Title IX Sexual Harassment Policy

I. Policy

It is the policy of the College to maintain an environment conducive to work and study. Such an environment is free of sexual harassment, which includes “quid pro quo” sexual harassment, hostile environment sexual harassment, sexual assault, dating violence, domestic violence, and stalking as defined herein. Prohibited conduct under this Policy also includes attempting or aiding in the commission of sexual harassment or retaliation for exercising rights under this Policy. The College will take action to prevent and correct such behavior. It is intended to ensure that the College’s policies and procedures related to sexual harassment are interpreted and applied consistently with Title IX, the Violence Against Women Act (VAWA) amendments the Clery Act (the “Campus SaVE Act”), Iowa Code § 260C.14(18) and other applicable law.

II. Scope

This Policy applies to all persons participating in the programs or activities of Northwest Iowa Community College, including students and employees of the College.

Any person may report or file a complaint alleging sexual harassment against a student or employee. However, with respect to any complaint that is 1) by a person who is not a member of the College community, and/or 2) relating to conduct occurring outside the College’s program or activity, the College reserves the right to determine, in its sole discretion, whether the conduct described in the complaint bears a sufficient nexus to a College educational program or employment relationship or constitutes a sufficient risk to the College community to proceed under this or another conduct policy.

Moreover, the College’s scope under Title IX is limited to locations, events, or circumstances over which it substantially controls both the respondent accused of behavior violating this Policy and the context in which the alleged harassment occurs, as well as any building owned or controlled by a student organization that is officially recognized by the College, such as a fraternity or sorority. The College’s scope under Title IX is also limited to conduct against a person that occurs in the United States.

If a report or complaint falls under the College’s scope under Title IX, the College will utilize this Policy and the related procedures to respond to claims of sexual harassment and will not proceed under any other College policy or procedure if doing so would interfere with any right or privilege provided to a party under Title IX. If the College determines that a report or complaint does not fall under the College’s scope under Title IX, the College may still take action for such alleged conduct, consistent with applicable
law and policy, and based on the nature of the alleged conduct. The parties will be notified of this decision.

III. Definitions

A. **Sexual harassment** means unwelcome behavior (verbal, written, physical) that is directed at someone because of that person’s sex or gender, and that meets any of the following definitions:

1. **“Quid Pro Quo” Harassment.** A College employee, agent, or other individual under the College’s control or authority explicitly or implicitly conditions a decision or benefit on submission to sexual conduct (e.g., sexual favors for a better grade or promotion; implicitly or explicitly threatening negative consequences if the student or employee rejects sexual advances).

2. **Hostile Educational/Work Environment.** Unwelcome conduct that creates a hostile, intimidating or demeaning environment that is sufficiently severe, pervasive, and objectively offensive that it effectively denies a person equal access to participation in the College’s educational program or activity. Examples can include persistent and unwelcome efforts to develop a sexual relationship; bullying/cyber-bullying of a sexual nature or for a sexual purpose; sexual exploitation; unwelcome commentary about an individual’s body or sexual activities; unwanted sexual attention; repeated and unwelcome sexually-oriented teasing, joking or flirting; verbal abuse of a sexual nature. Behavior could be verbal, non-verbal (e.g., gestures, touching), written or electronic.

   Actions which are severe, pervasive, or inappropriate, but do not rise to this definition of a hostile educational/work environment, should still be reported and, where appropriate, the College will take remedial steps intended to end or prevent such actions in the future under applicable law and policy.

3. **Sexual assault**, defined as one of the following offenses in which one has or attempts to have sexual contact or sexual penetration with another individual without their consent:

   a. Rape: the 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 consent of the victim;
   b. Fondling: the touching of the private body parts of another person for the purpose of sexual gratification without consent of the victim;
c. Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
d. Statutory rape: sexual intercourse with a person who is under the statutory age of consent.

4. **Dating violence**, which is violence committed by a person who is or has been in a social relationship of a romantic, sexual, or intimate nature with the individual. The existence of such a relationship shall be determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

5. **Domestic violence**, which is a felony or misdemeanor crime of violence committed by:
   - Current or former spouse or intimate partner of the victim;
   - Person with whom the victim shares a child in common;
   - Person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
   - Person similarly situated to a spouse of the victim under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred; and
   - Any other person against an adult or youth victim who is protected from that person’s act under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred.

6. **Stalking**, which is engaging in a course of conduct toward another person under circumstances that would reasonably cause a person to fear bodily injury to themselves or others or to experience substantial emotional distress.

Determination as to whether the alleged conduct constitutes sexual harassment should take into consideration all of the circumstances, including the context in which the alleged incidents occurred.

**B. Consent:** Freely, voluntarily, and clearly communicating agreement or permission to participate in sexual activity, with knowledge of the act involved. Such consent may be withdrawn at any time, without regard to the preceding activity. Consent may not necessarily be inferred from silence or passivity, and cannot be given when a person is incapacitated (such as due to the use of drugs or alcohol, when a person is asleep or unconscious, or because of an intellectual disability that prevents an individual from having the capacity to give consent). Coercion, force, or threats invalidate consent.
C. **Employees** include full-time and part-time faculty and staff employed on campus or through a College program, activity, or event, including visiting faculty or adjunct instructors.

D. **Students** include admitted students, as well as students who may not be on campus but are nonetheless considered an active or enrolled student at the College.

E. **Complainant** means any person who alleges that they have been subjected to sexual harassment as defined by this Policy. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the College’s programs or activities.

F. **Respondent** means any person who has been reported to be the perpetrator of conduct that could constitute sexual harassment under this Policy, and over whom the College is able to exercise substantial control.

G. **Retaliation**: Retaliation is any kind of reprisal, adverse action, or negative action taken against an individual for protected activity, including because the individual has: (1) sought guidance or complained about alleged discrimination or harassment as defined above, (2) participated as a party or witness in an investigation relating to such allegations, or (3) participated as a party or witness in a proceeding regarding such allegations. Retaliation can occur contemporaneously during the complaint process or subsequent to it, once the retaliator is aware of the recipient’s participation in the process. An individual is protected from retaliation even when the complaint at issue is ultimately found to lack merit, as long as the complaint was made in good faith. The College does not allow, nor tolerate any conduct by any College community member that may be regarded as retaliatory.

IV. **Resources, Reporting, Investigation, and Resolution Procedures**

For information on reporting options, resources and contact information, and the resolution procedures which apply to a report of complaint of sexual harassment, see the College’s Sexual Harassment Procedures.

V. **Title IX/Equity Coordinator**

The College’s Title IX/Equity Coordinator or designee (“Title IX Coordinator”) coordinates the College’s response to reports of sexual harassment under this Policy. The Title IX Coordinator does not serve as an advocate for either the complainant or the respondent. The Title IX Coordinator will explain to both parties the informal and formal processes and the provisions of confidentiality. Where appropriate, the Title IX
Coordinator will provide to both parties information on options for obtaining advocacy, medical and counseling services, and making criminal reports, and will assist with providing information on other resources. The Title IX Coordinator will coordinate with other campus officials to implement and coordinate appropriate supportive measures such as mutual no-contact orders and academic accommodations. The Title IX Coordinator is trained and knowledgeable about enforcement, compliance, communication, and implementation of the College’s anti-harassment and anti-discrimination policy. The name, title, and contact information for the College’s Title IX Coordinator shall be prominently posted and published consistent with applicable law.

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ADOPTED:  __________
REVISED:  __________
REVIEWED: __________