

## Section Six: Discrimination and Harassment – Protected Classes

The following process will be used to address allegations of discrimination and harassment based on a protected class.

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

The Title IX Coordinator determines if the incident or suspected incident falls within the scope of WDT policy 2001/4001 – Sexual Harassment – Title IX. If so, policy 2001/4001 and procedure 2001/4001.Procedure.001, known as Process A and which includes a grievance procedure, is used.

If the incident or suspected incident does not fall within the scope of Policy 2001/4001, the matter may fall under 2005/4005 – Discrimination and Harassment. The Student Grievance Procedure, located later in this section, can be used when a student grievance of discrimination or harassment is reported that falls within the scope of Policy 2005/4005 – Discrimination and Harassment.

### **DISCRIMINATION AND HARASSMENT**

- WDT Policy 2001e1 – Sexual Harassment – Title IX (pending Policy Committee, Cabinet, and Board approval)
- WDT Policy 2005/4005 – Discrimination and Harassment (pending Policy Committee, Cabinet, and Board approval)

#### **Notice of Non-Discrimination:**

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, gender expression, status as a veteran, or any other status protected under applicable federal, state or local law. WDT is committed to providing an environment free from harassment and other forms of discrimination for students, employees, non-employees and its invitees. The following person has been designated to handle inquiries or complaints regarding the non-discrimination policies: Director of Student Success/Registrar who serves as the Title IX Coordinator.

#### **Title IX at Western Dakota Tech:**

Title IX of the U.S. Education Amendments of 1972 (“Title IX”) is a federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities. Western Dakota Tech (WDT) does not discriminate on the basis of sex in the education programs or activities that it operates including admissions and employment.

Under Title IX, discrimination on the basis of sex can also include sexual harassment which is defined as conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the College conditioning the provision of education benefits on participation in unwelcome sexual conduct (i.e., quid pro quo); or
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 the institution’s education program or activity; or
3. Sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the

## Violence Against Women Act (VAWA).

Any person may report 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 WDT Title IX Coordinator, or by any other means that results in the WDT 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 WDT Title IX Coordinator. The following person has been designated to handle inquiries regarding the non-discrimination policies and/or laws: Debbie Toms, Title IX Coordinator; 800 Mickelson Drive, Office D113, Rapid City, SD, 57703; 605-718-2958; [Deborah.Toms@wdt.edu](mailto:Deborah.Toms@wdt.edu).

WDT Policies 2001/4001, 2001/4001.Procedure.001, and 2001/4001.Procedure.002 provide information on WDT's grievance procedures and grievance processes, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how WDT will respond.

*Policy - <https://www.wdt.edu/assets/docs/uploads/about/policies/4001.pdf>*

*Procedure. 001 <https://www.wdt.edu/assets/docs/uploads/about/policies/4001procedure001.pdf>*

*Procedure. 002 <https://www.wdt.edu/assets/docs/uploads/about/policies/4001procedure002.pdf>*

Inquiries about the application of Title IX may be referred to the WDT Title IX Coordinator, to the Assistant Secretary, or to both. The Assistant Secretary contact information is U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, S.W., Washington, DC 20202, Main Telephone: 202-453-6914.

### **STUDENT GRIEVANCE PROCEDURE**

Western Dakota Tech does not discriminate on the basis of any protected classes in its education-related programs and activities, providing equal educational opportunities to all persons. The College has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints. The College's Title IX Coordinator has been designated to receive and review reports of discrimination or harassment.

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

WDT will make appropriate arrangements to ensure that persons requiring accommodations are provided those 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 Director of Student Success/Registrar is responsible for such arrangements.

It is against the law for WDT to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

**Level 1 (Grievance):** Grievances should be submitted as soon as possible, but no later than twenty-five (25) calendar days after the alleged act of discrimination. A grievance must be submitted to the Director of Student Success/Registrar, Western Dakota Tech, 800 Mickelson Drive, Office D113, Rapid City, South Dakota 57703. In the event the grievance is against an action taken by the Director of Student Success/Registrar, the complainant may file his/her grievance with the WDT President, 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 Director of Student Success/Registrar, or his/her designee, shall conduct a prompt investigation of the grievance. An investigation may be informal, but must be thorough, affording all interested persons an opportunity to submit evidence relevant to the grievance. The Director of Student Success/Registrar, 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 Director of Student Success/Registrar will maintain the files and records relating to such grievances. Grievances will remain confidential, except to the extent necessary to conduct a review of facts and as authorized by law.

Within thirty (15) calendar days after receipt of the grievance, the Director of Student Success/Registrar will communicate a decision for resolution to the complainant via the student's WDT email account with a follow-up letter sent to the permanent address on file in a format accessible to the person filing the complaint. This deadline may be extended for good cause, as determined by the Director of Student Success/Registrar or by written agreement of the parties. The Director of Student Success/Registrar's written decision shall also include notice of the complainant's right to appeal the decision.

**Level 2 (Appeal):** If the complainant disputes the Director of Student Success/Registrar's decision, 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 Director of Student Success-Registrar/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 Director of Student Success/Registrar 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. All appeal decisions are final.