

ADMINISTRATIVE PROCEDURE TITLE: SEXUAL MISCONDUCT AND INTIMATE PARTNER VIOLENCE

Reference: ATIXA, Wyoming State Law

Responsibility, authority, and accountability:

- A. All members of the NWCCD community including students, staff, faculty members, contractors, patients, volunteers, affiliated entities, campus visitors and other third parties, regardless of sex, gender, sexual orientation, gender expression or gender identity are required to report acts of discrimination, sexual harassment, and sexual misconduct. The acts of misconduct applies to conduct that occurs on campus and off-campus, including on-line, or electronic conduct, if the conduct:
- occurred in the context of an employment or education program or activity of the District or
 - has continuing adverse effects on campus.

It is preferred but may not be likely in all cases of reporting, that the students' first report is made to the Title IX Coordinator, Title IX Deputy Coordinators, or Human Resources. The employees' first report is to Human Resources. In the event the report is made to another NWCCD representative, the institution is formally on notice and it is imperative that these individuals report to the Title IX coordinator immediately.

- B. NWCCD is committed to providing a safe environment for our employees and students. As part of this effort, we work to ensure there is no discrimination on the basis of sex/gender in the organization in compliance with Title IX. It is important that our faculty and staff are aware of actions that could violate Title IX and know how to report them.

NWCCD considers all employees are responsible employees, except health professionals and those covered by statute (i.e. licensed mental health professional) and must report sexual misconduct within 24 hours to the Title IX Coordinator regardless of whether a formal complaint was filed.

- C. Equal Opportunity: Non-Discrimination Clause

Northern Wyoming Community College District prohibits discrimination in employment, educational programs and activities on the basis of race, national origin, color, creed, religion, sex, age disability, veteran status, sexual orientation, gender identity, or associational preference. The District also affirms its commitment to providing equal opportunities and equal access to its facilities. Inquiries concerning Title VI, Title VII, Title IX, Section 504, and the Americans with Disabilities Act may be referred to the Vice President for Administration, Cheryl Heath, NWCCD's Title IX and Section 504 Coordinator, Sheridan College, Whitney Building, Room W145E, 1 Whitney Way., Sheridan, WY 82801; (307) 675-0811. Inquiries also may be made to the Office for Civil Rights, U.S. Department of Education, Federal Building, Suite 310, 1244 Speer Boulevard, Denver, CO 80204-3582; 303-844-3417; or TDD 303-844-3417.

- D. NWCCD may make changes to this procedure on an as-needed basis in order to ensure compliance with federal and/or state regulatory updates, changes, and/or modifications.

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DEFINITIONS OF TERMS OR CONCEPTS:

For purposes of this Procedure, the various forms of prohibited Sexual Harassment are referred to as “Sexual Misconduct.”

This Procedure prohibits “Sexual Misconduct” and “Intimate Partner Violence,” broad categories encompassing the conduct defined below. Sexual Misconduct and Intimate Partner Violence can be committed by anyone and can occur between people of the same or of a different gender. Sexual misconduct definitions are provided below.

- **Sexual Harassment:** Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, in person or electronically when:

Employees:

- Submission to such conduct is made explicitly or implicitly a term or condition of employment.
- Submission to or rejection of such conduct is used as the basis for decisions affecting an individual’s employment.
- Such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.

Students:

- Is reasonably perceived as creating an intimidating or hostile work, learning or living environment,
 - Unreasonably interferes with, denies or limits someone’s ability to participate in or benefit from any educational program and/or activities, and
 - Is based on power differentials, the creation of a hostile environment, or retaliation.
- **Sexual Assault:** Having or attempting to have sexual intercourse or oral sex, without consent. Sexual intercourse means 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 victim. This definition includes any gender of victim or perpetrator. This definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol). Physical resistance is not required on the part of the victim to demonstrate lack of consent. Also included in the Sexual Assault category:
 - **Incest** - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - **Statutory Rape** - Sexual intercourse with a person who is under the statutory age of consent. **Wyoming Statute 6-2-302 through 6-2-304**
(<http://legisweb.state.wy.us/LSOWEB/StatutesDownload.aspx>).
 - **Coercion:** The use or attempted use of pressure and/or oppressive behavior, including express or implied threats, intimidation, or physical force such that the application of pressure or oppression causes the recipient of the behavior to engage in unwanted sexual activity. Coercion includes administering or pressuring another to consume a drug, intoxicant, or similar substance with the intent to impair that person’s ability to consent prior to engaging in sexual activity.
 - **Complicity:** Assisting, facilitating, or encouraging the commission of a violation of the Sexual Misconduct and Intimate Partner Violence Policy.

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- **Exploitation:** An act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person’s sexuality. Examples of sexual exploitation include, but are not limited to, non-consensual observation of individuals who are undressed or engaging in sexual acts, non-consensual audio- or video recording or streaming of sexual activity, prostituting another person, and allowing others to observe a personal consensual sexual act without the knowledge or consent of all involved parties. **Sexual Exploitation is further defined in Wyoming Statute 6-4-303** (<http://legisweb.state.wy.us/LSOWEB/StatutesDownload.aspx>). When a person for any purpose, knowingly: 1. Causes, induces, entices, coerces or permits a child to engage in, or be used for, the making of child pornography; 2. Causes, induces, entices or coerces a child to engage in, or be used for, any explicit sexual conduct; 3. Manufactures, generates, creates, receives, distributes, reproduces, delivers or possesses with the intent to deliver, including through digital or electronic means, whether or not by computer, any child pornography; or 4. Possesses child pornography.
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. (This falls under 3rd Degree Sexual Assault under **Wyoming Statute 6-2-304** (<http://legisweb.state.wy.us/LSOWEB/StatutesDownload.aspx>).
- **Grooming:** An attempt to control victims through a systematic process which takes advantage of an individual’s vulnerabilities using a combination of strategies to gain the individual’s trust, lower inhibitions and gain cooperation and “consent.”
- **Harm to Others:** Physical violence including (but not limited to) physical abuse, assault, threats of violence, striking, shoving or subjecting another person to unwanted physical contact.
- **Harassing Conduct:** Intentionally or recklessly endangering, threatening, or causing emotional harm to any person. This may also include causing physical damage to their property.
- **Harassment:** Harassment includes any written, verbal or physical acts (including electronically transmitted acts) that are reasonably perceived as creating an intimidating or hostile work, learning or living environment, particularly if questionable behavior is repeated and/or if it continues after the offending party is informed of the objectionable and/or inappropriate nature of the behavior. Harassment can be a single incident, or a series of repeated incidents.
- **Non-Consensual Sexual Contact:** Any intentional sexual touching or attempted sexual touching, without consent.
- **Sexually Inappropriate Behavior:** Conduct that is rude, obscene or sexually suggestive in the form of gestures, electronic communication or in person. Public masturbation, disrobing or exposure of one’s self to another person without that person’s consent is one example. This may be an isolated occurrence.
- **Intimate Partner Violence** Intimate Partner Violence is a violation of this policy and is defined in more detail below.
 - **Domestic Violence:** The term “domestic violence” includes felony or misdemeanor crimes of violence committed by: a current or former spouse or intimate partner of the victim; a person with whom the victim shares a child in common; a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. Wyoming State law (State Statute 35-

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21-102) defines domestic abuse as the occurrence of one (1) or more of the following acts by a household member but does not include acts of self-defense:

- Physically abusing, threatening to physically abuse, attempting to cause or causing physical harm or acts which unreasonably restrain the personal liberty of any household member;
 - Placing a household member in reasonable fear of imminent physical harm; or
 - Causing a household member to engage involuntarily in sexual activity by force, threat of force or duress.
- **Stalking:** A person commits the crime of stalking when the person either: (1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or (2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person. For the purpose of this definition; course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, through third parties, or by any action causes substantial emotional stress. Stress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling. **Wyoming Statute 6-2-506** (<http://legisweb.state.wy.us/LSOWEB/StatutesDownload.aspx>).
 - **Relationship Violence and Dating Violence:** The term “dating violence” means violence committed by a person: who is or has been in a social relationship of a romantic or intimate nature with the victim; and the existence of such a relationship shall be determined based on the reporting party’s statement with consideration of: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship. 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.

Other Relevant Definitions

- **Reporting Party:** An individual who invokes NWCCD’s processes to determine whether this Procedure has been violated. The Reporting Party is normally the Alleged Victim. If an Alleged Victim chooses not to proceed with charges, NWCCD may, at its discretion, serve as the Reporting Party.
- **Complaint:** The statement submitted by the Reporting Party to NWCCD for the purpose of initiating disciplinary proceedings under this Procedure. This includes complaints submitted through on-line and/or anonymous reporting mechanisms.
- **Consent:** Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity, and should be affirmative in nature. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness or enthusiastic participation to engage in, and continue to engage in, a specific sexual activity. Effective consent is doing the same thing, at the same time, in the same way. Consent must be informed and voluntary. Consent cannot be implied by attire or inferred from the giving or acceptance of gifts, money or other items. To give consent, a person must be awake, of legal age, and have the capacity to reasonably understand the nature of their actions. Individuals who are

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physically or mentally incapacitated cannot give consent. Some indicators that an individual is incapacitated due to intoxication may include, but are not limited to; vomiting, unresponsiveness, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, or inability to perform other physical or cognitive tasks without assistance. Silence, without actions evidencing permission, does not demonstrate consent. Where force or coercion is alleged, the absence of resistance does not demonstrate consent. The responsibility of obtaining consent rests with the person initiating sexual activity. Consent to engage in sexual activity may be withdrawn by either person at any time. A previous or current dating or sexual relationship, by itself, is not sufficient to constitute consent. Once withdrawal of consent has been expressed, the sexual activity must cease. Consent is automatically withdrawn by a person who is no longer capable of giving consent (due to falling asleep or passing out into a state of unconsciousness, for example).

- **Mandatory Reporters:** Mandatory reporters are persons who, as a result of their position, may be aware of cases of abuse or violence. At NWCCD, all employees, including faculty, staff, and student staff (with the exception of professional counselors) are designated as mandatory reporters with regard to cases of suspected sexual assault/violence, sexual misconduct, and intimate partner violence. Suspected incidents need to be immediately reported to Campus Police and the Title IX Coordinator.
- **Responding Party:** Any individual or authorized student organization alleged to have violated this procedure and against whom a complaint has been submitted.
- **Retaliation:** Acts or attempted acts to retaliate or seek retribution against anyone who has reported Sexual Misconduct or Intimate Partner Violence or who has participated (or is expected to participate) in any manner in an investigation, proceeding, or hearing under this Procedure. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, or discrimination. **Retaliation constitutes a violation of this Procedure and is prohibited by NWCCD.**

REPORTING PROCEDURES

- If NWCCD determines that a student's behavior is in violation of this procedure, disciplinary action will be taken as outlined in the Code of Student Conduct (Procedure 5075.2).
- If NWCCD determines that an employee's behavior is in violation of this procedure, disciplinary action will be taken up to and including termination of employment.
- Students should report incidents that they consider violations of this procedure to the Campus Police, or to the Title IX Coordinator or Deputy, or Director of Human Resources. The staff and administrators in each of these areas are identified by NWCCD as reporting authorities and will initiate NWCCD's preliminary investigation process into an incident. Employees of NWCCD, including student staff, (with the exception of counselors as identified below) are considered mandatory reporters with regard to incidents of sexual assault and sexual misconduct as defined by this procedure. These employees are required to report an incident of sexual assault or sexual misconduct to the Campus Police and/or a Title IX Officer/Deputy even if the victim elects not to or is unable to make an official report. Victims/reporting parties have a right to report the incident directly to the Office for Civil Rights (OCR) or the Board Chair of NWCCD.

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- Official reports can be made using the NWCCD's on-line <https://publicdocs.maxient.com/incidentreport.php?NorthernWyomingCCD>, by phone to a reporting entity, or in person to a reporting entity as outlined below.
- Employees should report incidents they consider violation of this procedure to the Director of Human Resources, Jennifer McArthur.
Jennifer McArthur
Director of Human Resources
Location/Address: Griffith Memorial Building Room 141
307-675-0571
Email: jmcarthur@sheridan.edu
- **Confidential and Anonymous Reporting**
Members of the Counseling Services staff are confidential resources and do not investigate incidents. In their capacity and function as counselors, they do not make identifiable reports of incidents to the Official On-Campus Resources unless the student specifically requests them to do so. Students may report incidents anonymously using the <https://publicdocs.maxient.com/incidentreport.php?NorthernWyomingCCD>. The amount of detail provided may cause NWCCD to initiate an investigation into the circumstances surrounding the report. Such an investigation may jeopardize the anonymity of the reporting person. Students who become aware of sexual misconduct or relationship violence can make anonymous reports to NWCCD via <https://publicdocs.maxient.com/incidentreport.php?NorthernWyomingCCD> or speaking with the Counseling Center. NWCCD does not provide confidential or anonymous reporting outside of these entities.
- **If the Reporting Party does not wish to pursue Resolution**
In all reported cases of sexual misconduct, NWCCD will conduct a fact-finding investigation to the best of its ability. In cases where the Reporting Party chooses to participate, this investigative report is provided to the Director of Human Resources or Student Conduct Administrator for a threshold analysis.

In cases where the Reporting Party does not participate, NWCCD has 2 (two) options:

1. NWCCD may attempt to resolve the complaint in a manner consistent with the Reporting Party's request. This may include holding the report for action at a later date.
 2. NWCCD may pursue a resolution procedure based on the status of the reporting party, student or staff/faculty in the investigation. Under these circumstances, NWCCD would take into consideration the nature of the assault, the safety of the Reporting Party, and the campus community, as well as the previous disciplinary history and previous allegations of sexual misconduct.
- **Statement on Confidentiality**
NWCCD will protect the identity of persons who report having been victims of sexual assault, domestic violence, dating violence, or stalking (to the fullest extent of the law). Additionally, NWCCD will take all reasonable steps to investigate and respond to the complaint consistent

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with any request for confidentiality or request not to pursue an investigation. However, its ability to do so may be limited based on the nature of the request by the Reporting Party.

- o If the Victim requests anonymity or that NWCCD not pursue an investigation, NWCCD must balance this request in the context of its responsibility to provide a safe environment for all NWCCD community members. In cases where NWCCD cannot respect the wishes of the Victim, NWCCD will consult with the Victim and keep them informed about NWCCD's course of action.
- o If the report of misconduct discloses an immediate threat to NWCCD campus community, where timely notice must be given to protect the health or safety of the community, NWCCD may not be able to maintain the confidentiality of the Alleged Victim or Alleged Offender's identities.
- o NWCCD will assess any barriers to proceeding, including retaliation, and in cases where informal or formal resolution will take place, NWCCD will inform the Respondent that Title IX prohibits retaliation and NWCCD will take strong responsive action to protect the Reporting Party.
- o NWCCD has designated the following individual(s) to evaluate requests for confidentiality once NWCCD is aware of alleged sexual violence:

Title IX Deputy Coordinator:

Jennifer McArthur

Director of Human Resources

Location/Address: Griffith Memorial Building Room 141

307-675-0571

Email: jmcarthur@sheridan.edu

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SEXUAL ASSAULT & INTIMATE PARTNER VIOLENCE ASSISTANCE & RESOURCES

Community Police	Community Hospital Emergency Room	Community Advocacy Resources
<p>911 (Emergency)</p> <p>Sheridan Police Department (307) 672-2413 45 W 12th St Sheridan, WY 82801</p> <p>Gillette Police Department (307) 682-5155 201 East 5th Street Gillette, WY 82716</p> <p>Buffalo Police Department (307) 684-5581 639 Fort Street Buffalo, WY 82834</p>	<p>911 (Emergency)</p> <p>Sheridan Memorial Hospital 1401 West 5th Street Sheridan, WY 82801 (307) 672-1000</p> <p>Campbell County Memorial Hospital 501 South Burma Avenue Gillette, WY (307) 688-1000</p> <p>Johnson County Healthcare Center 497 W Lott St Buffalo, WY 82834 (307) 684-5521</p>	<p>CONFIDENTIAL REPORTING</p> <p>Advocacy Resource Center 136 Coffeen Avenue Sheridan, WY 82801 (307) 672-7471</p> <p>Gillette Abuse Refuge Foundation 910 East 3rd Street Gillette, WY 82716 (307) 686-8071</p> <p>National Hotline 1-800-799-7233</p>
Campus Police	Office for Civil Rights	College Counseling
<p>911 (Emergency)</p> <p>SC Campus Police (307) 675-0250 TRCC 107 1 Whitney Way Sheridan, WY 82801</p> <p>GC Campus Police (307) 681-6050 GCMN 149 300 W. Sinclair St. Gillette, WY 82718</p>	<p>Office for Civil Rights <i>Denver Office</i> U.S. Department of Education Cesar E. Chavez Memorial Building 1244 Speer Boulevard, Suite 310 Denver, CO 80204-3582 Phone: (303) 844-5695 Fax: (303) 844-4303 OCR.Denver@ed.gov</p>	<p>CONFIDENTIAL REPORTING</p> <p>SC Counseling Services (307) 675-0122 Whitney Building 156E 1 Whitney Way Sheridan, WY 82801</p> <p>GC Counseling Services (307) 681-6082 GCMN 206D 300 W. Sinclair St. Gillette, WY 82718</p>
Title IX Coordinator	Title IX Deputy Coordinators	Additional Campus Resources for Assistance in Reporting
<p>Cheryl Heath, Vice President Administration and Finance Whitney Building 145E (307) 675-0811 cheath@sheridan.edu</p>	<p>Jennifer McArthur, Director Human Resources Griffith Memorial Building 141 (307) 675-0571 jmcarthur@sheridan.edu</p> <p>Larissa Bonnet, Director Campus Life & Housing Whitney Building 156C (307) 675-0511 lbbonnet@sheridan.edu</p> <p>Jenni Winter, Director Intercollegiate Athletics Pronghorn Center 214 (307) 681-6511 jwinter@sheridan.edu</p>	<p>SC Campus Life & Housing TRCC 106 (307) 675-0510</p> <p>GC Campus Life & Housing Inspiration Hall 114 (307) 681-6502</p> <p>On-line report: Anonymous on-line report:</p>

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