SEXUAL MISCONDUCT: DATING VIOLENCE, DOMESTIC VIOLENCE, SEXUAL ASSAULT AND STALKING

POLICY STATEMENT

Western Nebraska Community College is committed to providing an environment free from discrimination based on sex and provides resources and services to assist students, faculty and staff in addressing issues involving sex discrimination, including sexual misconduct. The College strictly prohibits any form of sexual misconduct, which includes dating violence, domestic violence, sexual assault, and stalking. All reported incidents will be thoroughly investigated and those found responsible dealt with as necessary, whether criminally charged or handled through the College’s sexual misconduct procedure. The President is authorized to adopt appropriate procedures to carry out this policy and comply with state and federal law.

DEFINITIONS

The Violence Against Women Act and its proposed regulations require the inclusion of certain Nebraska State definitions in a campus’s Annual Security Report and also require that those definitions be provided in campaigns, orientations, programs and trainings for employees and students. Definitions required include: consent; dating violence; domestic violence; sexual assault; and stalking.

Western Nebraska Community College utilizes the following definitions from Nebraska State Statutes in execution of the College’s sexual misconduct policy and procedures. To review said statutes in their entirety, please see the official site of the Nebraska Unicameral Legislature at the following: http://nebraskalegislature.gov/laws/browse-statutes.php


The activity takes place without the use of, or the threat of, force or coercion, whether verbal or physical (coercion is the act of using some form of pressure or force to have sexual contact with someone who has already refused or is incapable of providing consent); each participant provides clear consent through their words and/or actions; each participant is fully aware of the other participants’ identity and intentions; each participant is clearly able to provide their voluntary consent (both mentally and physically; influence of alcohol or drugs is an issue when considering consent); and there is no verbal or physical resistance by any participant. The provision of consent for one form of sexual activity cannot automatically be taken as consent for any other form of sexual activity; consent must be provided for each type of activity. In addition, previous relationships or prior consent does not automatically provide consent for future sexual acts; each sexual encounter stands alone.


A pattern of behavior where one person uses threats of, or actually uses, physical, sexual, verbal, or emotional abuse, to control his or her dating partner. Dating partner means any person, regardless of gender, involved in an intimate relationship with another person primarily characterized by the expectation of affectionate involvement, whether casual, serious, or long-term.

A person intentionally and knowingly causes bodily injury to his/her intimate partner; threatens an intimate partner with imminent bodily injury; or threatens an intimate partner in a menacing manner. Intimate partner, regardless of gender, means a spouse; a former spouse; persons who have a child in common, whether or not they have been married or lived together at any time; and persons who are or were involved in a dating relationship. Dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a causal relationship or an ordinary association between persons in a business or social context.


Sexual contact and/or sexual penetration without the consent of the victim, regardless of either person’s gender, including situations where coercion, force or the threat of force was used; situations where the perpetrator knew or should have known that the victim was physically or mentally incapable of resisting or appraising the nature of his/her conduct (i.e. mentally challenged, disabled, intoxicated, etc.); or where the perpetrator is nineteen years of age or older and the victim is at least twelve but less than sixteen years of age. A victim must simply provide enough resistance, either verbally or physically, to make the perpetrator aware of the lack of consent. A victim need not resist verbally or physically where it would be useless or futile to do so.

The following definitions apply:

1. **Actor**: The person accused of sexual assault.

2. **Force or threat of force**: The use of physical force which overcomes the victim's resistance; or the threat of physical force, express or implied, against the victim or a third person that places the victim in fear of death or in fear of serious personal injury to the victim or a third person where the victim reasonably believes that the actor has the present or future ability to execute the threat.

3. **Intimate parts**: The genital area, groin, inner thighs, buttocks, or breasts.

4. **Serious personal injury**: Great bodily injury or disfigurement, extreme mental anguish or mental trauma, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.

5. **Sexual contact**: The intentional touching of the victim's sexual or intimate parts, or the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts. Sexual contact also means the touching, by the victim, of the actor’s sexual or intimate parts or the clothing covering the immediate area of the actor’s sexual or intimate parts, when this touching is intentionally caused by the actor. Sexual contact includes only that conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification of either party.

6. **Sexual penetration**: Sexual intercourse in its ordinary meaning, cunnilingus, fellatio and anal intercourse. It also includes the intrusion, however slight, of any part of the perpetrator’s or victim's body, or any object manipulated by the actpr, into the genital or anal openings of the victim's body. Sexual penetration does not require emission of semen.
7. **Victim**: The person alleging to have been sexually assaulted.

Stalking (Neb. Rev. Stat. § 28-311.03):

The willful harassment of another person, regardless of gender, or the family or household member of that person, with the intent to injure, terrify, threaten, or intimidate. Actions include, but are not limited to, deliberately following, detaining, contacting, or harassing the person(s), or imposing any restraints on their personal liberty.

1. **Harass**: To engage in a knowing and willful course of conduct directed at a specific person that seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose.

2. **Course of conduct**: A pattern of conduct composed of a series of acts over a period of time, however short, indicating a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or physically stalking the person or telephoning, texting, contacting, or otherwise communicating with the person.

3. **Family or household member**: Regardless of gender, a spouse or former spouse of the victim, children of the victim, a person presently residing with the victim or who has resided with the victim in the past, a person who had a child in common with the victim, other persons related to the victim by a blood relationship or marriage, or any person presently (or in the past) involved in a dating relationship with the victim.

**DATING VIOLENCE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, and STALKING PREVENTION AND AWARENESS PROGRAMS**

The College conducts several educational programs and activities throughout the year to raise awareness for issues of dating violence, domestic violence, sexual assault and stalking.

The following are some specific programs and activities that are available:

- Healthy Relationships/Domestic Violence Week sponsored by Diversity Series.
- DOVES Program presentations on domestic abuse and sexual assault. The DOVES Program believes every person has the right to feel safe, live free from abuse, and expect healthy relationships, and their mission is to ensure their empowerment-based services are available and accessible to all victims of domestic violence, dating violence, sexual abuse, and stalking. The program serves victims of domestic violence, dating violence, sexual assault and stalking throughout Banner, Box Butte, Cheyenne, Dawes, Kimball, Morrill, Scotts Bluff, Sheridan and Sioux Counties.
- Stalking prevention presentation.
- Take Back the Night program. This event emphasizes safe communities and respectful relationships. The program seeks to end sexual assault, domestic violence, dating violence, sexual abuse and all other forms of sexual violence through awareness and ongoing initiatives.
- Residence Hall programs on Stalking/Internet Safety.
- DOVES Program on Healthy Relationships/Sexual Abuse.
ACTIVE BYSTANDER INTERVENTION & RISK REDUCTION:

Active Bystander Intervention is choosing to respond to a potentially harmful situation in a way that could positively influence the outcome. WNCC utilizes an Active Bystander Program to help educate students about risk reduction options designed to decrease perpetration and bystander inaction.

WNCC is committed to preventing gender-based violence, and believes it is important that people are approached as potential witnesses or bystanders to behaviors related to sexual, dating or domestic violence. If you witness these behaviors, there are certain ways you can help to prevent a risky situation from getting out of hand. The goal of bystander intervention is to make our campus community a safer place to live, work and learn and WNCC is committed to promoting the skills all of us can use to make a difference in preventing dangerous situations.

In order to intervene, first someone has to:

1. Notice the event
   Active bystanders first must notice the incident taking place. It's important to become attune to what situations may be risky; i.e., if you're at a party, and you see someone stumbling as they're being led into a different room, this is a risky situation.

2. Interpret the incident as a problem or emergency
   By "emergency," we mean a situation wherein there is risk of sexual, dating or domestic violence occurring in the near future.

3. Assume personal responsibility for intervening
   It has been found that often, people believe that someone else will help in a situation where there are many people around. However, it is important to realize that others may also be thinking the same thing. If you're unsure if you should do something, ask a friend what they think -- it might be the case that they've been thinking the same thing.

4. Have the bystander intervention skills to help
   There are a number of different techniques that someone can use to intervene in a risky situation, some of which we've listed below. These bystander goals and intervention techniques are reprinted here with permission of the “Step UP! Program” developed by the University of Arizona C.A.T.S. Life Skills Program in partnership with the NCAA. Step UP! is a bystander intervention program that educates students to be proactive in helping others when faced with problematic or risky situations that are of concern. The Step UP! training program focuses on real-life situations/scenarios students might encounter. The goal of the program is to generate open, honest and non-judgmental discussions about the material presented. For more information see http://www/stepupprogram.org.

Bystander Intervention Techniques: Please remember that your safety is of the utmost importance. When a situation that threatens physical harm to yourself or another student, ask someone for help or call 911 immediately.

Carefully assess the entire situation/circumstances before making any decisions or taking any action.

Consider both direct and indirect ways to intervene.

Direct: You take responsibility as the primary helper.
Indirect: You request that someone else take responsibility as the primary helper (e.g., the Police, Emergency Medical Trained or EMT personnel, College administrators, etc.)

Whatever response you choose, remember the following in an emergency/crisis:

- Calm the person
- Gather information
- Look at options
- Provide support
- Know appropriate referrals
- Do not become enmeshed
- Look for the best exit strategies (getting out of the situation) for those involved.
- Be clear and direct with all of your requests.
- Make safe choices; consider the level of risk in choosing an action for intervening.
- Understand boundaries and limits - don’t be a hero. Remember verbal fights can quickly turn into physical fights. ***It is often better to WALK AWAY.***
- Intervene early – before a problem becomes a crisis or disaster.
- Choose the most effective ways of helping for that particular situation. Be sure to not make the situation escalate.
- Publicly state your commitment to helping. “I will do X.”
- Engage other bystanders – You do “Y.”
- Discuss consequences that the person cares about – Encourage VALUE BASED DECISIONS.
- Assess personal exposure/liability when actions you know about are criminal.
- **Call 9-1-1 if it is not safe or prudent for you to help directly.**

**Bystander Intervention Resources:**

- The Doves Program: [http://www.dovesprogram.com](http://www.dovesprogram.com) or 308-436-HELP or 866-95-DOVES
- Step Up: [http://www.stepupprogram.org](http://www.stepupprogram.org)
- Bringing in the Bystander: [http://www.cola.unh.edu/prevention-innovations/bystander](http://www.cola.unh.edu/prevention-innovations/bystander)
- One Student: [http://onestudent.org/](http://onestudent.org/)
- The Rape, Abuse & Incest National Network (RAINN) – [www.rainn.org](http://www.rainn.org) or 1-800-656-HOPE (4673)
- National Sexual Violence Resource Center – [www.nsvrc.org](http://www.nsvrc.org) or 1-877-739-3895 (toll free)
- California Coalition Against Sexual Assault – [http://calcas.org](http://calcas.org)
- Male Survivor – [www.malesurvivor.org](http://www.malesurvivor.org) or 1-800-738-4181
- Mentors in Violence Prevention – [www.mvtninoal.org](http://www.mvtninoal.org)
- Men Can Stop Rape – [www.mencanstoprape.org](http://www.mencanstoprape.org)
- White House Task Force to Protect Students from Sexual Assault, April 2014: [http://www.whitehouse.gov/sites/default/files/docs/report_0.pdf](http://www.whitehouse.gov/sites/default/files/docs/report_0.pdf)
BYSTANDER RESEARCH:


SEXUAL ASSAULT: FACTS AND PREVENTION

Remember, sexual assault is not just a woman’s issue. Men and women are both responsible for preventing sexual assault and rape.

Suggestions for men working to end sexual violence include:

- Don’t engage in sexual relations with someone who is too drunk to make responsible decisions, has passed out, or is asleep or unconscious. Legally, this is sexual assault.
- Realize that what you say can have an impact. Casual conversation is the best way to influence peers to prevent an incident that could hurt others. Silence can be mistaken by your friends as approval to sexist or violent behaviors.
- Report any incident as soon as possible. If you see someone in trouble at a party, don’t be afraid to intervene. It’s easy to use your cell phone to notify campus authorities, the police or someone who you know could stop it.

Remember:

- You have the right to set limits. Be aware of gender stereotypes such as “being assertive is not feminine” or “it’s macho to score.” These attitudes get in the way of honest relationships.
- Communicate your limits clearly and verbally.
- Trust your instincts. If a situation doesn’t feel right, get away from it.
- Listen to what your partner is saying. Don’t make assumptions.
- Speak up when others joke or talk about their sexual conquests. Let others know where you stand.
- Remember, drugs and alcohol decrease your ability to take care of yourself and make decisions.

Plan ahead:

- First date or blind date? Check your date out with friends. Go to a public place and go with friends.
- Don’t leave a party, concert, or bar with someone you just met or don’t know well.
• Be wary of behavior that makes you feel uncomfortable. If it persists, leave.
• Stand up for yourself. If someone is pressuring you, make it clear that you don’t like it.

If you are sexually assaulted, contact the local police department, or a campus official.

Whether committed by a stranger or someone you know, sexual assault is a violation of your body and your trust. Remember, it is never your fault. And, there are people at WNCC who can help.

If you are assaulted:
• Don’t shower, wash, douche or change your clothes, even though that may be your immediate reaction. If you choose to press charges, evidence may still exist if you don’t wash.
• Seek medical attention. You may have internal injuries, and you shouldn’t live with the fear of STDs, AIDS or an unwanted pregnancy.
• Trained medical staff may also assist you in contacting experienced sexual assault response team members who can help you file a police report, collect and preserve evidence, and provide victim assistance and rape crisis advocacy services.
• Get counseling to help you deal with your feelings.

If someone you know is raped:
• Believe—tell them you believe what they are saying and you are there to support them.
• Empower—support your friend, don’t tell them what to do. Next steps have to be their decision.
• Connect—talk about the WNCC and community resources that can help.

Reporting an Incident
All College employees, with the exception of the College’s counseling employees, who are aware of or witness sexual misconduct, including sexual harassment, dating violence, domestic violence, and stalking are required to promptly report to the Title IX Coordinator or a Title IX Deputy Coordinator. Any student who is aware of or who witnesses sexual misconduct, including sexual harassment, dating violence, domestic violence, and stalking is encouraged to promptly report to the Title IX Coordinator or a Title IX Deputy Coordinator. All reports will be treated with the greatest degree of respect and privacy possible while still fulfilling the College’s obligation to investigate and effectively respond to the report. It is the survivor’s choice whether to participate in the investigation; however the College may proceed with the investigation without the survivor’s participation if there is a potential threat to other members of the community.

Reports should be directed to the College’s Title IX Coordinator, Mr. David Groshans, Vice President of Human Resources, WNCC, 1601 East 27th Street, Scottsbluff, NE, 69363-1815, (308) 635-6105 or groshans@wncc.edu or to any of the following Title IX deputies on each WNCC campus:

Alliance: Ellen Dillon, Assistant Dean of Instruction, 1750 Sweetwater Avenue, Alliance, NE 69301, (308) 763-2006 or 6787, dillone@wncc.net or Robyn Iossi, Assistant Campus Director and Student Services Coordinator, 1750 Sweetwater Avenue, Alliance, NE 69301, (308) 635-2001, jossir@wncc.edu.

Scottsbluff: Susan K. Yowell, J.D., Vice President of Student Services, 1601 East 27th Street, Scottsbluff, NE 69361, (308) 635-6104, yowells@wncc.edu or Dr. Michael
The Title IX Coordinator or designate will assist all members of the WNCC community by assessing the incident, advising the survivor on how he or she can seek legal protection, and making the survivor aware of medical, counseling, and other support services. WNCC can assist the survivor in notifying the local police department with jurisdiction over the crime. **In case of an emergency or ongoing threat, a survivor should get to a safe location and call 911.** Calling 911 will put you in touch with local police. Contact information for local law enforcement agencies in WNCC campus communities are as follows:

**ALLIANCE:**
Alliance Police Department, 512 Niobrara, P.O. Box D, Alliance, NE 69301, (308) 762-4955.

**SCOTTSBLUFF:**
Scottsbluff Police Department, **1801 Avenue B, Scottsbluff, NE 69361, (308) 630-6261 during Business Hours M-F 7am-4pm; (308) 632-7176 after Business Hours.**

**SIDNEY:**
Sidney Police Department, 1715 Illinois Street, Sidney, NE 69162, (308) 254-5515.

Students who have experienced a sexual assault, domestic violence, dating violence, or stalking may also report an incident to the College’s Title IX Coordinator, Mr. David Groshans, 1601 East 27th Street, Scottsbluff, NE, 69363-1815, (308) 635-6105 or groshans@wncc.edu

Employees who have experienced a sexual assault, domestic violence, dating violence, or stalking may also report an incident to the Office of Human Resources, Mr. David Groshans, Vice President of Human Resources, WNCC, 1601 East 27th Street, Scottsbluff, NE, 69363-1815, (308) 635-6105 or groshans@wncc.edu

These offices will provide survivors of sexual assault, domestic violence, dating violence, and stalking with information about available support services and resources, and also assist any survivor in notifying law enforcement, including the local police, if the survivor elects to do so.

Survivors are not required to report to area law enforcement in order to receive assistance from or pursue any options within Western Nebraska Community College.

Reporting sexual assault, domestic violence, dating violence, and stalking to the police does not commit the survivor to further legal action. However, the earlier an incident is reported, the easier it will be for the police to investigate, if the survivor decides to proceed with criminal charges.

**Written Notification of Right and Options**

Any student or employee who reports an incident of sexual assault, domestic violence, dating violence, or stalking, whether the incident occurred on or off campus, shall receive a written explanation of their rights and options as provided for under this policy.

These rights and options include the right(s) of a survivor to:

A. Seek medical treatment (the police will arrange transportation for you to the nearest hospital or otherwise assist you in obtaining medical treatment if you wish);
B. Seek confidential counseling, mental health and available advocacy services;
C. Report the incident to law enforcement;
D. Seek a criminal complaint for threats, assault and battery, or other related offenses;
E. Go to court, and to file a Petition and Affidavit requesting a Domestic or Harassment Protection Order restraining your attacker from abusing you, and/or an order directing your attacker to leave your household, building, school, college, or workplace;
F. File a complaint with the College; and
G. Options, rights and resources if the choice is made to pursue a complaint.

Procedures Survivors Should Follow:
If an incident of sexual assault, domestic assault, dating violence, or stalking occurs, it is important to preserve evidence so that successful criminal prosecution remains an option.

The survivor of a sexual assault should not wash, shower or bathe, douche, brush teeth, comb hair, or change clothes prior to a medical exam or treatment. If a survivor has removed the clothing he or she was wearing during the assault prior to seeking medical treatment, that clothing should be placed in a brown paper, not plastic, bag and brought to the hospital when treatment is sought. If the survivor is still wearing the clothes that he or she was wearing during an assault, he or she should bring a change of clothes with him or her to the hospital so that the clothes containing possible evidence can be preserved and examined for evidence of the crime.

Evidence of violence, such as bruising or other visible injuries, following an incident of sexual assault, or domestic or dating violence, should be documented by taking a photograph. Evidence of stalking, including any communications such as written notes, email, text messages, voicemail, or other electronic communications sent by the stalker, should be saved and not altered in any way.

On Campus and Off Campus Resources
Western Nebraska Community College, the City of Scottsbluff, the City of Alliance, and the City of Sidney, all offer other important resources to the survivors of sexual assault, domestic assault, dating violence, or stalking, including medical treatment, counseling services, and advocacy that survivors may wish to utilize.

The following WNCC employees and on campus offices can assist members of the WNCC community in considering their options and navigating through any resources or recourse they may elect to pursue.

A survivor need not formally report an incident of sexual assault, domestic violence, dating violence, or stalking to law enforcement or WNCC in order to access the following resources:

WNCC Counseling Center
(308) 635-6090

Panhandle Mental Health Center
Alliance (308)762-2545, Scottsbluff (308) 635-3171, Sidney (308) 254-2649

The DOVES Program
(308) 436-HELP (4357)
(866) 95-DOVES (866-953-6837)(24-hour Crisis Line)
Accommodations

Regardless of whether a student or employee reports an incident of sexual assault, domestic violence, dating violence, or stalking to law enforcement or pursues any formal action, if they report such an incident to the College, Western Nebraska Community College is committed to providing them as safe a learning or working environment as possible. Upon request, WNCC will make any reasonably available accommodation to a survivor’s academic, living, transportation, and working situation. When a reported incident of abuse involves more than one member of the WNCC community, the College’s Title IX Coordinator or Dean of Students may also issue an institutional No Contact order, prohibiting the individuals from contacting one another, either on or off campus. Students may contact the Title IX Coordinator (Mr. David Groshans, Vice President of Human Resources, WNCC, 1601 East 27th Street, Scottsbluff, NE, 69363-1815, (308) 635-6105 or groshans@wncc.edu) or the Dean of Students’ office (Dr. Michael Houdyshell, Dean of Students, 308-635-6123) for assistance, and employees may contact the Office of Human Resources, (Mr. David Groshans, Vice President of Human Resources, WNCC, 1601 East 27th Street, Scottsbluff, NE, 69363-1815, (308) 635-6105 or groshans@wncc.edu) for assistance.

The College’s Title IX Officer or designate will advise survivors of a reported incident of sexual assault, domestic violence, dating violence, or stalking about how to seek a restraining order from a criminal court that directs the accused to refrain from abuse and to leave the survivor’s household, building, school, college, or workplace.

Western Nebraska Community College is committed to ensuring that orders of protection issued by courts are fully upheld on all College-owned, used, and controlled property as well as properties immediately adjacent to WNCC. Therefore, if any member of the WNCC community obtains an order of protection or restraining order, he or she should promptly inform WNCC and provide the College’s Title IX Officer with a copy of that order, so that the College can enforce it. Western Nebraska Community College is also committed to protecting survivors from any further harm, and if WNCC determines that an individual’s presence on campus poses a danger to one or more members of the College community, WNCC can issue an institutional No Trespass Order barring that individual from WNCC property.

Survivor Confidentiality

Western Nebraska Community College recognizes the sensitive nature of sexual assault, domestic violence, dating violence, and stalking incidents. We are committed to protecting the privacy of individuals who report incidents of abuse, to the extent that doing so is permitted by law and consistent with the College’s need to protect the safety of the community. Different WNCC officials and personnel are able to offer varying levels of privacy protections to survivors.

WNCC requires all College employees, with the exception of licensed mental health counselors who work at the College’s Counseling Center to share with the College’s Title IX Coordinator information they learn concerning a report of sexual assault, or an incident of domestic or dating violence, or stalking, so that the Title IX Coordinator can investigate the incidents, track trends (including possible multiple reports involving the same assailant) and determine whether steps are needed to ensure the safety of the community. It is the survivor’s choice whether he or she wishes to participate in the investigation; however the College may proceed with an investigation
without the survivor’s participation if there is a concern for the safety of other members of the community.

Reports made to the WNCC will be shared with the Title IX Coordinator in all cases, and may also be made public (maintaining the survivor’s anonymity) and shared with the accused in cases where criminal prosecution is pursued. Reports received by the College concerning the abuse of a minor or juvenile must be reported to state officials in compliance with state law requiring mandatory reporting of child abuse.

Reports of sexual assault, domestic or dating violence, or stalking, which are shared with WNCC’s Title IX Coordinator or other College officials, will be treated with the greatest degree of respect and privacy possible while still fulfilling WNCC’s obligation to investigate and effectively respond to the report. Every effort will be made to limit the scope of information shared to keep it to a minimum of detail, and only when absolutely necessary. It is the survivor’s choice whether to participate in the investigation; however the College may proceed with the investigation without the survivor’s participation if there is a potential threat to other members of the community.

A survivor’s ability to speak in confidence and with confidentiality may be essential to his or her recovery. Western Nebraska Community College thus expects employees to treat information they learn concerning incidents of reported sexual assault, domestic violence, dating violence, and stalking with as much respect and as much privacy as possible. College employees must share such information only with those College officials who must be informed of the information pursuant to College policy. Failure by any WNCC employee to maintain privacy in accordance with College policy will be grounds for discipline.

While federal law requires WNCC to include certain reported incidents of sexual assault, domestic violence, dating violence, and stalking among its annual campus crime statistics, such information will be reported in a manner that does not permit identification of survivors.

Procedures for Sexual Misconduct Complaints

Overview:

Western Nebraska Community College strictly prohibits all acts of sexual misconduct including sexual assault, domestic violence, dating violence, and stalking. In addition to facing criminal investigation and prosecution, students, employees, and other affiliates may also face action by WNCC once the College has notice that sexual misconduct has occurred.

When students or employees are accused of having engaged in sexual assault, domestic violence, dating violence, or stalking, the College may, depending on the facts alleged, issue interim safety measures and/or other accommodations prior to the resolution of the complaint. Such interim safety measures might include issuing No Contact orders between the parties, altering an individual’s work or class schedule or a student’s on-campus housing assignment, placing an employee accused of misconduct on administrative leave, or placing a student accused of misconduct on an interim suspension.

WNCC will investigate reported allegations of sexual misconduct and may take appropriate remedial action even if the person allegedly subject to misconduct or the Complainant does not wish to pursue a formal complaint. Sexual misconduct by or against a student may be investigated by the College whether it is alleged to have been committed on or off campus.

Complaints:
Any person can complain of sexual misconduct against or by a student. Complaints of sexual misconduct may be made using the College’s Sexual Misconduct Procedures at the same time criminal investigations or complaints are pursued by law enforcement or the County Attorney’s Office. Internal investigations conducted by WNCC and/or College disciplinary proceedings are independent of any criminal investigation or court case. The College may pursue disciplinary action against a student at the same time the student is facing criminal charges for the same allegation, and even if criminal charges have been reduced or dismissed by the County Attorney.

Complaints of sexual misconduct against a student by a student should be made to the College’s Title IX Coordinator or Title IX designate. Sexual misconduct complaints by or against employees should be made to the Vice President of Human Resources. WNCC’s Title IX Coordinator will oversee all investigations of allegations of sexual misconduct.

**Notice and Options:**

Upon receipt of a complaint of sexual misconduct, the Title IX Coordinator should proceed under the following guidelines:

Upon receipt of a sexual misconduct complaint or report, WNCC will provide the Complainant a written notice describing the options of pursuing a criminal complaint with law enforcement and/or using the College’s investigation and disciplinary processes. The Complainant may go forward with one or both options at the same time, but the College’s investigation will proceed unless needed / temporary delays are necessitated by an ongoing criminal investigation.

The Complainant must state in writing if he or she wishes to pursue a complaint. If he or she does not wish to pursue the complaint and/or makes a request that his or her identity remain anonymous, the Title IX Coordinator will make note of that request in the report. Whether or not the Complainant wishes to pursue a formal complaint, the College is still required to investigate reports of sexual misconduct. The Complainant must be informed of the College’s obligation to investigate and that requests to maintain anonymity cannot be guaranteed.

In all investigatory and adjudication proceedings conducted by the College concerning charges of sexual misconduct, domestic violence, dating violence, or stalking, including any related meetings or hearings, both the complainant and the respondent will be afforded the same process rights, including equal opportunities to have others present. This includes the right to be accompanied by an advisor of their choice. Both the complainant and respondent will also be afforded an equal opportunity to introduce evidence and identify witnesses.

**Investigation:**

When a student is accused of any violation of the sexual misconduct policy, including but not limited to charges that he or she engaged in sexual assault, domestic or dating violence, or stalking, the Investigator (Title IX Coordinator or designee/trained deputy) shall conduct an investigation to determine (1) if a violation may have in fact occurred and (2) if so, what an appropriate sanction(s) might be, and (3) if a violation(s) and sanction(s) can be administratively resolved by mutual consent of the parties involved. The investigation will be decided using a preponderance of evidence standard. In other words, the evidence must show that it is more likely than not that the alleged misconduct occurred.

Investigations into allegations of sexual misconduct should be concluded within sixty (60) calendar days of the College’s receipt of said report unless mitigating circumstances require the extension of time frames beyond sixty (60) days. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or
witnesses, the effect of a concurrent criminal investigation, College breaks or vacations that occur during the pendency of an investigation, or other unforeseen circumstances. In these matters the complainant and the respondent shall be notified, provided an explanation, and given information about the amount of additional time required to conclude the process.

When the Investigator completes an investigation, both the complainant and the respondent shall simultaneously be informed in writing within seven (7) business days of the outcome of the investigation and any sanction(s) imposed. Both the complainant and respondent will be given the same procedures and timeframe to appeal the outcome of the proceeding, both parties will receive the same process rights if an appeal is granted, and the parties will both receive timely notice when the outcome becomes final.

**Appeal:**

An appeal (unacceptance) of the decision of the Investigator may be made in writing to the Dean of Student Services no more than five (5) working days, excluding weekends or holidays, after the written decision by the Investigator is received. The Dean of Student Services shall then convene a hearing of the College Judicial Board.

**Composition of College Judicial Board:**

There shall exist one College Judicial Board to hear all appeals of the Sexual Misconduct Policy. Committee membership shall be composed of the following members of the College Community: Dean of Instruction, or designee, Dean of Students, or designee, and Student Body President, or designee. The Investigator shall serve as the Chairperson and non-voting member of the Judicial Board.

**Chairperson of the College Judicial Board:**

It is the duty of the Investigator to preside as Chairperson of all meetings of the Judicial Board. The Chairperson shall answer any questions concerning the interpretation of the Sexual Misconduct Policy which he/she deems advisable, applicable, and practical during the course of the hearing. The Chairperson shall have the authority to remove any person from the hearing who is disruptive. The Chairperson shall reserve the right to suspend and reconvene a hearing for any compelling reason as deemed appropriate by him/her and the Judicial Board. The Chairperson shall have the right to seek advice and assistance from College legal counsel and adopt any special procedures, as needed, provided these procedures are consistent with the Sexual Misconduct Policy and provided that these special procedures are fully explained to all persons immediately concerned in the hearing.

**Notification Process:**

The respondent and the complainant shall be notified in writing of the date of the College Judicial Board hearing. The hearing shall not be less than five (5) nor more than fifteen (15) work days after an appeal has been filed with the Dean of Students.

**Pre-Hearing Procedures:**

The parties to an appeal shall provide the following to the Chairperson of the Judicial Board at least two (2) days prior to the hearing:

1. Names, addresses and phone numbers of all witnesses;
2. Names, addresses and phone numbers of the two (2) observers;
3. Name, address, phone number and status of the individual selected to serve as an advisor;
4. Original supporting documentation: pertinent records, exhibits, etc.

The Chairperson shall then make available to the respondent and the complainant the list of witnesses, allowed visitors, selected advisor, and documentation.

**Judicial Board Hearing Procedures:**

Hearings shall be conducted by the Investigator and the Judicial Board according to the following guidelines:

1. Hearings shall be conducted in private. Those in attendance shall include the Investigator who serves as non-voting Chairperson, the Judicial Board members, the respondent and her/his selected advisor, and the complainant and her/his selected advisor. Both the respondent and complainant also may have up to two (2) observers present during the hearing. The observers shall not have the privilege of participating in the hearing.

2. The Judicial Board may accommodate concerns for personal well-being and/or fears of personal safety of the complainant, respondent and/or other witnesses at the hearing through seating arrangements, participation by video conferencing or other means determined by the Chairperson to be appropriate as long as the ability for cross-examination of witnesses and a fair and impartial hearing is preserved.

3. The respondent and the complainant have the right to be assisted by any advisor, one (1), they choose at their own expense. The advisor may be an attorney. The respondent and the complainant are responsible for speaking on their own behalf. Advisors are not permitted to speak or to participate directly in any hearing before the Judicial Board. An appropriate advisor would be someone with sufficient knowledge of the College judicial process to be able to effectively assist the respondent and complainant through the hearing.

4. Pertinent records, documentation, exhibits, and written statements from the respondent and the complainant may be accepted as evidence for consideration by the Judicial Board at the determination of the Judicial Officer. These materials must be submitted to the Judicial Officer in their original or hard copy form.

5. The respondent and the complainant shall have the privilege of presenting witnesses whose testimony is directly pertinent to the issues at hand, as determined in advance by the Chairperson. Witnesses may not serve as observers or advisors. The number of witnesses allowed by each person will be negotiated with the parties by the Chairperson. Witnesses will not be present in the hearing room during the hearing until such time as they are called in to testify. Witnesses will wait outside the hearing room and will be called in one by one. After the Judicial Board, the respondent, and the complainant have concluded the
questioning of the witness, the witness will be excused from the room.

6. In hearings involving more than one respondent or complainant, the Chairperson, in her/his discretion, may permit the hearings to be conducted either jointly or separately.

7. All procedural questions are subject to the final decision of the Chairperson of the Judicial Board (i.e. the Investigator).

Hearing Protocol:

1. The Chairperson will state the date and time, and identify the particular hearing.

2. The Chairperson will ask the Judicial Clerk/Recorder to confirm if all who have received notice of hearing are present.

3. The Chairperson will explain the confidential nature of the meeting and that no materials distributed are to be taken from the room, and that there should be no discussion about the proceeding outside of the hearing.

4. The Chairperson will state the purpose of the hearing and read the allegation to the Judicial Board.

5. The Chairperson will identify the respondent(s).

6. The Chairperson will explain the fundamental rights of the respondent. The following shall be included in the fundamental rights: (a) right to timely notification process; (b) right to have two (2) observers and one (1) advisor present under the terms and conditions set forth above; (c) right to introduce evidence and ask questions of all persons who appear for or against her/him in any proceedings of the Judicial Board, and (d) right to a fair hearing and opportunity to present a response to the allegations.

7. If the complainant or respondent, with notice, does not appear for a scheduled Judicial Board hearing, after having received written notice of said hearing, the information concerning the allegation shall be presented and considered even if said person is not present.

8. The Chairperson shall present the evidence of the case to the Judicial Board and will ask the respondent if she/he admits the charges.

9. The complainant(s) is (are) identified and asked questions by the Chairperson to present the relevant issues regarding her/his side of the case. This is to be done in the presence of the respondent unless safety measures are utilized which still preserve the right to cross-examination and a fair hearing.

10. The Judicial Board and the respondent will be given the opportunity to ask questions of the complainant. Questions will be addressed through the Chairperson.

11. The Chairperson will ask questions of the respondent to present the relevant issues regarding her/his side of the case.
12. The Judicial Board and the complainant will be given the opportunity to ask questions of the respondent. Questions will be addressed through the Chairperson.

13. The Chairperson will call the witnesses one at a time to testify. Witnesses will not be present in the hearing room during the hearing until such time as they are called in to testify. Witnesses will wait outside the hearing room and will be called in one by one. After the Judicial Board, the respondent, and the complainant have concluded the questioning of the witness, the witness will be excused from the room.

14. The Judicial Board, the respondent, and the complainant will be given the opportunity to question the witnesses.

15. The Chairperson shall give the respondent and the complainant the opportunity to make a final statement.

16. The Chairperson will give the deliberation directions to the Judicial Board.

17. The Judicial Board shall then meet in closed session and determine (by majority vote) whether the respondent has violated the Sexual Misconduct Policy. The Judicial Board’s determination shall be made on the basis of whether it is more likely than not that the respondent has violated the Sexual Misconduct Policy and whether the sanction imposed was reasonable and appropriate for the violation.

18. All proceedings of the hearing are taped by the Judicial Clerk/Recorder, with the exception of the Judicial Board’s private deliberation.

19. The Judicial Board shall prepare written findings to support the Board’s determination. These shall include:

   a. Concise statements of each factual finding;
   b. Brief explanations of whether factual findings justify a conclusion that the conduct violated the Sexual Misconduct Policy;
   c. Recommendations concerning appropriate sanctions;
   d. A copy of these findings shall be presented to the Dean of Student Services, and mailed to the complainant and the respondent within five (5) working days of the determination.

20. The determination of the Judicial Board is final unless newly discovered information regarding the accusation is presented to the Chief Student Affairs Officer. If the Chief Student Affairs Officer determines that the newly discovered information is sufficiently material, relevant and credible that a new hearing would probably result in a different determination, the matter shall be referred back to the Judicial Board for further hearing. The decision of the Chief Student Affairs Officer on issues of newly discovered evidence shall be final.

Sanctions:
The following sanctions may be imposed upon any student found to be in violation of Western Nebraska Community College’s Sexual Misconduct Policy:

1) Warning: A formal, written notice that the student is violating, or has violated, one or more College rules and regulations and that a continuance of the misconduct may lead to additional disciplinary action.

2) Loss of Privileges: Denial of specified privileges for a designated period of time.

3) Discretionary Sanctions: As needed to maintain a healthy and safe educational and work environment for students, visitors, faculty and staff and WNCC.

4) Disciplinary Probation: A written plan addressing a student’s violations of the Code of Conduct and posted WNCC rules. Probation shall include specified conduct guidelines for a designated period of time.

5) On campus housing relocation: Moving a student from one room to another and/or from one campus residence hall to another.

6) On campus housing suspension: Separation of the student from on campus housing for a specified period of time, after which the student is eligible to return. Conditions of reentry may be specified.

7) On campus housing expulsion: Permanent removal of a student from any and all on-campus housing options. The student so removed may not re-enter the residence halls, under any conditions, even as a visitor.

8) College Suspension: Separation of the student from the College for a definite period of time, after which the student may be eligible for return, contingent upon meeting specified conditions for re-admittance.

9) College Expulsion: Permanent separation of the student from Western Nebraska Community College without the possibility of re-admission.

One or more of the sanctions listed above may be imposed by the College for any single violation of the College’s Sexual Misconduct Policy.

For additional information about student conduct proceedings please consult the Student Handbook on the Student Life section of the website.

For additional information about employee conduct please consult the WNCC Faculty and Staff Handbook on the Faculty & Staff section of the website.

**INTERIM SAFETY / PROTECTIVE / REMEDIAL MEASURES**

No contact directives shall be issued in writing to persons involved in any alleged violations of the College’s Sexual Misconduct Policy.

Students who have been subjected to sexual misconduct have access to other available College assistance in modifying or changing academic and living situations after an alleged incident.

Accommodations may include, but are not limited to the following:

1) Counseling and mental health services;
2) Changes with on-campus housing;
3) Assistance for relocation;
4) Assistance in ending a College housing contract and/or adjusting a student account balance for refund;
5) Rescheduling assignments, papers, quizzes or examinations;
6) Options for taking an incomplete in a class;
7) Transfer options between class sections;
8) Temporary withdrawal from the College;
9) Alternative course completion options; and
10) Arranging to take a course or courses via distance education / technology methods.

RETAIATION

The College’s commitment to eradication of any sort sexual misconduct includes prohibiting actions taken in retaliation for complaining of violations of College policy. Retaliation includes taking any action which may have any adverse impact on the student’s academic success or the learning environment of the student if such action is taken because of the student’s filing of or participation in the review of a complaint, whether or not such complaint is determined to be valid; or taking any action which may have any adverse impact on the employment status of the work environment of the employee, if the action is taken because of the employee’s filing of or participation in the review of a complaint, whether or not such complaint is determined to be valid. The complainant is assured that retaliation due to filing a complaint under the procedures addressing sexual misconduct is strictly prohibited by law and by college policy, and shall lead to discipline up to and including termination and expulsion. Any person believing that retaliation has taken or is taking place should immediately report the matter as provided herein.

It shall be considered a violation of College policy for any individual to knowingly file a false or malicious complaint of sexual misconduct or retaliation. If the College believes that such a false or malicious complaint has been filed, the matter will be investigated by the College.