

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

COMPLAINT/GRIEVANCE PROCEDURE

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

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

Informal Resolution

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

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

Formal Resolution

1. Within five working days of the completion of the informal resolution process, the student must submit a formal grievance to the Student Success Director/Registrar or designated representative.
2. The Student Success Director/Registrar or designated representative will work with the appropriate Vice President, within five working days of receiving the formal grievance, to request a response from the person with whom the grievance is made. That person should respond within five working days. Failure to respond will not stop the resolution process.
3. The appropriate Vice President will review all submitted material and, within five working days, communicate a decision for resolution to the parties involved via the student's WDT email account with a follow-up letter sent to the permanent address on file.

Appeal

Should the student feel the resolution reached by the Vice President to be unsatisfactory, the student must submit a written appeal within five working days of the formal resolution to the Student Success Director/Registrar to deliver to a VP who was not involved in the formal resolution process. That VP will conduct an investigation and, if necessary, appoint a committee to review the appeal. The VP will issue a decision within 10 working days of the appeal. All appeal decisions are final.

DISCRIMINATION AND HARASSMENT – WDT Policy 2005

Western Dakota Tech ("WDT") will not tolerate racism, discrimination, harassment, exploitation or victimization of students, school employees, non-employees or any person who is an invitee of WDT for any reason, including but not limited to race, color, ethnic background, national origin, pregnancy, marital status, religion, creed, age, sex, citizenship, political affiliation, mental and/or physical challenge, disability, sexual orientation, genetic information, gender identity, status as a veteran, or any other status protected under applicable federal, state or local law.

All students, employees, non-employees, and invitees have a responsibility to maintain a positive learning, work and school environment by reporting all incidents or suspected incidents of discrimination and/or harassment involving themselves or others.

A non-employee or invitee, who believes they have been harassed or discriminated against (as defined in this policy), or who have witnessed harassment or discrimination, should follow the procedures in the Public Complaint Policy and Procedure (WDT Policy 5005).

Employees who believe they have been harassed or discriminated against (as defined in this policy), or who have witnessed harassment or discrimination, should, within thirty (30) working days of the alleged violation, notify the WDT Human Resources Manager, their supervisor, an administrator or an ombudsperson.

If a student believes they have been harassed or discriminated against or have witnessed discrimination/harassment (as defined in this policy), the student should immediately report the incident(s) to a student success coach, instructor, or an administrator (Refer to Student Handbook)

SECTION 504/ADA GRIEVANCE PROCEDURE

Western Dakota Tech does not discriminate on the basis of disability in its education-related programs and activities, providing equal educational opportunities to persons with disabilities. The College has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the American with Disabilities Act and/or Section 504 of the Rehabilitation Act of 1973. These Laws and Regulations may be examined in the office of the College's Disability Coordinator ("the Coordinator/Student Success Director-Registrar"), 1-605-718-2958, who has been designated to coordinate efforts of the Institute to comply with the ADA and Section 504 of the Rehabilitation Act of 1973.

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

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

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

Level 1 (Grievance): Grievances should be submitted as soon as possible, but no later than twenty-five (25) calendar days after the alleged act of discrimination. A grievance must be submitted to the Student Success Director/Registrar (or his/her designee), Western Dakota Tech, 800 Mickelson Drive, Rapid City, South Dakota 57703. In the event the grievance is against an action taken by the Student Success Director/Registrar, the complainant may file his/her grievance with the Human Resources Director, Western Dakota Tech, 800 Mickelson Drive, Rapid City, South Dakota 57703; 1-605-718-2402.

A grievance must be in writing and contain the following:

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

Alternative options for filing complaints, such as personal interviews or audio/visual recording of the complaint, will be made available for persons with disabilities upon request.

The Student Success Director-Registrar/Human Resources Director (or his/her designee) shall conduct a prompt investigation of the complaint. An investigation may be informal, but must be thorough, affording all interested

persons an opportunity to submit evidence relevant to the complaint. The Student Success Director-Registrar/Human Resources Director, at his or her sole discretion, may gather additional information necessary to consideration of the grievance, including, but not limited to, interviewing individuals who may possess relevant information. The Student Success Director-Registrar/Human Resources Director will maintain the files and records relating to such grievances. Complaints will remain confidential, except to the extent necessary to conduct a review of facts and as authorized by law.

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

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

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

The appeal must be in writing and contain the following:

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

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

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

SEXUAL VIOLENCE RESPONSE POLICY AND PROCEDURE - TITLE IX - WDT Policy 4001

Purpose

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

General Statement of Policy

The policy of WDT is to comply with federal requirements for responding to acts of sexual violence. WDT is committed to preventing sexual misconduct, relationship violence, and stalking, as well as addressing its effects on the WDT community. WDT has adopted this policy in order to inform students, faculty, and staff and other members of the WDT community of their rights and responsibilities in the event they are or have knowledge of someone involved in an incident of sexual misconduct, relationship violence, or stalking and of the services available to both Reporters and Respondents.

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

It shall be a violation of this policy to not protect the WDT community from or adequately respond to reports of sexual violence. Further, it will be a violation of this policy to not offer sexual violence awareness and bystander awareness training.

Definitions

- A. "Affirmative consent" is defined as a clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity.
- B. "Sexual violence" encompasses sexual assault and is a form of sexual harassment. Sexual harassment, which is a form of discrimination, violates federal and state law and WDT Policy 2005. Sexual violence includes physical sexual acts that are performed against a person's will or where a person cannot give consent. Physical resistance need not occur to fulfill the definition of sexual violence. Examples of sexual violence include, but are not limited to:
- Sexual intercourse or other sexual acts in the absence of consent;
 - Rape (including "date rape") or attempted rape;
 - Any unwanted sexual contact with another person's body;
 - Nonconsensual oral sex; and
 - Sexual assault (defined below), sexual battery, or sexual coercion.
- C. "Sexual assault" includes non-consensual sexual intercourse and non-consensual sexual contact.
- Non-consensual sexual intercourse is any act of sexual intercourse with another individual without affirmative consent.
 - Sexual intercourse includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact.
 - Non-consensual sexual contact is any intentional touching of the intimate parts of another person, causing another to touch one's intimate parts, or disrobing or exposure of another without consent.
 - Intimate parts may include genitalia, groin, breast, or buttocks, or clothing covering them, or any other body part that is touched in a sexual manner.
 - Sexual contact also includes attempted sexual intercourse.
- D. "Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined

based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

E. “Domestic violence” means “abuse” occurring between:

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

where “abuse” means any of the following acts:

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

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

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

G. “Reporter” is the person who alleges another person(s) committed acts of sexual misconduct, relationship violence, or stalking against him or her.

H. “Respondent” is the person who allegedly committed acts of sexual misconduct, relationship violence, or stalking.

I. “Third-party Reporter” is a person who reports an alleged act of sexual misconduct, relationship violence, or stalking for another person (i.e. friend, parent, or bystander) to the Title IX Coordinator.

Responsibilities, Resources, and Reporting Procedures

A. MONITORING RESPONSIBILITY

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

B. AFFIRMATIVE CONSENT

Sexual activity of any kind requires affirmative consent. Consent is active, not passive. Silence or lack of resistance cannot be interpreted as consent. Seeking and having consent accepted is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity or gender expression. Consent may be initially given but withdrawn at any time. When consent is withdrawn or

cannot be given, sexual activity must stop. Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Examples include incapacitation due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness or being asleep, being involuntarily restrained or if an individual otherwise cannot consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

C. **RESOURCES**

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

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

On-campus Resources

On-campus options to obtain assistance and guidance include:

- Title IX Coordinator (Student Success Director/Registrar) – (605)718-2958
- WDT Student Success Center – (605)718-2955
- Human Resources Director – (605)718-2402

WDT is bound by mandatory reporting laws in certain situations, including the sexual abuse of a minor. Any WDT employee who suspects that a child under 18 years of age has been neglected or physically abused (including sexual abuse and emotional abuse) by a parent or other person, will report 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; or the department of social services; or the county sheriff; or the city police.

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

Off-campus Resources

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

- Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency.
 - Working Against Violence – www.wavi.org – (605)341-4808
- Off-campus healthcare providers (Medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or

administered. Even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.)

- Regional Health – www.regionalhealth.com – (605)755-1000
- Assistance can also be obtained through:
 - Legal Momentum: <https://www.legalmomentum.org/>
 - Pandora’s Project: <http://www.pandys.org/lgbtsurvivors.html>
 - GLBTQ Domestic Violence Project: <http://www.glbtqdv.org/>
 - RAINN: <https://www.rainn.org/get-help>
 - Safe Horizons: <http://www.safehorizon.org/>

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

D. **REPORTING**

WDT encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual violence. This is the best option to ensure preservation of evidence 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 College and to local law enforcement. Reporting options are not mutually exclusive. Both internal and criminal reports may be pursued simultaneously.

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

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

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

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

Emergency and External Reporting Options

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

- To file a criminal complaint with local law enforcement:
 - Rapid City Police Department, (605)394-4131 at 300 Kansas City Street
 - Pennington County Sheriff, (605)394-6113 at 300 Kansas City Street

- To disclose confidentially the incident and obtain services from the State of South Dakota, City of Rapid City, and Pennington County:
 - HOTLINE (605) 996-4440
 - Additional disclosure and assistance options are catalogued by the South Dakota Network Against Family Violence and Sexual Assault: <http://www.sdnafvsa.org/> or by calling (800)430-SAFE (7233)

Campus Reporting Options

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

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

To report an incident:

- Title IX Coordinator (Student Success Director/Registrar) – (605)718-2958

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

- Human Resources Manager – (605)718-2402

Reports will be investigated in accordance with WDT policy.

E. OPTIONS FOR PROTECTION AND ACCOMMODATION

Some options that may be offered to the Reporter or the Respondent who is a student include:

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

the offices referenced in this policy, the following office can serve as a point to assist with these measures: Student Success Coordinator located in the Student Success Center, (605) 718-2961.

F. INSTITUTIONAL CRIME REPORTING

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

G. CAMPUS CLIMATE ASSESSMENT

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

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

H. STUDENT ORIENTATION AND ONGOING ASSESSMENT

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

- The institution prohibits sexual harassment, including sexual violence, other violence or threats of violence, and will offer resources to any Reporters or Respondents of such violence while taking administrative action regarding any accused individual within the jurisdiction of the institution;
- Relevant definitions including, but not limited to, the definitions of sexual violence and consent;
- Policies apply equally to all students regardless of 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;
- The Sexual Assault Awareness, Prevention, and Reporting document and Sexual Violence Response Policy;

- How to report sexual violence and other crimes to WDT officials and/or local law enforcement;
- How to obtain services and support;
- Bystander intervention and the importance of taking action, when one can safely do so, to prevent violence;
- Risk assessment and reduction including, but not limited to, steps that potential victims/survivors and potential assailants and bystanders to violence can take to lower the incidence of sexual violence; and
- Consequences and sanctions for individuals who commit these crimes.

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

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

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

- Online training;
- Posters, bulletin boards, and other targeted print and email materials;
- Educational programs;
- Programming surrounding large recurring campus events;
- Partnering with state and local community organizations that provide outreach, support, crisis intervention, counseling and other resources to 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.

I. **REPORTING PROCESS**

Filing a Report

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

In cases where an observer/concerned individual, called a Third-party Reporter, reports sexual misconduct, relationship violence, or stalking to the Title IX Coordinator, the Reporter will be notified by the Title IX Coordinator that a report has been received. The Title IX Coordinator will meet with the Reporter and, if the Respondent is a student at the College, the Respondent, to discuss her/his options and provide written notification of available resources at the College and in the community. These resources include counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other available services. The Reporter has a right to withdraw involvement or withdraw the complaint. In some circumstances, the College still may investigate, such as when it is necessary to ensure the safety of the Western Dakota Tech community. In such instances where the Reporter withdraws the complaint or from involvement in the process, the College may proceed and serve as a Reporter in the matter.

Administrative Contacts for Making a Report

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

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

Reporting a Student's Use of Alcohol or Drugs

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

Rights of Reporting Individual/Reporter

Upon receipt of a report of an incident of sexual misconduct, relationship violence, or stalking, the Title IX Coordinator will ensure the Reporter has been advised of their rights (1) to make a report to local law enforcement and /or state police or choose not to report; (2) to be protected from retaliation by the College for reporting an incident; and (3) to receive assistance and resources from the College. The Reporter, whether a student or an employee, will receive a written explanation of their rights and options including pursuing a complaint under the College's policy, pursuing a criminal complaint, and seeking a restraining order under civil, criminal, or tribal law to prevent any further abuse. The reporting individual can choose to meet with the Title IX Coordinator to discuss these rights.

Individuals reporting acts of sexual misconduct, relationship violence, or stalking may also choose to file a report with the Rapid City Police Department (or appropriate agency with jurisdiction). WDT's system and the police/legal system work independently from one another. Individuals can file reports with the College, with Rapid City Police Department, or with both systems simultaneously. Individuals also have the right to decline reporting. Because the standards for finding a violation of criminal law are different from the standards in this policy, criminal investigations or reports are not determinative of whether or not sexual misconduct, relationship violence, or stalking, under this policy, has occurred.

Advisor of Choice

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

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

If a WDT student Reporter or Respondent desires to have an attorney serve as advisor, the student may retain counsel independently.

Timeframe

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

Jurisdiction

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

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

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

Retaliation

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

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

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

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

Respondent is a staff or faculty member of the College.

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

Accommodations

All students affected by an experience of sexual misconduct, relationship violence, or stalking, whether or not the matter is to be adjudicated by the College, may request accommodations to support their safety, well-being, and access to education. WDT will maintain the confidentiality of any accommodations or protective measures provided to the Reporter or Respondent to the extent that doing so would not impair the ability of the College to provide the accommodations or protective measures. The Title IX Coordinator will work with the student, in light of available information at the time of the request, to identify reasonable accommodations.

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

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

J. MANNER OF PROCEEDINGS

The College will follow the same inquiry, investigation, adjudication, and sanctioning proceedings, as listed below, for all cases involving an allegation of dating violence, domestic violence, sexual assault, or stalking. During the inquiry and investigation processes, WDT may make an auditory record of meetings involving the Reporter, Respondent, and witnesses. Those recordings, if taken, will be the only recordings considered to be official recordings for the purposes of verifying information.

Inquiry and Investigation

- Inquiry

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

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

The Respondent and Reporter, with their respective advisor of choice, will be given the opportunity to meet separately with the Title IX Coordinator (or designee) to review the policy and procedure, as well as related rights. The college will ensure that any time during the process from informal investigation through adjudication and issuance of sanctions, if applicable, the Respondent and Reporter will be given timely simultaneous written notice of meetings at which one, or the other, or both may be present.

- Formal Investigation

Reports of alleged sexual misconduct, relationship violence, or stalking will be equitably investigated in a fair, impartial, thorough and prompt fashion, providing a meaningful opportunity for participants to be heard. Investigation will be conducted by individuals without a conflict of interest or bias for or against either party. The formal investigation process may vary depending upon the nature and complexity of the case and the time of year (and thus availability of parties), but the College will make every attempt to conduct a prompt and equitable investigation.

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

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

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

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

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

- Investigators

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

Adjudication Process

- Administrative Resolution

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

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

If the Respondent declines responsibility, or chooses not to respond, the Reporter and Respondent will receive simultaneous written notification that the case will be forwarded to the appropriate Adjudicator for review and adjudication.

- Review of Investigative Report

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

The trained Adjudicator will review the investigative report and materials in a prompt, timely manner. If the Adjudicator requires clarification on any of the materials, the Investigator and/or Title IX Coordinator will assist the Adjudicator in obtaining such clarification. Though it is typically not necessary, the Adjudicator may consult, as needed, with the Title IX Coordinator to request further information from the Respondent, Reporter and/or any of the witnesses to clarify information in the investigative materials. If such follow up is necessary, the Reporter and the Respondent will again be given simultaneous written notification, and will each have the opportunity to review and respond to the updated investigative report.

- Adjudicator Determinations

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

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

- Determination of Sanctions

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

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

sanction(s) imposed, if applicable.

The sanctioning determination is to be made by the Adjudicator in a timely manner upon receiving the investigative report with indication the Respondent accepted responsibility or Adjudicator determination of responsibility. Both Respondent and Reporter will receive simultaneous, written notification of the outcome, rationale for the determination of responsibility and sanctions, and/or remedies. Sanctions are final.

- Range of Sanctions

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

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

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

- Adjudicators

The Vice President for Institutional Effectiveness and Student Success, or designee, serves as the Adjudicator. If the VP for Institutional Effectiveness and Student Success is the Respondent, the Human Resources Director, or designee, will serve as the Adjudicator.

STUDENT CODE OF CONDUCT – WDT Policy 4005 (pending Policy Committee, Cabinet, and RCAS School Board approval)

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

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

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

1. Inappropriate behavior defined as conduct that disrupts the educational process and impedes the learning environment.
2. Physical or verbal abuse or detention of any person or persons on school property or at WDT activities.
3. Endangerment of the health and safety of oneself or others, or infringement upon the rights of others.

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

Allegations and Notice

1. Student Code of Conduct allegations may be filed against any student by any member of the WDT community.
 - a. Allegations of academic misconduct shall be directed to the VP for Teaching and Learning or designated representative.
 - b. Allegations other than academic misconduct shall be directed to the VP for Institutional Effectiveness & Student Success or designated representative.
 - c. The complaint shall state the specific facts that form the basis for the allegation, as well as the identities of any other witnesses and the location of any physical evidence of the misconduct. Allegations must be signed by the Reporter. Any allegation should be submitted as soon as possible after the event takes place or after the Reporter discovers the identity of the alleged Respondent.
2. The VP for Teaching and Learning or VP for Institutional Effectiveness & Student Success shall make an initial determination as to whether the allegations were timely, taking into account the seriousness of the incident and the degree to which delay may have impaired access to evidence. The VP for Teaching and Learning or VP for Institutional Effectiveness & Student Success shall determine if the allegations have merit and whether the incident sufficiently affects WDT interest to warrant further proceedings.
3. Once the VP for Teaching and Learning or VP for Institutional Effectiveness & Student Success determines that a violation may have occurred and that an investigation shall commence, the VP for Teaching and Learning, VP for Institutional Effectiveness & Student Success or designee shall provide the charged student with a written notice of the alleged violation. This notice shall be presented in person whenever possible. In lieu of in-person delivery notice of an alleged violation may be sent through campus email or, in matters of serious allegations, shall be sent to the student via registered mail. The notice shall include:
 - a. statement of the charge(s), including the nature and circumstances of the alleged offense;
 - b. the date, time, and place of the informal resolution hearing;
 - c. the name of the person to contact to read the report(s) pertaining to said allegations of violations;
 - d. and a copy of, or link to, the due process and disciplinary procedures in effect at that time.

Disciplinary Hearings

Informal Resolution

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

Formal Resolution

Within fifteen working days of the final informal resolution attempt, the VP for Teaching and Learning or VP for Institutional Effectiveness & Student Success shall present all allegations and recommended sanctions to the student charged in written form and shall identify with specificity each section of the conduct code under which allegations are brought. A time shall be set for a hearing between the student and the Hearing Officer (the VP not involved in the informal resolution), not less than five nor more than fifteen calendar days after the student has been officially notified by school email or written letter in U.S. mail. The minimum time limits may be waived by the party charged. Maximum time limits for scheduling of hearings may be extended at the discretion of the Hearing Officer. Hearings shall be conducted by the Hearing Officer according to the following guidelines:

- a. The Hearing Officer shall have the power to exclude from the hearing any person whose conduct interferes with the hearing.
- b. In hearings involving more than one accused student, the Hearing Officer may permit the hearings concerning each student to be conducted separately.
- c. Pertinent records, exhibits, and written statements may be accepted as evidence for consideration by the Hearing Officer.
- d. At the hearing, the Hearing Officer shall determine whether the student has violated each section of the Code of Conduct which the student is charged with violating.
- e. The fact that a student acted while under the influence of alcohol, drugs, or an illegal controlled substance shall not be considered a mitigating factor.
- f. There shall be a single written record of all formal evidentiary hearings before the Hearing Officer. The record shall be the property of WDT.
- g. The record and its contents shall be held in confidence. Any person who unnecessarily discloses the contents of the record to parties not involved in the appeal shall be subject to discipline.
- h. Except as required by the Americans with Disabilities Act, WDT shall not be required to change the form in which the record is maintained.
- i. Except in the case of a student charged with failing to obey the summons of the Hearing Officer or WDT official, no student may be found to have violated the Code of Conduct solely because the student failed to appear before the Hearing Officer. In all cases, the evidence in support of the allegations shall be presented and considered.

Sanctions

In each case in which the Hearing Officer determines that there is a preponderance of evidence that a student has violated the WDT Code of Conduct, the Hearing Officer shall uphold or modify the recommended sanction(s) based on the principle of "like sanctions for like violations" and the principle of a sanction being commensurate with the violation.

In the case of a drug or alcohol violation, the sanction imposed will reflect what is stated in the Alcohol and Other Drugs section of the Student Handbook.

Following the hearing, the Student Success Director/Registrar or designated representative shall provide a written summary of the findings of fact, conclusions, and recommendations, if any, reached by the Hearing Officer and of the sanction(s) imposed, if any, to the parties involved.