



NEBRASKA WESLEYAN UNIVERSITY  
**Sexual Misconduct Policy Outside of the  
2020 Final Rule for Federal Title IX  
Regulations**

This policy applies to sexual



educational services and resources.

Additionally, sexual harassment and sexual misconduct by an Employee prior to a leave of absence and/or misconduct that falls outside of the 2020 Final Rule for Federal Title IX

clergy, all of whom may engage in confidential communications under Nebraska law. The University has designated individuals able to have confidential communications as "Confidential Employees."

knowledge, or notice to the University, of the alleged occurrence, but will allow the harmed party to proceed as they so choose. Confidential Employees are further defined in Section VI of this document.

The University has the right to share appropriate information with Law Enforcement to ensure campus safety. All employees, including Confidential Employees, are mandatory reporters of suspected abuse or neglect of a vulnerable adult or abuse of a minor by an adult, including sexual/physical assault, witness to domestic violence, dating/intimate partner violence, and stalking. In Nebraska, minors are considered all persons under the age of 19.

## V. Prohibited Conduct

This Policy, Sexual Harassment and Sexual Misconduct that falls outside of Federal Title IX Regulations, identifies three types of misconduct that constitute Sexual Harassment as Prohibited Conduct:

1. quid pro quo harassment;
2. any unwelcome conduct that a reasonable person would find severe, pervasive, and objectively offensive that it denies a person equal employment or educational access; and
3. any instance of sexual assault (as defined in the Clery Act), dating violence, or stalking (as defined in the Violence Against Women Act (VAWA)).

### Clery Act Definitions of Violence Against Women Act Crimes

**Sexual Assault:** Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.

The University further defines a sexual act to include intentional contact with the intimate parts of another person's intimate parts without consent. Intimate parts may include the breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner. Sexual contact also includes vaginal or anal penetration, however slight, with a body part (e.g. penis, tongue, finger, hand, etc.) or object, or oral penetration involving mouth-to-genital contact.

**Dating Violence:** is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the harmed party. The existence of such a



means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interfere

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

    talking further includes cyberstalking, in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person.

**Sexual exploitation:** is sexual harassment that violates the sexual privacy of another, or takes sexual advantage of another without consent, cons1 0 0 1 2tdwsthret6A2 0 612 792 reW\*nBT/F2 11.04 Tf1 0 0

Consent is not present when there is sexual contact with someone who is known, or should have been known, to be **incapacitated** or otherwise mentally or physically incapable of resisting or appraising the nature of conduct. Likewise, consent is not present if the use of **force** or **coercion** of another person to engage in sexual contact against their will has occurred.

**Coercion:** the use of pressure to compel someone to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they inhibit another individual's freedom of will and ability to choose whether or not to engage in sexual activity.

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## VI. Reporting

There are multiple channels for reporting sexual harassment and sexual misconduct. An individual may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. An individual may simultaneously pursue a criminal investigation and the University sexual harassment and sexual misconduct resolution process. The Title IX Coordinator will support all parties involved in understanding and assessing all options. Questions should be directed to a Title IX Coordinator.

**Reporting to the University:** The University encourages anyone who becomes aware of an incident of sexual harassment or sexual misconduct to promptly report the incident to a Title IX Coordinator. Any Campus Security Authority (CSA) identified by the University who receives a disclosure of sexual harassment or sexual misconduct by a harmed party or witness is required to report to the Title IX Office. While there is no time limit for reporting sexual harassment or sexual misconduct to the University, the University's ability to respond may diminish over time, as evidence may erode, memories fade, and individuals may no longer be affiliated with the University. If an individual is no longer affiliated with the University, the University will provide reasonably appropriate supportive measures, assist individuals in identifying external and/or other inter



3. The information concerns conduct involving suspected abuse or neglect of a vulnerable adult or abuse of a minor by an adult. In Nebraska, minors are considered anyone under the age of 19.

Additionally, Confidential Employees must share non-identifying statistical information related to crimes found in the Annual Security Report with a Clery Compliance Officer, as required by the Clery Act.

**Campus Security Authorities** are required to report to a Title IX Coordinator all relevant details about an incident of sexual harassment or sexual misconduct, including dates, times, locations, and names of parties and witnesses, if known. Disclosure at public awareness events (e.g., "Take Back the Night") and certain research-based disclosures (e.g., where a Student is a subject in an Institutional Review Board-approved human subjects research project) will not trigger an individual investigation. Further, disclosures which occur as part of a classroom assignment will not require faculty or staff to report to a Title IX Coordinator, unless there is abuse or neglect of a vulnerable adult or abuse of a minor by an adult. Faculty and staff members are required to share reporting options with all students.

**Reporting to Law Enforcement:** Individuals have the right to notify or decline to notify law enforcement. Police have legal authority to criminally investigate reports of sexual assault, domestic abuse, and stalking, collect evidence, make arrests, and assist in seeking emergency protective measures. In keeping with its commitment to take all appropriate steps to address and to prevent sexual harassment and sexual misconduct, the University encourages individuals to promptly report sexual harassment and sexual misconduct to preserve potential evidence. The University will assist individuals in notifying law enforcement if they choose to do so.

**To Contact Lincoln or Omaha Police:**





