

## **Section Six: Student Code of Conduct, Complaint, Grievance, Harassment, and Discrimination Policies and Procedures**

### **COMPLAINT/GRIEVANCE PROCEDURE**

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

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

#### **Informal Resolution:**

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

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

#### **Formal Resolution:**

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

#### **Appeal**

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

### **NON-DISCRIMINATION STATEMENT AND COMPLAINT PROCEDURE**

Western Dakota Technical Institute does not discriminate on the basis of race, color, national origin, ancestry, creed, religion, family or medical leave, disability, age, gender, sexual orientation, or an arrest conviction or conviction record in its programs and activities. The following person has been designated to handle inquiries regarding the non-discrimination policies:

Theresa Scharn  
Human Resources Manager  
Western Dakota Technical Institute  
800 Mickelson Drive  
Rapid City, SD 57703  
Phone: (605) 718-2402  
E-mail: [theresa.scharn@wdt.edu](mailto:theresa.scharn@wdt.edu)

#### **Title IX (Discrimination/Harassment) Complaint Procedure**

##### **Section I**

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

## **Section II**

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

### **SECTION 504/ADA GRIEVANCE PROCEDURE**

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

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

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

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

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

A grievance must be in writing and contain the following:

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

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

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

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

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

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

The appeal must be in writing and contain the following:

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

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

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

## **SEXUAL HARASSMENT COMPLAINT PROCEDURE**

### **Sexual Harassment Statement**

According to federal law, Title VII, sexual harassment is illegal. Sexual harassment is also a violation of the South Dakota Human Relations Act of 1989, Section 20-13-22. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that tends to create a hostile or offensive work or learning environment is strictly prohibited. In determining whether alleged conduct constitutes sexual harassment, it is necessary to look at the entire context and pattern of behavior. However, any behavior, whether verbal or physical, constitutes sexual harassment if:

1. Unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature, (e.g., uninvited touching) are explicitly made as a term or condition of an individual's employment or education;
2. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of sexual nature are used as a basis for employment or academic decisions affecting that individual (e.g. grades, evaluation, promotion, letters of recommendation);
3. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature have the purpose or effect of unreasonable interfering with an individual's academic or work performance or creating an intimidating, hostile, or offensive working or learning environment (e.g. sexual innuendo in the classroom).

Students, who believe they have been harassed, should report such an act to the Human Resources Manager, who will assist the grievant in seeking redress through the appropriate procedure. Both informal and formal resolutions are available. Reprisals are not taken against an individual for reporting or objecting to sexual harassment. In those situations where the complainant chooses not to file a formal grievance, WDT reserves the right to investigate and take appropriate action because the Institute believes that the matter of sexual harassment cannot be ignored. The official policy followed by WDT is available from the Human Resources Manager.

Additional support and information can be obtained through the Division of Human Rights, 222 East Capitol, Suite 11, c/o 500 East Capitol Avenue, Pierre, SD 57501; phone 1-605-773-4493.

## **STUDENT CODE OF CONDUCT**

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

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

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

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

### **Procedural Due Process Principles**

#### **Allegations and Hearings**

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

#### **Informal Resolution**

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

#### **Formal Resolution**

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

the party charged. Maximum time limits for scheduling of hearings may be extended at the discretion of the Dean of Academics or Student Success Director.

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

### **Sanctions**

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

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

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