

ITEMS FOR DISCUSSION AND ACTION STUDENT AFFAIRS, MARKETING, AND ENROLLMENT

June 17, 2021

ACTION: **First and Final Round Approval of Revisions to Board Policy 2550; Nebraska State College System Organizational Chart, 3020; Grievance Policy & Procedures For Sexual Harassment & Sex Discrimination, 3100; Conduct & Discipline; Students, 3200; Due Process -- Students, 3210; Grievance Procedures - Students, 3300; Student Organizations; Conduct & Discipline, and 3650; Student Records**

The Board Policies are being revised to incorporate the changes for the Student Affairs reorganization at Chadron State. The changes allow for the Presidents to designate either the Vice President or Dean responsible for Student Affairs to roles previously assigned solely to the Vice President. In those instances in policy requiring the individual be a Vice President, the President is permitted to designate either the Vice President responsible for Student Affairs or an equivalent administrator. Additionally, Board Policy 2550 is revised to designate the Dean of Student Affairs rather than the Vice President for Enrollment Management and Student Services as Chadron State's representative on the Council of Student Affairs, Marketing & Enrollment Officers.

The System Office recommends approval of the Revisions to Board Policies 2550; 3020; 3100; 3200; 3210; 3300 and 3650.

ATTACHMENTS:

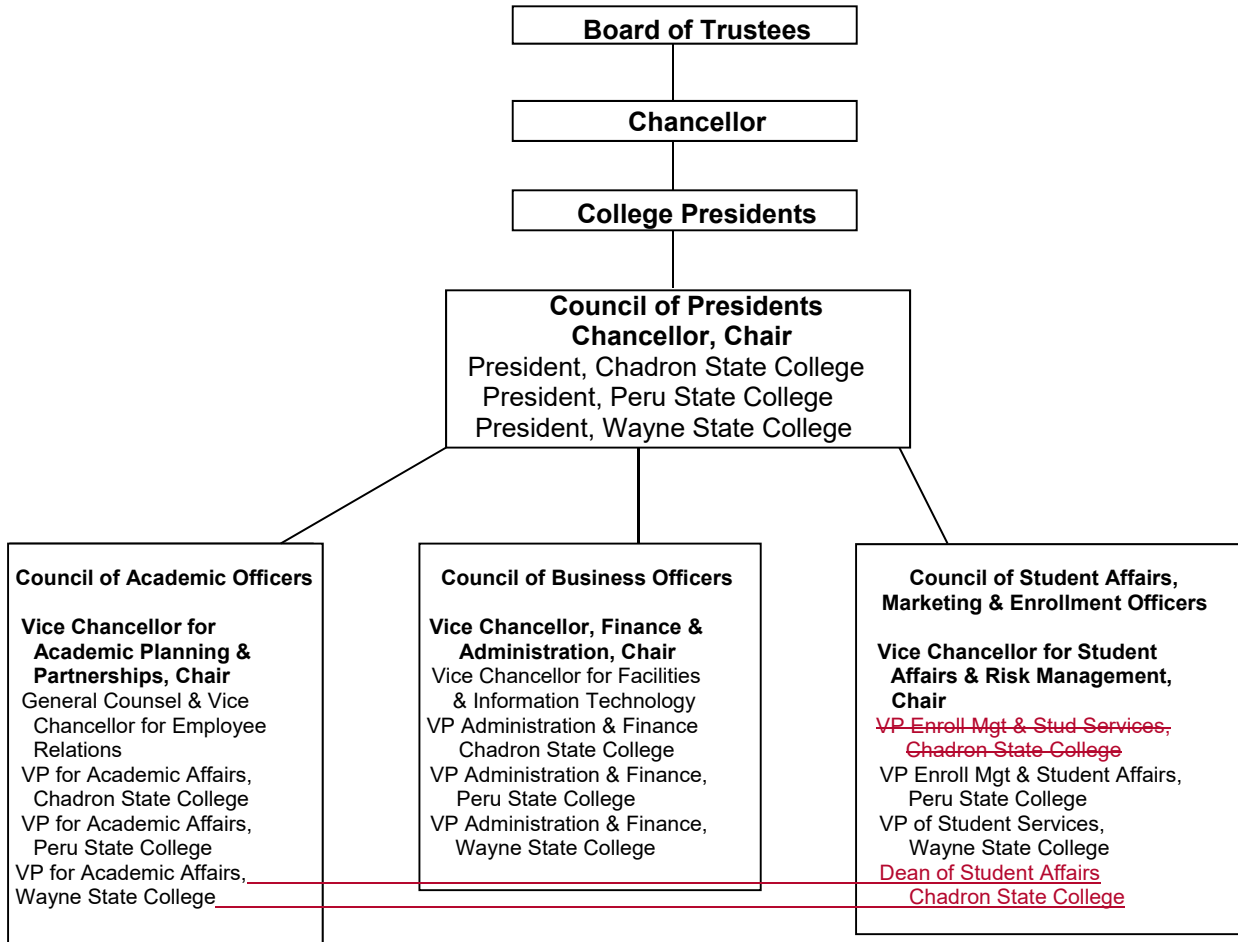
- Revisions to Board Policy 2550 (PDF)
- Revisions to Board Policy 3020 (PDF)
- Revisions to Board Policy 3100 (PDF)
- Revisions to Board Policy 3200 (PDF)
- Revisions to Board Policy 3210 (PDF)
- Revisions to Board Policy 3300 (PDF)
- Revisions to Board Policy 3650 (PDF)

GOVERNANCE AND ADMINISTRATION, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 2550

**Nebraska State College System
Organizational Chart**

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- Policy Revised: 9/17/04
- Policy Revised: 3/31/06
- Policy Revised: 11/15/07
- Policy Revised: 9/9/11
- Policy Revised: 9/3/13
- Policy Revised: 2/18/14
- Policy Revised: 4/1/14
- Policy Revised: 10/10/14
- Policy Revised: 4/3/15
- Policy Revised: 9/9/16
- Policy Revised: 1/17/17
- Policy Revised: 9/15/17
- Policy Revised: 3/5/21
- Policy Revised:

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 3020 Grievance Policy & Procedures For Sexual Harassment & Sex Discrimination

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This policy addresses sex discrimination that occurs in the form of sexual harassment. The Board of Trustees of the Nebraska State Colleges prohibits discrimination on the basis of sex and is committed to providing an environment in which all students who participate in College programs and activities can work together in an atmosphere free from sexual harassment and sex discrimination.

Colleges and universities receiving federal funding, including the Nebraska State College System, are required by Title IX of the Education Amendments of 1972 and 34 CFR Part 106 to not discriminate on the basis of sex in their educational programs or activities, including admission and employment. Inquiries about Title IX or 34 CFR Part 106 can be made to the Colleges' respective Title IX Coordinators or to the Assistant Secretary of the Department of Education.¹

This policy constitutes the Nebraska State College System's Grievance Policy and Procedures for addressing sexual harassment, including how a student, or others reporting on behalf of a student, may report or file a formal complaint of sexual harassment and how the Colleges will respond. The Colleges will take appropriate action to prevent, correct, and discipline behavior that is found to violate this policy or principles of equal opportunity and access.

A student alleged to have committed sexual harassment may be disciplined under the Code of Student Conduct and/or prosecuted under Nebraska criminal statutes. Additional Board Policies, Employee Handbooks and Collective Bargaining Agreements apply to employees alleged to have committed sexual harassment.

Reports of sexual harassment are taken with the utmost seriousness. The Colleges are responsible for responding to reports or complaints of sexual harassment and attending to the needs of impacted students. Complainants and Respondents are both referred to appropriate resources and services to assist them and are treated equitably in receiving individualized Supportive Measures from the Colleges. Respondents are presumed to be not responsible for the alleged conduct, and the College's investigation or response will be impartial and fair to all parties.

I. Scope

A. To Whom Does this Policy Apply?

1. This policy applies to all students located within the United States, including traditional students, online or distance education students, and students participating in dual enrollment programs. This policy applies to students located within the United States regardless of whether the other party involved is a fellow student, an employee, or a third party.

B. Where Does this Policy Apply?

1. This policy applies to the Colleges' education programs and activities, which include:
 - a. The physical campuses of the Nebraska State Colleges;

¹ The Office for Civil Rights can be contacted by the following methods: Email – OCR@ed.gov; Telephone – 800-421-3481; FAX – 202-453-6012; TDD – 800-877-8339; Website – <https://ocrcas.ed.gov/contact-ocr> The OCR National Headquarters is located at U.S. Department of Education, Office of Civil Rights, Lyndon Baines Johnson Department of Education Building, 400 Maryland Avenue, SW, Washington, DC 20202-1100

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- b. Areas owned or controlled by the Colleges;
- c. Locations, events, or circumstances over which the Colleges exercise substantial control over both the respondent and the context in which the sexual harassment occurs;
- d. Any building owned or controlled by a student organization that is officially recognized by the College.

C. When Does this Policy Apply?

- 1. This policy applies when the College has notice, in the form of actual knowledge, of a report or allegation of Sexual Harassment that has been reported to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College as defined in section III of this policy. If the College has actual knowledge of sexual harassment in an education program or activity against a person in the United States, it must respond promptly.

II. Prohibited Conduct

- A. The definition of Sexual Harassment consists of six (6) types of conduct that the College prohibits, which are explained in this section.
- B. **Sexual Harassment:** Sexual Harassment is conduct on the basis of sex, including gender identity and sexual orientation, that satisfies one or more of the following:
 - 1. Quid Pro Quo Harassment
An employee of the College conditioning the provision of an aid, benefit, or service of the College's on an individual's participation in unwelcome sexual conduct.
 - 2. Severe, Pervasive, and Objectively Offensive Unwelcome Conduct
Unwelcome conduct determined by a *reasonable person* to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity. Unwelcomeness and objective offense are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

3. Sexual Assault

An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.² Sexual assault includes:

- a. Forcible Sex Offense: Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent. This includes:
 - i. Forcible Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
 - ii. Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - iii. Sexual Assault with an Object: To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - iv. Forcible Fondling—The touching of the private body parts of another person (including, but not limited to, the buttocks, groin, and breasts) for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

² The 2020 Department of Education's Regulations of Title IX state the following in footnote 791 on page 547: The Clery Act, 20 U.S.C. 1092(f)(6)(A)(v) defines "sexual assault" to mean an "offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation." The FBI UCR, in turn, consists of two crime reporting systems: The Summary Reporting System (SRS) and the National Incident-Based Reporting System (NIBRS). U.S. Dep't. of Justice, Criminal Justice Information Services, SRS to NIBRS: The Path to Better UCR Data (Mar. 28, 2017). The current Clery Act regulations, 34 CFR 668.46(a), direct recipients to look to the SRS for a definition of rape and to NIBRS for a definition of fondling, statutory rape, and incest as the offenses falling under "sexual assault." The FBI has announced it will retire the SRS and transition to using only the NIBRS in January 2021. Federal Bureau of Investigation, Criminal Justice Information Services, Uniform Crime Reporting (UCR) Program, National Incident-Based Reporting System (NIBRS), <https://www.fbi.gov/services/cjis/ucr/nibrs>. NIBRS' forcible and nonforcible sex offenses consist of: rape, sodomy, and sexual assault with an object (as well as fondling, statutory rape, and incest, as noted above). Thus, reference to the Clery Act will continue to cover the same range of sex offenses under the FBI UCR regardless of whether or when the FBI phases out the SRS.

- b. Non-Forcible Sex Offense: Non-forcible sexual intercourse. This includes the following:
 - i. Incest: Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Nebraska state law.
 - ii. Statutory Rape: Non-forcible sexual intercourse with a person who is under the statutory age of consent of 16.³

- 4. Dating Violence
Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - a. 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.
 - b. For the purposes of this definition, Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

- 5. Domestic Violence
A felony or misdemeanor crime of violence committed:
 - a. By a current or former spouse or intimate partner of the Complainant;
 - b. By a person with whom the Complainant shares a child in common;
 - c. By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
 - d. By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Nebraska;
 - e. By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Nebraska.

³ Nebraska Revised Statute 28-319.01

6. Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- a. Fear for the person's safety or the safety of others; or
- b. Suffer substantial emotional distress.

For the purposes of this definition:

- c. Course of conduct means two (2) or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- d. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

C. Retaliation

Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured under Title IX or 34 CFR Part 106, or because the individual made a complaint or report, testified, assisted, participated, or refused to participate in an investigation, proceeding, or Hearing under this policy.

III. Additional Definitions

A. Advisor:

1. An individual selected by either the Complainant or Respondent to guide them through the grievance process and accompany them to all meetings, including the Hearing. An Advisor may, for example, assist a party in reviewing the Investigative Report, or provide feedback to a party in preparation for the Hearing.
2. At the Hearing, the party's Advisor asks the other party and any Witness all relevant questions or follow up questions, including those challenging credibility, on behalf of their advisee. In all other instances throughout the grievance process, the party will speak for themselves.
3. If an Advisor is an attorney, they may not participate any more than a non-attorney Advisor would be permitted to participate.
4. If a party does not have an Advisor at the Hearing, the ~~Vice President for Student Affairs or their designee~~ Vice President or Dean responsible for Student Affairs as designated by the President shall appoint an Advisor for the party without any fee or charge to the party.

B. Complainant:

1. An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

C. Confidential Employee:

1. A College employee who does not have a duty to report incidents of Sexual Harassment to the Title IX Coordinator.
2. Medical or mental health professionals employed by the Colleges (Licensed Student Counselors, Nurses and Athletic Trainers) are Confidential Employees and respect and protect confidential communications from students, faculty, and staff to the extent they are legally able and/or required to do so.
3. Confidential Employees may have to breach confidentiality when they perceive an immediate and serious threat to any person or property.

D. Consent:

1. Definition:
 - a. Consent is positive cooperation in an act or expression of intent to engage in an act. Consent is indicated through words or conduct. Consent cannot be inferred from silence or passivity alone.
 - b. An individual who consents to a sexual act must give that consent voluntarily, and with knowledge and understanding of the nature of the act and their participation in it.
 - c. Consent to one type of sexual activity does not necessarily constitute consent for another type of sexual activity.
 - d. Consent can be withdrawn by any party at any time through words or conduct.
2. Capacity to Consent:
 - a. A person cannot give consent when they are:
 - i. Incapacitated by drugs or alcohol;
 - ii. Unconscious, passed out, asleep, coming in and out of consciousness;
 - iii. Have a disorder, illness, or disability that impairs their understanding of the act and their ability to make decisions.
 - iv. They are under the threat of violence, injury, or other forms of coercion or intimidation.
 - v. They are forced, coerced, intimidated, or deceived into providing consent.
 - b. If the Complainant was incapacitated, the question of whether the Respondent knew, or should have known, that the Complainant was incapacitated will be considered.

3. Lack of Consent:

- a. 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 other party that person's refusal to consent.
- b. 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.

E. Education Program or Activity:

1. The Colleges' education programs or activities include locations, events, or circumstances over which the College exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurred, including any building owned or controlled by a student organization that is officially recognized by the College.

F. Employee:

1. An individual who is paid by the College to perform specific job duties, including faculty and staff, whether they are employed part-time or full-time. This definition excludes student-employees and third party contractors unless otherwise noted.

G. Formal Complaint:

1. A complaint filed and signed by a Complainant or the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting the College investigate the allegation of Sexual Harassment per this policy.
2. At the time of filing the Formal Complaint the Complainant must be participating in or attempting to participate in the Colleges education program or activity.
3. In the event that the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator does not become a party to the Formal Complaint.

H. Hearing Chairperson:

1. The individual who conducts the Hearing and makes decisions regarding the relevance of questions and evidence and their inclusion in the Hearing. The Hearing Chairperson is responsible for providing the determination in writing to the parties.

I. Hearing Panel:

1. A panel of at least three (3) individuals, who are not students, including the Hearing Chairperson who consider the evidence presented regarding a Formal Complaint and make a determination regarding responsibility pursuant to this policy and, if applicable, any disciplinary action or sanctions to be imposed. The determination will be made using the preponderance of the evidence standard.

J. Mandatory Reporter:

1. Any College employee who is required to report incidents of sexual misconduct of which they become aware to the Title IX Coordinator. The following College employees are Mandatory Reporters:
 - a. President
 - b. Vice Presidents
 - c. Academic Deans
 - d. College Title IX Coordinator and Designees
 - e. Dean of Students
 - f. Housing/Residence Life Staff to include:
 - i. Directors
 - ii. Managers
 - iii. Assistant Directors
 - iv. Senior Residence Hall Advisors
 - v. Residence Hall Advisors
 - g. Coaches and Assistant Coaches
 - h. Campus Security Officers

K. Pre-Hearing Conference:

1. This is an opportunity for the Complainant and Respondent to meet separately with the Hearing Chairperson to review Hearing procedures, submit the questions they intend to ask at the Hearing, and confirm the list of Witnesses, if any, they wish to call at the Hearing. The parties may also discuss options for an Informal Resolution as an alternative to proceeding with a Hearing.

L. Preponderance of the Evidence Standard:

1. A preponderance of the evidence is the greater weight of the evidence indicating it is more likely than not that the alleged conduct occurred. It is the standard the College's decision-maker (Hearing Panel) will use to determine whether or not a Respondent is responsible for Sexual Harassment.

M. Reporting Party:

1. An individual who reports to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College on another person's behalf.

N. Respondent:

1. An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

O. Student:

1. An individual who is currently enrolled or registered in an Education Program or Activity or who has completed the immediately preceding term and is eligible for re-enrollment.

P. Supportive Measures:

1. Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available and without fee or charge to the Complainant and Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed.
2. The College may utilize Supportive Measures as supplemental tools in disciplinary action, sanctions or in Informal Resolutions.
3. Parties are treated equitably when offered Supportive Measures. Supportive Measures are kept confidential to the extent possible without impairing the College's ability to provide them.
4. Supportive Measures are designed to restore or preserve equal access to the College's Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or to deter Sexual Harassment.
5. Supportive Measures may include but not be limited to: a referral to counseling services, reasonable academic accommodations, changes to on-campus housing or employment situations, use of Campus Security's escort services, bi-lateral No Contact Orders, and other similar measures.
6. Requests for Supportive Measures must be made directly to the Title IX Coordinator, who will facilitate implementation.

Q. Title IX Coordinator:

1. The employee responsible for responding to reports of Sexual Harassment at the College. The Title IX Coordinator conducts investigations of allegations of Sexual Harassment against a Respondent in a Formal Complaint made by a Complainant.
2. As part of the investigation, the Title IX Coordinator will interview the Complainant, the Respondent, and any Witnesses or others with pertinent information and gather other evidence including but not limited to, submitted written statements, text messages, social media posts, pictures, videos, security camera footage, and other relevant material.

3. The Title IX Coordinator reviews and assesses the credibility of the available evidence, synthesizes areas of dispute and agreement, and creates an Investigative Report summarizing this information and provides it to the Hearing Panel.

R. Witness:

1. An individual who witnessed the alleged incident or has relevant information about the allegations.

IV. Dismissal of Formal Complaints

A. Mandatory Dismissal

1. The College is required⁴ to dismiss a Formal Complaint made per this policy in the following circumstances:
 - a. The alleged conduct would not constitute Sexual Harassment as defined in this policy, even if proved;
 - b. The alleged conduct did not occur in the College's Education Program or Activity; or,
 - c. The alleged conduct did not occur against a person in the United States.
2. The parties will receive written notice explaining the reasons for dismissal. Allegations that are dismissed for these reasons may be addressed by the Student Code of Conduct set forth in Board Policy 3100. The parties may appeal the dismissal, per the appeal requirements in Section VII.C.12.

B. Permissive Dismissal

1. The College may choose to dismiss a Formal Complaint made per this policy in the following circumstances:
 - a. The Complainant withdraws a Formal Complaint in writing.
 - b. The Respondent is no longer enrolled or employed by the College.
 - c. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination.
2. The parties will receive written notice explaining the reasons for dismissal. The parties may appeal the dismissal, per the appeal requirements in Section VII.C.12.

⁴ Per 34 CFR § 106.45(3)(i)

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V. Reporting Sexual Harassment

A. Reporting to the College

1. Any person may report sex discrimination, including Sexual Harassment, to the College. A person who alleges to be the victim of Sexual Harassment is the Complainant. A person who submits a report on behalf of another person is the Reporting Party. Reports can be made by mail, telephone, email, in person, or by any other means that results in the Title IX Coordinator receiving the person’s written or verbal report.
2. The names and contact information for the Colleges’ Title IX Coordinators are below.

Chadron State College	Peru State College	Wayne State College
Name: Ted Tewahade E-mail: ttewahade@csc.edu Phone: (308) 430-0980 Address: Crites Hall 341 1000 Main Street Chadron, NE, 69337 https://www.csc.edu/titleix/	Name: Eulanda Cade E-mail: ecade@peru.edu Phone: (402) 872-2230 Address: Administration, 312 PO Box 10 Peru, NE, 68421 https://www.peru.edu/titleix/	Name: Tara Holdsworth E-mail: taholds1@wsc.edu Phone: (402) 375-7451 Address: Student Center 12D 1111 North Main Street Wayne, NE, 68787 https://www.wsc.edu/info/20160/title_ix

3. The College appreciates the privacy concerns inherent in allegations of Sexual Harassment.
 - a. To protect students’ privacy rights, the names of students or other identifying information, especially that which is contained in written documents and notes, will only be disclosed to third parties if;
 - i. Prior written permission is given by the student concerned;
 - ii. The disclosure is necessary to conduct an investigation or implement a Supportive Measure;
 - iii. The disclosure is necessary to pursue disciplinary action;
 - iv. The disclosure is otherwise required by law.
 - b. Complainants will be informed that the College has a legal duty to include information about reports of criminal sexual misconduct in annual security report statistics which do not identify the parties involved.⁵

⁵ Per the Clery Act, 20 U.S.C. § 1092(f)

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4. The law recognizes and protects the confidentiality of communications between a person seeking care and a medical or mental health professional.
 - a. Medical or mental health professionals employed by the College (Licensed Student Counselors, Nurses and Athletic Trainers) are Confidential Employees.
 - b. Confidential Employees are not required to report incidents of Sexual Harassment or Sex Discrimination of which they become aware to the Title IX Coordinator and may respect and protect confidential communications from students, faculty, and staff to the extent they are legally able to do so. Confidential Employees may have to breach a confidence, however, when they perceive an immediate and serious threat to any person or property.
 - c. All College employees (including Confidential Employees) are required by state law to report allegations or reasonable suspicion of child abuse or neglect, including sexual assault or abuse of a minor, to either law enforcement or the Department of Health and Human Services.⁶ The Child Abuse and Neglect Hotline is (800) 652-1999. In Nebraska, the age of majority is nineteen (19).

B. Reporting Conduct to Law Enforcement

1. Reporting conduct to the College and reporting conduct to law enforcement are two (2) separate processes. A Complainant can choose to report the conduct only to the College, or only to law enforcement, or to both the College and law enforcement.

C. Judicial Orders

1. Parties may pursue judicial remedies such as orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal, civil, or tribal courts.
2. Parties are responsible for notifying the College of such an order and should provide a copy of it to the Title IX Coordinator/Designee as soon as reasonably possible. The party may discuss options with the Title IX Coordinator/Designee regarding enforcing the order when the parties participate in a College Educational Program or Activity.

D. Medical Care and Law Enforcement

1. A Complainant may obtain medical care to collect and preserve physical evidence of the alleged offense.
2. Health care providers are required to report to law enforcement when an injury appears to have been received in connection with, or as a result of, the commission of an actual or attempted sexual assault.⁷

⁶ Nebraska Revised Statute 28-711.

⁷ *Nebraska Medical Sexual Assault Protocol*, Nebraska Attorney General's Office, July 2019. Available at <https://ago.nebraska.gov/sites/ago.nebraska.gov/files/doc/Nebraska%20Medical%20Sexual%20Assault%20Protocol%20FINAL.pdf>

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3. A Complainant eighteen (18) years and older who has not experienced serious bodily injury may choose from the following options regarding reporting to law enforcement and evidence collection: (1) Full report with evidence collection; (2) Partial report with evidence collection; and (3) Anonymous report with evidence collection. Additional information about these options is available in the [Nebraska Medical Sexual Assault Protocol](#). It is important that a Complainant make an informed decision regarding important physical evidence that may be preserved.
4. Regardless of whether or not the law enforcement authorities choose to prosecute a reported offense, the College can pursue disciplinary action against a student or employee alleged to have committed Sexual Harassment. If a report is made to law enforcement and the agency pursues an investigation, the College will cooperate with the law enforcement agency.

VI. Emergency Removal of Complainants and Respondents

A. The College may remove a Complainant or Respondent from the College's Education Program or Activity on an emergency basis when appropriate.

1. In such an instance the College must do the following:
 - a. Conduct an individualized safety and risk analysis prior to removal;
 - b. Determine whether an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment exists, and whether the risk justifies removing a Complainant or Respondent;
 - c. If removal is deemed appropriate, the College must provide the party with notice of removal and an opportunity to challenge the decision immediately following removal.
2. Decisions to remove a Complainant or Respondent on an emergency basis will be made by the ~~Vice President for Student Affairs~~ Vice President or Dean responsible for Student Affairs as designated by the President. The ~~Vice President for Student Affairs~~ Vice President or Dean responsible for Student Affairs as designated by the President will consider the result of the College's safety and risk assessment process when determining whether removal is appropriate:

VII. Grievance Process

A. Overview

1. The Complainant has two (2) options to resolve their Formal Complaint of Sexual Harassment: (1) the College investigates the alleged conduct and a determination regarding responsibility is made after a Hearing; or (2) both the Complainant and Respondent agree to an Informal Resolution that the College deems appropriate, any time prior to a determination regarding responsibility. Informal Resolutions require the voluntary and written consent of both the Complainant and Respondent, and may not involve a full investigation. The Complainant may choose which process to initiate.

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2. The Colleges' grievance process for resolving allegations of Sexual Harassment is fair and impartial. All relevant evidence will be objectively evaluated, including inculpatory and exculpatory evidence. Credibility determinations are not based on a person's status as a Complainant, Respondent, or Witness. Respondents are presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. All parties and Witnesses are prohibited from knowingly making false statements or knowingly submitting false information during the grievance process.
3. The burden of proof and gathering evidence rests on the College, not the parties. Parties will have opportunities to provide their account of the alleged incident, respond to the other party's account, and inspect and review evidence that is directly related to the allegations.
4. Each party may have an Advisor of their choice, who may be, but is not required to be, an attorney. Advisors may accompany the party to any meeting or proceeding. If a party does not have an Advisor at the Hearing, the ~~Vice President for Student Affairs or their designee~~ Vice President or Dean responsible for Student Affairs as designated by the President shall appoint an Advisor for the party without any fee or charge to the party.
5. The College strives to complete the Grievance Process within sixty (60) business days. Throughout the process the College will provide the parties with regular status updates and information regarding next steps.

B. Request to Temporarily Delay the Grievance Process

1. A party may submit a written request to the Title IX Coordinator to temporarily delay the grievance process or provide a limited extension of time for good cause. Good cause may include, but is not limited to:
 - a. The absence of a party, the party's Advisor, or a Witness;
 - b. Concurrent law enforcement activity;
 - c. The need for language assistance or disability accommodation.
2. If the request is granted, the Title IX Coordinator will notify the parties in writing of the delay or extension and the reasons for it. The College may also elect to delay the grievance process for good cause.

C. Process Steps

1. Report Received:

The Title IX Coordinator receives an initial report alleging Sexual Harassment. This report may be from the person who alleges to be the victim of Sexual Harassment (Complainant) or it may have been submitted on their behalf by a third party (Reporting Party).

2. Outreach to Complainant:

The Title IX Coordinator will promptly contact the Complainant for the following purposes:

- a. To discuss the report, the availability of Supportive Measures, and the Complainant's wishes regarding Supportive Measures;
- b. To listen to the Complainant's account and ask questions to gain a better understanding of the nature of the alleged incident;
- c. To explain this policy and the definition of Sexual Harassment

3. Determination Regarding Policy Application:

The Title IX Coordinator will determine whether the alleged conduct is redressible by this policy, which applies exclusively to Sexual Harassment, or whether the alleged conduct may be redressible under another College policy, such as the Student Code of Conduct.

- a. Alleged conduct that would constitute Sexual Harassment if proved can be addressed by this policy. Continue to Step 4.
- b. Alleged conduct that does not constitute Sexual Harassment if proved may be redressible under another College policy. In this case, the Title IX Coordinator will refer the Complainant to the appropriate College official.
- c. If the alleged conduct is redressible by this policy, the Title IX Coordinator will facilitate appropriate Supportive Measures for the parties. If the alleged conduct is redressible under another College policy, the Title IX Coordinator will delegate the responsibility of facilitating Supportive Measures to the Dean of Students or other appropriate College official.

4. Formal Complaint Submitted:

Complainant will sign a Formal Complaint alleging Sexual Harassment against a Respondent and requesting that the College investigate the allegation.

5. Parties Receive Notice of Allegations:

The Complainant and Respondent will be notified in writing of the allegations and that the College will conduct an investigation. The Respondent's notice will include sufficient details known at the time and allow sufficient time for Respondent to prepare a response before any initial interview.

6. Title IX Coordinator or Designee Conducts Investigation:

The investigation will involve the following:

- a. Gathering evidence;
 - i. If a party wishes for their medical records, prior educational records, or other records that are external to the College to be considered in the grievance process they must provide written consent for those records to be released to the College and make arrangements for the records to be sent to the College.

- b. Interviewing the Complainant, Respondent, and any Witnesses;
 - c. Review and assessment of all related written statements, reports, and other relevant material;
 - d. Synthesizing areas of dispute and agreement between the parties;
 - e. Preparation of an Investigative Report that organizes, assesses, and fairly summarizes the relevant evidence and synthesizes areas of dispute and agreement between the parties.
 - f. Review of applicable College policies;
 - g. If a party has not selected an Advisor to be present at the Hearing the College will appoint an Advisor. The Advisor will ask all cross-examination questions at the hearing on the party's behalf.
7. Inspection and Review of Evidence and Parties' Response:
Prior to the completion of the Investigative Report, the parties and their Advisors, will receive an electronic copy of all the evidence obtained from the investigation that is directly related to the allegations.
- a. **Parties will have ten (10) calendar days to submit a written response**, which will be considered prior to the completion of the Investigative Report. This is an opportunity for each party to correct or clarify the evidence or provide additional information before the Investigative Report is completed.
 - b. Any written response from the parties will be included in the Investigative Report.
 - c. A party's failure to respond will be taken as their confirmation that the evidence they received is accurate for the purposes of the following procedural steps.
8. Investigative Report Prepared and Provided to the Parties:
The Title IX Coordinator/Designee will prepare an Investigative Report that organizes and fairly summarizes the relevant evidence and highlights key issues.
- a. The Title IX Coordinator/Designee will also prepare a file containing any additional evidence that is directly related to the allegations, but upon which the College does not intend to rely in making a determination regarding responsibility. Both the Investigative Report and this file (if applicable) will be provided to the parties and their Advisors when they receive the Investigative Report.
 - b. The parties and their Advisors will receive an electronic copy of the Investigative Report and any additional evidence for their review and written response at least ten (10) calendar days prior to the Hearing. This is an opportunity for each party to identify any inaccuracies in the Investigative Report or any additional evidence before the Hearing. A party's failure to respond will be taken as their confirmation that the Investigative Report and any additional evidence is accurate. Once the Investigative Report is finalized the Title IX Coordinator/Designee will provide it and any additional evidence to the Hearing Panel.

- c. Parties and/or Hearing Panel members who wish to call a Witness during the Hearing must submit in writing the Witness's name(s) and contact information to the Hearing Chairperson before the date of the Pre-Hearing Conference. The Hearing Chairperson is responsible for summoning the Witnesses in writing.

9. Pre-Hearing Conference:

Each party and their Advisor will attend a Pre-Hearing Conference with the Hearing Chairperson. The purpose of this Pre-Hearing Conference is to prepare the parties for the Hearing and ensure that they understand the procedures.

- a. The Pre-Hearing Conference must occur after the parties have had ten (10) calendar days to review the Investigative Report and any additional evidence and respond. The Title IX Coordinator or Designee will be present, but the Hearing Chairperson will direct the conference.
- b. At the Pre-Hearing Conference, the parties and their Advisors:
 - i. Will be notified of the Hearing date, time, and location.
 - ii. Will have the opportunity to inspect and review the Investigative Report and all the evidence directly related to the allegation, including evidence upon which the College does not intend to rely in making a determination of responsibility and exculpatory and inculpatory evidence.
 - iii. Will confirm the list of Witnesses the party and/or the Hearing Panel wishes to call at the Hearing.
 - iv. Will submit in writing any evidence they intend to use or questions they intend to ask (through their Advisor) of the other party and any Witnesses at the Hearing.
- c. During the Pre-Hearing Conference, the Hearing Chairperson will review the submitted questions and evidence and make a determination regarding their relevancy.
- d. If a question or evidence is not relevant, the Hearing Chairperson will explain and document their decision to exclude it from the Hearing in the Pre-Hearing Conference Summary. The parties may provide reasons why they believe the question or evidence is relevant or not relevant and their rationale will be taken into consideration by the Hearing Chairperson.
- e. Questions and evidence about the Complainant's or Respondent's sexual predisposition or prior sexual behavior are not relevant. There are three (3) exceptions:
 - i. Such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant;
 - ii. If the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent;

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- iii. If the questions and evidence concern specific incidents of the Respondent's prior sexual behavior with respect to the Complainant and are offered to prove consent.
 - f. Exclusion of such questions or evidence will be explained and documented in the Pre-Hearing Conference Summary.
 - g. Questions or evidence that constitute or seek disclosure of information protected by a legally recognized privilege are not permitted at the Hearing, unless the person holding the privilege waives it. This may include information protected by doctor-patient or attorney-client privilege. The exclusion of such questions or evidence will be explained and documented in the Pre-Hearing Conference Summary.
 - h. The parties and their Advisors will be informed that they may still resolve the matter informally at this point in the grievance process. See Section VII. D. for information about Informal Resolutions. If the parties wish to continue to a Hearing, the Hearing Chairperson will review Hearing procedures with each party.
 - i. The Hearing Chairperson will write a Pre-Hearing Conference Summary that includes documentation of relevancy based exclusions of questions or evidence and the list of approved questions or evidence. The Hearing Chairperson will provide it to the parties in writing before the Hearing and it will become part of the record provided to the Hearing Panel.
10. Hearing:
- a. The College will conduct a live Hearing to determine whether the Respondent is responsible for the alleged conduct, and if so, what disciplinary measures or sanctions will be imposed. The Hearing Panel is the decision maker and will use the preponderance of the evidence standard, which means the greater weight of the evidence.
 - b. The Hearing Panel will consist of a minimum of three (3) individuals, who each have a vote. Students will not serve on the Hearing Panel. The Hearing Chairperson will direct the hearing and the determination will be made by the majority vote. At its discretion, the College may employ a third party to conduct the hearing.
 - c. The Title IX Coordinator or Designee (who conducted the investigation) will be present at the Hearing to answer questions or clarify information, but will have no other role in the grievance process.
 - d. The Hearing Panel will be permitted to call witnesses. Each party's Advisor will be permitted to present evidence and ask the other party and any witnesses all relevant questions and follow-up questions, including those that challenge credibility.
 - e. Before a party or Witness responds to a question or evidence presented, the Hearing Chairperson must first determine whether it is relevant and explain any decision to exclude a question or evidence presented as not relevant, **unless** the question or evidence presented was approved as relevant during the Pre-Hearing Conference.

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- f. If a party or Witness does not submit to cross-examination at the Hearing, the Hearing Panel must not rely on any statement that party or Witness made (during the investigation and/or the Hearing) in reaching a determination regarding responsibility. However, the hearing panel cannot draw an inference about the determination regarding responsibility based solely on a party's or Witness's absence from the Hearing or refusal to answer cross-examination or other questions.
- g. Either party may request to be located in separate rooms during the Hearing, with technology enabling the Hearing Panel and parties to simultaneously see and hear the party or Witness answering questions.
- h. The College shall create an audio or audio-visual recording of any Hearing and make it available to the parties for inspection and review. After the Hearing is complete the Hearing Panel will convene in private within forty-eight (48) hours of the end of the hearing to vote.

11. Parties Receive Written Determination Regarding Responsibility:

- a. The Hearing Chairperson will simultaneously provide the parties a written determination regarding responsibility and any applicable disciplinary action within ten (10) calendar days of the Hearing's conclusion.
- b. If an appeal is filed, the determination will become final on the date that the College provides the parties with the written determination of the result of the appeal. If no appeal is filed, the determination will become final on the date that an appeal would no longer be timely.

12. Appeal:

- a. The Complainant and/or the Respondent may appeal to the President a determination regarding responsibility or the College's dismissal of a Formal Complaint.
- b. **Appeals must be submitted to the President in writing within five (5) calendar days of the determination regarding responsibility or within five (5) calendar days of the dismissal of the Formal Complaint.**
- c. The Title IX Coordinator/Designee will provide the President the record of the investigation and Hearing.
- d. When an appeal is filed the Title IX Coordinator/Designee will notify the other party in writing. Both parties will have five (5) calendar days to submit to the President a written statement in support of, or challenging, the outcome.
- e. The permissible bases for appeal are:
 - i. Procedural irregularity that affected the outcome of the matter;
 - ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;

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- iii. The Title IX Coordinator, Designee, Hearing Chairperson or Hearing Panel member had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter.
- f. The parties will simultaneously receive a written decision describing the result of the appeal and the rationale for the result.
- g. If an appeal is filed, the determination will become final on the date that the College provides the parties with the written determination of the result of the appeal. Any sanctions imposed by the initial determination of responsibility will go into effect *after* the five (5) day window for appeals closes, and if an appeal occurs, after it is complete. However, existing Supportive Measures may remain in place.

D. Informal Resolution

- A. At any time prior to reaching a determination regarding responsibility the College may facilitate an Informal Resolution process that does not involve a full investigation and Hearing. A Formal Complaint is a prerequisite of an Informal Resolution, and both parties must provide voluntary, written consent to participate in the Informal Resolution process.
 - 1. The College will provide the parties with written notice disclosing the allegations, the requirements of the Informal Resolution process, and any consequences resulting from participating in the Informal Resolution process, including records that will be maintained or shared.
 - 2. The Title IX Coordinator/Designee can present a framework of potential remedies to guide the parties in negotiation, but the parties themselves must come to an agreement. The Title IX Coordinator/Designee will facilitate this process, and will use their discretion to ensure that the Informal Resolution is appropriate for the College. The parties may not bind the College to a resolution that the College does not deem appropriate.
 - 3. Informal Resolution may be accomplished through mediation and other forms of facilitation, such as the parties communicating through the Title IX Coordinator/Designee to minimize contact with each other, or the parties communicating directly with each other and the Title IX Coordinator/Designee.
 - 4. The Informal Resolution process cannot be used to resolve allegations that an employee (including a student-employee) sexually harassed a student if the alleged harassment occurred in the context of their employment.

VIII. Retaliation

A. Retaliation is Prohibited

- 1. The College will not tolerate or engage in intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured under Title IX or 34 CFR Part 106, or because the individual made a complaint or report, testified, assisted, participated, or refused to participate in an investigation, proceeding, or Hearing under this policy.

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2. The exercise of First Amendment rights does not constitute retaliation.
3. Complaints alleging retaliation may be filed and resolved per this policy.

IX. Disciplinary Sanctions & Remedies

A. Range of Options

1. Subsequent to a determination of responsibility, the College may take disciplinary action, impose sanctions and apply remedies, which may include, but are not limited to: warnings, disciplinary probation, loss of privileges, restitution, remedial work assignments, remedial education requirements, service requirements, remedial behavioral requirements, College housing relocation or suspension, removal from College housing, suspension, and expulsion.
2. Remedies, including disciplinary action and informal resolutions, are designed to restore or preserve the Complainant's equal access to the Colleges' education programs and activities.

Policy Adopted:	6/15/12	Effective:	7/1/12
Policy Revised:	7/29/13		
Policy Revised:	12/10/13		
Policy Revised:	4/25/14	Effective:	7/1/14
Policy Revised:	11/7/14		
Policy Revised:	1/14/15		
Policy Revised:	3/26/15	Effective:	7/1/15
Policy Revised:	8/5/15		
Policy Revised:	3/1/16		
Policy Revised:	10/14/16		
Policy Revised:	6/16/17		
Policy Revised:	7/31/17		
Policy Revised:	6/19/18		
Policy Revised:	7/24/20		
Policy Revised:	8/13/20		
Policy Revised:	2/10/21		
<u>Policy Revised:</u>			

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Conduct & Discipline; Students

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BOARD POLICY

The Board and the Colleges are committed to creating and maintaining a productive educational community that fosters the personal, ethical and intellectual development of its students. Adherence to standards of conduct is essential to the educational process and to the safety and well-being of the College community.

The Board grants authority to the Presidents to designate appropriate officers, establish representative college committees, render initial decisions and provide appeal procedures in regard to allegations of academic dishonesty; grade appeals; failure to pay a financial obligation; or academic performance, achievement, probation and suspension. All disciplinary sanctions imposed for misconduct identified in this policy are to be governed by terms of this policy and the due process requirements set forth in Board Policy #3200. Acceptance of this policy by the student is implied as a condition of his or her enrollment.

PROCEDURE

Students are responsible to obey the laws of the state and nation, the regulations and policies of the Board and of the Colleges; and to refrain from any conduct injurious to themselves, to others, or to the reputation or interests of the College.

A student shall not ignore a summons from the President or other officer of administration of the College, or from a member of the faculty.

Student misconduct as identified under this policy or a violation of College regulations or policy, whether occurring on or off College property, may result in disciplinary action being taken against the student.

Students may be ordered to leave the College under a temporary suspension pending disciplinary action due process per Board Policy 3200 in the event the student's continued presence is believed to threaten the safety or health of another person or for other reasons at the discretion of the ~~Vice President responsible for Student Affairs or designee~~ Vice President or Dean responsible for Student Affairs as designated by the President. Such order shall be given in writing by the ~~Vice President responsible for Student Affairs or designee~~ Vice President or Dean responsible for Student Affairs as designated by the President.

Students suspended or expelled from one of the State Colleges may be admitted to another Nebraska State College only under the same conditions that they would be readmitted to the College from which they were suspended.

Misconduct

The following acts shall be considered to constitute misconduct for which an offending student or student organization may be subject to disciplinary sanctions.

1. Participation in a demonstration on College property which materially and substantially disrupts or obstructs the normal operations, activities or functions of the College, including unauthorized occupation of College premises;
2. Failure to evacuate College facilities or willfully ignoring any emergency or alarm signal or request to evacuate by appropriate emergency personnel;

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3. Falsification or willful suppression of any information for or on an application for admission, or falsification or misuse of College identification and other documents;
 4. Misuse of computers or computing resources, including, but not limited to, violating the following federal regulations: the Copyright Act of 1976 and the Fair Use Guidelines, the Digital Millennium Copyright Act of 1998, and the Technology, Education and Copyright Harmonization Act of 2002;
 5. Unlawful or unauthorized possession, use, distribution, dispensing, delivery, sale or consumption, manufacture, or being in the presence of any alcoholic beverage, including empty bottles/cans or any alcohol container on any part of College property including outdoor areas and parking lots;
 6. Alcohol consumption that endangers the health, safety, or property of oneself or another, or requires medical treatment or College staff intervention;
 7. Unlawful or unauthorized possession, use, distribution, delivery, dispensing, manufacture or sale, or being in the presence of any drug; being in possession of paraphernalia for drug use, except as expressly permitted by law, or being unlawfully under the influence of any drug unless directed by a licensed physician;
 8. Inflicting unwanted physical contact on another person; conduct that intimidates, harasses, or threatens the safety, health, property, or life of others or oneself; participating or contributing to an incident of abuse or assault; causing, provoking or engaging in any fight, brawl or riotous behavior; or inflicting willful and repeated harm through the use of computers, cell phones, and other electronic devices;
 9. Any act occurring on College property or on the premises of a student housing unit which intentionally disturbs the peace and quiet of any person or group of persons;
 10. Sex harassment as Board Policy #3020 defines those terms;¹
 11. Conduct which is unreasonably dangerous to the health or safety of other persons or oneself;
 12. Theft or attempted theft of any property or receipt of stolen property;
 13. Damaging or attempting to damage property of the College or of another individual;
 14. Using or possessing bombs, explosives, incendiary devices, or fireworks;
 15. Setting or attempting to set any fire on the campus or on the premises of any student housing unit, except in fireplaces or other facilities designated for fires;
 16. Failing to report a fire or any other extremely dangerous condition when known or recognized on College property or on the premises of any student housing unit;
 17. Possessing or selling firearms, ammunition, weapons, explosives, or dangerous chemicals on College property or on the premises of any student housing unit;

¹ The Office for Civil Rights can be contacted by the following methods: Email – OCR@ed.gov; Telephone – 800-421-3481; FAX – 202-453-6012; TDD – 800-877-8339; Website – <https://ocrcas.ed.gov/contact-ocr>. The OCR National Headquarters is located at U.S. Department of Education, Office for Civil Rights, Lyndon Baines Johnson Department of Education Building, 400 Maryland Avenue, SW, Washington, DC 20202-1100

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18. Obstructing or failing to comply with the directions of a law enforcement officer, firefighter, or College official in the performance of his or her duty on College property, on the premises of any student housing unit or at any activity or event sponsored by the College or an organization;
 19. Hazing any person. Consent of the victim of the hazing will not constitute a defense to an allegation of misconduct for hazing. Hazing shall mean any activity by which a person intentionally or recklessly endangers the physical or mental health or safety of an individual for the purpose of initiation into, admission into, affiliation with, or continued membership with any organization;
 20. Committing any unlawful act of indecent exposure or public indecency;
 21. Participating in any gambling activity in violation of the laws of the State of Nebraska or of the United States;
 22. Unauthorized use of any College property, facilities, equipment or materials;
 23. Possessing, producing, manufacturing, or having manufactured without proper authorization, any key or unlocking device for use on any College facility or lock;
 24. Serious traffic violations on the campus, including, but not limited to, operating any vehicle while intoxicated, speeding, reckless endangerment, or reckless driving;
 25. Violation of any student housing unit policy, rule or regulation;
 26. Failure to redeem or make arrangements to redeem, within one week after receipt of written notice, an insufficient funds or no account check submitted to the College for cash or for payment of College goods or services;
 27. Abuse of College investigations or disciplinary proceedings which includes, but is not limited to, failure to obey a request to appear before a disciplinary officer or committee, falsification of testimony, disruption or interference with the orderly conduct of any hearing, attempting to discourage any person from using College disciplinary procedures or participating in such procedures, attempting to influence the impartiality of a member of a disciplinary committee prior to any proceeding, filing a malicious, false or frivolous complaint, verbal or physical harassment or intimidation of a member of a disciplinary committee prior to, during, or after a proceeding, failure to comply with any sanction imposed, influencing or attempting to influence another person to commit an abuse of disciplinary proceedings, and a violation of the privacy rights of any student or College employee in regard to a disciplinary proceeding;
 28. Any act by a student which occurs on the campus, while studying abroad, on the premises of any student housing unit or at any activity or event sponsored by the College or an organization which is in violation of any ordinance of the municipality in which the College resides, shall constitute misconduct;
 29. Falsely setting off or otherwise tampering with any emergency safety equipment, fire alarm, or other device established for the safety of individuals and/or college facilities;
 30. Harassing or discriminating against any student, faculty or staff member, as defined in Board Policy 3021, on the basis of race, color, national origin, sex, sexual orientation, gender identity, disability, religion or age; and

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31. Any other activity or conduct prohibited by the College in published policies.

Unreasonably Dangerous or Threatening Conduct Toward Self

Student behaviors and actions that are unreasonably dangerous to self or which threaten the student's own safety or health may constitute misconduct under this Policy and may be addressed by the College administration through the disciplinary process. When practicable and appropriate, efforts will be made to advise students regarding voluntary withdrawal options in lieu of initiating disciplinary due process as set forth in Board Policy #3200.

At the discretion of the ~~Vice President responsible for Student Affairs or designee~~ Vice President or Dean responsible for Student Affairs as designated by the President, a student may be allowed to voluntarily withdraw when continued enrollment no longer appears to be in the best interests of the student and/or College in conjunction with mutually agreed upon conditions that will be required for the student to reapply for admission.

Temporary Suspension

Students may be ordered to leave the College under a temporary suspension pending disciplinary action due process per Board Policy 3200 in the event the student's continued presence is believed to threaten the safety or health of another person or for other reasons at the discretion of the ~~Vice President responsible for Student Affairs or designee~~ Vice President or Dean responsible for Student Affairs as designated by the President.

Other Interim Measures

Pending disciplinary action under Board Policy 3200, students may be subject to the interim measures, including but not limited to no contact orders, temporary restrictions from specific areas of the campus, changes in class schedules and/or delivery; changes in residence hall assignments and/or changes in campus employment.

Legal Reference: RRS 85-312	State colleges; morals of the pupils; faculty; religious test forbidden
RRS 85-601	Interference with operation; faculty, administrative staff, student; dismissal or expulsion
RRS 85-301	State college; official names; Board of Education; appointment; no compensation; travel expenses
RRS 53-186	Consumption of liquor on public property, public roads, streets, alleys; prohibition; exceptions

Policy Adopted: 1/28/77
Policy Revised: 4/3/81
Policy Revised: 6/5/93
Policy Revised: 3/11/94
Policy Revised: 8/29/97
Policy Revised: 3/28/08
Policy Revised: 3/25/11
Policy Revised: 1/18/12
Policy Revised: 4/25/14
Policy Revised: 6/10/16
Policy Revised: 6/19/18
Policy Revised: 9/12/19
Policy Revised: 4/23/20
Policy Revised: 7/24/20

Policy Revised:

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Due Process -- Students

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BOARD POLICY

It is the policy of the Board to grant procedural due process to students accused of misconduct under the terms of Board Policy 3100. Regarding allegations of academic dishonesty; grade appeals; failure to pay a financial obligation; or, academic performance, achievement, probation and suspension each College will devise its own adjudication procedures. However, for allegations of misconduct identified in Board Policy 3100 that may result in disciplinary sanctions, the due process procedures outlined below shall be followed.

Nothing herein shall prohibit the College from resolving conduct issues informally if warranted by the individual circumstances including, but not limited to the responsiveness of the student, the severity of the offense, a student's prior misconduct, and the health and safety of the student and other members of the campus community. Informal resolution of conduct issues in which two (2) or more students are involved in a physical altercation with one another will not be permitted unless all students involved agree to informal resolution.

DISCIPLINARY SANCTIONS

Disciplinary sanctions may include warnings, demands for restitution or reimbursement, fines, a period of probation, remedial behavioral requirements, remedial educational requirements, suspension, or expulsion.

REQUESTS TO DELAY DUE PROCESS PROCEDURES

In the event that a concurrent civil or criminal action for the same behavior which forms the basis of misconduct allegations under the provisions of this policy is in progress, the accused student may request in writing to the Vice President or Dean responsible for Student Affairs as designated by the President, or equivalent administrator, that the College delay the continuance of the due process procedures. By requesting to delay until the external civil or criminal proceeding has concluded, the student agrees that he or she shall not attend any College classes or College-sponsored events or activities or shall not enter or use College property, including but not limited to living in residence halls, without specific written authorization from the Vice President or Dean responsible for Student Affairs as designated by the President. The Vice President or Dean responsible for Student Affairs as designated by the President, or equivalent administrator, may place reasonable limits on the length of the delay permitted.

WITHDRAWAL

At the discretion of the Vice President or Dean responsible for Student Affairs as designated by the President, a student may be allowed to voluntarily withdraw when continued enrollment no longer appears to be in the best interests of the student and/or College in conjunction with mutually agreed upon conditions that will be required for the student to reapply for admission. The ~~Vice President responsible for Student Affairs~~ Vice President or Dean responsible for Student Affairs as designated by the President will work with the Vice President for Academic Affairs to determine what, if any, academic penalties would apply. Any unresolved conduct issues will remain pending and must be resolved as a condition of readmission. Additional conditions may include, but not be limited to, the length of time a student must wait to reapply and/or the length of time a student has to reapply for admission.

PROCEDURE

1. The student shall be notified in writing by an appropriate College official that he/she is accused of misconduct. The student shall be made aware of grounds which would justify such action by way of the student handbook or other published College regulation.
2. The student shall be notified that he/she may elect one of three courses of action. The student shall be advised of a date (deadline) by which such an election must be communicated to the appropriate College official.

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Due Process -- Students

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- a. The student may admit the alleged violation and request, in writing, that the appropriate College official take whatever action seems appropriate.
 - b. The student may admit the alleged violation in writing and request a hearing before the appropriate hearing panel designated by the College. The hearing panel will determine the appropriate sanctions.
 - c. The student may deny the alleged violation, in which case, the appropriate College official shall refer him/her to the appropriate hearing panel designated by the College. The hearing panel will determine responsibility and the appropriate sanctions.

NOTE: If the student fails to respond to the appropriate College official in a timely manner according to the date (deadline) and/or fails to elect one (1) of the three (3) courses of action, the appropriate College official may address the alleged misconduct without providing further due process.

3. Under option 2a noted above, the College may address the alleged misconduct without providing further due process. The student's decision can be binding, if freely and knowingly made, even though suspension, expulsion or the imposition of a stigmatizing sanction might result. Students should be advised in writing of all risks associated with any waiver of due process rights and provided a reasonable amount of time to consider their decision and to confer with a family member or advisor.
4. If the student selects either option 2b or 2c as noted above, a hearing shall be conducted in accordance with the following procedure within ten (10) class days, unless the student requests an extension in writing, which shall not be unreasonably denied. Requests for an extension should be directed to the ~~Vice President responsible for Student Affairs~~ Vice President or Dean responsible for Student Affairs as designated by the President or their designee. Students studying abroad shall be under the direction of the accompanying College official until his/her return to campus, at which time, if needed, the due process procedures will commence.
 - a. Prior to the hearing, the student shall be entitled to the following:
 - Written notification of the time and place of the hearing with reasonable time allowed for grievant to prepare a presentation and defense.
 - A written statement of the allegations (incident or behavior) with sufficient particularity so that the student may prepare his/her defense.
 - The grounds which would justify disciplinary action cited in the student handbook or Board Policy and the possible sanctions that may be imposed.
 - Written notification of the names of the witnesses who are directly responsible for having reported the allegations, or, if there are no such witnesses, written notification of how the allegations came to the hearing panel's attention, and
 - A copy of all documentary evidence to go before the hearing panel.
 - b. The student shall be entitled to appear in person before the hearing panel, and may call witnesses on his/her behalf. If the student does not appear before the hearing panel, the hearing shall be held in his/her absence.

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Due Process -- Students

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- c. The student shall be entitled to be accompanied by a person of his or her own choosing from the College community to assist in the proceedings or by counsel at the student's expense. An attorney or advisor, if present at the request of the student, may be present to counsel the student, but may not directly participate in the hearing by making oral presentations or arguments, examine or cross-examine a witness, or object to testimony of a witness or to introduction of other evidence.
 - d. The student shall be entitled to ask questions of the hearing panel or any witnesses.
 - e. The student shall be entitled to an expeditious hearing of the case.
 - f. Hearings are closed to the public.
 - g. An audio recording of the hearing will be made and kept by the College consistent with document retention schedules.
 - h. The student shall be entitled to an explanation in writing of the reasons for any decisions rendered against him/her and the discipline imposed, and shall be given access to the hearing panel's decision for his/her personal records.
5. The hearing panel designated by the College shall be composed of College administrators, faculty, staff, and/or students. Such selection shall be at the approval of the President or designated Vice President or Dean as designated by the President. Individuals serving on this panel need not be disqualified because they have superficial knowledge of the background of the case, or because they may know the participants. The basic test shall be whether or not the panelist can judge the case fairly, without bias or prejudice, and solely on the evidence presented.
 6. The hearing panel shall be the decision-making body acting independent of the President.
 7. Technical rules of evidence or procedure need not be employed in hearing proceedings. A student's misconduct shall be determined by a preponderance of the evidence (i.e., it is more likely than not that misconduct occurred). Hearing decisions need not be unanimous. A simple majority vote shall be sufficient. Hearsay evidence is not required to be excluded, but a finding of misconduct on hearsay evidence alone is not appropriate in hearings, including a serious disciplinary case such as suspension or expulsion.
 8. Members of the hearing panel shall have the opportunity to examine the case file beforehand, and to question the accused and witnesses at the hearing.
 9. The student shall be notified of his/her right to appeal the decisions of the hearing panel to the Vice President or Dean responsible for Student Affairs as designated by the President ~~Vice President responsible for Student Affairs~~. Appeals must be in writing and are due to the Vice President designated administrator within five (5) class days after the student received the hearing panels' decision. If the ~~Vice President~~ designated administrator was a member of the hearing panel, this step of the appeal process is not applicable and the student may appeal directly to the President. Appeals ~~to the Vice President~~ must be based on one (1) of the following grounds:
 - a. Procedural due process was violated;
 - b. The sanction was excessive;
 - c. The evidence did not support the decision; or,

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 3200

Due Process -- Students

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- d. Substantive new information is available that was not available at the hearing.
10. The student shall be notified of his/her right to appeal the decisions of the ~~Vice President~~designated administrator to the President, who has final authority. Should the student appeal, any action assessed by the hearing panel shall be suspended until acted upon by the President. Appeals to the President are due within five (5) class days after the student receives the ~~Vice President~~designated administrator's decision. Appeals to the President must be based on one (1) of the following grounds:
- a. Procedural due process was violated;
 - b. The sanction was excessive;
 - c. The evidence did not support the decision; or,
 - d. Substantive new information is available that was not available at the hearing.
11. Appeals of the President's decision may be submitted to the Chancellor but shall be limited to allegations that fair procedural process has not been provided in accordance with Board Policy 3200. Appeals to the Chancellor must be in writing and are due within five (5) class days after the student receives the President's decision. Should the student appeal, any action assessed by the hearing panel shall be suspended until acted upon by the Chancellor.

Legal reference: RRS 85-312 State colleges; morals of the pupils; faculty; religious test forbidden
RRS 85-602 Faculty, administrative staff, students; dismissal or expulsion; procedure
RRS 85-603 Faculty, administrative staff, student; dismissal or expulsion; order; contents; service

Policy Adopted: 1/28/77
Policy Revised: 6/5/93
Policy Revised: 3/11/94
Policy Revised: 4/11/03
Policy Revised: 6/2/06
Policy Revised: 3/28/08
Policy Revised: 3/25/11
Policy Revised: 4/20/12
Policy Revised: 6/19/18
Policy Revised: 9/12/19
Policy Revised: 7/24/20
Policy Revised:

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POLICY: 3210

Grievance Procedures -- Students

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BOARD POLICY

- Section 1. The grievance procedure set forth herein is designed to provide a method for a student to resolve a request or complaint with the College. Time lines should be adhered to unless modifications are agreed to by the parties to the grievance.
- Section 2. A grievance is defined to be a request or complaint by a student not covered under faculty or staff grievance procedures. Issues involving academic dishonesty; grade appeals; failure to pay a financial obligation; or, academic performance and achievement, probation or suspension for which the College has established appeal procedures are not eligible for grievance under this policy. Issues of student misconduct for which appeal procedures are available pursuant to Board Policy 3200 are not eligible for the grievance procedure under this policy.
- Section 3. In reducing a grievance to writing, it should include the exact nature of the grievance, the act(s) of commission or omission, the date(s) of the act(s), the identity of the grievant, the identity of the party(ies) alleged to have caused the grievance, provisions of any agreement, bylaws, rules, policies or practices that are alleged to have been violated, and the remedy that is sought.
- Section 4. The grievant shall, at his/her expense, have the right to assistance by a person of his/her own choosing from the College community, or to legal counsel in any step of the grievance procedure.

PROCEDURE

- Step 1 The grievant shall first discuss the grievance with the appropriate College administrator, faculty or professional staff member or with the person at the first level in the chain of command within ten (10) working days of the occurrence giving rise to the grievance in an attempt to settle the grievance. The college administrator, faculty or professional staff member or the person at the first level in the chain of command shall then have ten (10) working days in which to respond and give a written answer to the grievant.
- Step 2 A grievance not settled in Step 1 may be filed in writing with the appropriate person in the next level higher in the chain of command in accordance with Section 3 above to discuss and attempt to settle the grievance. If the grievance is with the school dean or department chair, the grievant shall discuss the matter with the Vice President responsible for Academic Affairs.
- Step 3 A grievance which has not been settled in Steps 1 and 2 and which the grievant wishes to pursue shall be appealed to the Vice President responsible for Student Affairs or equivalent administrator[AM1] as designated by the President, within ten (10) working days of the receipt of the response given in Step 2. The appeal shall include the written grievance and all responses given in the first two steps.

The Vice President responsible for Student Affairs or equivalent administrator as designated by the President may conduct a conference with the grievant.

Within ten (10) working days of receipt of the grievance the Vice President responsible for Student Affairs or equivalent administrator as designated by the President shall render his/her written decision. If such findings and recommendations are not submitted within that time or if the grievance is not satisfied, then the grievant may proceed to the next step within ten (10) working days.

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Grievance Procedures -- Students

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- Step 4 Should all prior steps fail to resolve the grievance, and the grievant wishes to pursue the grievance, the grievant may appeal to the President, within ten (10) working days of the receipt of the response in Step 3, by filing the grievance and all prior responses with the President.
- Step 5 Should all prior steps fail to resolve the grievance, and the grievant wishes to pursue the grievance, the grievant may appeal to the Chancellor, within thirty (30) working days of the receipt of the response in Step 4, by filing the grievance and all prior responses with the Chancellor. The Chancellor will only consider whether basic procedural fairness was offered. The Chancellor may request additional information from the grievant and the College in order to render a decision. The Chancellor will issue a written decision within twenty (20) working days after receipt of the appeal.
- Step 6 If the grievant is not satisfied with the decision made by the Chancellor, the grievant may seek relief under applicable State and Federal laws.

Legal Reference:

RRS 85-306
RRS 85-604

State colleges; president; duties
Governing body; rules and regulations; adopt

Policy Adopted: 9/18/87
Policy Revised: 6/5/93
Policy Revised: 6/2/06
Policy Revised: 3/28/08
Policy Revised: 3/25/11
Policy Revised:

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

**POLICY: 3300 Student Organizations;
Conduct & Discipline**

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BOARD POLICY

Students should be encouraged to participate in student government and other student organizations. A student organization is defined as a group of students joined together in pursuit of a common purpose, guided by a constitution or charter and officially recognized by the College pursuant to this policy. Student organizations are distinct and separate entities from the Colleges.

Each of the Colleges shall have structured student organizations, including an organized student government, which shall be the principal entity for student participation in the decision-making process of the College. The ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President will exercise authority over the conduct of all student organizations, including fraternities and sororities.

All student organizations shall comply with all applicable state and federal laws and regulations, Board policies and College rules with respect to the operation, activities, and membership of the organizations.

Only student organizations officially recognized by the College shall have the opportunity to access student activities fees with the approval of the Student Senate, and at the College's discretion, access to College resources at a free or reduced rate as set forth herein. Student groups not recognized by the College as student organizations under this policy are subject to the same policies and procedures applicable to any other outside community member.

Each College shall have a written process for the recognition and discipline of student organizations consistent with this Policy.

In order for a student organization to be recognized by the College it shall have a minimum number of student members as established by the College; an advisor who is an employee of the College; and a charter agreement and/or constitution that is approved by the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President. The organization shall provide to the College a copy of the charter agreement and/or constitution; a list of student officers; and written acknowledgement that the student officers have read and understand Board Policies 3100 and 3300. The Student Senate shall have an opportunity to review charter agreements and constitutions of all student organizations seeking College recognition and make recommendations to the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President. In the event the decision of the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President regarding a student organization's charter agreement and/or constitution is contrary to the recommendation of the Student Senate, the Student Senate may appeal the decision to the President.

In order to remain in good standing, each recognized student organization shall submit to the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President ~~or his/her designee~~ an annual registration on or before October 15th containing information required by the College, including, but not limited to, the following information:

- 1) A list of current officers;
- 2) Total number of members as of October 1st;
- 3) Name(s) of advisor(s);
- 4) Name(s) and a description of duties of volunteer(s) providing assistance to student organizations on a routine and ongoing basis; acting in a capacity similar to those of an advisor and/or coach; intended to provide transportation for students; or are otherwise required to submit to a background check subject to this Policy; and
- 5) The current copy of its charter agreement and/or constitution or a certification that the copy on file is current.

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

**POLICY: 3300 Student Organizations;
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A copy of the prior year's registration shall be provided to the Student Senate by the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President or his/her designee.

Annually the College shall provide the following to the officers and advisor for each recognized student organization:

- 1) A copy of Board Policies 3100, 3300 and any other relevant policies;
- 2) Applicable College rules, procedures, and forms; and
- 3) Recommended practices regarding cash handling, accountability, and record keeping.

The Student Senate may establish requirements for student organizations as a condition of eligibility to receive student activity fees, so long as the requirements are consistent with Board Policies. The Student Senate may request that the College revoke recognition of a student organization for failing to comply with established requirements and/or Board Policies.

Constitution/Charter Agreement

All new charter agreements and/or constitutions and any revisions to existing charter agreements and/or constitutions must be approved by the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President. Charter agreements and/or constitutions for recognized student organizations must comply with all applicable state and federal laws and regulations, Board policies and College rules, including the College's non-discrimination policy. The charter agreement and/or constitution of an organization must affirmatively state that membership in the organization is open and the organization will not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, disability, religion, or age. An organization exempt under Title IX may maintain its single-gender membership and may modify the non-discrimination statement in its charter and/or constitution to reflect its exempt status.

Advisors

Each recognized student organization shall have an advisor who is an employee of the College.

Advisors may be assigned by the College to assist a particular recognized student organization; or, advisors may work with the recognized student organization in a volunteer capacity as service to the College, community, and profession, if approved as a volunteer by the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President. Advisors are presumed to be working within the course and scope of their employment when performing the duties of an advisor, regardless of whether they are working in a volunteer capacity.

The role of an advisor is to communicate with, guide, and assist the organization; attend organization meetings, events, and fundraisers; be knowledgeable of all policies that may impact the organization; and monitor compliance with Board and College policies and budgetary/financial guidelines established by the College and student government.

An advisor is not required to accompany a student organization while traveling. However, a student organization may request that an advisor accompany the student organization when traveling. A student organization may also be required by the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President to be accompanied by an advisor when traveling, if warranted by individual circumstances. All travel by an advisor must be approved pursuant to established Board and College rules and procedures.

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POLICY: 3300 Student Organizations; Conduct & Discipline

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Volunteers

A “volunteer” is any individual who chooses to perform services without compensation or expectation of compensation at the direction of, and on behalf of, a student organization. A member of the student organization is not considered a volunteer. Advisors who are volunteers are governed by Board Policy 5025.

Student organizations are responsible for the training and supervision of their volunteers. A volunteer who provides assistance in person to student organizations on a routine and ongoing basis; and acts in a capacity similar to those of an advisor and/or coach shall be subject to a criminal background check at the expense of the student organization.

A student organization may submit a request to the College that a volunteer driver be authorized to operate a state owned vehicle pursuant to Board Policy 7020. The volunteer cannot be a student. The College is not responsible for finding a volunteer on behalf of the student organization. The volunteer would be a volunteer on behalf of the College subject to Board Policy 5025 for purposes of operating a state vehicle and required to satisfy all requirements set forth in Board Policy 7020. Approval of the volunteer is entirely within the discretion of the College.

Funding

Student organizations may receive funds from the following sources:

- Student activity fees in an amount to be determined by the Student Senate of the College; and
- Donations from individuals, businesses, or other entities and proceeds from fundraising activities conducted in compliance with this policy.

Student organizations shall not receive any College or Foundation funds.

Nothing herein shall prohibit the College from working with student organizations to co-fund activities or events for students. Any activities, or events co-funded by the College and one or more student organization shall be open to any qualified student and not limited to members of the student organization. An event or activity attended solely by members of the student organization(s) involved, cannot be co-funded by the College. Plans to co-fund an activity or event, must be in writing and specifically identify the costs to be paid by the College and by the student organization(s). If a contract requires payment from both the College and the student organization, the portion to be paid by the student organization must be paid from student activity fees.

To the extent the College and the student organization(s) are co-funding transportation costs associated with a co-funded activity or event, any portion of the costs allocated to the student organization(s) must be paid from student activity fees.

Travel expenses for advisors traveling with student organizations may be paid by the College or by the student organization. Reimbursement of expenses cannot be made directly to the advisor from the student organization. All travel expenses for advisors must be done through normal College procedures.

College Resources

College resources may be available to recognized student organizations at a free or reduced rate at the discretion of the College including, but not limited to, copiers, computers, mail, email, postal services, building use, and state cars. College resources shall only be made available to the recognized student organization, if the organization has available allocations to cover the applicable resource cost from the student activity fees, which are in the College accounts, or outside bank accounts. Use of any College resources must be in accordance with College policies. Such College resources shall not include the use of College or Foundation funds.

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

**POLICY: 3300 Student Organizations;
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Contracts

All student organizations wishing to enter into agreements or contracts with persons, corporations or organizations, external to the College community, must have approval by the College Vice President for Administration and Finance, or his or her designee, prior to entering into such an agreement or contract in order to ensure that (a) the contract does not create inappropriate or unanticipated liability for the College and the Board of Trustees; (b) if the student organization intends to utilize its student activity fees, the use of the fees is appropriate and sufficient funds exist to cover the cost of the contract, and (c) if the contract includes the utilization of College facilities and/or resources, that the student organization has complied with all requirements for the use of such facilities and/or resources. The appropriate student organization officer shall sign contracts on behalf of the student organization. The College shall not sign contracts on behalf of student organizations. However, contracts that include the utilization of College facilities and/or other resources of the College for an event must be approved in advance and also be signed by the College President or Vice President for Administration and Finance.

Finances

All student organizations are responsible for maintaining their own bank accounts outside of the College and College Foundation for funds from student organization fundraising or other activities. No College or Foundation tax identification numbers shall be used on these accounts. Student organization funds held in such accounts do not belong to the College or Foundation and an accounting for those funds will not be included as part of the College's or Foundation's audit. Student organizations are financially and legally responsible for deposits to and expenditures from their accounts.

College employees including, but not limited to, student organization advisors may not be signatories on student organization bank accounts.

Fundraising Activities

Student organizations may wish to collect money through fundraising activities to support their activities and functions. For purposes of this policy, fundraising is defined as collecting money through donations, sales, and/or event programming for the purposes of budget enhancement.

Only recognized student organizations may conduct fundraising on campus. Permission for conducting fundraising activities must be obtained in advance by completing the required College form and obtaining necessary College approvals.

The purpose of the funds that will be raised must be consistent with the Code of Conduct and other applicable policies of the College and all activities associated with the fundraising must be in compliance with applicable federal, state, and local rules and regulations.

The Board acknowledges that this policy may not anticipate every possible issue that may arise with respect to fundraising activities. As a result, the Colleges have the right to impose reasonable restrictions and/or requirements with respect to the time, place and manner of fundraising activities.

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**POLICY: 3300 Student Organizations;
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Insurance

The Board of Trustees' insurance coverage for each College does not extend to student organizations. Student organizations should conduct business with that understanding and must accurately represent their insurance status to organization members and outside entities. However, all co-funded activities and events, are to be considered College activities and events for insurance purposes unless otherwise agreed to in writing by the College and the student organization(s) involved.

Student organizations are allowed to independently seek insurance coverage for the benefit for their members.

Student Organization Misconduct

Student organization misconduct which may rise to sanctions includes:

- 1) Failure to comply with applicable state laws and regulations, federal laws and regulations, Board policies and/or College rules;
- 2) Engaging in conduct which constitutes student misconduct as outlined in Board Policy 3100; or
- 3) Creating, supporting, or fostering an environment which allows, encourages, or otherwise contributes to student misconduct as outlined in Board Policy 3100.

Reports of any student organization misconduct should be referred to the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President. When the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President receives a verbal or written report or otherwise becomes aware of a student organization's alleged misconduct, the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President or ~~his/her designee~~ will conduct an investigation. Student organizations are encouraged to self-report misconduct and take affirmative steps to address misconduct. Nothing herein shall prevent the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President from conducting an initial inquiry to determine whether sufficient information exists to warrant an investigation. Allegations of sex harassment or sexual violence shall be addressed as described in Board Policy 3200; Sexual Violence or Sexual Harassment, Reporting, Policies and Procedures.

Investigation and Discipline

In conducting the investigation, the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President or ~~his/her designee~~ shall:

- 1) Notify the College President of the allegations;
- 2) Notify the leadership of the student organization and the national organization, if any, in writing of the general nature of the alleged misconduct and that an investigation will be conducted;
- 3) Interview student organization leadership, witnesses, and any individuals involved in the conduct at issue; and
- 4) Collect any physical evidence available, including, but not limited to, photos, video or documents.

The student organization leadership may admit the alleged misconduct and voluntarily subject itself to the discipline of the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President.

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Upon completion of the investigation, the ~~Vice President responsible for Student Affairs~~Vice President of Dean responsible for Student Affairs as designated by the President will review the information regarding the alleged misconduct. In determining whether or not misconduct has occurred, the ~~Vice President responsible for Student Affairs~~Vice President of Dean responsible for Student Affairs as designated by the President will use the preponderance of evidence standard of proof. A preponderance of evidence means that it is more likely than not that misconduct occurred.

Upon completion of his or her review, the ~~Vice President responsible for Student Affairs~~Vice President of Dean responsible for Student Affairs as designated by the President shall issue a finding that:

- 1) The alleged misconduct is not substantiated and no further action is necessary; or
- 2) The alleged misconduct is substantiated and sanctions will be levied against the student organization.

If the misconduct is found to be substantiated, the ~~Vice President responsible for Student Affairs~~Vice President of Dean responsible for Student Affairs as designated by the President shall determine the appropriate sanction to be levied against the organization. In determining the appropriate sanction, the ~~Vice President responsible for Student Affairs~~Vice President of Dean responsible for Student Affairs as designated by the President should consider the nature and severity of the misconduct; whether the student organization self-reported the misconduct; the willingness of the student organization to take responsibility for the misconduct; the level of cooperation received from the student organization in the investigation; and any other relevant facts.

The ~~Vice President responsible for Student Affairs~~Vice President of Dean responsible for Student Affairs as designated by the President shall notify the College President, the leadership of the student organization, and the national organization, if any, of his or her findings in writing. If the misconduct is found to be substantiated, the notice shall include the sanctions to be levied against the organization and the student organization's right to appeal the decision to the College President.

If it is determined that the organization's recognition is revoked, the notice shall state a specific period of time that must lapse before the organization can reapply for recognition and what actions must be taken prior to its application.

Action taken against the student organization does not preclude the College from taking disciplinary action against individual students pursuant to Board Policy 3100.

Appeal

A student organization may appeal a finding of misconduct and/or the sanctions imposed by the ~~Vice President responsible for Student Affairs~~Vice President of Dean responsible for Student Affairs as designated by the President by submitting a written request for review including the grounds for the request to the College President within ten (10) days of the date of the decision. The request for review must be based upon one or more of the following grounds:

- 1) The ~~Vice President responsible for Student Affairs~~Vice President of Dean responsible for Student Affairs as designated by the President did not follow proper policy and procedure in conducting the investigation and rendering his or her decision;
- 2) The sanction is excessive;
- 3) The evidence does not support the decision; or
- 4) Substantive new information is available that was not available to the ~~Vice President responsible for Student Affairs~~Vice President of Dean responsible for Student Affairs as designated by the President at the time of the investigation.

Should the leadership of the student organization appeal, the decision of the ~~Vice President responsible for Student Affairs~~Vice President of Dean responsible for Student Affairs as designated by the President will remain in effect until the appeal is acted upon by the College President. The decision of the College President is final.

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Reinstatement from Probation or Suspension and/or Loss of Recognition

An organization may apply to the ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President for reinstatement from probation or suspension and/or loss of recognition after the organization has taken steps to correct any action(s) that contributed to the probation, suspension and/or loss of recognition. The organization must demonstrate that it has satisfied all terms of the disciplinary sanctions imposed upon it.

The ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President may grant full reinstatement or recognition, deny reinstatement or recognition, or grant conditional reinstatement or recognition. The ~~Vice President responsible for Student Affairs~~ Vice President of Dean responsible for Student Affairs as designated by the President shall notify the leadership of the student organization, the College advisor, the College President, and the national organization, if any, in writing of his or her decision and the basis for any denial.

Policy Adopted: 6/5/93
Policy Revised: 3/25/11
Policy Revised: 6/15/12
Policy Revised: 3/15/13
Policy Revised: 6/10/16
Policy Revised: 11/17/17
Policy Revised: 11/14/19
Policy Revised: 1/14/20
Policy Revised:

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POLICY: 3650

Student Records

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BOARD POLICY

The Family Educational Rights and Privacy Act (FERPA) protects the privacy of student records. The Act provides for a student's right to review education records, the right to seek to amend those education records, and to limit certain disclosures of information from education records.

Education records means records that are directly related to a student and are maintained by the College or a party acting for the College.

Education records do not include the following:

- Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record,
- Records of the security department of the College, subject to the provisions of 34 CFR§99.8.
- Records relating to an individual who is employed by an educational agency or institution, that:
 - (a) Are made and maintained in the normal course of business;
 - (b) Relate exclusively to the individual in that individual's capacity as an employee; and
 - (c) Are not available for use for any other purpose.

Note: records relating to a student who is employed as a result of his or her status as a student are education records.

- Records on a student that are:
 - (a) Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - (b) Made, maintained, or used only in connection with treatment of the student; and
 - (c) Disclosed only to individuals providing the treatment. "Treatment" does not include remedial educational activities or activities that are part of the program of instruction at the College.
- Records created or received by the College after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student.
- Grades on peer-graded papers before they are collected and recorded by a faculty member.

Right to Review Education Records

With certain exceptions, a student has a right to review records which are directly related to him/her and are maintained by the College. A student request to see his/her file is to be sent to the office which maintains the file and will be honored within forty-five (45) days. Students must pay for the cost to make copies of any records. Parents of dependent students have the right to review information about their children, such as grades, bills, and other information without having to gain students' consent as long as dependency is documented to the College.

Releasing Information Pursuant to Student Consent

Except as authorized by this policy, non-directory information (as defined below) will be released only upon the written request of the student.

When information is released from a student's file pursuant to the student's written consent, the consent document, the reason(s) for the release, and the name of the recipient of the release must be attached to the copy of the data released, which is kept in the file. The recommendation or data released must include a statement that the information is not to be released to anyone else without the student's written consent.

Releasing Information Without Student Consent

Colleges may, upon written request, release non-directory personally identifiable education records without student consent in accordance with FERPA and federal regulations. A record of such releases to third parties must be maintained by the College. No consent from the student is required for the release of, or access to, an education record or personally identifiable information under the following circumstances:

- a) By school officials who have a legitimate educational interest. School officials include a person employed by the College in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel and health center staff); a person serving on a board or committee; or a student serving on an official committee, such as a disciplinary or grievance committee. A school official also may include a volunteer or contractor outside of the College who performs an institutional service or function for which the College would otherwise use its own employees and who is under the direct control of the School with respect to the use and maintenance of information from education records, such as an attorney, auditor, or collection agent or a student volunteering to assist another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review a record in order to fulfill his or her professional responsibilities for the College. This includes, but is not limited to, performing an administrative task outlined in that official's duties; performing a supervisory or instructional task directly related to a student or the College; or performing a service or benefit for the student or the College such as health care, job placement, security, residential services, the acquisition of learning materials or student financial aid.
- b) In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid.
- c) To organizations conducting studies for, or on behalf of, the College, in order to: (i) develop, validate, or administer predictive tests; (ii) administer student aid programs; or (iii) improve instruction.
- d) To accrediting organizations to carry out their accrediting functions.
- e) To parents of a student if the student is a dependent for IRS tax purposes.
- f) To comply with a judicial order or lawfully issued subpoena.
- g) To appropriate officials in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of students or other persons.
- h) To the victim and/or the general public the final result of a campus disciplinary proceeding involving a violent crime or non-forcible sex offense where the accused was found to have violated College rules or policies.

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POLICY: 3650 Student Records

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- i) To an official of another school, school system, or institution of higher education in which a student seeks or intends to enroll. Colleges shall provide access to education records of students who apply for admission and/or transfer within the NSCS whenever such records are requested by another NSCS College without obtaining student consent for such a release.
- j) Directory information, as described below.
- k) Other disclosures not listed above as permitted by FERPA and other applicable laws.

Directory Information

Colleges may disclose directory information relating to a student without violating FERPA, unless a student has restricted the disclosure of his/her directory information in the Student Information System. Directory information consists of:

- *Student's name*
- *Address (local, permanent, and electronic mail)*
- *Telephone numbers*
- *Participation in officially recognized activities and sports*
- *Weight, height and photographs of athletic team members*
- *Degrees, honors, and awards received*
- *Major field of study*
- *Dates of attendance (only beginning and end dates of semesters)*
- *Year in school*
- *Enrollment status (full/part-time)*
- *Date of graduation*
- *The most recent previous educational agency or institution attended*

Filing Complaints

Persons wishing to file complaints regarding this policy or its implementation may do so with the U.S. Department of Education. See the Vice President [or Dean Responsible](#) for Student Affairs [as designated by the President](#) for further information regarding such matters.

Legal Reference: 20 USC 1232g
RRS 43-2101 Persons declared minors; marriage, effect
RRS 84-712.05 (1) Records which may be withheld from public
The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99)

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