

# NORTHWOOD TECHNICAL COLLEGE



## ADDENDUM: 113 ADD1

### TITLE: Unlawful Discrimination/Harassment/Sexual Harassment/ Sexual Misconduct/Sexual Violence Complaints Definitions

#### CROSS-REFERENCE(S):

111 (Administrative Policy – Disability Accommodation)  
111A (Administrative Procedure - Disability Accommodation)  
112 (Administrative Policy – Non Discrimination/Non Harassment Compliance)  
113 (Administrative Policy – Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaints)  
113A (Administrative Procedure – Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaints)  
113B (Administrative Procedure – Title IX Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaints Grievance Procedure)  
114 (Administrative Policy – Sexual Violence Elimination Commitment)  
115 (Administrative Policy – Timely Warning Notice and Immediate Notification)  
115A (Administrative Procedure – Timely Warning Notice and Immediate Notification)  
133 (Administrative Policy – Free Speech and Expression)  
220 (Administrative Policy – Student Relations)  
Title VI and VII of the Civil Rights Act of 1964  
Title IX of the Education Amendments Act of 1972, as amended, US Department of Education  
Section 504 and Section 508 of the Rehabilitation Act of 1973  
Title II of The Americans with Disabilities Act of 1990, as amended  
The Americans with Disabilities Act Amendments Act of 2008  
Wisconsin Fair Employment Law, Section 111.31-39  
1993 Wisconsin Act 427, effective May 7, 1994  
Equal Pay Act of 1963, as amended  
Age Discrimination in Employment Act  
Higher Education Act of 1965, §485(f) (20 U.S.C. § 1092(f))  
Clery Act, as amended, Sexual Violence Elimination Act (SaVE Act) as authorized by Violence Against Women Reauthorization Act  
Report Sexual Harassment/Misconduct/Violence and/or Unlawful Harassment/Discrimination at [NorthwoodTech.edu/Report](http://NorthwoodTech.edu/Report)

The following definitions apply to Administrative Policy 113 and Administrative Procedures 113A and 113B, which explains the process by which the College handles complaints of unlawful discrimination, harassment or sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, stalking, and/or unwelcome conduct determined to deny a person equal access to the College's educational programs or activities that fall under the jurisdiction of Title IX of the Higher Education Act.

- **Actual Knowledge.** This term refers to notice of sexual harassment or allegations thereof provided to a recipient's Title IX Coordinator or any official who has authority to institute corrective measures on behalf of the recipient. For elementary and secondary schools, notice to any employee constitutes actual knowledge. Importantly, knowledge cannot be imputed based solely on vicarious liability or constructive notice.
- **Admission.** Selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by the College.
- **Advisor.** Any person chosen by a party, or appointed by the institution, may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- **Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.
- **Complainant.** A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, retaliation, or Other Prohibited Conduct under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination or harassment or under the Policy and who was participating or attempting to participate in the College's education program or activity at the time of the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct.
- **Consent.** The equal approval, given freely, willingly and knowingly of each participant to desired sexual involvement. Consent is an affirmative, conscious decision — indicated clearly by words or actions — to engage in mutually accepted sexual contact. A person compelled to engage in sexual contact by force, threat of force, or coercion has not consented to contact.

- Consent is positive cooperation involving an act of free will, absent of coercion, intimidation, force or the threat of force. A person cannot give consent if they are unable to understand what is going on.
- **Coercion** is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person's consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.
- Lack of consent is a critical factor in determining whether Sexual Harassment has occurred. As defined above, consent is a mutual, voluntary, and informed agreement to participate in specific sexual acts with another person that is not achieved through unreasonable manipulation or coercion—or any kind of physical force or weapon—and requires having cognitive ability to agree to participate. Consent requires an outward demonstration, through mutually understandable words, conduct or action, indicating that an individual has freely chosen to engage in specific sexual acts. A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive.
- Silence or an absence of resistance does not imply consent, and consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Even in the context of an ongoing relationship, consent must be sought and freely given for each specific sexual act. Consent may be withdrawn at any time. When consent is withdrawn, sexual activity must immediately stop.
- Consent for sexual contact cannot legally be given if an individual is under the age of 18, is incapacitated due to alcohol or other drugs, is unconscious or asleep, or has limited mental capacity due to permanent/ temporary psychological or physical disability.  
**Consent is a clear yes, not the absence of no.**
- There must always be active consent among involved persons. Consent to one event or action does not imply consent to another. If limits are made clear and consent is not given, pressuring someone into changing their mind is not consent.
  - Consent is based on choice.
  - Consent is active, not passive. Silence and passivity do not equal consent.
  - Consent is possible only when there is equal power.
  - Giving in because of fear is not consent.
  - Giving in or going along with someone to gain approval or to avoid being hurt is not consent.
  - Consent means two (or more) people deciding together to do the same thing, at the same time, in the same way, with each other.
- **Day.** A business day when the College is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.
- **Decision-maker.** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.
- **Education Program or Activity.** Locations, events, or circumstances where the College exercises substantial control over the context in which the discrimination, harassment, retaliation, and/or Other Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that the College officially recognizes.
- **Employee.** A person employed by the College either full- or part-time, including student employees when acting within the scope of their employment.
- **Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.
- **Finding.** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Formal Complaint.** A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation. At the time of filing, the complainant must be participating in or attempting to participate in the recipient's education program or activity.
- **Hazing.** Any intentional, knowing, or reckless act committed by a person (whether individually or in concert with other persons) against another person or persons regardless of the willingness of such

other person or persons to participate, that (1) is committed in the course of an initiation into, an affiliation with, or the maintenance of membership in, a student organization (e.g., a club, athletic team, fraternity, or sorority); and (2) causes or creates a risk, above the reasonable risk encountered in the course of participation in the IHE or the organization, of physical or psychological injury.

- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process.
- **Investigation Report.** The Investigator's summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) authorized by the College to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- **Knowledge.** When the College receives Notice of conduct that reasonably may constitute harassment, discrimination, retaliation, or Other Prohibited Conduct in its Education Program or Activity.
- **Mandated Reporter.** A College employee who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, retaliation, and/or Other Prohibited Conduct with a member of the Nondiscrimination Team.
- **Nondiscrimination Team.** The Vice President, Talent & Culture; Director, Workforce Success; and Director, Talent & Culture.

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- **Notice.** When an employee, student, or third party informs the Title IX Coordinator or Official With Authority (OWA) of the alleged occurrence of discriminatory, harassing, retaliatory, and/or Other Prohibited Conduct.
- **Official With Authority (OWA).** An official of the college with authority to institute corrective measures. When provided Notice, OWAs file a report, without delay, to the Title IX Coordinator.
- **Parties.** The Complainant(s) and Respondent(s), collectively.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- **Protected Characteristic.** Any characteristic for which a person is afforded protection against discrimination and harassment by law or College Policy.
- **Relevant Evidence.** Evidence that may aid a Decision-maker in determining whether the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct occurred, or in determining the credibility of the Parties or witnesses.

- **Remedies.** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the College's Education Program and Activity.
- **Resolution Process.** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, Administrative Resolution, and/or Hearing Resolution.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute discrimination based on a protected characteristic, harassment, or retaliation for engaging in a protected activity under this Policy, or Other Prohibited Conduct.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.
- **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- **Student.** A person who has gained admission and is participating or attempting to participate in a College education program or activity.
- **Substantial College interest.**  
Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
  - Any situation in which it is determined that the Respondent poses an imminent and serious threat to the health or safety of any student, employee, or other individual.
  - Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
  - Any situation that substantially interferes with the Recipient's educational interests or mission.
- **Supportive Measures.** A non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent, which 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 recipient's educational environment, or deter Sexual Harassment. Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.
- **Title IX Coordinator.** Official designated by the College to ensure ultimate oversight of compliance with Title IX and the College's Title IX program.

### **Prohibited Conduct Definitions**

- **Unlawful Discrimination.** A difference in treatment in any educational and/or employment related action, service, program, course, or facility of Northwood Tech on the basis of race, color, ancestry, religion, sex, service in the uniformed services, veteran status, national origin, age, disability, sexual orientation, marital or family status, pregnancy, pregnancy-related conditions or status in any group protected by federal, state or local law in employment, admissions or its programs, services or activities.
  - **Disparate Treatment Discrimination.** Any intentional differential treatment of a person or persons that is based on a person's actual or perceived protected characteristic and that excludes a person from participation in, denies the person benefits of, or otherwise adversely affects a term or condition of a person's participation in a College program or activity.
  - **Disparate Impact Discrimination.** Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that excludes a person from participation in, denies the person benefits of, or otherwise adversely affects a term or condition of a person's participation in a College program or activity.
  - **Retaliation.** Any adverse action—including intimidation, threats, coercion, harassment, or discrimination—taken against an individual for the purpose of interfering with their rights under College policy or applicable law, or because they have engaged in protected activity. Protected activity includes, but is not limited to, reporting a concern or complaint in good faith, participating in an investigation or resolution process, supporting another individual in a complaint, or refusing to participate in a manner inconsistent with their rights.

- Retaliation may be carried out by any individual, including employees, students, or individuals acting on behalf of the College. It is prohibited regardless of the outcome of the underlying complaint or report.
- Acts of retaliation violate College policy and may result in disciplinary action. The exercise of rights protected under the First Amendment does not constitute retaliation. Similarly, pursuing policy violations based on knowingly false and malicious claims made in bad faith does not constitute retaliation.
- **Discriminatory Harassment.** Unwelcome conduct on the basis of actual or perceived protected characteristic(s), that, based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity
- **Sexual Harassment.** A form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking which has the purpose or effect of substantially interfering with an individual's academic or work progress, or creating an intimidating, hostile, or offensive academic or working environment. Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:
  - **Quid Pro Quo.** An employee agent, or other person authorized by the College, to provide an aid, benefit, or service under the College's education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service, on a person's participation in unwelcome sexual 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 recipient's education program or activity (the "Davis Standard").**
  - **Sexual assault, dating violence, domestic violence, or stalking.**
    - **Sexual Assault.** Any instance of sexual assault (defined below), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).
      - **Sex Offenses, Forcible.** Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent.
      - **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.
      - **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 (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
      - **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 (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
      - **Forcible Fondling.** The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) 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.
      - **Sex Offenses, Nonforcible.** Nonforcible sexual intercourse.
        - **Incest.** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Wisconsin law.
        - **Statutory Rape.** Nonforcible sexual intercourse with a person who is under the statutory age of consent of 18

- **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. The existence of such a relationship shall be determined based on the Complainant's statement and 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.
- **Domestic Violence.** A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the Complainant; by a person with whom the Complainant shares a child in common; by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws Wisconsin; 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 Wisconsin.
- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to either fear for the person's safety or the safety of others; or suffer substantial emotional distress.
- **Sexual Misconduct.** Unwelcome or inappropriate behaviors of a sexual nature that may be verbal, nonverbal/visual, physical, technological/digital, or other, such as sexual exploitation.
  - **Sexual Exploitation.** Any person taking non-consensual or abusive sexual advantage of another, that does not constitute Sexual Harassment as defined above, for their own benefit or for the benefit of anyone other than the person being exploited. Examples of Sexual Exploitation include, but are not limited to:
    - Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
    - Invasion of sexual privacy (e.g., doxxing)
    - Knowingly making an unwelcome disclosure of (or threatening to disclose) a person's sexual orientation, gender identity, or gender expression
    - Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
    - Prostituting another person
    - Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
    - Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
    - Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
    - Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
    - Knowingly soliciting a minor for sexual activity
    - Engaging in sex trafficking
    - Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
    - Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never

- happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)
- **Other Prohibited Conduct.**
  - **Bullying.** Repeated and/or severe aggressive behavior that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant, that is not speech or conduct that is otherwise protected by the First Amendment.
  - **Endangerment.** Threatening or causing physical harm; extreme verbal, emotional, or psychological abuse; or other conduct which threatens or endangers the health or safety of any person or damages their property.
  - **Hazing.** Any act or action which does or is likely to endanger the mental or physical health or safety of any person as it relates to a person's initiation, admission into, or affiliation with any College group or organization. For the purposes of this definition:
    - It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the student group or student organization, for an allegation of hazing to be upheld.
    - It shall not constitute an excuse or defense to a hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained.
    - The actions of alumni, active, new, and/or prospective members of a student group or student organization may be considered hazing.
    - Hazing is not confined to the student group or student organization with which the person subjected to the hazing is associated.
  - **Unauthorized Disclosure.** Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by the College; or publicly disclosing institutional work product that contains personally identifiable information without authorization or consent.
  - **Failure to Comply/Process Interference.**
    - Intentional failure to comply with the reasonable directives of Title IX Coordinator in the performance of their official duties, including with the terms of a no contact order
    - Intentional failure to comply with emergency removal or interim suspension terms
    - Intentional failure to comply with sanctions
    - Intentional failure to adhere to the terms of an Informal Resolution agreement
    - Intentional failure to comply with mandated reporting duties as defined in this Policy
    - Intentional interference with the Resolution Process, including, but not limited to:
      - Destruction of or concealing of evidence
      - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
      - Intimidating or bribing a witness or party

**Reference:** This policy requires **Board approval** per Wisconsin Technical College System Methods of Administration requirements and the regulations promulgated by the authority of Title VI and VII of the Civil Rights Act of 1964

Title IX of the Education Amendments of 1972, as amended

Section 504 of the Rehabilitation Act of 1973

Title II of The Americans with Disabilities Act of 1990, as amended

The Americans with Disabilities Act Amendments Act of 2008

Higher Education Act of 1965, § 485(f) (20 U.S.C. § 1092(f))

Clery Act, as amended, Sexual Violence Elimination Act (SaVE Act) as authorized by Violence Against Women Reauthorization Act

**Questions regarding this policy should be directed to the Vice President, Talent & Culture.**

Addendum Adopted: August 20, 2025 (In consultation with Legal Counsel)



PRESIDENT  
NORTHWOOD TECHNICAL COLLEGE