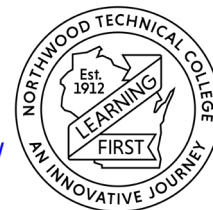


NORTHWOOD TECHNICAL COLLEGE



ADMINISTRATIVE PROCEDURE: G-113A, J-121A, & J-220A

TITLE: Title IX Unlawful Discrimination/Harassment/Sexual Harassment/ Sexual Misconduct/Sexual Violence Complaints

CROSS-REFERENCE(S):

G-111 (Administrative Policy – Disability Accommodation)
G-111A (Administrative Procedure – Disability Accommodation)
G-112 & J-120 (Administrative Policy – Non Discrimination/Non Harassment Compliance)
G-113 & J-121 (Administrative Policy – Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaints)
G-113B (Administrative Procedure - Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaints Grievance Procedure)
G-114 & J-114 (Administrative Policy – Sexual Violence Elimination Commitment)
G-115 (Administrative Policy – Timely Warning Notice and Immediate Notification)
G-115A (Administrative Procedure – Timely Warning Notice and Immediate Notification)
J-220 (Administrative Policy – Student Relations)
Title VI of the Civil Rights Act of 1964
Title IX of the Education Amendments Act of 1972, as amended
Section 504 and Section 508 of the Rehabilitation Act of 1973
Title II of The Americans with Disabilities Act of 1990, as amended
The Americans with Disabilities Act Amendments Act of 2008
1993 Wisconsin Act 427, effective May 7, 1994
Higher Education Act of 1965, § 485(f) (20 U.S.C. § 1092(f))
Clery Act, as amended, Sexual Violence Elimination Act (SaVE Act) as authorized by Violence Against Women Reauthorization Act
Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaint Form ([Complaint Form](#))
[Report an Incident/Misconduct at https://www.northwoodtech.edu/about/safety-and-security/file-a-report/file-an-incident-misconduct-report](https://www.northwoodtech.edu/about/safety-and-security/file-a-report/file-an-incident-misconduct-report))

Any student, employee, or student/employee applicant who believes that he/she has been unlawfully discriminated against, or harassed, or sexually harassed, or a victim of sexual misconduct/sexual violence including domestic violence, dating violence, stalking, and/or similar unwelcome conduct determined to deny a person equal access to the Northwood Technical College's (College) educational programs or activities in violation of College policy is urged to report the incident. For complaints subject to Title IX, this procedure shall control. For complaints not subject to Title IX, G-113B shall control. The College will determine which procedure controls depending on the facts and circumstances of a complaint.

The Director, Human Resources, 1900 College Drive, Rice Lake WI 54868, 715.645.7042, amanda.gohde@NorthwoodTech.edu has been designated to oversee compliance with federal and state statutory and regulatory requirements related to equal educational opportunities including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments Act of 1972, as amended, Section 504 and Section 508 of the Rehabilitation Act of 1973, Title II of The Americans with Disabilities Act of 1990, as amended, and The Americans with Disabilities Act Amendments Act of 2008, Clery Act, as amended, Sexual Violence Elimination Act (SaVE Act) as authorized by Violence Against Women Reauthorization Act, Higher Education Act of 1965, § 485(f) (20 U.S.C. § 1092(f)) and the guidance supplied by Department of Education, Office of Civil Rights and to handle inquiries, investigations and resolve complaints regarding the College's equal opportunity and non-discrimination/non-harassment policies for students, employees and student/employee applicants. Employees and students may also report complaints to any member of the College Leadership Team or to law enforcement as appropriate. If any member of the College Leadership Team is alleged to have engaged in unlawful discrimination/harassment/retaliation, the complaint must be filed directly with the President. If the President is alleged to have engaged in unlawful discrimination/harassment/retaliation, the complaint must be filed directly with the Board Chair. All allegations/complaints will be investigated promptly according to applicable law and College procedures and both the complainant and accused will be afforded equitable rights during the investigative process.

All complaints or reports of alleged acts or charges of unlawful discrimination/harassment/sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, and/or stalking reported to the College will be handled in compliance with applicable law and under the procedures described in this Administrative Procedure. The procedure is available for complaints by students, employees and student/employee applicants concerning alleged unlawful discrimination/

harassment/sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, stalking, and/or similar unwelcome conduct determined to deny a person equal access to the College's educational programs or activities as those terms are described in Administrative Policy G-113 & J-121.

Northwood Technical College Director, Human Resources serves as the Equal Opportunity/ Affirmative Action Officer and Title IX Coordinator and is the central intake point for complaints of unlawful discrimination/harassment/sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, stalking, and/or similar unwelcome conduct determined to deny a person equal access to the College's educational programs or activities. All charges of unlawful discrimination/harassment/sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, stalking, and/or similar unwelcome conduct determined to deny a person equal access to the College's educational programs or activities will be investigated according to College procedure by the Director, Human Resources (or designee) or a supervised investigation will be delegated to other trained, responsible members of the College Leadership Team and/or outside legal counsel as appropriate.

Terms used in this Procedure which are otherwise undefined will use the definition provided in Policy G-113.

Complaint Procedure

1. NOTIFICATION OF COMPLAINT

- a. Any applicant, student, employee, or citizen requesting services from Northwood Tech who believes he/she has experienced or observed a violation of this policy or procedure at Northwood Tech may file a report with the Director, Human Resources at the following address: Northwood Technical College 1900 College Drive, Rice Lake WI 54868, 715.645.7042, amanda.gohde@NorthwoodTech.edu. Employees and students may also report complaints to any member of the College Leadership Team or to law enforcement as appropriate. If any member of the College Leadership Team is alleged to have engaged in unlawful discrimination/harassment/retaliation, the complaint must be filed directly with the President. If the President is alleged to have engaged in unlawful discrimination/harassment/retaliation, the complaint must be filed directly with the Board Chair.
- b. The complaint report should be in writing, to the Director, Human Resources. The report should detail the facts and circumstances which are the basis for the complaint and identify the individual(s) at Northwood Tech responsible for the alleged violation and the policy, procedure, or practice that has been violated. Whenever possible, the "Unlawful Discrimination/Harassment/Sexual Harassment/ Sexual Misconduct/Sexual Violence Complaint Form or online reporting is available at <https://www.northwoodtech.edu/about/safety-and-security/file-a-report/file-an-incident-misconduct-report>" should be used to provide the information requested. The complainant and the respondent will be advised of the College policy and procedures when filing a complaint. If the complaint is not a Formal Complaint, Supportive Measures will be provided; however, no further investigatory action shall be taken and the grievance procedures of this policy shall not apply.
- c. The filing of a report with the College does not restrict a person's right to seek redress through avenues outside of the College.
- d. Retaliatory action against anyone filing a legitimate report for any type of unlawful discrimination/ harassment, including sexual harassment/sexual misconduct/sexual violence, is strictly prohibited.

2. DETERMINATION OF NEED FOR IMMEDIATE ACTION

Upon the receipt and any complaint (Formal or otherwise), the Title IX Coordinator shall determine whether the facts and circumstances of the matter require emergency removal of the respondent from his/her education program or activity because the respondent poses an immediate threat to the physical health or safety of any student or other individual based upon the allegations of Sexual Harassment through an individualized safety and risk analysis. If the Title IX Coordinator determines that emergency removal of the respondent is necessary, the College shall remove the respondent and provide the respondent with notice of the removal and an opportunity to challenge the decision immediately following the removal.

Similarly, if the respondent is a non-student employee, the College may place such employee on administrative leave pending the conclusion of the grievance process.

3. PROVISION OF SUPPORTIVE MEASURES

Upon the receipt of any complaint (Formal or otherwise), the Title IX Coordinator will promptly contact the complainant to discuss the availability of Supportive Measures, determine what, if any, supportive measures the complainant would desire (provided, however, the College reserves the right to determine the appropriateness of such measures and may deny such request), inform the complainant of the ability of supportive measures with or without the filing of a Formal Complaint, and explain to the complainant the process for filing a Formal Complaint.

4. PRE-INVESTIGATION ACTIVITIES

Upon the receipt of a Formal Complaint, the Director, Human Resources will provide to the parties:

- Notice of the College's grievance process.
- Notice of the allegations of Sexual Harassment, which shall include sufficient detail known at the time, including the identity of the parties involved, if known, the conduct alleged, and the date and location of the alleged incident, if known.
- Notice that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- Notice that the parties may have the support of an advisor through the grievance process, who may be, but is not required to be, an attorney.
- Notice that the parties may inspect and review evidence considered by the investigator in the course of the investigation.
- Notice that any knowingly false statements or submission of knowingly false information during the grievance process will be subject to the College's Code of Conduct.

5. PRELIMINARY INVESTIGATION

In this step, the investigator must determine the facial validity of the Formal Complaint. A Formal Complaint will not be facially valid, and must be dismissed where any of the following are true:

- The conduct did not occur against a person in the United States;
- The conduct did not occur in the College's education program or activity (which would include, for example, conduct which did not occur on College property or within a club or activity having an affiliation with the College).
- Assuming the veracity of all allegations in favor of the complainant, the conduct still would not constitute Sexual Harassment.

The investigator may also dismiss the complaint, or any allegations therein, where:

- The Complainant informs the Title IX Coordinator that the complainant desires to withdraw the Formal Complaint, or any allegations therein;
- The Respondent is no longer enrolled or employed by the College; or
- Specific circumstances prevent the investigator from gathering evidence sufficient to make a determination on the Formal Complaint or the allegations.

In the event there are multiple complaints involving the same complainant against more than one respondent, or more than one complainant against more than one respondent, or by one party against the other party, but all of which arise out of the same facts and circumstances, the investigator may consolidate the complaints.

6. INVESTIGATION

The specific steps and length of the investigation will vary based on the nature of the allegations and other factors; however, the College's inquiry will be prompt, thorough, and impartial. Following receipt of the complaint, the Director, Human Resources (or designee) will:

- a. Conduct individual meetings with the complainant to discuss the substance of the complaint and to identify witnesses (lay or expert) and other inculpatory or exculpatory evidence. The investigator will provide advanced notice to the interviewee, including the date, time, location, and purpose of the investigative interview at least five (5) business days in advance to permit the party to prepare to participate.
- b. Conduct individual meetings with the respondent to discuss the substance of the complaint and to identify witnesses (lay or expert) and any other inculpatory or exculpatory evidence. The investigator will provide advanced notice to the respondent, including the date, time, location, and purpose of the investigative interview at least five (5) business days in advance to permit the party to prepare to participate.
- c. Conduct individual meetings with identified witnesses from each party. Each witness shall be provided written notice of the date, time, location, participants, and purpose of all interviews at least five (5) business days in advance. In addition, for any party who is invited or expected to participate in a witness interview, notice of the witness interview will also be provided to such party.

Prior to the conclusion of the investigation, the investigator shall send to the complainant and respondent the opportunity to review any evidence obtained through the investigation which directly relates to the allegations contained in the complaint, including any evidence upon which the investigator does not intend to rely in rendering a determination. Such information will include any inculpatory or exculpatory evidence obtained from any source. Such evidence will be sent in an electronic format to the parties and any identified party advisor (unless requested by a party to be received in hard copy format). Each party will be given at least ten (10) calendar days to submit a written response to the investigator for consideration by the investigator prior to the completion of the investigation.

The investigator shall conclude the investigation by drafting a written investigative report which fairly summarizes the relevant evidence. Such report will be sent to the parties and any identified party advisor. The parties will have five (5) business days to review and provide a written response to the investigator.

Limits on Investigatory Authority – the Investigator may not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to such party, unless the investigator obtains that party's voluntary, written consent to do so.

Similarly, the investigator may not restrict the ability of either party to discuss the allegations under investigation, or to gather or present relevant evidence.

7. HEARING

Within 10 days following the conclusion of the investigation, the College will schedule a live hearing to present its findings. At the hearing, each party's advisor may ask the other party and any witnesses identified by the party relevant questions and follow-up questions, including questions challenging witness credibility. For this purpose, a live hearing is one which is conducted in real-time; provided, however, that either party can request that the parties be located in separate rooms with technology that enables the decision-maker and both parties to simultaneously see and hear all witnesses (including the

parties themselves). Similarly, in cases where health concerns warrant, the decision-maker may direct that the hearing be conducted through technological means.

If a party does not have an advisor, one will be provided to the party for purposes of representation at the hearing by the College, at College expense. The decision-maker shall be the arbiter of whether a question on direct or cross-examination is relevant. The hearing shall be recorded either by audiovisual recording or by transcript. A copy of the recording or transcript, as applicable, will be provided to the parties within a reasonable time following the conclusion of the hearing.

The decision-maker (who may not be the Title IX Coordinator or investigator) must issue a written determination regarding responsibility. The decision-maker's standard of evidence is preponderance of the evidence. Such determination will address the requirements of 34 CFR s. 106.45(b)(7)(ii), and shall be provided to the parties simultaneously. Either side may appeal the decision by following the procedures below. If neither party appeals, the decision will become final on the day after the day the appeal period lapses.

If the decision-maker determines that there is reason to believe, by a preponderance of evidence that a violation has occurred (and no party appeals), the College will take appropriate action. Individuals discriminating against students or employees will be subject to discipline under appropriate Northwood Tech policies. The College will also take other necessary corrective action to remedy any instances or effects where unlawful discrimination/ harassment/sexual misconduct/sexual violence is determined to have occurred. Notice of the action will be sent to the principal parties involved.

8. APPEAL PROCESS This appeal process applies to students. When a Northwood Tech faculty or staff member is a respondent in the matter, they may appeal a finding of responsibility based on the three bases listed below. However, the Appeal Procedure identified in G-125A will apply to their appeal.

Any party can appeal a decision-maker's determination regarding responsibility, or the College's dismissal of a Formal Complaint for identified deficiencies, on any of the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination was made which could affect the outcome of the matter; or
- Allegations of a conflict of interest or bias by the Title IX Coordinator, the investigator, or the decision-maker that affected the outcome of the matter. Such a conflict of interest or bias can be alleged to be against complainants or respondents generally or against the particular complainant or respondent in the matter.

Such appeal must be filed within five (5) business days following issuance of the decision-maker's decision. Upon receipt of the appeal, the College shall appoint a reviewer to consider the appeal and shall notify the parties of its receipt of an appeal request. Such reviewer shall not be the decision-maker for the hearing, the investigator, or the Title IX Coordinator. The reviewer shall notify the parties of the appeal procedures and set a briefing schedule for the parties to submit written statements in support of, or challenging, the outcome. Such briefing schedule shall provide an opportunity for each party to respond to the arguments of the other party. The reviewer shall issue a written decision describing the result of the appeal and rationale to both parties. The reviewer's decision shall be final and binding upon the parties and there shall be no further appeal within the College of the matter.

9. INFORMAL RESOLUTION

At any time during the course of the investigation or hearing, the College may offer the parties the opportunity to engage in an informal resolution of the complaint, such as mediation. The parties may decline to participate in such process without affecting the proceedings. If the parties choose to engage in the process, the parties will each indicate consent in writing. A party may end informal resolution discussions at any time prior to reaching an agreed resolution. This process may not be utilized where the allegations involve an employee sexually harassing a student.

10. RESTRICTION

- a. Action relating to employment and/or enrollment should not be taken for or against a person until a report of unlawful discrimination/harassment has been resolved.
- b. Nothing in these procedures will preclude an employee's or student's right to seek other avenues of redress outside of the College including a complainant's right to file a criminal complaint, as appropriate.

11. DOCUMENTATION AND CONFIDENTIALITY

A record of all complaints, investigation and hearing records, informal resolutions, and training records must be maintained and forwarded to the College's Director, Human Resources for reporting purposes in compliance with federal and state laws, but no less than seven (7) years from the conclusion of a matter (including any appeal) for matters beginning on or after August 14, 2020.

Northwood Tech will submit a report by September 1st to the Board and the Wisconsin Technical College System Board specifying the number of complaints received in the previous school year and the disposition of each such complaint as directed by the WTCS office.

Notwithstanding the foregoing, the College will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, any complainant, any accused, any respondent, and any witness, other than as necessary to carry out the purposes of this policy or as required by law.

Reference: *This procedure requires Board approval per Wisconsin Technical College System Methods of Administration requirements and the regulations promulgated by the authority of Title VI of the Civil Rights Act of 1964 Title IX of the Education Amendments of 1972, as amended Section 504 of the Rehabilitation Act of 1973 Title II of The Americans with Disabilities Act of 1990, as amended The Americans with Disabilities Act Amendments Act of 2008 Higher Education Act of 1965, §485(f) (20 U.S.C. 1092 (f)) Clery Act, as amended, Sexual Violence Elimination Act (SaVE Act) as authorized by Violence Against Women Reauthorization Act*

Questions regarding this policy should be directed to Human Resources.

Policy Adopted: February 19, 1976

Policy Revised:	July 10, 1978	April 19, 1982	July 18, 1990
	February 4, 1991	March 1, 1991	February 15, 1994
	January 1, 2000	March 4, 2001	March 4, 2002
	April 5, 2005	July 1, 2006	January 9, 2007 (revisions provided by legal counsel)
	August 7, 2012		
	August 19, 2013 (revisions provided by legal counsel)		
	August 18, 2014		
	August 17, 2015		
	August 21, 2017		
	August 17, 2020 (revisions made in conjunction with legal counsel on 8/3/20)		
	August 16, 2021		
	July 14, 2022		

Policy Reviewed: November 16, 2010
August 20, 2018
July 8, 2019



PRESIDENT
NORTHWOOD TECHNICAL COLLEGE