

Disparate Impact: is a type of unintentional discrimination that occurs when a seemingly neutral policy or practice negatively affects a protected group of people, under the Title IX Policy and these procedures.

Disparate Treatment: is a type of discrimination that occurs when a person is treated differently or adversely based on a protected characteristic, such as sex, as protected under the Title IX Policy and these procedures.

Education Program or Activity: includes all campus operations, including off-campus settings that are operated or overseen by the University, including, for example, field trips, online classes, and athletic programs; conduct subject to the University's disciplinary authority that occurs off-campus; and conduct that takes place via University-sponsored electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of, the University. Conduct that occurs outside of the education program or activity may contribute to a hostile environment within the program or activity.

Employee Reporting Obligations: All Employees and Student Employees have required reporting obligations based on their

Expert Witness: a person who is permitted to participate in an investigation or hearing because

Title IX Assessment Report: a record of the relevant details as reported to the Title IX Coordinator during the Title IX Assessment, including factors related to any threat of imminent danger or ongoing safety concerns for the campus.

Witness: an individual who personally sees or perceives a detail or event and is willing to attest to that detail. Information from witnesses whose sole purpose is to provide character information will not be considered as part of an investigation.

II. Role of Title IX Coordinator

Title IX Coordinators

The Title IX Coordinators oversee the University's assessment, investigation, and resolution of reports of sex discrimination and sex-based harassment ensuring compliance with Title IX and other relevant state and federal laws. A report can be made at any time via email/electronically, phone, or physical mail, or in person during regular business hours.

Director of Title IX Services and Title IX Coordinator: Maria Harder, Nebraska Wesleyan University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117, mharder@nebrwesleyan.edu

Assistant Director of Title IX Services and Title IX Coordinator: Natasha Moreno, Nebraska Wesleyan University, Burt Hall 112, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2356, nmoreno@nebrwesleyan.edu or titleix@nebrwesleyan.edu

The Title IX Coordinators are:

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Responsible for oversight of the assessment, investigation, and resolution of all reports of sex discrimination and sex-based harassment;

Committed to supporting all parties involved in understanding and assessing all rights, options, and resources;

Knowledgeable and trained in relevant state and federal laws and University policy and procedures;

Responsible for oversight of annual training programs for Title IX personnel and all members of the campus community. Trainings include, but are not limited to, the definition of sex discrimination and sex-based harassment, the scope of the University's education program or activity, how to conduct an investigation and resolution process including hearings, appeals, and how to serve impartially, including to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Additionally, training ensures that Title IX personnel do not rely on sex

Responsible for ensuring resolution procedures are in compliance with Federal and University policies and regulations;
 Collaborate with the Provost, or designee, when disclosures or supportive measures are related to issues of academic freedom or instructional methods;
 Responsible for ensuring the timely completion of any remedies or sanctions, and;
 Responsible for compiling annual reports.

III. Employee Reporting Obligations

The 2024 Federal Title IX Regulations require employees with specific job responsibilities that include the authority to institute corrective measures, individuals who serve the institution in a supervisory capacity, administrators, faculty/instructors, advisors, and other positions as noted below in Table 1, to promptly report directly to the Title IX Coordinator conduct that reasonably could be sex discrimination or sex-based harassment using **ONLY** Option 1.

Employees and student employees whose job responsibilities are not listed under Category A are required to address disclosures of Prohibited Conduct using either Option 1 or Option 2. Option 2 allows employees listed under Category B to provide contact information for the Title IX Coordinator **and** information about how to make a report and file a complaint to anyone who provides a disclosure. Option 2 requirements can be met using the Title IX Resource card or email template, which are both located on the Title IX webpage.

The two options that meet employee reporting obligations are:

Option 1: Report all information disclosed and/or made available to the employee about sex discrimination and sex-based harassment to a Title IX Coordinator.

Option 2: Provide contact information for the Title IX Coordinator to anyone who provides a disclosure **and** information about how to make a report and file a complaint.

Table 1: Employee Categories of Reporting Obligations

<u>Reporting</u>	<u>Choice of Reporting or Providing Information</u>
Employees in this category can <u>ONLY</u> use Reporting (Option 1) to meet this reporting obligation.	Employees in this category may use Reporting (Option 1) <u>OR</u> Providing Resource Information (Option 2) to meet this obligation.

Job Category A

1. Advisors, Academic and Club
- 2.

Instances of disclosures may occur through various communications that include, but are not limited to, conversation, emails, classroom assignments, social media, and public awareness events and must be addressed in accordance with the University's Title IX procedures.

IV. Reporting Sex Discrimination and Sex-Based Harassment

Individual disclosure

An individual may choose to report to the University, including the Title IX coordinator, a Confidential Resource, or through anonymous reporting. An individual may choose to report to law enforcement. These reporting options through the University and law enforcement are not exclusive. An individual may simultaneously pursue a civil or criminal investigation off campus and the University sex discrimination and sex-based harassment resolution process.

How to Make a Report vs. Filing a Complaint to the University

All reports and Complaints of sex discrimination and sex-based harassment will be taken seriously and in good faith. While there is no time limit for reporting sex discrimination and sex-based harassment to the University, the University's ability to respond may diminish over time, as evidence may erode, memories fade, and individuals may no longer be affiliated with the University. If an individual is no longer affiliated with the University, the University will provide reasonably appropriate supportive measures, assist individuals in identifying external and/or other internal reporting options.

Making a Report is the notification of an incident of sex discrimination and sex-based harassment to a Title IX Coordinator by any Reporting Party. A report may be accompanied by a request for any of the following: resources, no further action, supportive measures, and/or initiation of the Complaint process. The University recognizes that not every individual will be prepared to request supportive measures or to file a Complaint; therefore, Reporting Parties may pursue these options any time in the future. Individuals are not expected or required to pursue any specific course of action.

The University will make a reasonable effort to respect the wishes of the person who experienced sex discrimination and sex-based harassment. The University reserves the right to file a Complaint over the Complainant's objection if the University deems it in the University's best interest to do so. This is done by the Title IX Coordinator signing a Complaint, on behalf of the University, and can be done with or without consent/permission of the original Complainant. Upon the filing of the Complaint, the Title IX Coordinator will not become a party to the procedure.

A report can be made at any time via email/electronically, phone, or physical mail, or in person during regular business hours.

Filing a Complaint is defined as the request to the Title IX coordinator to initiate the University's formal and informal resolution processes regarding incidents of sex discrimination and sex-based harassment. The decision to file a Complaint may be made at any time via email/electronically, phone, or physical mail, or in person during regular business hours. The

The University may dismiss a report/Complaint if:

1. The University is unable to identify the Respondent after taking reasonable steps to do so;
2. The Respondent is not participating in the University's Education Programs or Activities and/or is not employed by the University;
3. The Complainant voluntarily withdraws their complaint in writing and the Title IX Coordinator declines to initiate a Complaint;
4. The Complainant voluntarily withdraws some but not all allegations in a Complaint [in writing] and the University determines that the conduct that remains alleged in the complaint would not constitute Prohibited Conduct; or
5. The University determines the conduct alleged in the complaint, even if proven, would not constitute Prohibited Conduct under the corresponding Title IX Policy.

Upon dismissal, the University will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the University will notify the parties simultaneously, in writing. If a dismissal of one or more allegations changes the appropriate decision-making process under these procedures, the Title IX Coordinator will include that information in the notification. The Title IX Coordinator will provide the Complainant details in the written notice about any matter that is being referred for handling under a different policy, and/or being referred to another appropriate office for handling.

The University will notify the Complainant that a dismissal may be appealed on the basis outlined in the Appeals section. If dismissal occurs after the Respondent has been notified of the allegations, then the University will also notify the Respondent that the dismissal may be appealed on the same basis. If a dismissal is appealed, the University will follow the procedures outlined in the Appeals section of these procedures.

Any party may craft or create the terms of their agreement and will be asked for their suggestions or ideas during the process. Examples of agreements may include but are not limited to:

1. An agreement that the Respondent will change classes or housing assignments;
2. An agreement that the Parties will not communicate or otherwise engage with one another;
3. Completion of a training or educational project by the Respondent;
4. Completion of a 5(t)-4(h one)] TETQq0.00000912 0 612 792 reW*nBT/F3 11.04 Tf1 0 0 1 108.02 6asse

The Investigator will conduct a thorough, prompt, impartial, and unbiased investigation. The Investigator will make a reasonable effort to complete the investigation within thirty (30) days, but this time frame may be extended depending on the complex

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The University has the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party or Support Person/Advisor of Choice who does not comply with meeting expectations or decorum and any other applicable part of the resolution process.

Evidence Gathering

A. Interviews

The Investigator will interview all parties and relevant witnesses and gather relevant documents

- **Procedural Error:** A procedural error occurred and the error would change the outcome. A description of the error and its impact on the determination of the

The Appellate Decisionmaker, or designee(s), will prepare the Final Determination of Appeal stating their decision, which is final and binding. The document will include the rationale for the decision. The Appellate Decisionmaker will make a reasonable effort to complete the appeal process within five (5) days, which may be extended for good cause. The document will be provided to the Title IX Coordinator, who will communicate the final decision to the Complainant and the Respondent in writing. The Final Determination of Appeal will also be shared with the University Administrator, if applicable.

IX. Formal Resolution Procedures For All Prohibited Conduct Except Sex-Based Harassment Involving A Student Party (§106.45)

This procedure is for all allegations of Prohibited Conduct pertaining to sex discrimination involving employees, students, and third parties **OR** sex-based harassment involving any party **except** when a University Student is a Complainant or Respondent, as required by Federal Regulations h106.45.

A. Notice of Complaint

Upon receipt of a Complaint, the Title IX Coordinator will send the Notice of Complaint to both the Complainant and the Respondent, simultaneously, communicating the initiation of an investigation. Should additional allegations be brought forward, or information regarding location or date of the incident(s), a revised written Notice of Complaint shall be provided to all parties as needed or after the jurisdiction review is completed by the Title IX coordinator.

The Notice will include, at a minimum:

1. The University's resolution procedures, and any alternative resolution process (informal or supportive measures), including a link to these procedures;
2. Sufficient information available at the time to allow the parties to respond to the allegations, including the specific allegation(s), identities of the parties involved in the incident(s), the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
3. A statement that Retaliation is prohibited;
4. Contact information for the assigned Investigator and Decisionmaker, as well as the process for appealing the

9. A statement that the University prohibits knowingly making false statements or knowingly submitting false information during resolution procedures, with a link to the relevant policy(ies); and
10. A statement indicating the investigator's process of communication will be in writing and includes any investigation deadlines and schedule for investigative meetings. Investigators will provide reasonable notice for meetings.

B. Individual Interviews with Investigator

The Investigator will hold individual interviews with the Complainant, Respondent, and relevant witnesses (Involved Parties), to ask relevant and not otherwise impermissible questions and follow-up questions, including questions exploring credibility. Investigators reserve the right to hold meetings with Expert Witnesses. Character evidence is not relevant evidence, and therefore will not be considered.

The Investigator will contact the involved parties to schedule interviews. All involved parties may bring a Support Person/Advisor of Choice to this meeting. When the Support Person/Advisor of Choice is an attorney, the Investigator must be given two (2) days advance notice. The Support Person/Advisor of Choice cannot direct questions or comments to the Investigator, but they may consult with the

incapacitation of either party based on an objective and subjective evaluation of the behavior when viewed from the perspective of a sober, reasonable person. Evidence of incapacitation may require evaluating normal and abnormal behaviors of all parties involved, such as vomiting, sleeping, blacking out, and unconsciousness.

An investigation may also require an evaluation of whether consent for sexual behavior was given. An essential element of consent is that it be freely given. Freely given consent might not be present, or may not even be possible, in relationships of a sexual or intimate nature between

E. Written Impact Statement Option

The Complainant and Respondent may each submit a written impact statement prior to the conclusion of the resolution process. The impact statement is not evidence and will be reviewed only after a determination is reached.

F. Conclusion of Decisionmaker Review

The Notice of Determination and applicable sanctions becomes effective on the date that the appeal process is finalized.

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Report and provide follow-up responses or information to the Investigator. The purpose of the inspection and review process is to allow each party the equal opportunity to respond to the evidence prior to conclusion of the investigation, to submit any additional relevant evidence, and the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence or the names of witnesses. Relevant responses submitted during the preliminary review period will be included in the Final Investigative Report.

Given the sensitive nature of the information provided, the University will facilitate this review in a secure manner. None of the parties nor their advisors may copy, remove, publicize, share, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence. At the conclusion of the evidence review, when deemed appropriate by the Investigator, the Investigator shall then conduct any additional fact-

The Title IX Coordinator will notify a University Administrator, or designee, who will schedule the Title IX Hearing. The Title IX Hearing will be scheduled within ten (

which additional witness lists must be submitted). If the

Lincoln, NE 68508
402-471-2024
1-800-642-6112

Any person may report conduct prohibited by the Title IX Policy to the Title IX Coordinator:
Assistant Director of Title IX Services and Title IX Coordinator: Natasha Moreno,
Nebraska Wesleyan University, Burt Hall 112, 5000 Saint Paul Ave., Lincoln, NE 68504
(402) 465-2356, nmoreno@nebrwesleyan.edu or titleix@nebrwesleyan.edu

A complaint about the Title IX Coordinator may be made to:
Director of Title IX Services and Title IX Coordinator: Maria Harder, Nebraska Wesleyan
University, Smith Curtis 202E, 5000 Saint Paul Ave., Lincoln, NE 68504 (402) 465-2117,
mharder@nebrwesleyan.edu

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