu/assets/docs/uploads/about/policies/4002.pdf>
- Policy 4014 – Student Conduct <https://www.wdt.edu/assets/docs/uploads/about/policies/4014.pdf>

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## ***Section 1 – Safety***

### **Accurate and Prompt Reporting of Crimes**

Community members, students, faculty, staff, and guests are encouraged to report all crimes and public safety related incidents in a timely manner. WDTC does not have campus police or security personnel. In the case of an emergency, students, employees, and guests should immediately report the emergency to local first responders by calling 911 and then to the WDTC President, VP for Institutional Effectiveness and Student Success, or other Leadership Team member so emergency notifications and response procedures can be implemented as quickly as possible. Crimes also should be reported in a timely manner to a Campus Security Authority to ensure, if required, inclusion in the annual crime statistics and to aid in providing timely warning notices to the community, where appropriate.

### ***Reporting Clery Act Crimes and Voluntary, Confidential Crime Reporting***

WDTC encourages the campus community to immediately report Clery crimes or suspicious activity to Campus Security Authorities to help maintain the safest possible environment for students, faculty, staff, and visitors. A report from a victim who does not want to pursue action through WDTC or the criminal justice system can be filed with a Campus Security Authority who can maintain the confidentiality of the reporting individual upon request. The College can document the report without revealing the victim's identity. This allows WDTC to track the incident, compare it to other incidents, and take actions to keep further incidents from occurring.

“Campus Security Authority” is a Clery-specific term that encompasses certain WDTC employees who have a duty to report crimes they become aware of, as defined by the Clery Act. A Campus Security Authority is defined as an employee of an institution who has significant responsibility for student and campus activities or an employee who meets the definition of “any official who has authority to institute corrective measures” for Title IX purposes under 34 CFR 106.30(a).

WDTC identifies employees in the following roles as Campus Security Authorities:

- WDTC President
- Vice President for Finance and Operations
- Vice President for Institutional Effectiveness and Student Success/Title IX Coordinator
- Vice President for Teaching and Learning
- Vice President for Data Strategy and Enrollment Management
- Senior Human Resources Generalist
- Director of Compliance and Financial Aid
- Student Success Center Staff
- Club Advisors

Clery Crimes include the following:

- Criminal Homicide
- Sexual Assault (Sex Offenses)
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft

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- Arson
- Hate Crimes
- Dating Violence
- Domestic Violence
- Stalking
- Liquor Law Violation
- Drug Law Violation
- Illegal Weapons Possession

## Annual Disclosure of Crime Statistics

WDTC, through the office of Institutional Effectiveness, ensures annual preparation and submission of crime statistics to the U.S. Department of Education in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”) by the timelines published in the Federal Register 34 C.F.R. §668.41(e)(5). The crime statistics are submitted through the Department’s annual Campus Safety and Security Survey for inclusion in the Office of Postsecondary Education’s Campus Safety and Security Data Analysis Cutting Tool. Campus crime statistics are available at <http://ope.ed.gov/security>.

Pursuant to the Clery Act, the College through the office of Institutional Effectiveness also compiles and publishes crime statistics in the Annual Security Report (ASR) which is located at <https://www.wdt.edu/assets/docs/uploads/consumer-information/securityreport.pdf>. As part of this obligation, members of the College’s community who are considered to be Campus Security Authorities are required to report crimes for inclusion as statistics in the College’s Annual Security Report. WDTC also solicits crime statistics from the law enforcement agencies that have jurisdiction over the College’s location(s). Agencies contacted include the Rapid City Police Department, Pennington County Sheriff’s Office, the South Dakota Highway Patrol, and other local and county law enforcement as applicable for the Whitewood, Philip, and Hot Springs, SD locations.

The College does not publish the name of crime victims or other identifiable information regarding victims in the annual crime statistics that are disclosed in compliance with the Clery Act.

Individuals unable to obtain a hard copy of the College’s ASR that includes crime statistics from the College’s website may request one from WDTC at:

Vice President for Institutional Effectiveness and Student Success  
Western Dakota Technical College, 800 Mickelson Drive, Rapid City, SD 57703

## Campus Law Enforcement and Security Personnel – Jurisdiction, Authority, & Working Relationships

WDTC does not have campus law enforcement or security personnel. The College does not have agreements with state or local police agencies regarding the investigation of alleged criminal offenses.

## Disclosure of Disciplinary Proceeding Results

WDTC will disclose to alleged victims of any violent crime or non-forcible sex offense (incest or statutory rape) the results of any disciplinary proceeding related to the alleged offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim will be notified.

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WDC will disclose to alleged perpetrators of any violent crime or non-forcible sex offense (incest or statutory rape) the results of any disciplinary proceeding related to the alleged offense. Notifications to alleged victims and alleged perpetrators will be made simultaneously. The VP for Institutional Effectiveness and Student Success is responsible for making all required notifications.

## **Guidance to Pastoral and Professional Counselors**

WDC does not employ pastoral or professional counselors and, as a result, has no procedures in place to encourage pastoral counselors and professional counselors, if and when they deem appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

## **Missing Student Notifications**

WDC does not provide on-campus student housing, and, therefore, does not have procedures for missing student notifications required for students who reside in on-campus housing.

## **Monitoring of Student Organizations Non-campus Locations**

WDC does not have any officially recognized student organizations with non-campus locations.

## **Programs to Inform Students and Employees about Crime Prevention**

WDC encourages all employees and students to accept personal responsibility for their own safety and the safety of others and to report all crimes that occur on the College campus to the local police department and to a WDC Campus Security Authority.

Students receive an electronic copy of the Student Handbook, Campus Safety and Security Handbook, and the Annual Security Report at least once per academic year. These publications contain information and guidelines related to drugs and alcohol, tobacco and smoke-free campus, sexual harassment, registered sex offenders listing, safety, theft/vandalism, dating violence, domestic violence, sexual assault, and stalking. The Student Success Center also hosts educational programming to raise awareness throughout the year including the following:

- Educational articles are available to students through WDC's monthly online CampusWell Newsletter and are provided to students requesting information about specific crime-related topics. Each month, at least one article related to alcohol or other drugs or sexual violence awareness and support are available.
- Educational or informative signs are regularly posted in bathroom stalls and on the SSC TV monitor.

All College employees are provided the Campus Safety and Security Handbook, Policy 2001/4001 Sexual Harassment, and Policy 2005/4005 - Discrimination and Harassment upon hire and annually thereafter. Employees must complete a compliance quiz for each of the publications as part of new employee orientation and annually thereafter at the start of the fall semester.

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## **Programs to Inform Employees and Students about Campus Security Procedures and Practices – Types and Frequency**

WDTA provides to employees and students annual notices concerning campus security procedures and practices. WDTA encourages all employees and students to accept personal responsibility for their own safety and the safety of others and to report all crimes that occur on the College campus to law enforcement and to a WDTA Campus Security Authority.

Employees and students are provided the Campus Safety and Security Handbook and the WDTA Emergency Plan annually, and both publications are available through the WDTA website, student portal, or the College intranet. ALICE training is also required for all employees on an annual basis.

## **Security and Access to Campus Facilities**

WDTA's main campus is located adjacent to SD Highway 44 in Rapid City, SD and consists of two buildings – one at 800 Mickelson Drive and one at 500 Mickelson Drive. At the time of this publication, the College also has three additional locations, Hale Hall, 1016 Meade St, Whitewood, SD, 330 Scottie Avenue, Philip, SD, and *2500 Minnekahta Avenue, Hot Springs, SD 57747*. The College does not have on-campus student housing facilities at this time.

Access to the WDTA campus facilities is authorized through the President's Office and Facilities Office. Building keys and key fobs are issued to staff as needed. All staff are authorized to call the appropriate authorities in case of an emergency. All buildings are locked and unlocked by College employees or by automated timers. Unless other arrangements have been made, College buildings open at approximately 7 a.m. during weekdays and close when the final event for the day is completed. All buildings remain locked after hours and throughout the weekend unless prior arrangements have been made.

Students may access approved areas within the facilities whenever the areas are open. Visitors to WDTA should check in with a WDTA employee upon arrival. Under no circumstances are visitors allowed to enter classroom areas without prior approval from the instructor and/or WDTA administration. Any person who is not an employee or is not registered as a student may be subject to removal from campus.

## **Security Considerations in the Maintenance of Campus Facilities**

WDTA maintenance staff use a preventative maintenance checklist to monitor campus facilities, including those related to safety and security and to interior and exterior campus lighting. Maintenance staff manage the security system located throughout the campus. They or a designee also unlock select doors in the morning, lock them in the evening, and repair broken or malfunctioning locks. Fire extinguisher and sprinkler system functionality is documented and serviced on a regular schedule by certified vendors.

## **Sex Offender Registration**

In accordance with section 121 of the Adam Walsh Child Protection and Safety Act of 2006, WDTA provides a link to the South Dakota Sex Offender Registry website: <https://sor.sd.gov/>.

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## Timely Warnings, Emergency Notifications, and Annual Emergency Test

In compliance with the Clery Act, WDTC has and discloses –

- 1) Timely warning procedures that would be used in response to Clery Act crimes occurring on the college's Clery Act geography that are reported to a college Campus Security Authority (CSA) as defined in WDTC Policy [4008](#) or to local police agencies and are considered by the college to represent a serious or continuing threat to students and employees.
- 2) Emergency notification procedures that would be used in response to a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus<sup>1</sup>.

The College also conducts at least one test of the emergency notification system and campus evacuation procedures annually per Clery requirements for such tests.

### ***Timely Warnings***

The intent of a timely warning is for the college to inform students, employees, and visitors of criminal incidents that are considered Clery Act crimes to better enable them to protect themselves. Timely warnings will be issued by the college as soon as pertinent information is available in a manner that is timely. Individuals with information warranting a timely warning should report circumstances by notifying a college CSA or by calling 911 when appropriate.

### Decision to Issue a Timely Warning

The President, the VP for Institutional Effectiveness and Student Success, or an employee designated by the President, will decide to issue a timely warning to the campus community when a Clery Act crime occurring on the college's Clery Act geography is reported to the college through a college CSA or the local police agency and in their judgement represents a serious or continuing threat to the campus community or to their on-campus property. The Rapid City, Hot Springs, Philip, and Whitewood Police Departments assign liaison officers for WDTC. The liaisons keep the President, the VP for Institutional Effectiveness and Student Success, and/or the President's designee(s) apprised of reported criminal activity on campus.

In addition to issuing a timely warning for Clery Act crimes, WDTC may issue a "crime alert" for non-Clery Act crimes that, in the judgment of the President or Leadership Team, might pose a serious or continuing threat to the campus community.

In every case, an evaluation of the circumstances is conducted to determine if a timely warning or other appropriate notification should be issued.

### Content of the Timely Warning

Upon receipt of information that requires a timely warning to be issued, the President, the VP for Institutional Effectiveness and Student Success, or the President's designee(s) develop the warning content in consultation with the applicable liaison officer.

All known and available information pertinent to the crime is included in the timely warning, such as the nature of the crime, the location of the crime, date and time of the crime, the target of the crime, and a

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<sup>1</sup> Campus refers to WDTC Main Campus and HLC Approved Additional Locations.



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description of the perpetrator(s), if the information does not compromise law enforcement efforts and withholds names of victims as confidential. The timely warning's content will also include information that enables students, employees, and visitors to protect themselves and aid them in the prevention of similar crimes or occurrences. Any additional relevant information that does not compromise law enforcement efforts is also included in the warning.

### Issuing a Timely Warning

The President, the VP for Institutional Effectiveness and Student Success, or the President's designee(s) will issue timely warnings through the college email system and through bulletins posted in rooms reserved by outside parties as appropriate. In addition, the timely warning might be shared through text. The college website also might be used for ongoing warnings after initial notification if deemed necessary. Timely warnings must and will be issued to the entire campus community and not to specific locations.

### ***Emergency Notifications***

In the case of an emergency, students, employees, and guests should immediately report the emergency to local first responders by calling 911 and then to the WDC President, VP for Institutional Effectiveness and Student Success, or other Leadership Team member so emergency notifications and response procedures can be implemented as quickly as possible. The intent of emergency warnings issued through the campus emergency notification system is to notify the campus community as quickly as possible of a confirmed significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus.

### Decision to Issue an Emergency Notification

Before the official campus emergency warning system is activated, the President, a Leadership Team member, or a designee assigned by the President or Leadership Team member confirms that the emergency exists through contact with a police liaison, contact with college personnel at the scene of the emergency, personal verification of the emergency, or contact with emergency personnel responding to the emergency.

If the emergency or dangerous situation involves an immediate threat to the health or safety of students, employees, or visitors on campus, the President, a Leadership Team member, or a designee assigned by the President or Leadership Team member will, without delay, and taking into account the safety of the community, initiate the campus emergency notification system, unless issuing a notification will, in the professional judgment of law enforcement, the President, a Leadership Team member, or a designee assigned by the President or Leadership Team member, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

### Content of the Emergency Notification

The President, a Leadership Team member, or a designee assigned by the President or Leadership Team member, will, without delay, and taking into account the safety of the community, determine the content of the emergency notification, consulting with the police liaison or other emergency responder personnel, as necessary.

### Issuing the Emergency Notification

The entire campus community is alerted through the emergency communication system when there is at least the potential that a very large segment of the community is affected or when a situation

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threatens the operation of the campus as a whole. Emergency notifications may be sent to students, employees, and visitors at specific locations only when the emergency or dangerous situation does not affect the campus as a whole such as a tornado at the Whitewood location. The decision to notify the entire campus community or segments of the community will be made by the President, a Leadership Team member, or a designee assigned by the President or Leadership Team member.

The President, a Leadership Team member, or a designee assigned by the President or Leadership Team member is responsible for initiating the campus emergency notification system and following this checklist:

- 1) Take necessary steps to get to a safe location. When you are safe, proceed to step two.
- 2) Send the emergency warning through the college email system to students, employees, and emergency notification contact(s) for visitors (The Outlook Distribution Group to use is *Emergency Notification Group* and includes the following: *Students\_All*, *All of WDT*, and *Visitor Emergency Notification*.)
- 3) Attempt to send a text to students and employees.
- 4) Provide updates through these same means as additional information becomes available or at minimum every 45 minutes (30 minutes preferred) until the President, a Leadership Team member, the President's designee, or law enforcement or other emergency personnel declare the campus safe.
- 5) Upon conclusion of the event, send email to the campus community declaring the campus safe and indicate a time when and where more information will be available if applicable.
- 6) Ensure the President and/or Public Information Officer disseminate emergency information to the larger community as appropriate.

Depending on the nature of the emergency, some of the above steps might not be used. For example, during a pandemic, updates might not be made every 45 minutes.

## Disseminating Emergency Information to the Larger Community

- 1) The President or Public Information Officer notifies board members of all emergencies or dangerous situations requiring an emergency notification. Notification will be made through email and/or telephone.
- 2) The President and the Public Information Officer in consultation with the police liaison or emergency personnel determines what information will be disseminated and when it will be disseminated to individuals and organizations outside of the campus community such as parents, families, media, and neighboring communities. Information might be shared on the college's website, Facebook page, local media sources, or other means as appropriate for the situation.

## **Annual Emergency Test**

In conjunction with other emergency agencies, WDTA annually tests its procedures for an emergency response and for evacuation of all campus buildings. Tests may be announced or unannounced and are designed to assess and evaluate the emergency plans and capabilities of the college. The College's Safety Committee determines the type of test and schedules it, taking the campus-wide Emergency Plan and evacuation procedures into account. The tests must contain drills and exercises, set specific goals/objectives, and be evaluated by participants when completed. Exercises may include tabletop,

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functional, or full-scale exercises.

After the annual emergency test is conducted, the Safety Committee Chair or designee emails a summary of the test along with the Emergency Plan to students and employees.

The annual test is documented in a report by the Safety Committee Chair with a description of the exercise and drill, date, time, participants, goals/objectives, information about whether the test was announced or unannounced, evaluation of the outcomes by participants, and notes regarding any improvement recommendations or corrective actions. The report and documentation of the email sent to students and employees is kept on file in the President's Office for seven years.

## ***Section 2 – Sexual Assault, Domestic and Dating Violence, and Stalking***

### **Sexual Assault, Domestic Violence, Dating Violence, and Stalking Prevention and Response**

WDC is committed to providing a safe educational and working environment for its students, faculty, staff, and other members of the WDC community. WDC prohibits sexual assault, domestic violence, dating violence, and stalking (SA/DV/DV/S) in its educational programs and activities. WDC is committed to preventing SA/DV/DV/S, as well as addressing its effects on the WDC community.

WDC has adopted Policy and related Procedures 2001/4001 (Appendices 1 and 2) in order to inform all persons of how to report or file a complaint in the event they are or have knowledge of someone involved in an incident of sexual harassment to include SA/DV/DV/S, and to inform them how WDC will respond. It is important that all students and employees read these policies and procedures so they fully understand their rights, obligations, and options if sexual harassment including SA/DV/DV/S occurs.

Upon actual knowledge of SA/DV/DV/S, the Title IX Coordinator will immediately contact the victim to assist with WDC policies and procedures, supportive measures, and resources including written notification of information on existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available to the victim. The Title IX Coordinator will also provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The College will make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to law enforcement. The Title IX Coordinator or OWA (official with authority per policy 2001/4001) will provide a written explanation of student's or employee's rights and options when a student or employee reports to the College that the student or employee has been a victim of SA/DV/DV/S whether the offense occurred on- or-off campus.

Below is information on programming WDC provides to increase campus awareness and knowledge to prevent SA/DV/DV/S and on resources that are available if SA/DV/DV/S occurs. These, too, are important for all students and employees to read and partake in so they know their rights, obligations, and options, and can be part of the solution to prevent sexual violence.

### ***Programs to Prevent Sexual Assault, Domestic Violence, Dating Violence and Stalking***

WDC believes that SA/DV/DV/S prevention training and education cannot be accomplished via a single day or a single method of training. To that end, WDC will continue to educate all new and current students and employees using a variety of best practices aimed at educating the entire WDC

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community in a way that decreases SA/DV/DV/S and maintaining a culture where SA/DV/DV/S are not tolerated. Training is provided using a method and manner appropriate to the institutional culture of the WDTC campus.

The College's primary prevention and awareness programs for all incoming students and new employees may be provided in a variety of methods including online training, training during new employee orientation, information provided by the Title IX Coordinator, and through the online CampusWell Newsletter and/or Student Lingo. The training includes –

- Clear communication that the College prohibits the crimes of SA/DV/SD/S as defined by the Clery Act;
- Definitions of SA/DV/DV/S in our jurisdiction;
- The definition of consent as defined in WDTC Policy 2001/4001;
- A description of safe and positive options for bystander intervention. Bystander intervention means 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 SA/DV/DV/S. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;
- Information on risk reduction. Risk reduction means options designed to decrease perpetration and bystander inaction, to increase empowerment for victims in order to promote safety, and to help individuals and communities address conditions that facilitate violence;
- A description of the College's educational programs and campaigns to promote the awareness of SA/DV/DV/S;
- Procedures victims should follow if a crime of SA/DV/DV/S has occurred (WDTC Policy 2001/4001 and 2001/4001.Procedure.001, VAWA Rights and Options, and the Campus Safety and Security Handbook).

The College provides ongoing prevention and awareness programs for all students and employees. WDTC conducts a campaign, compliant with federal and state requirements, to educate the student and employee populations.

Methods of training and educating students and employees 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; and
- Partnering with state and local community organizations that provide outreach, support, crisis intervention, counseling and other resources to reporters 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.

The training includes –

- The College prohibits sexual harassment, including sexual violence, and other violence or threats of violence, and the College will take administrative action per policy regarding any accused individual within the jurisdiction of the College;

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- The College will provide a written explanation of student's or employee's rights and options when a student or employee reports to the College that the student or employee has been a victim of SA/DV/DV/S whether the offense occurred on- or of-campus;
- Relevant definitions including, but not limited to, the definitions of sexual harassment and consent;
- Policies apply equally to all students regardless of sex, 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;
- Review of and a compliance quiz for 2001/4001 Sexual Harassment – Title IX policy for WDC employees;
- How to report sexual violence and other crimes to WDC officials and/or local law enforcement;
- How to obtain services and support;
- Safe and positive bystander intervention options and the importance of taking action, when one can safely do so to prevent SA/DV/DV/S;
- 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, domestic violence, dating violence, and stalking;
- Consequences and sanctions for individuals who commit these crimes; and
- Knowledge of community resources including hotlines, shelters, advocacy groups, and support networks.

### ***Resources and Emergency External Reporting Options***

WDC is committed to treating all members of the community with dignity, care, and respect. All individuals are encouraged to seek the support of campus and community resources when SA/DV/DV/S occurs. These trained professionals can provide guidance in making decisions and providing information about available resources and procedural options. 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 (VP for Institutional Effectiveness and Student Success) – (605)718-2931

The following may also provide assistance at the direction of the Title IX Coordinator –

- Director of Compliance and Financial Aid – (605)718-2411
- Senior Human Resources Generalist – (605)718-2407

In all cases other than cases that fall under mandatory reporting laws, WDC staff, noted above, will maintain the privacy of an individual's information within the limited circle of those involved in the resolution of a complaint under Policy 2001/4001 Sexual Harassment. WDC is bound by mandatory

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reporting laws in certain situations, including the sexual abuse of a minor. Any WDTA 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 this information orally or in writing to the Title IX Coordinator. The Title IX Coordinator will immediately report this information to the state's attorney, the department of social services, the county sheriff, and/or the city police.

Information regarding SA/DV/DV/S may also be located on the college website at <https://www.wdt.edu/current-students/discrimination-and-harassment/> under the Sexual Harassment – Title IX section.

## Off-campus Resources

Off-campus options to obtain assistance and guidance confidentially (these outside options do not provide any information to the College):

- 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](http://www.wavi.org) – (605)341-4808
  - Ellsworth Sexual Assault Prevention & Response Office – <https://www.ellsworth.af.mil/Home/Support-Resources/Legal/> - (605)385-5233
  - Artemis House (Spearfish) – <https://www.artemishouse.org/> - (605)642-7825
- 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.)
  - Monument Health – <https://monument.health/> – (605)755-1000
  - Oyate Health Center – <https://www.oyatehealth.com/> - (605)355-2500
- Assistance can also be obtained through:
  - National Domestic Violence Hotline: <https://www.thehotline.org/> - 1(800)799-SAFE (7233) or Text "START" to 88788
  - National Domestic Sexual Assault Hotline/RAINN: [https://www.rainn.org/get-help-1\(800\)656-4673](https://www.rainn.org/get-help-1(800)656-4673)
  - Legal Momentum: <https://www.legalmomentum.org/>
  - Pandora's Project <https://pandys.org/>
  - National Domestic Violence Hotline – LGBTQ Communities: <https://www.thehotline.org/resources/abuse-in-lgbtq-communities/>
  - 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

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information to the College. Complainants are encouraged to contact the Title IX Coordinator so that the College can take appropriate action in these cases.

## Emergency and External Reporting Options

WDTC 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 to assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order and to begin a timely investigative and remedial response.

The College encourages all individuals to make a report to the VP for Institutional Effectiveness and Student Success who serves as the Title IX Coordinator and to local law enforcement. Reporting options are not mutually exclusive. Both internal and criminal reports may be pursued simultaneously.

The College will provide information about on- and off-campus resources and options for resolution. The College will assist in notifying law enforcement authorities if the victim chooses. Victims will not be pressured to report and may decline to notify law enforcement authorities.

- To file a criminal complaint with local law enforcement:
  - Rapid City Police Department, (605)394-4131 at 300 Kansas City Street, Rapid City, SD
  - Pennington County Sheriff, (605)394-6113 at 300 Kansas City Street, Rapid City, SD
  - Whitewood Police Department, (605)269-2550 at 912 Garfield Street, Whitewood, SD
  - Philip Police Department, (605)859-2850 at 140 S. Howard Avenue, Philip, SD
  - Hot Springs Police Department, (605)745-5200 at 201 N. River Street, Hot Springs, SD
- To disclose the incident confidentially and obtain services from the State of South Dakota, City of Rapid City, and Pennington County:
  - Sexual Assault Crisis Line: (605)341-2046
  - Domestic Violence Crisis Line: (605)341-4808
  - Additional disclosure and assistance options are catalogued by the South Dakota Network Against Family Violence and Sexual Assault: <https://sdnafvsa.com/home/> or by calling (800)430-SAFE (7233)

Any person who obtains a protection order, no contact-order, restraining order, or similar lawful orders issued by a criminal, civil, or tribal court should provide a copy to the VP for Institutional Effectiveness and Student Success who serves as the Title IX Coordinator. A complainant may then meet with the Title IX Coordinator to develop a safety action plan, which is a plan for the College and the victim to reduce the risk of harm while on campus or coming and going from campus.

South Dakota Codified Law 25-10-3.1 states persons entitled to apply for a protection order includes any person who is involved in one of the following relationships with the other party:

1. Spouse or former spouse;

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2. Is in a significant romantic relationship or has been in one during the past twelve months with the abusing party;
3. Has a child or is expecting a child with the abusing party;
4. Parent and child, including a relationship by adoption, guardianship, or marriage; or
5. Siblings, whether of the whole or half blood, including a relationship through adoption or marriage.

## ***Section 3 – Drugs and Alcohol***

### **Alcohol and Drug Policies**

WDTC is committed to a drug-free workplace and learning environment. WDTC believes in providing assistance to employees and students with alcohol and other drug concerns while upholding the law. WDTC will report all criminal alcohol and other drug violations to the appropriate law enforcement agencies and cooperate with state and federal investigations related to these matters.

### ***Policy 2012/4012 Drug-Free Schools and Communities***

Western Dakota Tech [Policy Number: 2012/4012](#)

#### DRUG-FREE SCHOOLS AND COMMUNITIES

##### **I. Purpose**

Western Dakota Technical College (WDTC) believes that the illegal use of drugs and alcohol presents a serious health and safety hazard to the College community and interferes with educational and occupational success. A person needs to feel secure to perform at a maximum level. Therefore, campus safety and security must be a concern of every student and employee at WDTC. Furthermore, drug use and alcohol abuse affect the entire campus community leading to an increase in drop-out rates, academic failure, disciplinary problems, and progression into addiction.

##### **II. General Statement of Policy**

- A. The College fully complies with the Drug Free School and Communities Act of 1989 to prohibit the illegal possession, consumption, and distribution of drugs and alcohol on College property, at College-controlled locations, during classes, and at activities officially sponsored by the College. Also, students and employees may not consume alcoholic beverages on College property, during classes, or in connection with activities officially sponsored by the College except by permission of the local board or designee, and only then, if of legal age to consume alcohol. The State of South Dakota sets 21 as the minimum age to purchase or possess any alcoholic beverage.

Furthermore, students and employees are prohibited from being on campus property while in an intoxicated state. Additionally, possession of empty alcohol beverage containers and drug paraphernalia is also prohibited. No student organization may sponsor any student-related activity at which alcoholic beverages are to be consumed.



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WDTTC supports all federal, state, and local ordinances pertaining to alcohol and drugs and will fully cooperate with law enforcement authorities to protect the students and employees of the College from the illegal possession, purchase, sale, and manufacture of controlled substances and alcohol.

For the purpose of this policy, drug includes all controlled substances, illegal or controlled mood-altering chemicals, all look-alike drugs, all chemicals that release toxic vapors, and any prescription or patent drugs except those medications prescribed by and under the supervision of a licensed physician in a manner consistent with WDTTC policy.

Although some forms of marijuana may be legal at the state level, marijuana is considered a Schedule I drug under federal law, even when recommended by a certified physician. Accordingly, students, employees, visitors, and guests, including those with a medical card, are prohibited from possessing, distributing, using, or being under the influence of marijuana on College property and in connection with its programs and activities off campus. Those caught in possession, using, or being under the influence of cannabis are subject to disciplinary action and possible legal action.

A violation of any law or WDTTC policy/rule regarding alcohol or drugs while on College property, at College-controlled locations, during classes, or at activities officially sponsored by the College is a violation of this policy and will be treated as a disciplinary matter by the College. The College will also refer offenders to the proper civil authorities. Regardless of whether the legal action is pursued by the College or outside agencies, disciplinary action will be taken by the College for violations of the law, College policies/rules, or College conduct regulations. All students and employees should be familiar with the Drug Free Schools and Communities policy and abide by it.

Employees must notify WDTTC's Human Resources Office in writing within five days of a conviction for a violation of criminal drug statute that occurs in the workplace.

- B. Sanctions for Violation or Non-compliance – Violations of this policy by employees will result in disciplinary actions that may include a warning, temporary suspension from duties with or without pay, or termination of employment. Disciplinary actions will be pursued consistent with existing policies and agreements. The nature and extent of these actions depend on a variety of factors, including the severity of any work rule violations, the pattern and frequency of observed substance related problems, past work record, or any other consideration which may be considered relevant by the College. The need for disciplinary action and the appropriate penalty for employees will be handled accordingly by the Human Resources Office and others as appropriate. Student drug and alcohol violations are addressed through the College's Student Code of Conduct Policy 4014 – located on the College's website at <https://www.wdt.edu/assets/docs/uploads/about/policies/4014.pdf> and the Student Resolution Policy 4015 - <https://www.wdt.edu/assets/docs/uploads/about/policies/4015.pdf>.
- C. Maintenance of Drug-Free Campus/Workplace – Good faith efforts on the part of WDTTC to establish and maintain a drug-free campus/workplace will include providing ongoing drug awareness educational programs and dissemination of drug awareness information for all

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members of the College community as well as implementation and strict enforcement of this policy.

The Human Resources Office and Student Success Center Staff or designees will coordinate ongoing drug education and awareness programs. Students and employees are expected to avail themselves of these programs and materials. Schedules and locations will be publicized in various College media and by individual notification.

- D. Known Health Risks – As part of the effort to create a drug-free campus/workplace, WDTC believes the College community should be educated about the physical and emotional health hazards the misuse of drugs and alcohol presents. WDTC provides information and educational programs on substance abuse throughout the year to students and employees. Listed below are some of the health risks associated with using/abusing alcohol and various drugs. (Please note that the dangers associated with substance abuse are not limited to only the conditions listed below.)

- Alcohol - Heart and liver damage; brain damage; death from overdose and accidents
- Marijuana/Hashish - Impaired memory perception, interference with psychological maturation, possible damage to lungs and heart, psychological dependence
- Cocaine - Intense psychological dependence, sleeplessness and anxiety, nasal passage damage, lung damage, heart damage/heart attack, and death from overdose
- Stimulants - Loss of appetite, hallucinations, paranoia, convulsions, brain damage, cancers of the lung, throat, mouth, death from overdose
- Depressants - Infection, addiction, loss of appetite, death from overdose, nausea, and has severe interaction with alcohol
- Narcotics - Addiction with severe withdrawal symptoms, loss of appetite, death from overdose
- Hallucinogens - Anxiety, depression, impaired memory, emotional breakdown, death from overdose
- Inhalants - Drastic weight loss, brain damage, liver and bone marrow damage, high risk of sudden death
- Opioids/Fentanyl – Intense, short term high with feelings of euphoria, slowed respiration, reduced blood pressure, nausea, fainting, & seizures. Overdose signs include changes in pupil size, cold/clammy skin, coma, and respiratory depression; do not touch the individual or substance.

Please contact the Human Resources Office or Student Success Center for additional information on the risks involved with the misuse of drugs and alcohol.

- E. Available Assistance – Employees are encouraged to utilize the confidential EAP when necessary. Information pertaining to the EAP is available in the Human Resources Office and posted in the distribution center.

Students are encouraged to contact the Student Success Coaches for assistance with drug and alcohol concerns. Community resources and confidential third-party counseling services are available.

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The South Dakota Department of Social Services maintains a statewide list of prevention and treatment programs. The list is available at

[https://dss.sd.gov/docs/behavioralhealth/services/List of Treatment agencies and services.pdf](https://dss.sd.gov/docs/behavioralhealth/services/List_of_Treatment_agencies_and_services.pdf)

## III. Definitions – None

## IV. Reporting Procedures

- A. Knowledge or having received notification of a violation of this policy by an employee shall immediately be reported to the Human Resources Office.
- B. Knowledge or having received notification of a violation of this policy by a student shall immediately be reported to the Student Success supervisor or VP for Institutional Effectiveness and Student Success.
- C. Application of the College's corrective discipline policy for violation of this policy and any other related questions should be referred to the Human Resources Office for employees and to the Student Success supervisor for students.

## V. Dissemination of Policy and Training

- A. This policy shall appear on the WDTC website on the policy page.
- B. New employees receive a copy of the policy at the time of their new employee orientation. All employees are required to read the policy and take a Drug and Alcohol Abuse Prevention Program (DAAPP) quiz upon hire and annually thereafter. Students are informed of the policy through the DAAPP notification upon enrollment and annually thereafter.

### Legal References:

Drug Free School and Communities Act of 1989  
South Dakota Codified Law 35-9-2  
South Dakota Codified Law Chapter 22-42

Board Approved 07/11/2019; Committee Reviewed 4/28/2021 (updated web link on 9/2/2021); Committee Reviewed 6/1/2022; Committee Reviewed 3/28/2023

### ***Student Sanctions for Violation of Policy 2012/4012***

Drug and alcohol violations are addressed through the College's Student Code of Conduct Policy 4014 - <https://www.wdt.edu/assets/docs/uploads/about/policies/4014.pdf> and the Student Resolution Policy 4015 - <https://www.wdt.edu/assets/docs/uploads/about/policies/4015.pdf>.

Violations of Policy 2012/4012 will be responded to in accordance with the seriousness and frequency of the offense. Any student displaying intoxicated behavior will immediately be referred to the Student Success supervisor or VP for Institutional Effectiveness and Student Success. Students found in violation

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of any of these policies will be subject to the following consequences:

1. The first offense will result in:
  - The student being removed from class and given options for transportation.
  - The student meeting with their Student Success Coach to discuss available campus and community resources.
  - If under 21, the student being required to attend at least one session, but up to three sessions, at West River Mental Health at WDTC's expense.
2. The second offense will result in:
  - The student being required to attend at least one session, but up to three sessions, at West River Mental Health at WDTC's expense.
  - The student being placed on conduct probation for the earlier of two full semesters (fall/spring) or until graduation.
3. The third offense will result in:
  - The student being suspended (conduct suspension) from WDTC for one full semester (fall/spring).
4. The fourth offense will result in:
  - The student being expelled (conduct expulsion) from WDTC.

## Drug and Alcohol Abuse Education Programs

As stated in Policy 5004, Western Dakota Tech complies with the Drug-Free Schools and Communities Act (DFSCA) and part 86 of the Department of Education's General Administrative Regulations through the Student Success Center and the Alcohol and Other Drug (AOD) Committee. The Student Success Center and the AOD Committee are responsible for developing, implementing, and reviewing the effectiveness of drug and alcohol abuse policies, the biennial review which measures the effectiveness of the AOD programs and ensures consistent application of disciplinary sanctions, and the education and prevention programs designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized activities.

Each student enrolled in a course for credit and each employee receives an electronic notification of the DAAPP through an email on an annual basis. The DAAPP is also distributed in a timely manner to all students and all employees who start or who are hired after the initial annual distribution date through email or orientation. The notification includes standards of conduct that prohibit the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees, legal sanctions under Federal, state, and local laws, a description of the health risks, a description of drug and alcohol counseling, treatment, rehabilitation programs, and a statement that WDTC will impose disciplinary sanctions on students and employees for violations and a description of those sanctions.

WDTC offers ongoing drug awareness educational programs and dissemination of drug awareness information for all members of the College community through the Student Success Center and Human Resources Office. Educational programming decisions are guided by the biennial review and the Alcohol and Other Drug (AOD) Committee with approval by the College President. Employees and students may contact the Human Resources Office or Student Success Center staff for additional information on the risks involved with the misuse of drugs and alcohol and services available for assistance.

Below is a list of resources and events that are available to both students and employees:

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- Educational drug and alcohol pamphlets are available in the Student Success Center.
- Students and staff are encouraged to refer students with signs of alcohol or substance abuse to the Student Success Center for support services. Employees that are in need of services are directed to Human Resources for support services.
- Counseling services are offered to students through referrals to a third-party agency.
- CampusWell, an online college student wellness magazine, is e-mailed to students monthly, printed and added to bathroom stalls, and is added to the Student Success Center social media content. Content contains alcohol and drug abuse awareness material.
- Signs are in place at each entrance informing people that WDTC is an alcohol, drug, tobacco, and weapons-free campus.
- Current listing of local and state providers of alcohol and other drug rehabilitation and counseling treatment is available through the 211 directory.
- Safe Rides Home Program provides free taxi service for students unable to drive safely – funded by the SD Office of Highway Safety.
- Informational and social norming posters, brochures, and giveaways with prevention messages are made available multiple times per year.
- Employee training is conducted on the Employee Assistance Program (EAP), which could be used for many personal issues including drug and alcohol abuse.
- Ombudspersons are available as a resource for employees who are seeking assistance with a drug or alcohol problem.
- Alliance for Substance Abuse Prevention hosts an information table display on a variety of substances and resources at the start of each semester including give-away materials and brochures.
- A compliance table is hosted during Jumpstart orientation that includes policies on tobacco-free campus, code of conduct, weapon-free campus, and other resources to inform students of their rights and responsibilities as part of our information fair for all new students.
- In collaboration with the Alliance for Substance Abuse prevention, a climate survey is administered to all students to gauge substance use, perception of other student substance use, and knowledge of AOD policies, procedures, and programming. Survey results are provided to the AOD committee for review.
- Each spring semester the Student Success Center hosts an Alcohol and Other Drug Poster campaign.
- Drunk Driving Simulation events are held to simulate a drunk driving experience.

The College's DAAPP is provided in the Campus Safety and Security Handbook located on the college's website at <https://www.wdt.edu/assets/docs/uploads/consumer-information/campus-safety-and-security-handbook.pdf> and includes information as follows:

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1. Standards of conduct that prohibit the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees
2. Legal sanctions under Federal, state, and local laws
3. A description of the health risks
4. A description of drug and alcohol counseling, treatment, rehabilitation programs
5. A statement that the college will impose disciplinary sanctions on students and employees for violations with a description of those sanctions



***2021-2023 Crime Statistics Summary***  
***January 1, 2021 to December 31, 2023***

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<b>Criminal Offenses – On campus*</b>			
<b>Criminal offense</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Murder/Non-negligent manslaughter	0	0	0
Negligent manslaughter	0	0	0
Rape	0	0	0
Fondling	1	0	1
Incest	0	0	0
Statutory rape	0	0	0
Robbery	0	0	0
Aggravated assault	0	0	0
Burglary	1	0	0
Motor vehicle theft	0	0	0
Arson	0	0	0

\*Western Dakota Technical College (WDTA) does not have on-campus student housing facilities. When WDTA has on-campus student housing, the College will identify, of the crimes that occurred on campus, the number that took place in the on-campus student housing.

<b>Criminal Offenses – Non-campus</b>			
<b>Criminal offense</b>	<b>2021*</b>	<b>2022*</b>	<b>2023**</b>
Murder/Non-negligent manslaughter	0	0	0
Negligent manslaughter	0	0	0
Rape	0	0	0
Fondling	0	0	0
Incest	0	0	0
Statutory rape	0	0	0
Robbery	0	0	0
Aggravated assault	0	0	0
Burglary	0	0	0
Motor vehicle theft	0	0	0
Arson	0	0	0

\*Hale Hall, 1016 Meade Street, Whitewood, SD 57793

\*\* Additional Locations - Hale Hall, 1016 Meade Street, Whitewood, SD 57793 and 330 Scottie Avenue, Philip, SD 57567;  
Off-Campus Housing, 2401 Mt. Rushmore Rd, Rapid City, SD 57701



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<b>Criminal Offenses – Public Property</b>			
<b>Criminal offense</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Murder/Non-negligent manslaughter	0	0	0
Negligent manslaughter	0	0	0
Rape	0	0	0
Fondling	0	0	0
Incest	0	0	0
Statutory rape	0	0	0
Robbery	0	0	0
Aggravated assault	0	0	0
Burglary	0	0	0
Motor vehicle theft	0	0	0
Arson	0	0	0

<b>Hate Crimes* – On Campus**</b>			
<b>Criminal offense</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Murder/Non-negligent manslaughter	0	0	0
Rape	0	0	0
Fondling	0	0	0
Incest	0	0	0
Statutory rape	0	0	0
Robbery	0	0	0
Aggravated assault	0	0	0
Burglary	0	0	0
Motor vehicle theft	0	0	0
Arson	0	0	0
Simple Assault	0	0	0
Larceny-theft	0	0	0
Intimidation	0	0	0
Destruction/damage/vandalism of property	0	0	0

\*If a Hate Crime is included in the crime statistics, it will be reported by category of bias to include race, gender, gender identity, religion, sexual orientation, ethnicity, national origin, and disability.

\*\*WDTC does not have on-campus student housing facilities.

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<b>Hate Crimes* – Non-campus</b>			
<b>Criminal offense</b>	<b>2021**</b>	<b>2022**</b>	<b>2023***</b>
Murder/Non-negligent manslaughter	0	0	0
Rape	0	0	0
Fondling	0	0	0
Incest	0	0	0
Statutory rape	0	0	0
Robbery	0	0	0
Aggravated assault	0	0	0
Burglary	0	0	0
Motor vehicle theft	0	0	0
Arson	0	0	0
Simple Assault	0	0	0
Larceny-theft	0	0	0
Intimidation	0	0	0
Destruction/damage/vandalism of property	0	0	0

\*If a Hate Crime is included in the crime statistics, it will be reported by category of bias to include race, gender, gender identity, religion, sexual orientation, ethnicity, national origin, and disability.

\*\*Hale Hall, 1016 Meade Street, Whitewood, SD 57793

\*\*\* Additional Locations - Hale Hall, 1016 Meade Street, Whitewood, SD 57793 and 330 Scottie Avenue, Philip, SD 57567;  
Off-Campus Housing, 2401 Mt. Rushmore Rd, Rapid City, SD 57701

<b>Hate Crimes* – Public Property</b>			
<b>Criminal offense</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Murder/Non-negligent manslaughter	0	0	0
Rape	0	0	0
Fondling	0	0	0
Incest	0	0	0
Statutory rape	0	0	0
Robbery	0	0	0
Aggravated assault	0	0	0
Burglary	0	0	0
Motor vehicle theft	0	0	0
Arson	0	0	0
Simple Assault	0	0	0
Larceny-theft	0	0	0
Intimidation	0	0	0
Destruction/damage/vandalism of property	0	0	0

\*If a Hate Crime is included in the crime statistics, it will be reported by category of bias to include race, gender, gender identity, religion, sexual orientation, ethnicity, national origin, and disability.

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Violence Against Women Act Offenses On Campus*			
Crime	2021	2022	2023
Domestic violence	0	0	0
Dating violence	0	0	0
Stalking	1	0	0

\*WDTC does not have on-campus student housing facilities. When WDTC has on-campus student housing, the College will identify, of the crimes that occurred on campus, the number that took place in the on-campus student housing.

Violence Against Women Act Offenses Non-campus			
Crime	2021*	2022*	2023**
Domestic violence	0	0	0
Dating violence	0	0	0
Stalking	0	0	0

\* Hale Hall, 1016 Meade Street, Whitewood, SD 57793

\*\*Additional Locations - Hale Hall, 1016 Meade Street, Whitewood, SD 57793 and 330 Scottie Avenue, Philip, SD 57567;  
Off-Campus Housing, 2401 Mt. Rushmore Rd, Rapid City, SD 57701

Violence Against Women Act Offenses Public Property			
Crime	2021	2022	2023
Domestic violence	0	1	0
Dating violence	0	0	0
Stalking	0	0	0

Arrests – On Campus*			
Crime	2021	2022	2023
Weapons: carrying, possessing, etc.	0	0	0
Drug abuse violations	0	0	0
Liquor law violations	0	0	0

\*WDTC does not have on-campus student housing facilities. When WDTC has on-campus student housing, the College will identify, of the crimes that occurred on campus, the number that took place in the on-campus student housing.

Arrests – Non-campus			
Crime	2021*	2022*	2023**
Weapons: carrying, possessing, etc.	0	0	0
Drug abuse violations	0	0	0
Liquor law violations	0	0	0

\* Hale Hall, 1016 Meade Street, Whitewood, SD 57793

\*\*Additional Locations - Hale Hall, 1016 Meade Street, Whitewood, SD 57793 and 330 Scottie Avenue, Philip, SD 57567;  
Off-Campus Housing, 2401 Mt. Rushmore Rd, Rapid City, SD 57701

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Arrests – Public Property			
Crime	2021	2022	2023
Weapons: carrying, possessing, etc.	0	0	0
Drug abuse violations	0	0	0
Liquor law violations	0	0	0

Disciplinary Actions – On Campus*			
Crime	2021	2022	2023
Weapons: carrying, possessing, etc.	0	0	0
Drug abuse violations	0	0	0
Liquor law violations	0	0	0

\*WDTC does not have on-campus student housing facilities. When WDTC has on-campus student housing, the College will identify, of the crimes that occurred on campus, the number that took place in the on-campus student housing.

Disciplinary Actions – Non-campus			
Crime	2021*	2022*	2023**
Weapons: carrying, possessing, etc.	0	0	0
Drug abuse violations	0	0	0
Liquor law violations	0	0	0

\* Hale Hall, 1016 Meade Street, Whitewood, SD 57793

\*\*Additional Locations - Hale Hall, 1016 Meade Street, Whitewood, SD 57793 and 330 Scottie Avenue, Philip, SD 57567;  
Off-Campus Housing, 2401 Mt. Rushmore Rd, Rapid City, SD 57701

Disciplinary Actions – Public Property			
Crime	2021	2022	2023
Weapons: carrying, possessing, etc.	0	0	0
Drug abuse violations	0	0	0
Liquor law violations	0	0	0

Unfounded Crimes			
	2021	2022	2023
Total unfounded crimes	0	0	0

## **2024 Annual Security Report**

### ***APPENDIX 1: POLICY 2001/4001 SEXUAL HARASSMENT – TITLE IX***

## SEXUAL HARASSMENT – TITLE IX

ATIXA 2020 MODEL POLICY AND PROCEDURES

USE AND ADAPTATION OF THIS MODEL WITH CITATION TO ATIXA IS PERMITTED THROUGH A LIMITED LICENSE TO WDTC.  
ALL OTHER RIGHTS RESERVED.

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### **1. Definitions**

- *Advisor* means a person, who may be, but is not required to be an attorney, chosen by a party or appointed by the institution to accompany the party to meetings related to the Grievance Process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Appeal Decision-maker* refers to those who have decision-making authority within Appeals as part of the Grievance Process.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. A Complainant must be participating in or attempting to participate in a Western Dakota Technical College (WDTC) education program or activity at the time of filing the Formal Complaint.
- *Day* means Monday through Friday, except for holidays and other times when WDTC's administrative offices are closed.
- *Decision-maker(s)* means the Hearing Decision-maker, the Appeal Decision-maker, the Disciplinary Sanctions Decision-maker, or any combination thereof.
- *Disciplinary Sanction* means a consequence imposed by WDTC on a Respondent who is found to have violated this policy<sup>1</sup>. Disciplinary sanctions are not supportive measures, may be punitive, and may burden the Respondent.
- *Disciplinary Sanction Decision-maker* refers to those who have decision-making authority in determining disciplinary sanctions as part of the Grievance Process.
- *Education program or activity* means locations, events, or circumstances within the United States where WDTC exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by WDTC.
- *Final Determination* means a conclusion by the preponderance of the evidence standard that the alleged conduct did or did not violate policy.

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<sup>1</sup> 2001/4001 policy and procedures are tightly woven. Therefore, any reference to policy or procedure may be referring to the 2001/4001 policy and procedures as a whole.

- *Finding* means a conclusion by the preponderance of the evidence standard that the conduct did or did not occur as alleged (as in a “finding of fact”).
- *Formal Complaint* means a document submitted and signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that WDTC investigate the allegation. At the time of filing the Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of WDTC.
- *Grievance Process* also referred to as “Process A,” means the resolution process designated by WDTC to address conduct that falls within this policy, and which complies with the requirements of the Title IX regulations (34 CFR §106.45). The Grievance Process/Process A is detailed in 2001/4001.Procedure.001.
- *Grievance Process Pool* includes any Investigators, Informal Resolution Facilitators, Hearing Decision-makers, Appeal Decision-makers, and Sanctioning Decision-makers who may perform any or all of these roles (though not at the same time or with respect to the same case).
- *Hearing Decision-maker* refers to those who have decision-making authority within Hearings as part of the Grievance Process.
- *Investigator* means the person or persons charged by WDTC with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence as part of the Grievance Process.
- *Obligated Reporter* means an employee of WDTC who is obligated by policy to share knowledge, Notice, and/or reports of harassment with the Title IX Coordinator. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as an Official with Authority.
- *Notice* (actual knowledge) means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of sexual harassment or allegations of sexual harassment. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of WDTC with actual knowledge is the Respondent.
- *Official with Authority* (OWA) means an employee of WDTC explicitly vested with the authority to implement corrective measures for sexual harassment on behalf of WDTC.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Preponderance of the Evidence* means more likely to have occurred than not. Under the preponderance standard, the burden of proof is met when there is a greater than a 50% chance that something occurred.
- *Process A* means the Grievance Process used with this policy.

- *Process B* means any process designated by WDC to apply only when Process A does not, as determined by the Title IX Coordinator.
- *Remedies* are post-finding actions, where a determination of responsibility of sexual harassment has been made against the Respondent in accordance with the Grievance Process, directed to the Complainant to restore or preserve equal access to WDC's education program or activity. Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.
- *Respondent* means an employee, student, or organization that has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- *Resolution* means the result of the Grievance Process.
- *Sexual Harassment* means conduct on the basis of sex that satisfies one or more of the following:
  1. An employee of WDC conditioning the provision of an aid, benefit, or service of WDC on an individual's participation in unwelcome sexual conduct (i.e. quid pro quo);
  2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to WDC's education program or activity; or
  3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

[See Section 16](#), for greater detail.

- *Supportive measures* means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to WDC's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or WDC's educational environment or deter sexual harassment.
- *Title IX Coordinator* is at least one official designated by WDC to ensure compliance with Title IX and WDC's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Team* refers to the Title IX Coordinator and any member of the Grievance Process Pool.

## **2. Rationale for Policy**

WDC is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from sexual harassment. To ensure compliance with federal and state civil rights laws, WDC has developed this policy and related procedures to provide a prompt, fair, and impartial process for those involved in an allegation of sexual harassment as defined by this policy. WDC



values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties during what is often a difficult time for all those involved.

### **3. Applicable Scope**

This policy and associated procedures apply to all allegations of sexual harassment as defined in this policy occurring in connection with WDTC's education program or activity within the United States. Alleged incidents of sexual discrimination or harassment not covered by this policy may be covered under other WDTC policies.

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 WDTC, and the Respondent must be a member of the WDTC community. This community includes, but is not limited to, students,<sup>2</sup> student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, and invitees.

### **4. Title IX Coordinator**

The VP for Institutional Effectiveness and Student Success serves as the Title IX Coordinator and oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating WDTC's efforts related to the intake, the implementation of supportive measures, and the Grievance Process. The Title IX Coordinator also has the primary responsibility for the design and implementation of remedies to stop, remediate, and prevent sexual harassment prohibited under this policy.

Reports of alleged sex discrimination or sexual harassment and inquiries or concerns regarding this policy may be made internally to:

Kelly Oehlerking  
Title IX Coordinator  
Western Dakota Technical College  
800 Mickelson Drive, Office D206  
Rapid City, SD 57703  
(605) 718-2931  
Email: [Kelly.Oehlerking@wdt.edu](mailto:Kelly.Oehlerking@wdt.edu)

### **5. Independence and Conflict-of-Interest**

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures.

The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

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<sup>2</sup> For the purpose of this policy, WDTC defines "student" as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with WDTC.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the WDTC President. Concerns of bias or a potential conflict of interest by a member of the Grievance Process Pool should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to the WDTC President. Reports of misconduct committed by a member of the Grievance Process Pool should be reported to the Title IX Coordinator.

## **6. Required Training of the Title IX Team<sup>3</sup>**

The Title IX Team consists of the Title IX Coordinator and the Grievance Process Pool (the Pool) who may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent. The Title IX Coordinator is trained annually, and Pool members will be trained in their role before participating in the Grievance Process.

All training materials for the Title IX Coordinator and the Pool must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints of sexual harassment. Training materials will be posted on the Title IX page of the WDTC website.

Training for the Title IX Coordinator and the Pool will include where appropriate for the role:

- The application of WDTC's Sexual Harassment – Title IX Policy and Procedures (2001/4001)
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- The definition of sexual harassment as it applies in this Policy
- The scope of WDTC's education program or activity
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- Issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant
- Reporting, confidentiality, and privacy requirements
- How to use any technology to be used at a live hearing

## **7. Notice and Formal Complaints of Sexual Harassment**

**Notice** - Any person may report (give Notice of) sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the WDTC Title IX Coordinator, or by any other means that results in the WDTC Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number, electronic mail address, or by mail to the office address listed for the WDTC Title IX Coordinator in section 4. Reports may also be made to an Official with Authority (see section 18). Upon Notice, WDTC's Title IX Coordinator will

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<sup>3</sup> The Title IX Coordinator and other applicable WDTC employees are trained annually as required by VAWA.

immediately contact the Complainant, if identified, to offer supportive measures and explain the process to file a Formal Complaint.

Anonymous reports are accepted but can give rise to a need to investigate. WDTC tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report. Because Notice carries no obligation to a Complainant to file a Formal Complaint, and as WDTC respects Complainant requests to dismiss Formal Complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows WDTC to discuss and/or provide supportive measures.

**Formal Complaint** - A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by mail, or by electronic mail by using the contact information for the Title IX Coordinator in section 4. A Formal Complaint must contain the Complainant's physical or digital signature and requests that WDTC investigate the allegations and initiate the Grievance Process. If a Formal Complaint is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly. Formal Complaints may also be filed with an Official with Authority (see section 18).

The Title IX Coordinator may sign a Formal Complaint when it is deemed necessary for the safety and security of the campus. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.

## **8. Supportive Measures**

Upon Notice or a Formal Complaint of alleged sexual harassment, WDTC's Title IX Coordinator will promptly contact the Complainant to offer and implement appropriate and reasonable supportive measures and to provide the VAWA Rights and Options literature<sup>4</sup>. The Title IX Coordinator will work with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented and inform the Complainant that supportive measures are available with or without filing a Formal Complaint. At the time that supportive measures are offered, WDTC will inform the Complainant, in writing, of the process to file a Formal Complaint with WDTC either at that time or in the future, if they have not done so already. If a Complainant refuses supportive measures, the Title IX Coordinator will document the refusal.

Supportive measures may be offered to a Respondent upon the filing of a Formal Complaint.

All supportive measures offered and implemented will be documented. WDTC will maintain the privacy of the supportive measures, provided that privacy does not impair WDTC's ability to provide the supportive measures. WDTC will act to ensure as minimal an academic impact on the parties as possible. WDTC will implement supportive measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services

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<sup>4</sup> VAWA Rights and Options literature is shared when a student or employee reports to the college that they have been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred in the jurisdiction of this policy or not. The VAWA Rights and Options literature will be provided by the Title IX Coordinator or their designee.

- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering work arrangements for employees or student-employees
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Be-On-the-Lookout (BOLO) orders
- No contact orders
- Timely warnings
- Class schedule modifications
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

### **9. Emergency Removal**

Nothing contained in this policy shall preclude WDTC from removing a student Respondent entirely or partially from its education program or activity on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

2001/4001.Procedure.001 describes the Emergency Removal process. A Formal Complaint and Grievance Process do not need to be in place for an Emergency Removal to occur.

Where the Respondent is a non-student employee, the employee may be placed on administrative leave (with or without pay) while a Grievance Process is pending, without needing to meet the emergency removal standards.

### **10. Promptness**

All allegations are acted upon promptly by WDTC once it has received Notice or a Formal Complaint. Formal Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but WDTC will avoid all undue delays within its control.

Any time the general timeframes for the Grievance Process outlined in WDTC procedures will be delayed, WDTC will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

### **11. Privacy**

Every effort is made by WDTC to preserve the privacy of reports. WDTC will not share the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has

made a report or Formal Complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sexual harassment, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or other grievance proceeding arising under these policies and procedures.

For the purpose of this policy, privacy and confidentiality have distinct meanings.

- Privacy means that information related to Notice, a Formal Complaint, supportive measures, and the Grievance Process will be shared with a limited number of WDC officials and the Title IX Team who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees and Title IX Team members who are involved in WDC’s response to Notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in WDC’s FERPA Policy. The privacy of employee records will be protected in accordance with Human Resources processes.
- Confidentiality exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, and others, with their patients, clients, and parishioners.

WDC reserves the right to determine which WDC officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA). Information will be shared as necessary with Investigators, Advisors, Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties’ rights and privacy.

WDC may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

Confidentiality and obligated reporting are addressed more specifically in section 18.

## **12. Jurisdiction of WDC**

This policy applies to locations, events, or circumstances within the United States where WDC exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by WDC.

If the Respondent is unknown or is not a member of the WDC community, the Title IX Coordinator will assist the Complainant with supportive measures and, when criminal conduct is alleged, in contacting local law enforcement if the individual would like to file a police report.

All vendors serving WDC through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

### **13. Time Limits on Reporting**

There is no time limitation on providing Notice/Formal Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to WDTC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on Notice/Formal Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When Notice/Formal Complaint is affected by significant time delay, WDTC will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of Notice/Formal Complaint.

### **14. Online Sexual Harassment**

The policies of WDTC are written and interpreted broadly to include online harassment, when the harassment occurs in or has an effect on WDTC's education program or activity, or use WDTC networks, websites, email, technology, or equipment.

Any online posting or other electronic communication occurring completely outside of the WDTC's control (e.g., not occurring in an education program or activity or not on WDTC networks, websites, technology, equipment, or using WDTC email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial disruption to WDTC's education program or activity.

Although WDTC may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to WDTC, it will engage in a variety of means to address and mitigate the effects, and supportive measures will be offered to the Complainant.

### **15. Policy on Nondiscrimination**

WDTC will respond promptly to allegations of sexual harassment in a manner that is not deliberately indifferent. WDTC will treat Complainants and Respondents equitably by offering supportive measures to every Complainant and following the Grievance Process before imposition of any disciplinary sanctions or other actions that are not supportive measures, against a Respondent. WDTC will pursue every Formal Complaint filed by a Complainant or signed by a Title IX Coordinator using the Grievance Process and will effectively implement remedies designed to restore or preserve a Complainant's equal educational access any time a Respondent is found responsible for sexual harassment.

WDTC will not tolerate racism, discrimination, harassment, exploitation or victimization of students, school employees, non-employees, or any person who is an invitee of WDTC for any reason, including but not limited to race, color, ethnic background, national origin, pregnancy, marital status, religion, creed, age, sex, citizenship, political affiliation, mental and/or physical challenge, disability, sexual orientation, genetic information, gender identity, gender expression, status as a veteran, or any other status protected under applicable federal, state or local law. WDTC 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 or complaints regarding the non-discrimination policies: VP for Institutional Effectiveness and Student Success who serves as the Title IX Coordinator.

## **16. Definitions of Sexual Harassment, Force, Coercing, Consent, and Incapacitation**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of South Dakota regard sexual harassment as an unlawful discriminatory practice.

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

### **Sexual Harassment**

WDTC has adopted the following definition of sexual harassment, as applied to this policy, in order to address the unique environment of an academic community.

***Sexual Harassment*** means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of WDTC conditioning<sup>5</sup> the provision of an aid, benefit, or service of WDTC on the individual's participation in unwelcome sexual conduct. (i.e. quid pro quo)
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to WDTC's education program or activity.<sup>6</sup>
3. Sexual assault meaning a sex offense as defined below.
  - a) Rape (Except Statutory 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 victim, including instances where the victim is incapable of giving consent because of their temporary or permanent mental incapacity.
  - b) 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<sup>7</sup> or because of their temporary or permanent mental incapacity.
  - c) Incest – Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited<sup>8</sup> by law.
  - d) Statutory Rape – Sexual intercourse with a person who is under the statutory age<sup>9</sup> of consent.

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<sup>5</sup> Implicitly or explicitly.

<sup>6</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

<sup>7</sup> Sexual contact consent age requirements are in South Dakota Codified Law [22-22-7](#).

<sup>8</sup> South Dakota Codified law [25-1-6](#) covers incestuous marriages.

<sup>9</sup> South Dakota Codified Law [22-22-1](#) includes "victim is less than 13 years old" or "the victim is at least 13 years old, but is less than 16 years old, and the offender is at least three years older than the victim".

4. Dating Violence meaning violence committed by a person who is in 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 the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition—

- 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.
5. Domestic Violence meaning felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction<sup>10</sup> receiving grant funding, by a person who –
    - a) is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
    - b) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
    - c) shares a child in common with the victim; or
    - d) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction<sup>11</sup>.
  6. Stalking<sup>12</sup> meaning engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to
    - a) Fear for the person's safety or the safety of others; or
    - b) Suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

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<sup>10</sup> South Dakota Codified Law [25-10-1](#) defines domestic violence as follows: "Domestic abuse," physical harm, bodily injury, or attempts to cause physical harm or bodily injury, or the infliction of fear of imminent physical harm or bodily injury when occurring between persons in a relationship described in § [25-10-3.1](#). Any violation of § [25-10-13](#) or chapter [22-19A](#) or any crime of violence as defined in subdivision [22-1-2\(9\)](#) constitutes domestic abuse if the underlying criminal act is committed between persons in such a relationship.

<sup>11</sup> As defined in [25-10-3.1](#) persons in a relationship include: (1) Spouse or former spouse; (2) Is in a significant romantic relationship or has been in one during the past twelve months with the abusing party; (3) Has a child or is expecting a child with the abusing party; (4) Parent and child, including a relationship by adoption, guardianship, or marriage; or (5) Siblings, whether of the whole or half blood, including a relationship through adoption or marriage.

<sup>12</sup> Non-sex based stalking falling in the jurisdiction of this policy will use 2001/4001.Procedure.001 – Grievance Process – Process A for complaint resolution.



- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

WDTC reserves the right to impose any level of disciplinary sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

### **Force, Coercion, Consent, and Incapacitation**<sup>13</sup>

As used in the offenses above, the following definitions and understandings apply:

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

#### ***Consent is:***

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

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<sup>13</sup> The state definition of consent, which is applicable to criminal prosecutions for sex offenses in a state may differ from the definition used on campus to address policy violations. Included for Clery/VAWA Sec. 304 compliance purposes.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on WDTC to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM<sup>14</sup> or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so WDTC’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

***Incapacitation:*** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

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<sup>14</sup> Bondage, discipline/dominance, submission/sadism, and masochism.

## **17. Retaliation**

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. WDTC will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

WDTC and any member of WDTC's community are prohibited from taking materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or 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 under this policy.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this policy, constitutes retaliation.

Filing a Formal Complaint within Process B could be considered retaliatory if those charges could be applicable under Process A, when the Process B charges are made for the purpose of interfering with or circumventing any right or privilege provided afforded within Process A that is not provided by Process B. Therefore, WDTC vets all Formal Complaints carefully to ensure this does not happen and to assure that Formal Complaints are tracked to the appropriate process.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination under Process B if Process A is not applicable as addressed in 2001/4001.Procedure.001.

## **18. Reporting Options**

In order to make informed choices, it is important to be aware of confidentiality and reporting requirements when consulting campus resources.

### **a. Title IX Coordinator**

Any person may report (give Notice of) sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex

discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the WDTC Title IX Coordinator in section 4 of this policy. Such a report may be made at any time (including during non-business hours) by using the telephone number, electronic mail address, or by mail to the office address listed for the WDTC Title IX Coordinator.

**b. Official with Authority (OWA)**

Any person may report (give Notice of) sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail to an OWA to include the following:

- WDTC President
- VP for Institutional Effectiveness and Student Success
- VP for Teaching and Learning
- VP for Finance and Operations
- VP for Data Strategy and Enrollment Management
- Senior Human Resources Generalist
- Director of Compliance and Financial Aid

**c. Confidential Resources**

If a Complainant would like the details of an incident to be kept confidential and the incident not to be reported to the Title IX Coordinator or to an OWA to trigger action under this policy, the Complainant may do the following:

- Students may request to speak to a Licensed Professional Counselor through their Student Success Coach without revealing the alleged sexual harassment. If the student informs the Student Success Coach of the alleged sexual harassment, the Student Success Coach will be obligated to inform the Title IX Coordinator.
- Non-student employees may utilize the WDTC Employee Assistance Plan.
- Complainants may also identify community resources on the Title IX page of the WDTC website. Community resources may include:
  - Licensed professional counselors and other medical providers
  - Local rape crisis counselors
  - Domestic violence resources
  - Local or state assistance agencies
  - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

#### **d. Obligated Reporter**

Obligated Reporters are WDC employees who are expected to report actual or suspected sexual harassment to the Title IX Coordinator or to an OWA immediately upon knowledge. Obligated Reporters must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

The following are designated by WDC as Obligated Reporters:

- Supervisors of WDC employees (does not include supervisors of student employees)
- Faculty and Adjunct Faculty
- Student Success Center Staff
- Ombudspersons
- WDC Club Advisors

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide “knowledge” that must be reported to the Title IX Coordinator or an OWA by Obligated Reporters, unless the Complainant clearly indicates that they desire a report to be made or seek a specific response from WDC.

Failure of an Obligated Reporter, as described above in this section, to report an incident of sexual harassment of which they become aware is a violation of WDC policy and can be subject to disciplinary action for failure to comply. If an Obligated Reporter fails to report an incident of sexual harassment of which they become aware of to the Title IX Coordinator or an OWA, WDC is not on Notice.

Though this may seem obvious, when an Obligated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though WDC is technically not on Notice when a harasser is also an Obligated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that an Obligated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

#### **19. When a Complainant Does Not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a Formal Complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether WDC proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a Formal Complaint to initiate a grievance process. The Title IX Coordinator’s decision should be based on a compelling risk to health and/or safety that requires WDC to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of

weapons, and/or violence. WDTC may also be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and WDTC's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written Formal Complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When WDTC proceeds, the Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation.

Note that WDTC's ability to remedy and respond to Notice may be limited if the Complainant does not want WDTC to proceed with a Formal Complaint. The goal is to provide the Complainant with as much control over the process as possible, while balancing WDTC's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow WDTC to honor that request, WDTC will offer supportive measures to the Complainant, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date. Upon making a Formal Complaint, a Complainant has the right, and can expect, to have allegations taken seriously by WDTC, and to have the incidents investigated and properly resolved through the Grievance Process. Please consider that delays may cause limitations on access to evidence or may present issues with respect to the status of the parties.

## **20. Federal Timely Warning Obligations**

Parties reporting sexual assault, dating violence, domestic violence, and/or stalking should be aware that under the Clery Act, WDTC must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

WDTC will 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 potential danger.

## **21. False Allegations and Evidence**

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under WDTC policy.

## **22. Amnesty for Complainants and Witnesses**

WDC community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to WDC officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of WDC community that Complainants choose to report misconduct to WDC officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, WDC maintains a practice of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students and employees within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to a Respondent with respect to a Complainant.

## **23. External Administrative Contact Information**

Inquiries may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW, Washington, D.C. 20202-1100  
Customer Service Hotline: (800) 421-3481  
Facsimile: (202) 453-6012; TDD: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

The EEOC has jurisdiction over Title IX Employment Claims. For Title IX concerns involving employees, inquiries may be made externally to:

Minneapolis Area Office	Phone: 612-552-7306
Towle Building	TTY: 1-800-669-6820
330 South Second Avenue, Suite 720	ASL Video Phone: 844-234-5122
Minneapolis, MN 55401-2224	

## **24. Revision of this Policy and Related Procedures**

This Policy and related procedures supersede any previous policy(ies) addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX

Coordinator. WDTC reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

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

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

#### Legal references:

Title IX of the US Education Amendments of 1972; 34 CFR Part 106; 20 U.S.C. 1092(f)(6)(A)(v); 34 U.S.C. 12291(a)(10); 34 U.S.C. 12291(a)(8); U.S.C. 12291(a)(30); Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act); Violence Against Women Act (VAWA); Family Educational Rights and Privacy Act (FERPA); 20 U.S.C. 1232g; FERPA regulations; 34 CFR part 99

Board Approved 8/12/2020; Committee Reviewed 9/25/2020; Committee Reviewed 8/1/2021 (Title IX Coordinator updated 7/1/2022); Committee Reviewed 8/26/2022 (Title IX Coordinator and titles updated 6/5/2023); (HR title update 8/29/24)

ATIXA 2020 MODEL POLICY AND PROCEDURES  
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## **2024 Annual Security Report**

### ***APPENDIX 2: PROCEDURES 2001/4001 SEXUAL HARASSMENT – TITLE IX GRIEVANCE PROCESSES***

## GRIEVANCE PROCESS – PROCESS A<sup>1</sup>

ATIXA 2020 INTERIM MODEL SEXUAL HARASSMENT POLICIES AND PROCEDURES  
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### 1. **Definitions**

See Policy 2001/4001

### 2. **Overview**

If a Complainant files a Formal Complaint requesting investigation of allegations of sexual harassment<sup>2</sup> against a Respondent, Western Dakota Technical College (WDTC) will initiate the Grievance Process known as Process A.

Process A may also be used to address collateral misconduct (e.g., retaliation, vandalism, physical abuse of another) arising from the investigation of or occurring in conjunction with the reported alleged sexual harassment covered under Policy 2001/4001. All other allegations of misconduct unrelated to incidents covered by Policy 2001/4001 will be addressed through procedures described in other policies, procedures, or handbooks.

The following items pertain to the overall Grievance Process.

#### a) **Advisor**

WDTC will not limit the choice or presence of an Advisor ([Appendix A](#)) for either the Complainant or Respondent in any meeting or grievance proceeding; however, WDTC may establish restrictions regarding the extent to which the Advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.

When WDTC provides the parties the opportunity to have someone other than their Advisor also present during a grievance proceeding, WDTC will provide the parties with the same opportunities.

#### b) **Consolidation of Formal Complaints**

WDTC may consolidate Formal Complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or

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<sup>1</sup> 2001/4001 policy and procedures are tightly woven. Therefore, any reference to policy or procedure may be referring to the 2001/4001 policy and procedures as a whole. It is important to use Policy 2001/4001 in conjunction with this procedure, and not to use this procedure as a stand-alone document.

<sup>2</sup> Grievance Process – Process A will also be used for all non-sex based stalking per VAWA.

by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a Grievance Process involves more than one Complainant or more than one Respondent, references in this procedure to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

**c) Counterclaims**

WDTC is obligated to ensure that the grievance process is not abused for retaliatory purposes. WDTC permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the Grievance Process. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator.

When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of Policy 2001/4001 and/or Policy 2005/4005.

**d) Disciplinary Sanctions**

Disciplinary sanctions are consequences that may be imposed by WDTC on a Respondent who is found to have violated this policy. Disciplinary sanctions may be punitive and may burden the Respondent. Disciplinary sanctions cannot be the same as the supportive measures offered by WDTC.

See [Appendix B](#) for the determination, implementation, and types of disciplinary sanctions.

**e) Disabilities Accommodations in the Resolution Process**

WDTC is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to WDTC’s resolution process.

Anyone needing such accommodations or support should contact the Disability Services Office, which will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

**f) Emergency Removal**

**Student Respondent** - WDTC can act to remove a student Respondent entirely or partially from its education program or activity on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested, objections to the emergency removal will be deemed waived.

A student Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

WDTC will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

**Employee Respondent** - Where the Respondent is a non-student employee, the employee may be placed on administrative leave (with or without pay) while a grievance process is pending, without needing to meet the emergency removal standards.

**g) Ensuring Impartiality**

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

The Title IX Coordinator will vet the assigned Pool members to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the WDTC President.

**h) Notice of Participation**

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

**i) Preservation of Records/Recordkeeping**

WDC will maintain for a period of at least seven (7) years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to WDC's education program or activity;
4. Any Appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. WDC will make these training materials publicly available on WDC's website; and
7. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to WDC's education program or activity; and
  - c. If no supportive measures were provided to the Complainant, documentation of the reasons why such a response was not clearly unreasonable in light of the known circumstances.

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

**j) Privacy of the Resolution Process**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with WDC policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to an Informal Resolution. WDC encourages parties to discuss any sharing of information with their Advisors before doing so.

**k) Remedies**

Following the conclusion of the resolution process, where a determination of responsibility of sexual harassment has been made against the Respondent, remedies may be directed to the Complainant to restore or preserve equal access to WDC's education program or activity. Remedies may consist of supportive measures, but remedies may also include actions that in fact burden the Respondent, or are punitive or disciplinary in nature. The Title IX Coordinator is responsible for effective implementation of any remedies.

WDC will maintain the privacy of any remedies, provided privacy does not impair WDC's ability to provide these services.

These remedies may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

**l) Revision of Policy 2001/4001 and Procedures**

Policy 2001/4001 and Procedures supersede any previous policy(ies) addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. WDTC reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in Policy 2001/4001 and procedures.

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

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally. Policy 2001/4001 and procedures are effective August 14, 2020.

**m) Statement of Rights of the Parties**

Please read [Appendix C](#) for a Statement of Rights of the Parties.

**n) Withdrawal or Resignation While Charges Pending**

**1. Students:**

Should a student Respondent withdraw or leave with unresolved allegations pending, the resolution process may continue. If a student Respondent wishes to return to WDTC, any disciplinary sanctions imposed as a result of the resolution process outcome will be enforced. The Title IX Coordinator will maintain records of any sanctions imposed as a result of the resolution process in the permanent file.

WDTC will continue to address and remedy any systemic issues or concerns that may have

contributed to the alleged violation(s) and any ongoing effects of the alleged sexual harassment.

**2. Employees:**

Should an employee Respondent resign or exit employment with unresolved allegations pending, the resolution process may continue. If an employee Respondent seeks reemployment, any disciplinary sanctions imposed as a result of the resolution process outcome will be enforced. The Title IX Coordinator and the Human Resources Office will maintain records of any sanctions imposed as a result of the resolution process in the permanent file.

WDTC will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment.

## **PROCESS A<sup>3</sup>**

### **1. Meeting With the Complainant**

Upon receipt of a Formal Complaint, the Title IX Coordinator works with the Complainant to make sure the Formal Complaint is correctly completed, provides supportive measures (as described in Policy 2001/4001), if not already done, and explains the Grievance Process.

### **2. Initial Assessment**

The Title IX Coordinator reviews the Formal Complaint for applicability under Policy 2001/4001. The Title IX Coordinator shall determine whether the conduct alleged, if taken as true, would constitute sexual harassment as defined in Policy 2001/4001, and if the allegations contained in the Formal Complaint occurred in WDTC's education program or activity.

If the Title IX Coordinator determines that Policy 2001/4001 does not apply to some aspects of the Formal Complaint or to the Formal Complaint in its entirety, and therefore, those aspects will be "dismissed", the parties will be notified through the NOIA. The parties have the right to appeal the Dismissal ([Appendix D](#)) as described in the Appeal process ([Appendix E](#)).

Please note that dismissing aspects of a Formal Complaint or a Formal Complaint in its entirety under Title IX is solely a procedural requirement under Title IX and does not limit WDTC's authority to address the Formal Complaint with an appropriate process and remedies. For the aspects of the Formal Complaint that do not fall under Policy 2001/4001, the Title IX Coordinator will assess which policies/procedures may apply. If another policy and/or procedure apply, the matter will be referred for action under the appropriate policy and/or procedure which will be referenced as Process B.

### **3. Notice of Investigation of Allegations (NOIA) –**

After reviewing the Formal Complaint and the Grievance Process with the Complainant and completing the initial assessment, the Title IX Coordinator will provide written notice of the investigation and allegations (the "NOIA") to the Respondent. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- WDTC's Grievance Process for allegations of violations of WDTC Policy 2001/4001, including, if applicable, any Informal Resolution process (a copy of this procedure is to be provided),
- A meaningful summary of all the allegations of sexual harassment potentially constituting sexual harassment as defined in Policy 2001/4001,
- The identity of the involved parties in the incident (if known),
- The conduct allegedly constituting sexual harassment under Policy 2001/4001,

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<sup>3</sup> Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution.



- The date and location of the alleged incident(s) (if known),
- A statement that WDTC presumes the Respondent is not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process,
- Information on the need for each party to have an Advisor of their choosing, who may be, but is not required to be, an attorney and suggestions for ways to identify an Advisor, and
- A statement informing the parties that WDTC's policies 2001/4001 and 4014 prohibit knowingly making false statements, including knowingly submitting false information during the resolution process.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations.

The NOIA and any amendments or updates will be made simultaneously to the parties in writing and may be delivered by one or more of the following methods: in person, emailed to the parties' WDTC-issued email, or mailed to the local or permanent address(es) of the parties as indicated in official WDTC records. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

#### **4. Informal Resolution Option**

If an Informal Resolution option is requested by either the Complainant or the Respondent, the Title IX Coordinator assesses whether the Formal Complaint is suitable for Informal Resolution. If the Title IX Coordinator determines an Informal Resolution is viable, the Title IX Coordinator will determine if both parties are willing to engage in Informal Resolution.

Informal Resolution process and options are in [Appendix F](#).

#### **5. Formal Resolution**

##### **a) Grievance Process Pool**

The Formal Grievance Process relies on a pool of individuals ("the Pool") to carry out the process. The Grievance Process Pool includes any Investigator and Decision-maker(s) who may perform any or all of these roles (though not at the same time or with respect to the same case).

Pool members are appointed by the Title IX Coordinator. The Pool acts with independence and impartiality.

##### **b) Resolution Timeline**

WDTC will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

**c) Temporary Delays and Extension of Time For Good Cause in the Resolution Process**

WDTC may undertake a short delay or provide an extension of time in its resolution process (several days to a few weeks) for good cause. Such circumstances may include but are not limited to: the absence of a party, a party's Advisor, or a witness; concurrent law enforcement activity with law enforcement asking to temporarily delay the Grievance Process; or the need for accommodation of disabilities.

WDTC will communicate in writing the time extension or anticipated duration of the delay and the reason to the parties and provide the parties with status updates if necessary. WDTC will promptly resume the resolution process as soon as feasible. During such a delay, WDTC will implement supportive measures as deemed appropriate.

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

**d) Appointment of Investigators**

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints an Investigator to conduct the investigation, usually within two (2) days of determining that an investigation should proceed.

**e) Objective Evaluation of Evidence**

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

WDTC operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

**f) Investigation Timeline**

Investigations are completed expeditiously, normally within thirty (30) days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

WDTC will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

**g) Steps in the Investigation Process**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, and relevant evidence.

WDTC will ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on WDTC and not on the parties provided that WDTC cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless WDTC obtains that party's voluntary, written consent to do so for the Grievance Process.

All parties have an equal opportunity, through the investigation process, to present witnesses, including fact and expert witnesses, to provide inculpatory and exculpatory evidence, and to fully review and respond to all evidence on the record. WDTC will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

The Investigator takes the following steps, if not already completed (not necessarily in this order):

- Identify all policies implicated by the alleged misconduct
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Provide, to a person whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of the investigative interview with sufficient time for the person to prepare to participate
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Gather, assess, and synthesize evidence, but make no conclusions and render no recommendations as part of their report
- Perform an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness
- Provide regular status updates to the parties throughout the investigation
- Write an Initial Investigation Report fully summarizing the investigation, all witness interviews, and fairly addressing all relevant evidence and provide the report to the parties and the parties' Advisor, if any, for review and a written response
  - The Initial Investigation Report must provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which WDTC does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether

- obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation
- WDTC will send to each party and the party's Advisor, if any, the Initial Investigation Report and evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least 10 days to submit a written response, which the Investigator will consider prior to completion of the Final Investigation Report. The parties may elect to waive the full ten days
- WDTC will also make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination
- The Investigator may elect to respond in writing in the Initial Investigation Report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator will incorporate relevant elements of the parties' written responses into the Final Investigation Report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator should document all rationales for any changes made after the review and comment period
- The Investigator shares the report with the Title IX Coordinator for their review and feedback
- The Investigator will incorporate any relevant feedback and additional relevant evidence (if applicable), and the Final Investigation Report is then shared with all parties and their Advisors, if any, through secure electronic transmission or hard copy at least ten (10) days prior to a hearing

#### **h) Role and Participation of Witnesses in the Investigation**

Witnesses (as distinguished from the parties) who are employees of WDTC are expected to cooperate with and participate in WDTC's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., clinical placement, summer break) may require individuals to be interviewed remotely. Zoom, Microsoft Teams, FaceTime, or similar technologies may be used for interviews if the Investigator determines that timeliness or efficiency dictate a need for remote interviewing. WDTC will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

#### **i) Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the Investigator elects to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

**j) Evidentiary Considerations in the Investigation**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

**k) Referral for Hearing**

Provided that the Formal Complaint is not resolved through Informal Resolution, once the Final Investigation Report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) days from the conclusion of the investigation –when the Final Investigation Report is transmitted to the parties and the Hearing Decision-maker– unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate Hearing Decision-maker.

**l) Hearing Decision-maker Composition**

WDTC will designate a single Decision-maker. The single Decision-maker will also Chair the hearing.

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

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

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

**m) Evidentiary Considerations in the Hearing**

Any evidence that the Decision-maker determines is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the

questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate disciplinary sanction upon a determination of responsibility. This information is only considered at the disciplinary sanction stage of the process and is not shared until then.

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence, whether it is more likely than not that the Respondent violated the Policy as alleged.

**n) Notice of Hearing**

No less than ten (10) days prior to the hearing, the Title IX Coordinator will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential disciplinary sanctions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker and parties to simultaneously see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least five (5) days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker. For compelling reasons, the Decision-maker or Title IX Coordinator may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and WDTC will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials that will be provided to or have been provided to the Decision-maker about the matter, unless they have been provided already.
- An invitation to contact the Title IX Coordinator to arrange any disability

accommodations that may be needed at the hearing, at least seven (7) days prior to the hearing.

- Whether parties can/cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to Policy 2001/4001) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by WDC and remain within the 60-90 day goal for resolution.

**o) Alternative Hearing Participation Options**

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

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

**p) Preparation for the Hearing**

The Title IX Coordinator, after any necessary consultation with the parties and the Pool, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the Final Investigation Report to the parties at least ten (10) days prior to the hearing, if not already done.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator, unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given the name of the Decision-maker at least ten (10) days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than five (5) days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Decision-maker a list of the names of all parties, witnesses, and Advisors at least five (5) days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-

maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

**q) Pre-Hearing Meetings**

The Chair may, but is not required to, convene a pre-hearing meeting(s) with the parties and their Advisors to invite them to submit the questions or topics they (the parties and their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the Final Investigation Report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant.

The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings. The legal counsel may not be the general legal counsel for WDTC.

The pre-hearing meeting(s) will be recorded.

**r) Hearing Procedures**

At the hearing, the Decision-maker has the authority to hear and make determinations on all allegations of sexual harassment and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual harassment, even though those collateral allegations may not specifically fall within the Policy.

Participants at the hearing will include the Chair/Decision-maker, the hearing facilitator(s), the Investigator who conducted the investigation, the parties, Advisors to the parties, any called witnesses, the Title IX Coordinator, and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker and the parties and will then be excused.



**s) Joint Hearings**

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

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

**t) The Order of the Hearing – Introductions and Explanation of Procedure**

The Chair explains the procedures and introduces the participants. The Chair with assistance from the hearing facilitator then conducts the hearing according to the hearing script.

Elements at the hearing to include, but not limited to, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing are managed by the hearing facilitator(s). The hearing facilitator(s) may also attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

**u) Investigator Presents the Final Investigation Report**

The Investigator will then present a summary of the Final Investigation Report and will be subject to questioning by the Decision-maker and the parties (through their Advisors). The Investigator will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker should ask the Investigator their opinions on credibility, recommended findings, or determinations, and the Investigator, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

**v) Testimony and Questioning**

Once the Investigator presents their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker and then by the parties through their Advisors (“cross-examination”). The Decision-maker must permit each party’s Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. All questions will be subjected to a relevance determination by the Chair.

The Advisor, who will remain seated during questioning, will pose the proposed question directly, orally, and in real time, the proceeding will pause to allow the Chair to consider it, and the Chair will determine whether the question will be permitted, disallowed, or rephrased. The Chair may invite explanations or persuasive statements regarding relevance with the Advisors, if

the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

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

**w) Refusal to Submit to Cross-Examination and Inferences**

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 refuse to participate in some or all questioning. The Decision-maker can only rely on whatever relevant evidence is available through the investigation and the hearing in making the ultimate determination of responsibility. The Decision-maker may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with WDTC's established rules of decorum for the hearing, WDTC may require the party to use a different Advisor. If a WDTC-provided Advisor refuses to comply with the rules of decorum, WDTC may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

**x) Recording Hearings**

Hearings (but not deliberations) are recorded by WDTC for purposes of review in the event of an Appeal. If a recording is not feasible, a transcript will be made. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker, the parties, their Advisors, and appropriate administrators of WDTC will be permitted to listen to the recording or review the transcript in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording or transcript without permission of the Title IX Coordinator.

**y) Deliberation, Decision-making, and Standard of Proof**

The Decision-maker will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used.

The Decision-maker will then prepare a written deliberation statement and deliver it to the Title

IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, and credibility assessments.

This report must be submitted to the Title IX Coordinator within two (2) days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

If the Decision-maker determines the Respondent is responsible for the policy violation(s) in question, the Title IX Coordinator will determine any remedies and start the disciplinary sanction process as described in [Appendix B](#).

**z) Notice of Outcome**

Using the Hearing Decision-maker's deliberation statement and the Disciplinary Sanctions Decision-maker's disciplinary sanction(s), if any, the Title IX Coordinator will work with the Decision-maker to prepare a Notice of Outcome which will include the following:

1. Identification of the allegations potentially constituting sexual harassment as defined by Policy 2001/4001;
2. Identification of violation(s) covered by other WDTC policies that were part of the hearing;
3. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
4. Findings on each alleged policy violation (findings of fact supporting the determination);
5. Conclusions regarding the application of the relevant policy to the facts at issue;
6. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
7. A statement of, if any, disciplinary sanctions WDTC will impose on the Respondent;
8. A statement of whether remedies designed to restore or preserve equal access to WDTC's education program or activity will be provided by WDTC to the Complainant (the details or specifics of the remedies are not shared with the Respondent unless the remedy directly relates to the Respondent);
9. WDTC's procedures and permissible bases for the Complainant and Respondent to appeal; and
10. Information on when the results are considered by WDTC to be final.

The Title IX Coordinator will then simultaneously share the Notice of Outcome with the parties and their Advisors within seven (7) days of receiving the Decision-maker's deliberation statement. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official WDTC records, or emailed to the parties' WDTC-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

## **APPENDIX A: ADVISORS**

### **Right to an Advisor**

The parties may each have an Advisor<sup>4</sup> of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>5</sup>

#### **1. Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses.

The parties may choose Advisors from inside or outside of the WDTC community. The Title IX Coordinator will also offer to assign an Advisor for any party if the party so chooses. WDTC cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, WDTC is not obligated to provide an attorney.

#### **2. Advisor's Role**

Parties have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing. Parties must have an Advisor during the hearing process.

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

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

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, WDTC will appoint an Advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses may also be conducted by the Decision-maker during the hearing.

All Advisors are subject to the same WDTC policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors

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<sup>4</sup> The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally).

<sup>5</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

should not address WDC officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding, and the Advisor may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding, during cross-examination.

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

Any Advisor who oversteps their role as defined by this procedure will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting or proceeding will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

### **3. Sharing Information with the Advisor**

WDC expects that the parties may wish to have WDC share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

WDC also provides a consent form that authorizes WDC to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before WDC is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, WDC will not comply with that request.

### **4. Privacy of Records Shared with Advisor**

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by WDC. WDC may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by WDC's privacy expectations.

### **5. Expectations of an Advisor**

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

WDTC may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

#### **6. Expectations of the Parties with Respect to Advisors**

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) days before the hearing.

## **APPENDIX B: DISCIPLINARY SANCTIONS**

If the Respondent is determined responsible for the allegation(s) of sexual harassment as a result of the resolution process, the Title IX Coordinator appoints a Disciplinary Sanctions Decision-maker to determine what, if any, disciplinary sanctions are to be imposed upon the Respondent.

Factors considered by the Disciplinary Sanctions Decision-maker when determining a disciplinary sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for disciplinary sanctions to bring an end to the sexual harassment
- The need for disciplinary sanctions to prevent the future recurrence of sexual harassment
- The need to remedy the effects of the sexual harassment on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant

The disciplinary sanction(s) determined by the Disciplinary Sanctions Decision-maker will be provided to the Title IX Coordinator for the Hearing Decision-maker to include in the Notice of Outcome.

The disciplinary sanction(s) will be implemented as soon as is feasible, either upon the outcome of any Appeal or the expiration of the window to Appeal without an Appeal being requested.

All Respondents are expected to comply with the assigned disciplinary sanctions within the timeframe specified in the Notice of Outcome. Failure to abide by the disciplinary sanction(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional disciplinary sanction(s), including suspension, expulsion, and/or termination from WDTC. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

The disciplinary sanction(s) described in this Procedure are not exclusive of, and may be in addition to, other actions taken or disciplinary sanctions imposed by external authorities. Disciplinary sanctions may include:

### **a. Student Disciplinary Sanctions**

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

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any WDTC policy, procedure, or directive will result in more severe disciplinary sanctions.
- *Required Counseling:* A mandate to meet with and engage in counseling to better comprehend the misconduct and its effects.
- *Conduct Probation:* A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified

period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

- *Conduct Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on conduct probation through the remainder of their tenure as a student at WDTC.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend WDTC-sponsored events.
- *Organizational Disciplinary Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including WDTC registration) for a specified period of time.
- *Other Actions*: In addition to or in place of the above disciplinary sanctions, WDTC may assign any other disciplinary sanctions as deemed appropriate.

#### **b. Employee Disciplinary Sanctions**

Disciplinary sanctions for an employee who has engaged in sexual harassment may include:

- *Warning – Verbal or Written*
- *Performance Improvement Plan*
- *Enhanced supervision, observation, or review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Oversight or Supervisory Responsibility*
- *Transfer*
- *Reassignment*
- *Assignment to new supervisor*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions*: In addition to or in place of the above disciplinary sanctions, WDTC may assign any other disciplinary sanctions as deemed appropriate.



### **APPENDIX C: STATEMENT OF RIGHTS OF THE PARTIES**

- The right to an equitable investigation and resolution of all credible allegations of prohibited sexual harassment reported to the Title IX Coordinator or an OWA.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible disciplinary sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) or to clarify potentially implicated policy violations.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by WDTC officials and the Title IX Team.
- The right to have WDTC policies and procedures followed without material deviation.
- The right not to be pressured to informally resolve any reported sexual harassment.
- The right not to be discouraged by WDTC officials from reporting sexual harassment to both on-campus and off-campus authorities.
- The right to be informed by WDTC officials of options to notify proper law enforcement authorities, and the option(s) to be assisted by WDTC authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by WDTC.
- The right to be informed of available interim actions and supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
- The right not to have irrelevant prior sexual history or character admitted as evidence.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.

- The right to a fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) days to review the report prior to the hearing.
- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant training.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any Title IX Team member in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal resolution hearing.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and disciplinary sanction(s) of the resolution process and a detailed rationale of the decision, delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by WDTC is considered final and any changes to the disciplinary sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by WDTC.
- The right to a fundamentally fair resolution as defined in these procedures.

## **APPENDIX D: DISMISSAL (MANDATORY AND DISCRETIONARY)**<sup>6</sup>

Upon any dismissal, WDTC will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal in [Appendix E](#).

### **1. Mandatory Dismissal**

WDTC must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- a) The conduct alleged in the Formal Complaint would not constitute sexual harassment as defined in Policy 2001/4001, even if proved; and/or
- b) The conduct did not occur in an educational program or activity controlled by WDTC (including buildings or property controlled by recognized student organizations), and/or WDTC does not have control of the Respondent; and/or
- c) The conduct did not occur against a person in the United States; and/or
- d) At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in the education program or activity of WDTC.<sup>7</sup>

### **2. Discretionary Dismissal**

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

- a) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; or
- b) The Respondent is no longer enrolled in or employed by WDTC; or
- c) Specific circumstances prevent WDTC from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

A Complainant who decides to withdraw a Formal Complaint may later request to reinstate it or refile it.

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<sup>6</sup> These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45.

<sup>7</sup> Such a Complainant may still receive supportive measures, but the formal grievance process is not applicable.

## **APPENDIX E: APPEALS**

### **1. Request for Appeal**

WDTIC will implement appeal procedures equally for both parties. Any party may file a Request for Appeal for:

- a) A *determination regarding responsibility* as a result of the Formal Resolution process (as stated in the Notice of Outcome); or
- b) WDTIC's *dismissal* of a Formal Complaint or any allegations therein.

The Request for Appeal must be submitted in writing to the Title IX Coordinator within five (5) days of the Notice of Outcome or of notice of the dismissal. The Request for Appeal must include the reasons the party is appealing the *determination regarding responsibility* or the *dismissal* decision and evidence supporting the request.

Upon receiving a Request for Appeal, the Title IX Coordinator will –

- a) Designate an Appeal Decision-maker. WDTIC will ensure that the Appeal Decision-maker is not the same person as the Decision-maker that reached the determination regarding responsibility or dismissal, the Investigator, or the Title IX Coordinator.
- b) Notify the other party of the Appeal in writing and provide a copy of the Request for Appeal to that party within two (2) days of the Request for Appeal being filed.
- c) Forward the Request for Appeal within five (5) days of receiving the Request for Appeal to the Appeal Decision-maker for a Review for Standing to determine if the request meets the requirements to move forward as an Appeal.

### **2. Review for Standing**

This Review for Standing is not a review of the merits of the appeal, but solely a determination as to whether the Request for Appeal meets the grounds for appeal and is timely filed so that the Appeal can move forward. The Appeal Decision-maker will complete the Review for Standing within three (3) days of receiving the Request for Appeal.

Appeals are limited to the following grounds:

- a) Procedural irregularity that affected the outcome of the matter;
- b) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- c) The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

Request for Appeals will be denied if either of the following apply:

- a) The Request for Appeal is not submitted in writing to the Title IX Coordinator within five (5) days of the delivery of the Notice of Outcome or the notice of the dismissal.

- b) None of the grounds in the Request for Appeal meet the Grounds for Appeal as stated above as determined by the Appeals Decision-maker.

Request for Appeals will be approved if the following applies:

- a) The Request for Appeal is submitted in writing to the Title IX Coordinator within five (5) days of the delivery of the Notice of Outcome or the notice of the dismissal, and
- b) Any of the grounds in the Request for Appeal meet the Grounds for Appeal as stated above as determined by the Appeals Decision-maker.

Parties and their Advisors, if any, will be promptly notified in writing of the denial or the approval of the Request for Appeal and the rationale. Notification will be made simultaneously and may be delivered in person, emailed to the parties' WDTC-issued email, or mailed to the local or permanent address(es) of the parties as indicated in official WDTC records. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

Parties will be given a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome of the Review for Standing. Parties will be given three (3) days to review and submit a response to the portion of the Review for Standing that was denied or approved and involves them. All responses to the Review for Standing will be forwarded by the Appeal Decision-maker to all parties.

Upon reviewing the Review for Standing and all written statements submitted by the parties in the 3-day review period, the Appeal Decision-maker will either Dismiss the Request for Appeal or move the Request for Appeal forward as an Appeal. Decisions by the Appeal Decision-maker to Dismiss the Request for Appeal are final.

### **3. Appeal**

An Appeal is a review of the merits of the appeal – the reasons and evidence provided in the Request for Appeal.

The Appeal Decision-maker will collect any additional information needed and all documentation regarding the Request for Appeal, the Review for Standing, and the subsequent written statements/responses by the parties. The Appeal Decision-maker will render a decision (Appeal Outcome) in no more than five (5) days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

Notification of the Appeal Outcome will be sent to all parties in writing including the decision on each ground and rationale for each decision. Notification will be made simultaneously and may be delivered in person, emailed to the parties' WDTC-issued email, or mailed to the local or permanent address(es) of the parties as indicated in official WDTC records. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Appeal Outcome is final.

#### **4. Disciplinary Sanctions Status During the Appeal**

Any disciplinary sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be continued or implemented.

If any of the disciplinary sanctions are to be implemented immediately post-hearing, but pre-appeal, then Emergency Removal procedures must be followed.

#### **5. Appeal Considerations**

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and making changes to the disciplinary sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or disciplinary sanction(s).
- The Appeal Decision-maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator and/or Decision-maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or disciplinary sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural or substantive error cannot be cured by the original Decision-maker (as in cases of bias), the appeal may order a new hearing with a new Decision-maker.
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to WDTC or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

## **APPENDIX F: INFORMAL RESOLUTION**<sup>8</sup>

### **1. When Can an Informal Resolution Process Be Used?**

Informal Resolution will only be offered if a Formal Complaint is filed, if it is done prior to reaching a determination regarding responsibility through the Formal Resolution process, and if the Title IX Coordinator approves. Informal Resolution is not a required component of the Grievance Process, and at no time will parties be pressured or required to pursue an Informal Resolution first in order to pursue a Formal Resolution.

Informal resolution may be appropriate when parties agree to the Informal Resolution process, and the process is approved by the Title IX Coordinator after evaluating the circumstances. At no time can an Informal Resolution process be used as the grievance (resolution) process for allegations that an employee sexually harassed a student; the Formal Resolution process must apply.

### **2. Starting the Informal Resolution Process**

To request Informal Resolution, the Complainant or Respondent who wishes to initiate the Informal Resolution should contact the Title IX Coordinator.<sup>9</sup> Within two (2) days of receiving the request, the Title IX Coordinator will review to see if an Informal Resolution process is viable under the circumstances, and if yes, the Title IX Coordinator will contact the other party to see if they, too, would like to pursue an Informal Resolution.

Within two (2) days of determining that the parties are interested in the Informal Resolution process, the Title IX Coordinator will send the Informal Resolution Request paperwork to the parties to obtain each party's signed voluntary, written confirmation that they wish to resolve the matter through the Informal Resolution process. The Informal Resolution Request will include written notice of the reported misconduct and any disciplinary sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by WDTC.

The Informal Resolution Request will also inform the parties that any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Resolution process. The parties will have five (5) days to return the signed Informal Resolution Request. Upon return of the signed Informal Resolution Request by all parties, the Informal Resolution process begins.

### **3. The Informal Resolution Process**

The Informal Resolution process will commence with an Informal Resolution Facilitator within five (5) days of receipt of all parties' signed Informal Resolution Requests.

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<sup>8</sup> WDTC will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and Formal Resolution of Formal Complaints of sexual harassment.

<sup>9</sup> The Title IX Coordinator may also reach out to the parties to see if an Informal Resolution process is agreed upon when the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, and the Title IX Coordinator determines that an Informal Resolution is appropriate.

The Informal Resolution process can include two different approaches:

**a) Negotiated Resolution**

Negotiated Resolution is when the Title IX Coordinator, with the consent of the parties, negotiates and implements a mutually agreed upon resolution to resolve the allegations that satisfies all parties and WDTC.

The Title IX Coordinator may look to the following factors to assess whether Negotiated Resolution is appropriate:

- The parties' amenability to the Negotiated Resolution option;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Results of a violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Formal Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties; and/or
- Goals of the parties

**b) Respondent Accepts Responsibility for Alleged Violations**

This method may be used if the Respondent indicates an intent to accept responsibility for all of the alleged misconduct in the Formal Complaint, the Respondent agrees to the disciplinary sanctions, if any, and the Complainant agrees to the outcome.

The ultimate determination of which approach to use is to be made by the Title IX Coordinator.

**4. Informal Resolution Outcome**

The ultimate determination of whether the Informal Resolution is successful (the Formal Complaint is resolved) is to be made by the Title IX Coordinator. The Title IX Coordinator will determine whether all parties and WDTC are able to agree on the outcome of the Informal Resolution process.

If yes, within five (5) days, the outcome will be provided in writing to the parties through an Informal Resolution Agreement. The Informal Resolution Agreement will include all that apply – acknowledgment of responsibility by the Respondent for allegations, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to WDTC's education program or activity will be provided by WDTC to the Complainant (the details or specifics of the remedies are not shared with the Respondent unless the remedy directly relates to the Respondent).

The parties must sign the Informal Resolution Agreement showing their intent to be bound by the terms of the Agreement. The signed Informal Resolution Agreement must be returned to the Title IX



Coordinator by all parties within three (3) days of delivery, or the Informal Resolution process will cease, and the Formal Resolution will resume at the same point where it was paused. The Informal Resolution Outcome becomes final upon the return of the signed Informal Resolution Agreement, if done within the required timeframe by all parties.

## **5. Disciplinary Sanctions and Remedies**

When an Informal Resolution is final, the appropriate disciplinary sanction(s) and/or remedies are promptly implemented in order to effectively stop the sexual harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

Failure to abide by the Informal Resolution Agreement may result in additional disciplinary actions.

## **6. Appeals Not Allowed**

The final result of an Informal Resolution process is not subject to appeal once all parties indicate their written assent to all agreed upon terms of the Informal Resolution in the Informal Resolution Agreement. When the parties cannot agree on all terms of the Informal Resolution, the Formal Resolution process will resume at the same point where it was paused.

## **7. Recordkeeping**

Records of the Informal Resolution will be maintained per the Preservation of Records/Recordkeeping section of this procedure, as applicable.

Board Approved 10/14/2020; (Original Board Approval 8/12/2020); Committee Reviewed 10/5/2021 (Title IX Coordinator updated 7/1/2022); Committee Reviewed 8/26/2022 (Title Changes updated 6/29/2023); (Title changes 8/29/24)

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## GRIEVANCE PROCESS – PROCESS B

When allegations of discrimination and/or harassment do not fall under Policy 2001/4001, other policies and procedures may be applicable.

If an allegation is not covered under Policy 2001/4001 and 2001/4001.Procedure.001 (Process A), the matter may fall under another policy and procedure which will be referred to as Process B. The Title IX Coordinator will review all claims of discrimination and claims of harassment to determine which Western Dakota Technical College (WDTC) policy and procedure applies.

Some of the policies and procedures that may apply include:

- WDTC Student Handbook – Student Resolution Process
- Policy 1013 – Code of Ethics for Faculty, Staff, and Administrators
- Policy 1022 – Ethical Practices in Admissions
- Policy 2005/4005 – Discrimination and Harassment
- Policy 2006 – Equal Opportunity Employment
- Policy 2014 – Grievance
- 2014.Procedure.001 - Grievance
- Policy 3001 – Academic Freedom and Faculty Responsibilities
- Policy 4003 – Title IX Rights of Pregnant and Parenting Students
- Policy 4007 – Student Rights and Responsibilities
- Policy 4013 – Service Animals
- Policy 4014 – Student Conduct
- Policy 5006 – Freedom of Expression

Board Approved 8/12/2020, Committee Reviewed 8/26/2021; Committee Reviewed 8/26/2022