

## **Section Six: Student Resolution Process**

Western Dakota Technical College (WDTC) is committed to excellence and recognizes that not all policies, procedures, and processes work for every individual or circumstance. Students and the community deserve the opportunity to have their concerns addressed in a fair manner and the college deserves the opportunity to address circumstances and to improve.

For all concerns, the first course of action must be to try to resolve the complaint directly with WDTC through the established processes as outlined in the WDTC Student Handbook, the WDTC website, and/or WDTC policies. Resolution processes vary depending on the nature of the concern. All established resolution processes can be found at <https://www.wdt.edu/student-life/file-a-complaint> including special considerations for online students, concerns with accreditation compliance, and consumer protection. Concerns covered in the WDTC Student Handbook include:

1. Grade Appeal
2. Student Code of Conduct Violation
3. Discrimination and Harassment Based on a Protected Class
4. Other Student Complaints

All student resolution processes regardless of the nature of the concern include the following rights:

- All students may have an advisor, of their choosing and at their own expense, accompany them during any part of the resolution process.
- WDTC will make appropriate arrangements to ensure that persons requiring accommodations are provided those accommodations, as needed, to participate in the resolution 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 is responsible for such arrangements.
- WDTC will not retaliate against anyone who files a concern/complaint/grievance or cooperates in the investigation of a concern/complaint/grievance. Any action by a member of the WDTC community to penalize, intimidate, harass, or take adverse action against a person who reports or participates in the investigation of a concern/complaint/ grievance is prohibited. Retaliation may be found even when the underlying report does not constitute a concern/complaint/grievance.

### **Grade Appeal Process**

Should a situation arise in which a student believes they have not been treated fairly in the calculation of a particular course grade or individual grade within a course, the resolution process is as follows:

1. The student must attempt to meet/communicate with the respective instructor to review the reason for the grade within ten (10) calendar days after the grade has been posted. All reasonable efforts by both parties will be made to resolve the problem at this level.
2. If the student is not satisfied with the disposition of the matter at Step 1, the student needs to meet with the Director of Student Success within fifteen (15) calendar days after the grade has been posted to resolve the issue. The Director of Student Success will meet with both parties to determine a resolution.
3. If the student is not satisfied with the decision made at Step 2, the student may file a written appeal to the VP for Teaching and Learning within five (5) calendar days of the receipt of the Director of Student Success's decision.

4. Within five (5) working days, the VP for Teaching and Learning will issue a response. The decision will be communicated in writing to all parties and is final.

### **Code Of Conduct Violation**

As stated in WDTC Policy 4014 – Student Conduct, WDTC 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 Student Code of Conduct shall apply to conduct that occurs on WDTC premises and at off-site locations or events where WDTC exercises substantial control. Each student shall be responsible for his/her conduct. The Student Code of Conduct shall apply to a student's conduct even if the student withdraws from or drops out of school while a disciplinary matter is pending.

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 WDTC 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 WDTC activities.
3. Endangerment of the health and safety of oneself or others, or infringement upon the rights of others.
4. Theft or damage to WDTC property or property of any member of the WDTC community or campus.
5. Unauthorized entry to or use of WDTC 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 WDTC sponsored activities.
7. Dishonesty, such as cheating, plagiarism, or knowingly furnishing false information to the school.
8. Reckless use of a vehicle on WDTC property.
9. Failure, after due notice, to pay fees or other school financial obligations.
10. Harassment or hazing of fellow students or staff members.
11. Smoking and the use of smokeless tobacco or vapor products on WDTC property other than within the confines of personal vehicles.
12. Failure to report to the WDTC 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 WDTC employee.
17. Stalking or other VAWA offenses that are not based on sex.

The resolution process for alleged student code of conduct violations is as follows:

#### Allegations and Notice

1. Student Code of Conduct allegations may be filed against any student by any member of the WDTC 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 WDTC 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 sent through campus email or, in matters of serious allegations, shall be sent to the student via certified mail. The notice shall include:
  - a. statement of the charge(s);
  - b. the date, time, and place of the informal resolution hearing;
  - c. 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,
  - a. The VP for Teaching and Learning or VP for Institutional Effectiveness & Student Success will set a meeting to review the nature and circumstances of the alleged offense(s) with the student
  - b. 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.
  - c. If mutual consent is agreed upon then the Informal Resolution shall be final and there shall be no subsequent proceedings.
2. 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:

1. The Hearing Officer shall have the power to exclude from the hearing any person whose conduct interferes with the hearing.
2. In hearings involving more than one accused student, the Hearing Officer may permit the hearings concerning each student to be conducted separately.
3. Pertinent records, exhibits, and written statements may be accepted as evidence for consideration by the Hearing Officer.
4. 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.
5. 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.
6. There shall be a single written record of all formal evidentiary hearings before the Hearing Officer. The record shall be the property of WDTC.
7. 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.
8. Except as required by the Americans with Disabilities Act, WDTC shall not be required to change the form in which the record is maintained.
9. Except in the case of a student charged with failing to obey the summons of the Hearing Officer or WDTC 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 WDTC 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 Director of Student Success 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.

### **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.

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: Director of Student Success who serves as the Title IX Coordinator.

Concerns regarding discrimination and harassment based on a protected class may fall under one of two WDTC policies.

1. [WDTC Policy 2001/4001](#) – Sexual Harassment – Title IX; or
2. [WDTC Policy 2005/4005](#) – Discrimination and Harassment

When a discrimination and/or harassment concern is brought forward, the Title IX Coordinator determines if the incident or suspected incident falls within the scope of WDTC policy 2001/4001 – Sexual Harassment – Title IX. If so, policy 2001/4001 and procedure [2001/4001.Procedure.001, known as Grievance Process - Process A](#) are used. Due to the volume of Grievance Process – Process A, students must go to the WDTC policy page to view or contact a Student Success Center employee to print a hard copy.

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. If so, the following resolution process (Student Grievance Procedure) will be used.

### ***Student Grievance Procedure (Resolution Process) for Policy 2005/4005***

WDTC 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: One Petticoat Lane; 1010 Walnut Street, Suite 320 Kansas City, MO 64106; (816)268-0550; OCR.KansasCity@ed.gov

**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 or harassment. A grievance must be submitted to the Director of Student Success Western Dakota Tech, 800 Mickelson Drive, Office D1160A, Rapid City, South Dakota 57703. In the event the grievance is against an action taken by the Director of Student Success, the complainant may file his/her grievance with the WDTC 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, or his/her designee, shall conduct an investigation which is to be completed expeditiously, normally within thirty (30) calendar days. 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, 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 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 fifteen (15) calendar days after the conclusion of the investigation, the Director of Student Success will communicate a decision for resolution to the complainant via the student's WDTC 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 or by written agreement of the parties. The Director of Student Success 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' 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.

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 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.

### **Other Student Complaints**

WDTC works to protect the rights of all students. WDTC 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 WDTC academic community as described in the Student Rights and Responsibilities section.

The following resolution process will be used for complaints brought forth by students against a member of the WDTC community if the complaint is not covered by other established resolution processes. It should be noted that students hold a responsibility for complying with all WDTC policies and procedures and the requirements of individual courses as outlined on the course syllabus provided by each instructor.

#### **Informal Resolution**

WDTC faculty and staff strive to resolve complaints at the lowest possible level, as appropriate. Any WDTC

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 for assistance with informal resolution and meeting facilitation.

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

#### Formal Resolution

1. Within 10 working days of the completion of the informal resolution process, the student must submit a formal grievance to the Director of Student Success or designated representative.
2. The Director of Student Success or designated representative will work with the appropriate Vice President, within 10 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 10 working days. Failure to respond will not stop the resolution process.
3. The appropriate Vice President will review all submitted material and, within 10 working days, communicate a decision for resolution to the parties involved via the student's WDTC 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 10 working days of the formal resolution to the Director of Student Success 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.