



# **A RESOURCE GUIDE FOR STUDENTS ON SEXUAL MISCONDUCT**

**Campus Policies, Procedures, and Victim Services**

# IF YOU HAVE EXPERIENCED SEXUAL MISCONDUCT

- 1 Go to a safe location as soon as you are able.
- 2 Seek immediate medical attention if you are injured, or believe you may have been exposed to an STI/STD, or may be pregnant.
- 3 Contact any of the following for immediate assistance:
  - Title IX Coordinator at 402-375-7213. 8 a.m. - 5 p.m. Monday through Friday (24/7 through Campus Security)
  - Campus Security at 402-375-7216, 24 hours/7 days a week
  - Campus Health Services at 402-375-7470. Regular business hours, Monday through Friday\*
  - Counseling Center at 402-375-7321. Regular business hours, Monday through Friday (24/7 through Campus Security)\*
  - Haven House Family Services Center. 24-Hour Crisis Line 1-800-440-4633
  - RAINN National Sexual Assault 24-Hour Hotline 1-800-656-4673.

*\*Denotes that this resource is confidential.*

Note that campus officials may contact on-call staff from other departments when their offices are closed or they are otherwise unavailable to assist immediately.

If you are experiencing an emergency situation, you can call the Police Department, County Sheriff, or Fire and Rescue by dialing 911. If in Wayne, you may also call the Wayne Police Department's non-emergency line at 402-375-2626, and, if in South Sioux City, you may also call the city/county non-emergency line at 402-494-7512.

- 4 It is important to preserve physical evidence that may include tissue and fluid samples, evidence of violence, sheets, towels, clothing, etc. You may choose to avoid washing, bathing, urinating, etc., until after being examined at the hospital, if possible. Because evidence of a sexual assault can deteriorate quickly, you may choose to seek a medical exam as soon as possible. Evidence collection should be completed within 120 hours of an assault, but fluids, hair samples, and DNA can be collected for a long time thereafter. Even if you have washed, evidence can often still be obtained. After 120 hours, it may still be helpful to have medical attention, even if you are not trying to obtain evidence of an assault. Sexual assault nurse examiners (SANE) are trained in the collection of forensic evidence and can check for injuries and exposure to sexually transmitted diseases. If you are still wearing any clothes worn during the assault, wear them to the hospital, but bring a change of clothes, as the hospital will keep the clothes you are wearing as evidence. If you have changed clothes, bring the ones you were wearing during the assault to the hospital in a clean paper (not plastic) bag or a wrapped in a clean sheet. Leave sheets/towels at the scene of the assault. Police will collect them. Typically, police will be called to the hospital to take custody of the rape kit, but it is up to you whether you wish to speak with them or file a criminal complaint.
- 5 Choose how to proceed. You have options and are encouraged to contact the Title IX Coordinator or a campus counselor to discuss your options: 1) Do nothing until you are ready; 2) Pursue resolution by the College; and/or 3) Initiate criminal proceedings; and/or 4) Initiate a civil process against the perpetrator. You may pursue whatever combination of options is best for you. If you wish to have an incident investigated and resolved by the College, you should contact the Title IX Coordinator. College procedures will be explained. Those who wish incidents to be handled criminally should contact the local police where the assault occurred. A campus official is available to accompany students in making such reports, if desired. Contact the Title IX Coordinator for more information.

## ABOUT CONFIDENTIALITY

To make informed choices, all parties should be aware of confidentiality and privacy issues, as well as institutional mandatory reporting requirements.

### Confidential reporting

If reporting students wish that details of an incident be kept confidential, they should speak with campus mental health counselors and/or health service providers. Campus counselors are available to help on an emergency basis. Their service is free of charge. Off-campus rape crisis center staff, such as Haven House personnel, can maintain confidentiality.

### Mandated reporting

Mandatory reporters (e.g. Campus Security, Residence Life, Athletics personnel [except trainers], and college administration) share all information with the Title IX Coordinator. Giving a mandated reporter notice of an incident constitutes official notice to the institution. Incidents of sexual misconduct will be taken seriously when official notice is given to the institution. Such incidents of sexual misconduct will be investigated and resolved in a prompt and equitable manner under the College's resolution procedures, which are discussed in a later section of this brochure [page 8].

You may request confidentiality and/or that the Title IX coordinator provide you with remedies and resources without initiating a formal resolution process. The coordinator will weigh requests for confidentiality against the institutional need to address and remedy discrimination under Title IX. Generally, the College will be able to respect your wishes, unless it believes there is a threat to the community based on the use of weapons, violence, pattern, predation, or threatening conduct by the person being accused.

Regardless of whether you choose to pursue formal resolution, the College will offer you available resources, supports, and remedies. If the College decides that it is obligated to pursue a formal resolution based on the notice you have given, you are not obligated to participate in the resolution process. However, the ability of the College to enforce its policies or provide some remedies may be limited as a result of your decision not to participate.

### Incidents involving minors

Please be aware that institutional duties with respect to minors (those 18 years of age or under) require reporting sexual misconduct incidents to state agencies and/or local law enforcement. As a result, confidentiality cannot be guaranteed in sexual misconduct incidents involving minors.

# POLICY

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Sexual misconduct, including sexual harassment, sexual violence, dating violence, domestic violence, and stalking are violations of Wayne State College's Student Handbook, Code of Conduct, and Nebraska State College System Board Policy 3020. A number of federal laws and regulations, including Title IX, the Violence Against Women Act, and the Clery Act mandate how institutions respond to such allegations. Many types of sexual misconduct also constitute violations of Nebraska state law.

Members of the campus community, guests, and visitors have a right to be free from sexual misconduct. All members of the community must conduct themselves in a way that does not infringe upon the rights of others. The Nebraska State College System Board Policy 3020 is intended to define expectations for appropriate conduct and outline resolution processes to address conduct that does not meet these expectations. When individuals accused of sexual misconduct are found to be in violation of the policy, the College will impose serious sanctions, as noted on the next page.

All members of the campus community, guests, and visitors are protected by this policy regardless of their sexual orientation or gender identity. The College responds to all reports of sexual misconduct involving members of the campus community, no matter where they occur, whether on or off campus. For more details on this policy, please see Board Policy 3020.

Additional information about campus crime, state laws, and disclosures related to sexual misconduct can be found online in the Annual Security and Safety Report at [www.wsc.edu/campus-security](http://www.wsc.edu/campus-security).



# SEXUAL MISCONDUCT DEFINITIONS AND VIOLATIONS

The following are the definitions of applicable terms and prohibited conduct per the Nebraska State College System (NSCS) Board Policy 3020.

## Sexual Assault

Sexual assault shall mean an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sexual assault is contact or sexual penetration that occurs without the consent of the recipient.

- Sexual contact means the intentional touching of a person's intimate parts or the intentional touching of a person's clothing covering the immediate area of the person's intimate parts. Sexual contact also includes when a person is forced to touch another person's intimate parts or the clothing covering the immediate area of the person's intimate parts. Sexual contact shall include only such contact that can be reasonably construed as being for the purpose of sexual arousal or gratification of either party.
- Sexual penetration means sexual intercourse in its ordinary meaning, cunnilingus, fellatio, anal intercourse or any intrusion of any part of the person's body or of a manipulated object into the genital or anal openings of another person.

## Sexual Violence

Sexual violence is any intentional act of sexual contact (touching or penetration) that is accomplished toward another without his/her consent. Such acts may include, but are not limited to, forced oral sex, forced anal penetration, insertion of foreign objects into the body, and any act of sexual intercourse against someone's will.

This includes, but is not limited to, the use of a weapon, physical violence or restraint, verbal threats, intimidation, and threats of retaliation or harm. Sexual violence includes sexual assault as defined in this policy.

## Consent

Consent is positive cooperation in the act or expressing intent to engage in the act.

The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. A person who is giving consent cannot be incapacitated by drugs or alcohol, unconscious, passed out, coming in and out of consciousness, under the threat of violence, injury, or other forms of coercion, and cannot have a disorder, illness, or disability that would impair his/her understanding of the act or his/her ability to make decisions.

A person who is giving consent cannot be forced, coerced, or deceived into providing it.

A person may express a lack of consent through words or conduct. A person need only resist, either verbally or physically, so as to make the person's refusal to consent genuine and real and so as to reasonably make known to the actor the person's refusal to consent. A person need not resist verbally or physically where it would be useless or futile to do so.

The presence or absence of consent is based on the totality of circumstances, including the context in which an alleged incident occurred. The fact that a student was under the influence of drugs/alcohol may be considered in determining whether that person had consented to the act in question. Consent may not be inferred from silence or passivity alone.

## Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature. Sex harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Federal law (specifically, Title IX) prohibits student-on-student discrimination, including hostile environment sex harassment and hostile environment gender harassment. (Gender harassment may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, sexual orientation, and/or gender identity, even if those acts do not involve conduct of a sexual nature.) Harassment does not have to include an intent to harm, be directed at a specific target, or involve repeated incidents. (For instance, as detailed below, a single instance of unwelcome physical contact of a sexual nature could constitute unlawful sex or gender harassment.) Sex and/or gender harassment creates a hostile environment for the student-victim when it is so severe, pervasive, or persistent that it interferes with or limits the victim student's ability to participate in or benefit from the College's services, activities, or opportunities because of his or her sex or gender. Sex harassment includes dating violence, domestic violence, and stalking as defined in this policy.

## Dating Violence

Dating violence is violence (violence includes, but is not limited to sexual or physical abuse or the threat of such abuse) committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, (iii) the frequency of interaction between the persons involved in the relationship. Dating violence can occur when one person purposely hurts or scares someone they are dating. Dating violence can be physical, emotional, and/or sexual abuse.

## Domestic Violence

Domestic violence shall mean felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws. Domestic violence includes patterns of abusive behavior in relationships used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behavior that intimidates, manipulates, humiliates, isolates, frightens, terrorizes, coerces, threatens, blames, hurts, injures, or wounds someone.

## Stalking

Stalking shall mean engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress. Stalking includes a pattern of repeated and unwanted attention, harassment, contact or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear. Stalking may include: repeatedly communicating with, following, threatening, or spreading rumors about a person who does not want the attention.

## Retaliation

Retaliation is any adverse action taken against a person participating in a protected activity because of that person's participation in that protected activity.

Sanctions range from warning through expulsion/termination.

## Consent

While "consent" is defined under Board Policy 3020, here is some additional information that may help in understanding this important concept.

*Knowing, voluntary, and clear permission, through word or action, to engage in mutually agreed upon sexual activity or contact.*

Since different people may experience the same interactions differently, each party is responsible for making sure that partners have provided ongoing, clear consent to engaging in any sexual activity or contact.

A person may withdraw consent at any time during sexual activity or contact through words or actions. If that happens, the other party must immediately cease the activity or contact. Pressuring another person into sexual activity can constitute coercion, which is also considered to be sexual misconduct.

Silence or the absence of resistance alone does not constitute consent. A victim is not required to resist or say "no" for an offense to be proven.

Consent to some forms of sexual activity (e.g., kissing, fondling, etc.) should not be construed as consent for other kinds of sexual activities (e.g., intercourse).

Being or having been in a dating relationship with the other party does not mean that consent for sexual activity exists.

Previous consent to sexual activity does not imply consent to sexual activity in the future.

In Nebraska, the age of majority is 19.

## Force

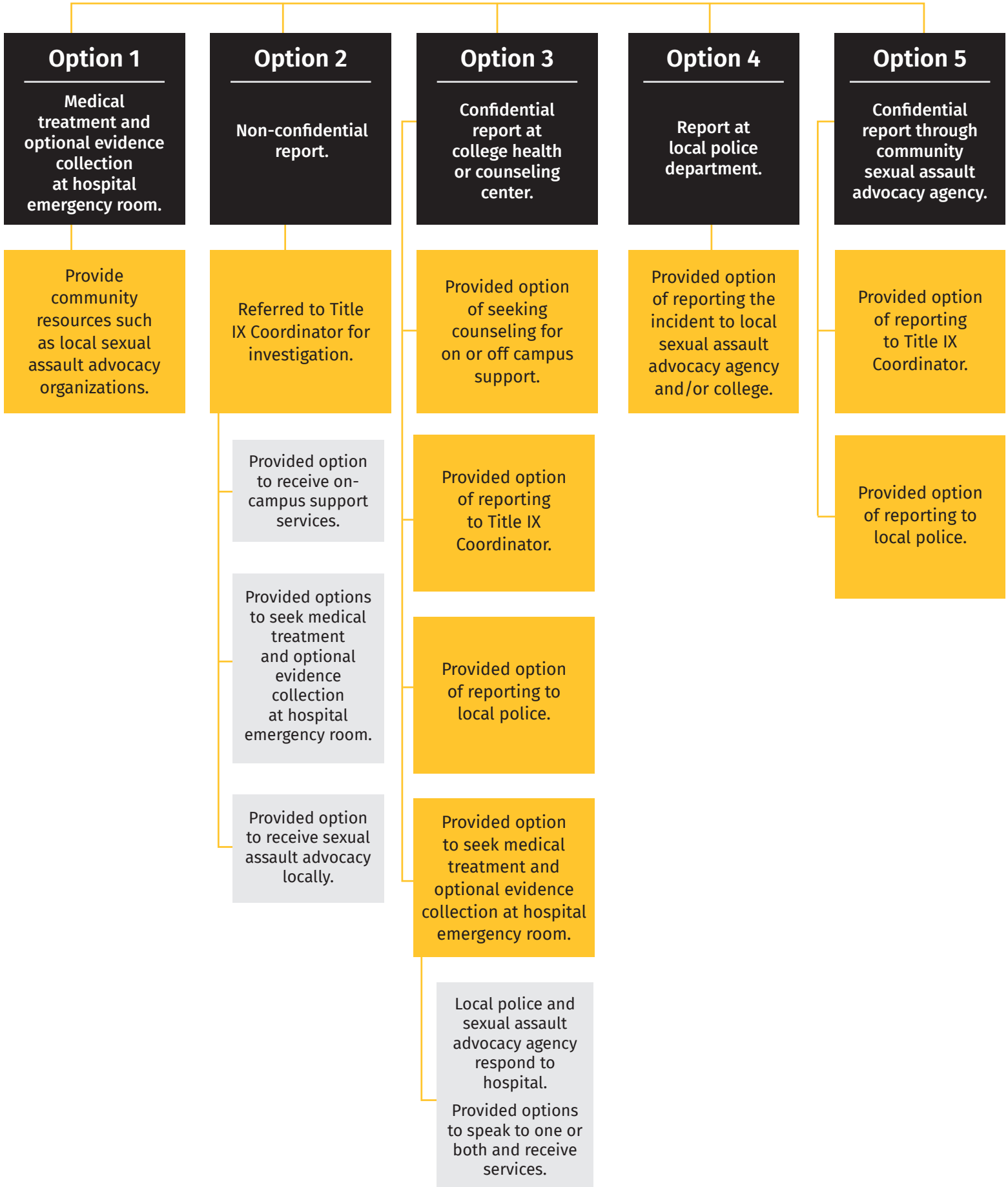
Force is defined as direct or indirect use of physical violence and/or imposing physically on someone to gain sexual access. Force, unless part of mutually permissible kink, is a clear demonstration of a lack of consent.

## Incapacitation

Incapacitation is defined as a state in which individuals are unable to make rational, reasonable decisions because they lack the capacity to understand the "who, what, when, where, why, or how" of a situation or interaction. Individuals cannot give sexual consent if they can't understand what is happening, or if they are disoriented, helpless, asleep, or unconscious for any reason. That applies even if it is because they voluntarily consumed alcohol or drugs. Unless consent is "knowing," it is not valid. Those engaging in sexual activity who know or should have known that the other party is incapacitated are engaging in sexual misconduct. The fact that a responding party was intoxicated, and thus did not realize the reporting party was incapacitated, does not excuse sexual misconduct.

# SURVIVOR OPTIONS

You may choose one or more options. We encourage medical treatment for all options.





## YOUR RIGHTS

The College strives to provide members of the campus community with fair and equitable resolution processes that include both formal and informal options.

### Reporting

- Reporting parties have the right to notify law enforcement of incidents and to receive assistance from campus personnel in doing so.
- Reporting parties may decline to report to law enforcement if they so wish.
- Reporting parties have the right to have their allegations investigated and resolved internally by the College.

### Fairness

- All members of the campus community have the right to have reported incidents addressed according to the published College procedures.
- All parties have equal opportunities to have a support person of their choosing or offered by the institution present throughout all resolution proceedings (including intake, interviews, hearings, etc.). This person can be an advisor, advocate, attorney, family member, friend, faculty member, etc.
- All parties have the right to written notice of the outcome of sexual misconduct resolution proceedings. Reporting parties, their supporters, and witnesses have a right to be free from retaliation.

### Support

- Students have a right to be notified of their ability to access campus counseling and health services.
- Students and employees have a right to be notified of on- and off-campus supportive resources.
- All parties involved in sexual misconduct allegations will receive the information and assistance needed to effectively participate in all proceedings.
- Reporting parties can contact the Title IX Coordinator or Campus Safety in requesting information about or enforcing orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal, civil, or tribal courts.

## REMEDIES

The College may take whatever steps are deemed necessary to appropriately respond to allegations of sexual misconduct, protect students' rights, and keep members of the campus community safe from further harm.

Measures include, but are not limited to:

- Issuing interim suspensions.
- Reporting incidents to local police and/or prosecutors.
- Referring to counseling and health services.
- Referring to the Employee Assistance Program.
- Providing education to the community.
- Altering the housing situation of the reporting or responding party.
- Altering work arrangements for employees.
- Providing campus escorts.
- Providing transportation assistance.
- Implementing contact limitations between the parties.
- Offering adjustments to academic deadlines, course schedules, etc.

These measures are available to the alleged victim and alleged perpetrator regardless of whether a reporting party seeks formal resolution or makes a crime report.





# PROCEDURES

## Intake

A College official will assist the reporting party with making choices and accessing resources. Assuming the reporting party chooses to move forward with a campus resolution, the next step is a preliminary inquiry. All resolutions will be conducted by campus officials who receive annual training on issues related to domestic violence, dating violence, sexual assault, and stalking, and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The resolution process is confidential. The institution will protect the confidentiality of victims, consistent with federal law.

## Preliminary Inquiry

An initial determination is made about the allegations and whether to move them forward to a formal investigation. This decision is made by the Title IX Coordinator, taking into account the nature of the allegations and the reporting party's wishes.

## Investigations

The Title IX Coordinator will ensure an investigation that is prompt, thorough, reliable, equitable, fair, and impartial. The Title IX Coordinator or Designee will provide an investigation that is prompt, thorough, reliable, equitable, fair, and impartial. They will interview reporting and responding parties and witnesses, and prepare reports with their findings and sanctioning recommendations. Information about all the steps in the investigative process is available at [www.wsc.edu/titleix](http://www.wsc.edu/titleix).

## Standard of Evidence

The College uses a preponderance of evidence standard. Decision-makers consider whether, given the available credible evidence, it is more likely than not that a violation occurred.

## Past History

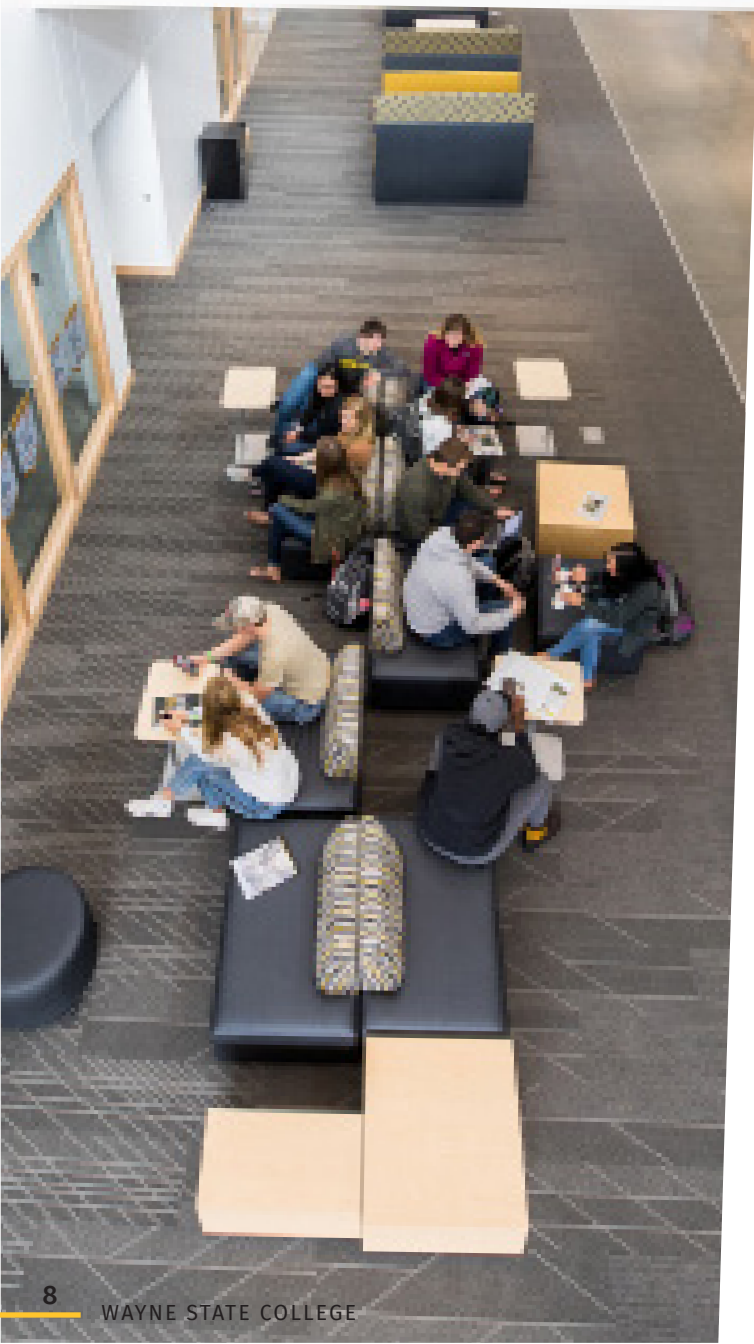
The past sexual history or character of an individual is not considered unless it is determined to be highly relevant. All such information sought to be entered for consideration by a party or the College will be presumed irrelevant until evidence of its relevance is offered. The existence of a pattern of behavior by a responding party may be relevant to the finding and sanction imposed. Both parties will be notified in advance if such information has been deemed relevant and will be considered during the process.

## Final Determination

The Title IX Coordinator or Designee will make a determination regarding the report using a "preponderance of the evidence" standard and will provide the recommendation to the Vice President responsible for Student Affairs and the President. The alleged perpetrator and the alleged victim will receive written notice of this determination and recommendation.

## Appeals

The alleged victim and alleged perpetrator may appeal the decision of the Vice President to the President. The appeal must be made in writing to the President within seven calendar days of the Vice President's decision. For more information, see Board Policy 3020.



The College's procedures are fully detailed online at [www.wsc.edu/titleix](http://www.wsc.edu/titleix).



# RISK REDUCTION

## Risk reduction for intimate partner violence, stalking, sexual harassment, and sexual violence

While victim-blaming is never appropriate and the College fully recognizes that only those who commit sexual misconduct are responsible for their actions, the College provides the following suggestions to help individuals reduce their risk of being victimized and their risk of committing acts of sexual misconduct.

### Reducing the risk of victimization

- Make your limits/boundaries known as early as possible.
- Clearly and firmly articulate consent or lack of consent.
- Remove yourself, if possible, from an aggressor's physical presence.
- Reach out for help, either from someone who is physically nearby or by calling someone. People around you may be waiting for a signal that you need help.
- Take affirmative responsibility for your alcohol and/or drug consumption. Alcohol and drugs can increase your vulnerability to sexual victimization.
- Look out for your friends, and ask them to look out for you. Respect them, and ask them to respect you, but be willing to challenge each other about high-risk choices.

### Reducing the risk of being accused of sexual misconduct

- Show your potential partner respect if you are in a position of initiating sexual behavior.
- If a potential partner says "no," accept it and don't push. If you want a "yes," ask for it, and don't proceed without clear permission.
- Clearly communicate your intentions to your potential sexual partners, and give them a chance to share their intentions and/or boundaries with you.
- Respect personal boundaries. If you are unsure what's OK in any interaction, ask.
- Avoid ambiguity. Don't make assumptions about consent, about whether someone is attracted to you, how far you can go with that person, or if the individual is physically and mentally able to consent. If you have questions or are unclear, you don't have consent.
- Don't take advantage of the fact that someone may be under the influence of drugs or alcohol, even if that person chose to become that way. Others' loss of control does not put you in control.
- Be on the lookout for mixed messages. That should be a clear indication to stop and talk about what your potential partner wants or doesn't want to happen. That person may be undecided about how far to go with you, or you may have misread a previous signal.
- Respect the timeline for sexual behaviors with which others are comfortable, and understand that they are entitled to change their minds.
- Recognize that even if you don't think you are intimidating in any way, your potential partner may be intimidated by or fearful of you, perhaps because of your sex, physical size, or a position of power or authority you may hold.
- Do not assume that someone's silence or passivity is an indication of consent. Pay attention to verbal and non-verbal signals to avoid misreading intentions.
- Understand that consent to one type of sexual behavior does not automatically grant consent to other types of sexual behaviors. If you are unsure, stop and ask.
- Understand that exerting power and control over another through sex is unacceptable conduct.





## PROGRAMS

### **Bystander Intervention**

Wayne State College offers bystander intervention programming to all new students in an effort to ensure that each member of the campus community is invested in creating a safe campus environment for themselves and others. Program participants are instructed on safe options for preventing harm and intervening when a risk of sexual misconduct exists.

### **Violence Against Women Act / Clery Training**

Incoming students are provided with education and training on awareness and risk reduction of sexual violence, dating violence, domestic violence, stalking, and consent in compliance with the Violence Against Women Act and the Clery Act.

### **Ongoing campaigns**

Ongoing awareness and prevention campaigns are provided throughout the school year to students, faculty, and staff.

## KEY CONTACTS

### **Alicia Dorcey**

*Director of Student Health & Counseling,*

*Title IX Coordinator*

Wayne State College

1111 Main St.

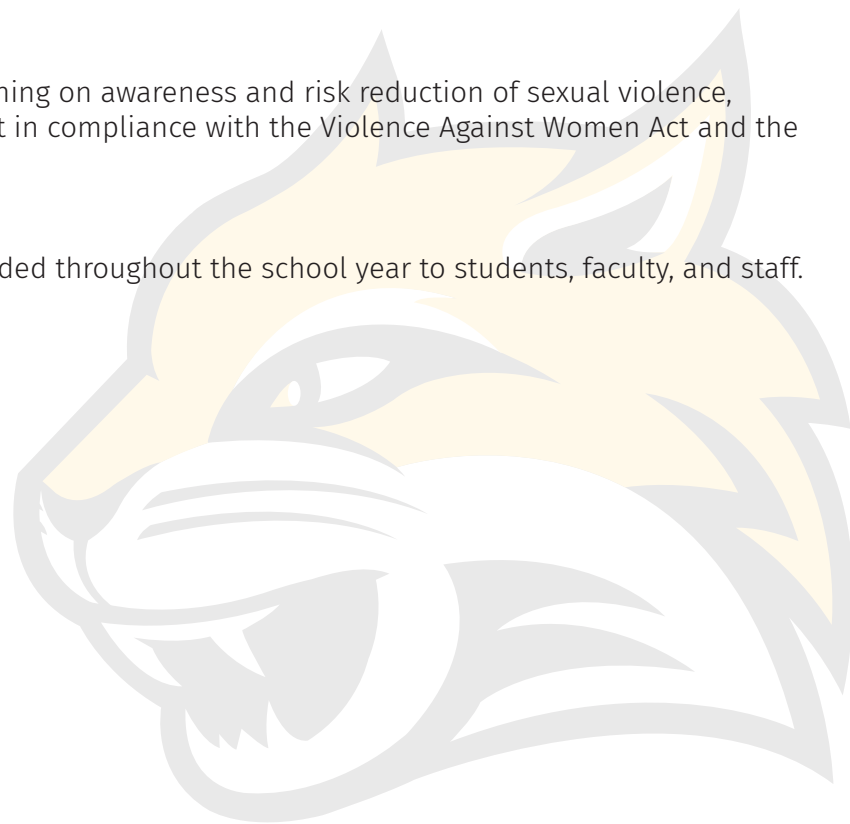
Kanter Student Center 103C

Wayne, NE 68787

402-375-7321 (office)

402-518-0433 (emergency cell)

aldorce1@wsc.edu



The Board of Trustees of the Nebraska State Colleges is committed to providing an environment which all students who participate in Wayne State College programs and activities can work together in an atmosphere free from unlawful discrimination, harassment, or violence. Sexual violence and sex harassment are prohibited by law and by Board policy and WSC will not tolerate sexual violence or sex harassment in any form, including, but not limited to, sexual assault; stalking; dating violence; domestic violence; acquaintance, date or stranger rape; non-consensual sexual intercourse; sexual cyber harassment or sexual bullying. WSC will take appropriate action to prevent, correct, and discipline harassing or violent behavior that is found to violate Board policies and principles of equal opportunity and access.

Board Policy 3020 provides guidance for what students should do if they have been victims of sexual violence or sex harassment, and what Wayne State College will do if such violence or harassment occurs. A student alleged to have committed sexual violence or sex harassment can be disciplined under the Code of Student Conduct and/or prosecuted under Nebraska criminal statutes. Additional Board Policies and Collective Bargaining Agreements also apply to employees alleged to have committed sexual violence or sex harassment. A student or employee alleged to have committed unlawful discrimination or harassment can be disciplined under the Code of Student Conduct and/or prosecuted under Nebraska criminal statutes.

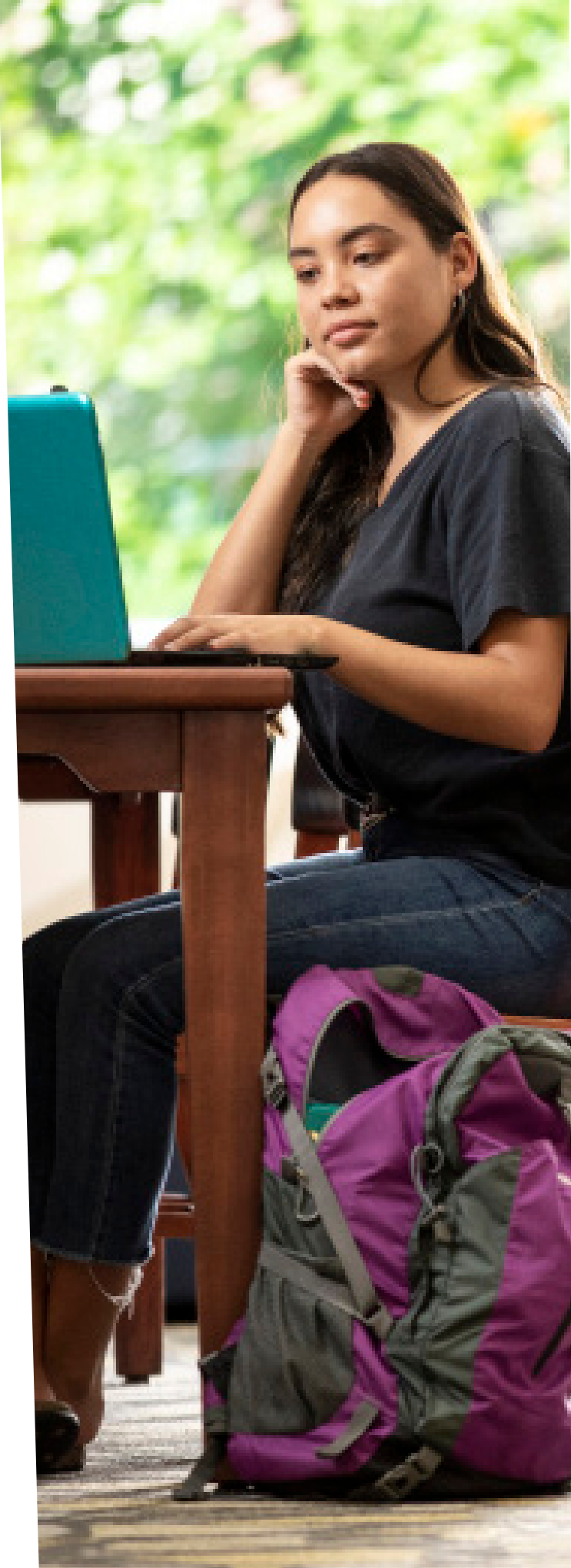
## Equal Opportunity Statement

Wayne State College is an equal opportunity institution. WSC does not discriminate against any student, employee or applicant on the basis of race, color, national origin, sex, sexual orientation, gender identity, disability, religion, or age in employment and education opportunities, including but not limited to admission decisions. Inquiries regarding non-discrimination policies and practices may be directed to:

### **Alicia Dorcey**

*Director of Student Health & Counseling,  
Title IX Coordinator*

Wayne State College  
1111 Main St.  
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