

**POLICY PROCEDURE TITLE:** Title IX – Sex Discrimination Resolution Process

**DIVISION:** Student Affairs / Talent & Culture

**POLICY OWNER/POSITION TITLE:** Title IX Coordinator

---

**Table of Content**

Purpose.....4

Overview .....4

Scope.....4

Notice/Complaint .....4

Collateral Misconduct.....4

Statement of the Parties’ Rights.....5

Initial Evaluation .....7

Violence Risk Assessment.....9

Dismissal .....10

Appeal of Dismissal .....11

Emergency Removal/Interim Suspension of a Student.....12

Placing an Employee on Leave.....13

Counter-Complaints .....13

Advisors in the Resolution Process .....13

    Who Can Serve as an Advisor?.....13

    Advisor’s Role in the Resolution Process.....14

    Records Shared with Advisors .....14

    Advisor Expectations.....15

    Advisor Policy Violations .....15

Resolution Option Overview .....15

Informal Resolution .....15

    Supportive Resolution .....17

    Educational Conversation .....17

    Accepted Responsibility.....17

    Alternative Resolution .....17

Resolution Process Pool .....	19
Pool Member Roles .....	19
Pool Member Appointment.....	19
Notice of Investigation and Allegations .....	19
Resolution Timeline .....	20
Ensuring Impartiality .....	21
Investigator Appointment .....	21
Witness Role and Participation in the Investigation .....	21
Interview Recording .....	22
Evidentiary Considerations.....	22
Respondent Admits Responsibility .....	23
Investigation .....	23
Hearing Resolution Process .....	24
Live Hearing Requirements.....	24
Hearing Notice.....	26
Witness Participation .....	26
Pre-Hearing Meetings.....	27
Hearing Procedures .....	28
Evidentiary Considerations.....	28
Collateral Misconduct.....	28
Joint Hearings .....	28
Introductions and Hearing Procedure Explanation.....	29
Investigator Presentation of Final Investigation Report.....	29
Testimony and Questioning .....	29
Refusal to Submit to Questioning and Inferences .....	30
Hearing Recordings.....	30
Deliberation and Determination.....	30
Sanctions .....	31
Student Sanctions.....	31

Student Group and Organization Sanctions.....	32
Employee Sanctions/Responsive/Corrective Actions .....	32
Notice of Outcome.....	33
Withdrawal or Resignation Before Complaint Resolution .....	33
Students .....	33
Employees.....	34
Appeal of the Determination.....	34
Appeal Grounds .....	34
Request for Appeal.....	35
Appeal Determination Process .....	35
Appeal Outcome .....	36
Sanction Status During the Appeal.....	37
Long-Term Remedies/Other Actions .....	37
Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms .....	38
Accommodations and Support During the Resolution Process .....	38
Disability Accommodations.....	38
Revision of these Procedures .....	38
Recordkeeping.....	39
Federal Statistical Reporting Obligations .....	39
Definitions .....	40

## Purpose

NWTC is committed to providing a workplace and educational environment, including the many benefits, programs, and activities it offers its students and employees, free from sex discrimination in any form. To ensure compliance with applicable federal and state laws and regulations, including, without limitation, Title IX of the Education Amendments Act of 1972 and its implementing regulations (“Title IX”), and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational enterprise, NWTC has developed and enacted this policy process to make clear that discrimination on the basis of sex, sexual harassment and retaliatory conduct related to sex-based harassment, alleged or proven, will not be tolerated.

## Overview

NWTC will act on any Notice, Complaint, or Knowledge of a potential violation of the Title IX – Sex Discrimination Policy (“the Policy”) that is received by the Title IX Coordinator or its designee or any other Mandated Reporter by applying the Resolution Process below. NWTC’s Title IX - Sex Discrimination Policy can be accessed [online](#).

The procedures below apply to all allegations of sex discrimination, sex-based harassment, or retaliation, as involving students, staff, administrators, faculty members, or third parties.

## Scope

This process is only applicable to alleged incidents that occur after August 1, 2024. For alleged incidents of sexual discrimination/harassment occurring prior to August 1, 2024, the policy, and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Title IX Coordinator and [online](#).

## Notice/Complaint

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the Title IX Coordinator or its designee will initiate a prompt initial evaluation to determine NWTC’s next steps. The Title IX Coordinator or its designee will contact the Complainant/source of the Notice to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

## Collateral Misconduct

Collateral misconduct is defined to include potential violations of other NWTC policies not incorporated into the Policy on Title IX - Sex Discrimination that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all charges. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Title IX Coordinator or its designee may consult with NWTC officials who typically oversee such conduct (e.g., Talent & Culture,

student conduct/CARE) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of NWTC. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student and the employee handbook.

## Statement of the Parties' Rights

### **Under this Policy and procedures, the Parties have the right to:**

- An equitable investigation and resolution of all credible allegations of prohibited sex discrimination, sex-based harassment, retaliation, and Other Prohibited Behaviors, when reported in good faith to NWTC officials.
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the specific misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated Policies and procedures, and possible sanctions.
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations.
- Be informed in advance of any NWTC public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- Have all personally identifiable information protected from NWTC's release to the public without consent, except to the extent permitted by law.
- Be treated with respect by NWTC officials.
- Have NWTC Policy and these procedures followed without material deviation.
- Voluntarily agree to resolve allegations under this Policy through Informal Resolution without NWTC pressure, if Informal Resolution is approved by the Title IX Coordinator or its designee.
- Not be discouraged by NWTC officials from reporting sex discrimination, sex-based harassment, retaliation, and Other Prohibited Behavior to both on-campus and off-campus authorities.
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by NWTC in notifying such authorities, if the party chooses. This also includes the right to not be pressured to report.
- Have allegations of violations of this Policy responded to promptly and with sensitivity.
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, visa and immigration assistance, and/or other services, both on-campus and in the community.
- A NWTC-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- Be informed of available assistance in changing academic, and/or employment situations after an alleged incident of sex discrimination, sex-based harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either institutional or criminal, needs to occur for this option to be available. Such actions may include, but are not limited to:
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)

- Visa/immigration assistance
  - Rescheduling or adjusting an exam, paper, and/or assignment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Campus safety escorts
  - Alternative course completion options
- Have NWTC maintain supportive measures for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair NWTC's ability to provide the supportive measures.
  - Receive sufficiently advanced written notice of any NWTC meetings or interviews involving another party, when possible.
  - Identify and have the Investigator(s) and/or Decision-maker question relevant available witnesses, including expert witnesses.
  - Provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant and permissible by the Investigator(s)/Decision-maker, may be asked of any party or witness.
  - Have Complainant's inadmissible sexual interests/prior sexual history or any Party's irrelevant character evidence excluded by the Decision-maker.
  - Access the relevant evidence obtained and respond to that evidence.
  - A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
  - Receive a copy of all relevant and permissible evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law and be given ten (10) business days to review and comment on the evidence.
  - The right to receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, and to have at least seven (7) business days to review the report prior to the determination.
  - Be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
  - Regular status updates on the investigation and/or Resolution Process.
  - Have reports of alleged Policy violations addressed by Resolution Process Pool members who have received relevant annual training as required by law.
  - A Decision-making panel that is not single-sex in its composition, if a panel is used.
  - Preservation of confidentiality/privacy, to the extent possible and permitted by law.
  - Meetings, interviews, and/or hearings that are closed to the public.
  - Petition that any NWTC representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
  - Be able to select an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
  - Apply the standard of proof, preponderance of the evidence ("more likely than not"), to make a Finding and Final Determination after an objective evaluation of all relevant and permissible evidence.

- Be present, including presence via remote technology, during all testimony given and evidence presented during any hearing.
- Have an impact and/or mitigation statement considered by the Decision-maker following a determination of responsibility for any allegation, but prior to sanctioning.
- Be promptly informed of the Resolution Process finding(s) and sanction(s) (if any) and be given a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay).
- Be informed in writing of when a NWTC decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery.
- Be informed of the opportunity to appeal the Resolution Process finding(s) and sanction(s), and the procedures for doing so in accordance with NWTC's grounds for appeal.
- A fundamentally fair resolution as defined in these procedures.

## Initial Evaluation

The Title IX Coordinator or its designee conducts an initial evaluation typically within seven (7) business days of receiving Notice/Complaint/Knowledge of alleged misconduct. The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
  - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Determining whether NWTC has jurisdiction over the reported conduct, as defined in the Policy.
  - If the conduct is not within NWTC jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate NWTC office for resolution.
- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- Notifying the Complainant, or the person who reported the allegation(s), of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
- Determining whether the Complainant wishes to make a Complaint.
- Notifying the Respondent of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.

### ***Helping a Complainant to Understand Options***

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Title IX Coordinator or its designee will help to facilitate the Complaint, which will include:

- Working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:
  - a supportive and remedial response, and/or

- Informal Resolution, or
- The Resolution Process described below.

The Title IX Coordinator or its designee will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

If the Complainant elects for the Resolution Process below, and the Title IX Coordinator or its designee has determined the Policy applies and that NWTC has jurisdiction, they will route the matter to the appropriate Resolution Process, will provide the Parties with a Notice of Investigation and Allegation(s), and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the Title IX Coordinator or its designee will assess whether the matter is suitable for Informal Resolution and refer the matter, accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Title IX Coordinator or its designee), though the Complainant can elect to initiate one later, if desired.

#### ***Title IX Coordinator or its Designee: Authority to Initiate a Complaint***

If the Complainant does not wish to file a Complaint, the Title IX Coordinator, or its designee, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Title IX Coordinator or its designee will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if NWTC cannot ensure equal access without initiating a Complaint. The Title IX Coordinator or its designee will consider the following non-exhaustive factors to determine whether to file a Complaint:

- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of sex discrimination would occur if a Complaint is not initiated;
- The severity of the alleged sex discrimination, including whether the sex discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the sex discrimination and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is a NWTC employee;
- The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a Decision-maker in determining whether sex discrimination occurred;
- Whether NWTC could end the alleged sex discrimination and prevent its recurrence without initiating its resolution process.

If deemed necessary, the Title IX Coordinator or its designee may consult with appropriate NWTC employees, and/or conduct a violence risk assessment<sup>24</sup> to aid their determination whether to initiate a Complaint.



When the Title IX Coordinator or its designee initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

## Violence Risk Assessment

Threat assessment is the process of assessing the actionability of violence by a person against another person or group following the issuance of a direct or conditional threat. A Violence Risk Assessment (VRA) is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

Implementing a VRA requires specific training. It is typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct professionals, and/or other Behavioral Intervention Team (BIT) (sometimes known as CARE team) members.

A VRA occurs in collaboration with the CARE team, and/or threat assessment team and must be understood as an ongoing process, rather than as a single evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California, Section XII in Massachusetts, Baker Act in Florida), nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations. It is supported by research from law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use(s) an evidence-based process consisting of:

- 1) An appraisal of **risk factors** that escalate the potential for violence.
- 2) A determination of stabilizing influences, or **protective factors**, that reduce the risk of violence.
- 3) A contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of the threat; fixation and focus on target; grievance collection; and action and time imperative for violence.
- 4) The application of **intervention and management** approaches to reduce the risk of violence.

To assess a person's level of violence risk, the Title IX Coordinator or its designee will initiate the VRA process through the NWTC CARE Team. The CARE Team will assign a trained person(s) to perform the assessment, according to the specific nature of the complaint.

The assessor(s) will follow the process for conducting a VRA as outlined in the CARE Team manual and will rely on a consistent, research-based, reliable system that allows for the evaluation of the risk levels.

The VRA is conducted independently from the Resolution Process, informed by it, but free from outcome pressure. The person(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The CARE Team member(s) conducts a VRA process and makes a recommendation to the Title IX Coordinator or its designee as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to the health and/or safety of a person or the community.

In some circumstances, the Title IX Coordinator may determine that a VRA should be conducted by the CARE Team as part of the initial evaluation of a Complaint under this Policy. A VRA can aid in critical and/or required determinations, including:

- 1) Whether to remove the Respondent on an emergency basis because of an immediate threat to a person or the community's health/safety (Emergency Removal)
- 2) Whether the Title IX Coordinator or its designee should pursue/sign a Complaint absent a willing/able Complainant
- 3) Whether the scope of an investigation should include an incident, and/or pattern of misconduct, and/or climate of discrimination or harassment
- 4) To help identify potential predatory conduct
- 5) To help assess/identify grooming behaviors
- 6) Whether it is reasonable to try to resolve a Complaint through Informal Resolution, and if so, what approach may be most successful
- 7) Whether to permit the Respondent to voluntarily withdraw
- 8) Assessment of appropriate sanctions/remedies (to be applied post-determination)
- 9) Whether a Clery Act Timely Warning/Trespass order/Persona Non Grata is needed

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Institutions may be compelled to act on alleged employee or student misconduct irrespective of a Complainant's wishes.

## Dismissal

NWTC **may** dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

- 1) A reasonable person would determine the alleged behavior (based on the totality of the circumstances) was NOT subjectively and objectively offensive AND was not so severe OR pervasive that it limited or denied a person's ability to participate in or benefit from NWTC's education program or activity.
- 2) NWTC is unable to identify the Respondent after taking reasonable steps to do so
- 3) NWTC no longer enrolls or employs the Respondent
- 4) A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator or its designee declines to initiate a Complaint
- 5) NWTC determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven

A Decision-maker can recommend dismissal to the Title IX Coordinator or its designee, if they believe the grounds are met. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, NWTC will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, NWTC will also notify the Respondent of the dismissal.

This dismissal decision is appealable by any party.

## Appeal of Dismissal

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

The Title IX Coordinator or its designee will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Title IX Coordinator or its designee must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, NWTC will:

- Implement dismissal appeal procedures equally for the Parties;
- Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint;
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal; and
- Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

- 1) Procedural irregularity that would change the outcome;
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was decided;
- 3) The Title IX Coordinator or its designee, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.
- 4) [The dismissal was erroneously granted or denied]

Upon receipt of a dismissal appeal in writing from one or more Parties, the Title IX Coordinator or its designee will share the petition with the other party and provide three (3) business days for other Parties to respond to the request. The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. This appeal will be provided in writing to the other Parties, and the Title IX Coordinator or its designee, who will be invited to respond in writing. At the conclusion of the response period, the Title IX Coordinator or its designee will forward the appeal, as well as any response provided by the other Parties to the Dismissal Appeal Officer for consideration.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Dismissal Appeal Officer, and the Parties, their Advisors, and the Title IX Coordinator or its designee will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisors, and the Title IX Coordinator or its designee, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal, though extensions can be granted at the discretion of the Title IX Coordinator, or its designee and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Officer may consult with the Title IX Coordinator or its designee and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Title IX Coordinator or its designee will maintain documentation of all such consultation.

## Emergency Removal/Interim Suspension of a Student

NWTC may emergency remove a student accused of Sex Discrimination or Sex-based Harassment upon receipt of Notice/Knowledge, a Complaint, or at any time during the resolution process. Prior to an emergency removal, NWTC will conduct an individualized risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies such action.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Title IX Coordinator or its designee will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal or interim suspension will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator or its designee determines it is equitable to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title IX Coordinator or its designee for review.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title IX Coordinator or its designee will communicate the final decision in writing, typically within three (3) business days of the review meeting.

## Placing an Employee on Leave

When the Respondent is an employee, or a student employee accused of misconduct in the course of their employment, existing provisions for employee disciplinary actions are typically applicable instead of the above student emergency removal process.

## Counter-Complaints

NWTC is obligated to ensure that the resolution process is not abused for retaliatory purposes. Although NWTC permits the filing of Counter-Complaints, the Title IX Coordinator or its designee will use an initial evaluation, described above, to assess whether the allegations in the Counter-Complaint are made in good faith. When Counter-Complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of the Policy.

Counter-Complaints determined to have been reported in good faith will be processed using the Resolution Process below. At the Title IX Coordinator or its designee's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

## Advisors in the Resolution Process

### Who Can Serve as an Advisor?

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.

The Title IX Coordinator or its designee will offer to assign a trained Advisor to any party if the party chooses. If the Parties choose an Advisor from the pool available from NWTC, NWTC will have trained the Advisor and familiarized them with NWTC's Resolution Process.

NWTC cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, NWTC is not obligated to provide an attorney to advise that party.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title IX Coordinator or its designee with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

NWTC may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Title IX Coordinator or its designee. The decision to grant this request is at the Title IX Coordinator or its designee's sole discretion and will be granted equitably to all Parties.

If a party requests that all communication be made through their attorney Advisor instead of to the party, the Recipient will agree to copy both the party and their Advisor on all communications.

Advisors appointed by the institution cannot be confidential employees, and although they will not be asked to disclose details of their interactions with their advisees to institutional officials or Decision-makers absent an emergency, they are still reminded of their Mandated Reporter responsibilities.

#### Advisor's Role in the Resolution Process

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to ask and respond to questions on their own behalf throughout the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

Where applicable under state law or Recipient Policy, Advisors or attorneys are permitted to fully represent their advisees or clients in the Resolution Process, including all meetings, interviews, and hearings. Although Recipient prefers to hear from Parties directly, in these cases, Parties are entitled to have their chosen representatives provide evidence.

#### Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes this evidence.

Advisors are expected to maintain the confidentiality of the records NWTC shares with them. Advisors may not disclose any NWTC work product or evidence NWTC obtained solely through the Resolution Process for any purpose not explicitly authorized by NWTC.

Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). NWTC may decline to share materials with any Advisor who has not executed the NDA. NWTC may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by NWTC's confidentiality expectations.

### Advisor Expectations

NWTC generally expects an Advisor to adjust their schedule to allow them to attend NWTC meetings/interviews/hearings when planned, but NWTC may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

NWTC may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies.

All Advisors are subject to the same NWTC policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by NWTC. Advisors are expected to advise their advisees without disrupting proceedings.

### Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the NWTC's established rules of decorum, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including NWTC requiring the party to use a different Advisor or providing a different NWTC-appointed Advisor. Subsequently, the Title IX Coordinator or its designee will determine how to address the Advisor's non-compliance and future role.

## Resolution Option Overview

This Resolution Process, consisting of Informal Resolution or Hearing Resolution, is NWTC's chosen approach to addressing all forms of sex discrimination on the basis of sex-based harassment, and retaliation. The process considers the Parties' preferences but is ultimately determined at the Title IX Coordinator or its designee's discretion.

Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with NWTC Policy.

### Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator or its designee at any time prior to a final determination, or the Title IX Coordinator may offer the option to the Parties, in writing. NWTC will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Before initiation of an Informal Resolution process, NWTC will provide the Parties with a Notice of Investigation & Allegation ("NOIA") that explains:

- The allegations;
- The requirements of the Informal Resolution process;

- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume the NWTC's Resolution Process;
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the resolution process arising from the same allegations;
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties; and
- What information NWTC will maintain, and whether and how it could disclose such information for use in its Resolution Process.

NWTC offers four categories of Informal Resolution:

- 1) **Supportive Resolution.** When the Title IX Coordinator or its designee can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.
- 2) **Educational Conversation.** When the Title IX Coordinator or its designee can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.
- 3) **Accepted Responsibility.** When the Respondent is willing to accept responsibility for violating NWTC's Title IX – Sex Discrimination Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and NWTC are agreeable to the resolution terms.
- 4) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision-maker, or Appeal Decision-maker.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Hearing Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Formal Hearing Resolution Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Hearing Process, should Informal Resolution not be successful, unless agreed to by all Parties.

If an investigation is already underway, the Title IX Coordinator or its designee has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

#### Categories of Informal Resolution



### Supportive Resolution

The Title IX Coordinator or its designee will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to the NWTC's education program and activity. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Title IX Coordinator or its designee may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Title IX Coordinator or its designee does not initiate a Complaint.

### Educational Conversation

The Complainant(s) may request that the Title IX Coordinator or its designee address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the Title IX Coordinator or its designee may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of recurrence of any behaviors that may not align with Policy.

### Accepted Responsibility

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title IX Coordinator or its designee will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Title IX Coordinator or its designee will determine whether all Parties and NWTC are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX Coordinator or its designee implements the accepted finding that the Respondent is in violation of NWTC's Title IX – Sex Discrimination Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### Alternative Resolution

NWTC offers a variety of Alternative Resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative Resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported

direct conversation or interaction with the Respondent(s); indirect action by the Title IX Coordinator or its designee or other appropriate NWTC officials; and other forms of resolution that can be tailored to the needs of the Parties. Some Alternative Resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an Alternative Resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an Alternative Resolution process.

The Title IX Coordinator or its designee may consider the following factors to assess whether Alternative Resolution is appropriate, or which form of Alternative Resolution may be most successful for the Parties:

- The Parties' amenability to Alternative Resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed
- Skill of the Alternative Resolution facilitator with this type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in Alternative Resolution (e.g., time, staff, etc.)

The Title IX Coordinator or its designee has the authority to determine whether Alternative Resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the Alternative Resolution process. The Title IX Coordinator or its designee will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the Alternative Resolution.

The Title IX Coordinator or its designee maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the Agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the Agreement, etc.). The results of Complaints resolved by Alternative Resolution are not appealable.

If an Informal Resolution option is not available or selected, NWTC will initiate or continue an investigation and subsequent Resolution Process to determine whether the Policy has been violated.

## Resolution Process Pool

The Resolution Process relies on a pool of administrators (“the Pool”) to carry out the process.

### Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the Title IX Coordinator or its designee:

- Appropriate intake of and initial guidance pertaining to Complaints
- Advisor to Parties
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Hearing Facilitator
- Decision-maker for challenges to emergency removal and supportive measures
- Decision-maker
- Appeal of Dismissal Decision-maker
- Appeal Decision-maker

### Pool Member Appointment

The Title IX Coordinator or its designee, in consultation with senior administrators as necessary, appoints the Pool, which acts with independence and impartiality. Pool members are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Complaints.

## Notice of Investigation and Allegations

Prior to an investigation, the Title IX Coordinator or its designee will provide the Parties with a detailed written Notice of Investigation and Allegations (NOIA). Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence

- The name(s) of the Investigator(s), along with a process to identify to the Title IX Coordinator or its designee, in advance of the interview process, any conflict of interest that the Investigator(s) may have
- A statement that NWTC presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share NWTC work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that the NWTC's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how a party may request disability accommodations during the Resolution Process
- A link to the NWTC's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the Parties as indicated in official NWTC records, or emailed to the Parties' NWTC-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

## Resolution Timeline

NWTC will make a good faith effort to complete the Resolution Process within sixty to ninety (60-90) business days, including any appeals, which can be extended as necessary for appropriate cause by the Title IX Coordinator or its designee. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, NWTC reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

NWTC may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to delay the investigation temporarily, the need for language assistance, the absence of Parties and/or witnesses,

and/or health conditions. NWTC will promptly resume its Resolution Process as soon as feasible. During such a delay, NWTC will implement and maintain supportive measures for the Parties as deemed appropriate.

NWTC action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

NWTC will make a good faith effort to complete the Resolution Process as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the process.

### Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator or its designee, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator or its designee will vet the assigned Investigator(s), Decision-maker(s), and Appeals officers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator or its designee will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator or its designee, concerns should be raised with the Title IX Coordinator's direct supervisor.

The Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

### Investigator Appointment

Once an investigation is initiated, the Title IX Coordinator or its designee may appoint an Investigator(s) to conduct it. These Investigators may be members of the Resolution Process Pool, or any other properly trained Investigator, whether internal or external to the NWTC community.

### Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are required to cooperate with and participate NWTC's investigation and Resolution Process. Student witnesses and witnesses from outside the NWTC

community cannot be required to participate but are encouraged to cooperate with NWTC's investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx, etc.), or, in limited circumstances, by telephone. NWTC will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

## Interview Recording

It is standard practice for Investigators to create record of all interviews pertaining to the Resolution Process (other than Informal Resolution meetings). The Parties may review copies of their own interviews, upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. All involved individuals should be made aware of audio and/or video recording.

All interviews are recorded. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may pose additional questions to each other. Those subsequent meetings or interviews are also recorded and/or transcribed and shared with the Parties.

## Evidentiary Considerations

The Investigators and the Decision-maker will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

## Respondent Admits Responsibility

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would also waive all rights to appeal for the Respondent. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion.

## Investigation

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviews with all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

NWTC may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

The Investigators typically take the following steps, if not already completed and not necessarily in this order:

- Determine the identity and contact information of the Complainant.
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- Assist the Title IX Coordinator or its designee, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Work with the Title IX Coordinator or its designee, as necessary, to prepare the initial Notice of Investigation and Allegations (NOIA). The NOIA may be amended with any additional or dismissed allegations.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.
- When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible.
- Interview the Complainant and the Respondent and conduct follow-up interviews with each, as necessary.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.

- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews and meetings.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigators to ask of another party and/or witnesses. Document in the investigation report which questions were asked, with a rationale for any changes or omissions.
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.
- Prior to the conclusion of the investigation, provide the Parties and their respective Advisors with a list of witnesses whose information will be used to render a finding.
- Ask the Parties to provide a list of questions they would like asked of the other party or any witnesses. The Investigators will ask those questions deemed relevant, and for any question deemed not relevant, will provide a rationale for not asking the question.
- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation, and party and witness interviews, and provides all relevant evidence.
- Provide the Parties and their respective Advisors an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.
- The Investigator may share the investigation report with the Title IX Coordinator or its designee and/or legal counsel for their review and feedback.

## Hearing Resolution Process

### Live Hearing Requirements

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Decision-maker and Parties must be able to simultaneously see and hear a party or witness while that person is speaking. Both options are considered fair and equitable. Alternative arrangements may also be made at the Title IX Coordinator or its designee's discretion.
  - The Parties may make a request to the Title IX Coordinator or its designee that the hearing occur in person or via video technology, but they must do so at least three (3) business days prior to the hearing. The Title IX Coordinator or its designee retains discretion to determine whether the hearing will occur in person or via video technology.
  - All hearings will be recorded, and Parties may request a copy of the recording from the Title IX Coordinator or its designee following the live hearing.
  - No unauthorized recordings are permitted.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-maker(s), hearing facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized



accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Decision-maker. Witnesses are present only during their portion of the testimony.

- **Advisors.** The Parties may have the assistance of an Advisor of their choosing at the hearing or can request that NWTC appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves.
  - During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the hearing unless explicitly authorized by the Title IX Coordinator or its designee, with each party being provided the same opportunity.
  - Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a matter consistent with Policy.
  - All questions during the hearing will be asked by the Decision-maker. Parties and Advisors may suggest questions to be posed by the Decision-maker during the pre-hearing meetings or by submission of written questions during the hearing. The method of submitting questions to the Decision-maker will be specified by the Decision-maker during the pre-hearing meetings.
- **Impact Statements.** Each party may submit an impact and/or mitigation statement to the Title IX Coordinator, or designee that the Decision-maker will review during any sanction determination.
  - Upon receipt of an impact and/or mitigation statement, the Title IX Coordinator, or designee will review the impact/mitigation statement to determine whether any immediate needs exist.
  - The Title IX Coordinator, or designee, will only provide the impact statements to the Decision-maker if the Decision-maker determines that the Policy has been violated. When the Title IX Coordinator, or designee shares the impact statements with the Decision-maker, they will also be shared with the Parties.
- **Disability Accommodations and Other Assistance.** Parties should contact the Title IX Coordinator or its designee at least three (3) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- **Conflicts of Interest or Bias.** The Decision-maker must not have a bias for or against complainants or respondents generally or the individual Complainant or Respondent in particular.
  - The Decision-maker must recuse themselves if such bias or conflict of interest exists.
  - If the Decision-maker believes there is possible conflict of interest or bias, they will consult with the Title IX Coordinator or its designee about possible recusal or removal.
  - The Parties may raise challenges that the Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Title IX Coordinator or its designee within two (2) business days of receiving the hearing notice.
  - The Title IX Coordinator or its designee will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
  - If a Decision-maker recuses themselves as the result of a conflict of interest or bias, or is removed, the Title IX Coordinator or its designee will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.

- **Evidence Provided to Decision-maker and Parties.**
  - The Decision-maker will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least seven (7) business days in advance of the hearing.
  - The Parties will be provided with electronic copies of all the materials provided to the Decision-maker as part of the hearing notice, unless those materials have already been provided.<sup>37</sup>

### Hearing Notice

The Title IX Coordinator or its designee will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, typically at least seven (7) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- A description of any technology that will be used to facilitate the hearing.
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and witnesses participating in the hearing, the identity of the Decision-maker, details related to questioning, the role of Advisors, and how to request disability accommodations or other assistance.

### Witness Participation

Student witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. Employee witnesses are expected to participate in, and make themselves reasonably available for, the hearing. Witnesses may participate in-person or via video technology that allows the Decision-maker and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an advisor without express permission of the Title IX Coordinator or its designee. At the discretion of the Decision-maker, a witness may join by phone if no other reasonable alternative is available.

If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator or its designee may reschedule the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet NWTC's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Resolution Processes that occur during months between contracts.

The Title IX Coordinator or its designee will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless:

- All Parties and the Decision-maker assent to the new witness's participation in the hearing without remanding the complaint back to the investigator, and
- The Decision-maker deems the evidence presented by the new witness to be relevant, not impermissible, and not information already established in the record, and
- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

If the above criteria are not met, but the witness's evidence is deemed relevant, not impermissible, and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties at least five (5) business days to review the relevant portions of the new witness's statements, if such statements are submitted.
- Remand the Complaint back to the Investigator for further investigation or verification.
- Allow the Parties to review and comment on the testimony of the new witness.

If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing absent the new witness's participation.

### Pre-Hearing Meetings

The Decision-maker will offer to convene a pre-hearing meeting(s) with the Parties and their Advisors and invite them to submit the questions or topics they wish to ask or discuss at the hearing. This allows the Decision-maker to consider their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Parties from submitting a question at the hearing for the first time or asking for a reconsideration on a Decision-maker's pre-hearing decision based on any new information or testimony offered at the hearing. The Decision-maker will document and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each party.

The Decision-maker will work with the Parties to finalize a witness list for the hearing, and the Title IX Coordinator and its designee will notify any witnesses of the hearing's logistics. The Decision-maker, **only** with the agreement of all Parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the Final Investigation Report or during the hearing, and their presence is not essential to assess their credibility.

Pre-hearing meeting(s) will not be recorded. The pre-hearing meetings will typically be conducted as separate meetings with each party/Advisor, and can be done remotely, or as a written communication exchange. The Decision-maker will work with the Parties to establish the format and timing of the meetings and will circulate a summary of any rulings made to ensure all Parties and Advisors are aware.

## Hearing Procedures

### Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completing the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant and not impermissible, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing absent the new evidence.

The new relevant evidence will be admitted to the record if:

- All Parties and the Decision-maker assent to the new evidence being included in the hearing without remanding the Complaint back to the investigator, and
- The evidence is not duplicative of evidence already in the record, and
- It is not impermissible, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties with at least five (5) business days to review the relevant evidence.
- Remand the Complaint back to the Investigator for further investigation or analysis.
- Allow the Parties to review and comment on the new evidence.

If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing without allowing the new evidence.

### Collateral Misconduct

The Decision-maker has the authority to hear and make determinations on all allegations of sex discrimination, sex-based harassment, retaliation, and Other Prohibited Behavior under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred in concert with the discrimination, harassment, retaliation, or Other Prohibited Behavior, even though those collateral allegations may not specifically fall within the Policy.

### Joint Hearings

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator or its designee may permit the investigation and/or hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

### Introductions and Hearing Procedure Explanation

The Decision-maker will explain the hearing procedures and introduce the participants. The Decision-maker will answer any procedural questions prior to and as they arise throughout the hearing.

### Investigator Presentation of Final Investigation Report

The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then by the Parties. The Investigator may attend the duration of the hearing or be excused after their testimony at the Decision-maker's discretion.

### Testimony and Questioning

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Decision-maker. The Decision-maker will facilitate questioning of the Parties and witnesses first by the Decision-maker and then by the Parties through the Decision-maker.

All questions must be directed toward and asked through the Decision-maker and are subject to a relevance determination before they are asked. The Decision-maker will determine the method by which the Parties will submit their questions to the Decision-maker for their review and, if approved, to be posed. Questions that the Parties wish to have posed can be questions for that party themselves, another party, or witnesses.

The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-maker will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Decision-maker has final say on all questions and determinations of relevance and appropriateness. The Decision-maker may consult with legal counsel on any questions of admissibility.

The Decision-maker then poses the questions deemed relevant, not impermissible, and appropriate to the party and/or witness.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Decision-maker may elect to address those issues, consult with legal counsel, refer them to the Title IX Coordinator or its , and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision-maker should not permit irrelevant questions that probe for Investigator bias.

The Decision-maker will allow witnesses who have relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the Decision-maker and the Parties, and the witnesses will then be excused.

### Refusal to Submit to Questioning and Inferences

Any party or student witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the hearing if they are reasonably available. The Decision-maker can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility. The Decision-maker may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

### Hearing Recordings

NWTC records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker, the Parties, their Advisors, Appeal Decision-makers, and other appropriate NWTC officials will be permitted to review the recording or review a transcript of the recording upon request to the Title IX Coordinator or its designee. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

### Deliberation and Determination

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the preponderance of the evidence (more likely than not). Deliberations are not recorded.

When there is a finding of responsibility for one or more of the allegations, the Decision-maker may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate sanction(s). The Title IX Coordinator or its designee will ensure that any submitted statements are exchanged between the Parties if they are viewed by the Decision-maker. Impact/mitigation statements do not influence the finding, they only potentially influence the sanctions.

The Decision-maker will then prepare and provide the Title IX Coordinator or its designee with a written outcome letter detailing all findings and final determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s).

This statement is usually five to fifteen (5-15) pages in length and is typically submitted to the Title IX Coordinator or its designee within ten (10) business days from the conclusion of the hearing, unless the Title IX Coordinator or its designee grants an extension. The Title IX Coordinator or its designee will notify the Parties of any extension.

## Sanctions

Factors considered by the Decision-maker when determining sanctions and responsive actions may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sex discrimination, sex-based harassment, and/or retaliation
- The need to remedy the effects of the sex discrimination, sex-based harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

### Student Sanctions

The following are the common sanctions that may be imposed upon students singly or in combination:

- **Reprimand:** A formal statement that the conduct was unacceptable and a warning that further violation of any NWTC Policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Restrictions:** A student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or from holding leadership in student organizations.
- **Probation:** An official sanction for violation of NWTC Policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any NWTC Policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Separation from the institution, or one or more of its facilities, for a definite period of time, typically not to exceed two years, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the student is eligible to return if the institution determines it is appropriate to re-enroll/readmit the student. The student is typically required to vacate institutional property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Title IX Coordinator or its designee or other appropriate official. During an institution-wide suspension, the student is banned from institutional

property, functions, events, and activities unless they receive prior written approval from an appropriate institutional official. This sanction may be enforced with a trespass action, as necessary.

- **Expulsion:** Permanent separation from the institution. The student is banned from institutional property, and the student's presence at any institution-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary
- **Other Actions:** In addition to, or in place of, the above sanctions, NWTC may assign any other sanctions as deemed appropriate.

### Student Group and Organization Sanctions

The following are the common sanctions that may be imposed upon student organizations singly or in combination:

- **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any NWTC Policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Probation:** An official sanction for violation of institutional Policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any institutional Policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of NWTC funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- **Suspension:** Termination of student group or organization recognition and/or institutional support for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in NWTC-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from NWTC.
- **Expulsion:** Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- **Loss of Privileges:** Restricted from accessing specific NWTC privileges for a specified period of time.
- **Other Actions:** In addition to or in place of the above sanctions, NWTC may assign any other sanctions as deemed appropriate.

### Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in sex-based harassment, sex discrimination, and/or retaliation include:

- Verbal or Written Warning
- Performance Improvement Plan/Management Process
- Enhanced Supervision, Observation, or Review
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility



- Demotion
- Transfer
- Shift or schedule adjustments
- Reassignment
- Assignment to New Supervisor
- Suspension/Administrative Leave with Pay
- Suspension/Administrative Leave without Pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions, NWTC may assign any other responsive actions as deemed appropriate.

## Notice of Outcome

Within ten (10) business days of the conclusion of the Resolution Process, the Title IX Coordinator or its designee provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, any applicable sanctions that NWTC is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-maker, supporting the findings to the extent NWTC is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to take to request an appeal, and when the determination is considered final if neither party appeals.

The Title IX Coordinator or its designee will provide the Parties with the outcome notification simultaneously. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official NWTC records, or emailed to the Parties' NWTC issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

## Withdrawal or Resignation Before Complaint Resolution

### Students

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from NWTC, the Resolution Process may continue, or the Title IX Coordinator or its designee may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, NWTC will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex-based harassment, sex discrimination, and/or retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, NWTC will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to NWTC in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator or its designee has discretion to dismiss the Complaint. The Registrar and Office of Admissions will be notified, accordingly.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to NWTC unless and until all sanctions, if any, have been satisfied.

### Employees

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent withdraws from NWTC with unresolved allegations pending, the Resolution Process may continue, or the Title IX Coordinator, or designee, may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, NWTC may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When an employee resigns and the Complaint is dismissed, the employee may not return to NWTC in any capacity. Talent & Culture, the registrar, and admissions will be notified, accordingly, and a note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with NWTC. The records retained by the Title IX Coordinator, or designee, will reflect that status.

### Appeal of the Determination

The Title IX Coordinator or its designee will designate a single Appeal Decision-maker chosen from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure or dismissal appeal that may have been heard earlier in the process. If a panel is used, a voting Chair of the Appeal Panel will be designated by the Title IX Coordinator or its designee.

### Appeal Grounds

Appeals are limited to the following grounds:

1. A procedural irregularity that would change the outcome
2. New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility or dismissal was made
3. The Title IX Coordinator or its designee, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that would change the outcome
4. The final determination by the Decision-maker is substantially contrary to the weight of the evidence in the record (applicable to sanctions of suspension, expulsion, or termination, only)

5. The sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent (applicable to sanctions of suspension, expulsion, or termination, only)

### Request for Appeal

Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator or its designee within five (5) business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal ~~Panel Chair or~~ Decision-maker will notify all Parties and their Advisors, the Title IX Coordinator or its designee, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Title IX Coordinator or its designee, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision -maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator or its designee, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties will be notified accordingly, in writing.

No party may submit any new Requests for Appeal after this time period. The Appeal ~~Panel Chair or~~ Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

### Appeal Determination Process

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeals ~~Panel or~~ Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence standard.

An appeal is not an opportunity for the Appeal Decision-makers to substitute their judgment for that of the original Decision-maker merely because they disagree with the finding and/or sanction(s).

The Appeal Decision-maker may consult with the Title IX Coordinator or its designee and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title IX Coordinator or its designee will maintain documentation of all such consultation.

### Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Title IX Coordinator or its designee (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new determination with new Pool members serving in the Investigator and Decision-maker roles.

A Notice of Appeal Outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which NWTC is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent NWTC is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official institutional records, or emailed to the Parties' NWTC-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the Appeal Outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the five available appeal grounds.

### Sanction Status During the Appeal

Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a “show cause” meeting on the justification for doing so must be permitted within two (2) business days of implementation.

### Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator or its designee may implement additional long-term remedies or actions with respect to the Parties and/or the NWTC community that are intended to stop the sex discrimination, sex-based harassment, and/or retaliation, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator or its designee, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found.

When no Policy violation is found, the Title IX Coordinator or its designee will address any remedies NWTC owes the Respondent to ensure no effective denial of educational access.

NWTC will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair NWTC’s ability to provide these services.

## Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker(s), including the Appeal Decision-maker or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from NWTC.

Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX Coordinator or its designee's satisfaction.

## Accommodations and Support During the Resolution Process

### Disability Accommodations

NWTC is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to NWTC's Resolution Process.

Anyone needing such accommodations or support should contact the Title IX Coordinator or its designee, who will work with disability support colleagues as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

### Other Support

NWTC will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

## Revision of these Procedures

These procedures succeed any previous procedures addressing sex discrimination, sex-based harassment, and retaliation for incidents occurring on or after August 1, 2024. The Title IX Coordinator or its designee will regularly review and update these procedures. NWTC reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

These procedures are effective August 1, 2024.

## Recordkeeping

For a period of at least seven (7) years following the conclusion of the Resolution Process, NWTC will maintain records of:

- Each discrimination, harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation
- Any disciplinary sanctions imposed on the Respondent
- Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to NWTC's education program or activity
- Any appeal and the result therefrom
- Any Informal Resolution and the result therefrom
- All materials used to provide training to the Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitator, and any person who is responsible for implementing the NWTC's Resolution Process, or who has the authority to modify or terminate supportive measures. NWTC will make these training materials available for review upon request.
- All materials used to train all employees consistent with the requirements in the Title IX Regulations.

NWTC will also maintain any and all records in accordance with state and federal laws.

## Federal Statistical Reporting Obligations

Certain NWTC officials, specifically those deemed Campus Security Authorities, have a duty to report the following for federal statistical reporting purposes, as required by the Clery Act:

- All "primary crimes," which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson.
- Hate crimes, including any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property.
- VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking.
- Arrests and referrals for disciplinary action for weapons-related law violations, liquor related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private when fulfilling these obligations, but statistical information must be shared with NWTC's District Security Manager regarding the type of incident and its general location (on or off-campus or in the surrounding area, with no addresses given) for publication in NWTC's Annual Security Report and its daily campus crime log.

## Definitions

For the purposes of the Title IX-Sex Discrimination policy and resolution process, the following have been identified as key definitions:

**Advisor.** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.

**Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the grounds for appeal are met, and directs responsive action(s), accordingly.

**Complainant** means:

- A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
- A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the NWTC's education program or activity at the time of the alleged sex discrimination harassment or retaliation.

**Complaint.** An oral or written request to NWTC that can objectively be understood as a request for NWTC to investigate and make a determination about the alleged Policy violation(s).

**Confidential Employee** means an employee of NWTC whose communications are privileged or confidential under Federal or State Law. The employee's confidential status, for purposes of this policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.

- NWTC's Licensed Professional Counselors and healthcare professionals within Campus Care are confidential employees. That means that what you tell them cannot be shared (except in limited circumstances including suspected child abuse or threat of harm to others).

**Consent** is a mutual agreement to engage in sexual activity. It is informed, knowing, and voluntary. Regarding consent:

- No means no, but nothing also means no; Silence and passivity do not equal consent.
- To be valid, consent must be given immediately prior to or contemporaneously with the sexual or intimate activity
- Consent can be withdrawn at any time, so long as it is clearly communicated verbally or non-verbally
- Consent to one form of sexual activity does not necessarily imply consent to other forms of sexual activity



Credibility the process of weighing the accuracy and veracity of evidence within the Title IX process.

**Day.** A business day when NWTC is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.

**Decision-maker.** The person who hears evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.

**Disciplinary sanctions** means consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

**Education Program or Activity.** Locations, events, or circumstances where NWTC exercises substantial control over the context in which the sex discrimination, sex-based harassment, and/or retaliation occurs

**Employee** encompasses all NWTC classifications, including exempt, non-exempt, part-time; including student employees when acting within the scope of their employment, who receive a paycheck from NWTC.

**Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.

**Finding.** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a "finding of fact").

**Informal Resolution.** A resolution agreed to by the Parties and approved by the Title IX Coordinator or its designee that occurs prior to a Final Determination in the Resolution Process.

**Investigation Report.** The Investigator's summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.

**Investigator.** The person(s) authorized by NWTC to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.

**Knowledge.** When NWTC receives Notice of conduct that reasonably may constitute harassment, discrimination, or retaliation in its Education Program or Activity.

**Mandated Reporter.** A NWTC employee who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, and/or retaliation with the Title IX Coordinator or its designee

**Notice.** When an employee, student, or third party informs the Title IX Coordinator or its designee of the alleged occurrence of sex discriminatory, sex-based harassing, and/or retaliatory conduct.

**Party** means a complainant(s) or respondent(s), collectively.

**Pregnancy** or related conditions means:

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy, lactation
- Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

**Relevant** means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

**Relevant Evidence.** Evidence that may aid a Decision-maker in determining whether the alleged sex discrimination, sex-based harassment, or retaliation occurred, or in determining the credibility of the Parties or witnesses.

**Remedies** means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

**Resolution Process.** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, or Formal Hearing Resolution.

**Respondent.** A person who is alleged to have engaged in conduct that could constitute sex discrimination, sex-based harassment, or retaliation for engaging in a protected activity under this Policy.

**Retaliation** means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

**Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.

**Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

**Sex-based harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

- 1) **Quid pro quo harassment.** An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

- 2) **Hostile environment harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - a) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
  - b) The type, frequency, and duration of the conduct;
  - c) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - d) The location of the conduct and the context in which the conduct occurred; and
  - e) Other sex-based harassment in the recipient's education program or activity; or
- 3) **Specific offenses.**
  - a) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
  - b) Dating violence meaning violence committed by a person:
    - i) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    - ii) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
      - (1) The length of the relationship;
      - (2) The type of relationship; and
      - (3) The frequency of interaction between the persons involved in the relationship;
    - iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:
      - (1) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
      - (2) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
      - (3) Shares a child in common with the victim; or
      - (4) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
    - iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
      - (1) Fear for the person's safety or the safety of others; or
      - (2) Suffer substantial emotional distress.

**Sex Discrimination** means being treated less favorably based on a person's sex. Sex discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related condition, sexual orientation, and gender identity.

**Student** is a person who has gained admission.

**Supportive measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
- Provide support during the recipient's grievance procedures or during an informal resolution process.

**Title IX Coordinator.** At least one official designated by NWTC to ensure ultimate oversight of compliance with Title IX and NWTC's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.

**Title IX Team** – The Title IX Coordinator, any deputy coordinators and any member of the Resolution Process Pool