

The Board of Regents of the University of Nebraska met on May 30, 2014, at 11:02 a.m. in the board room at Varner Hall, 3835 Holdrege Street, Lincoln, Nebraska, in a publicly convened session, the same being open to the public and having been preceded by advance publicized notices, copies of which are attached to the minutes of this meeting as Attachment 1 and Attachment 2.

In compliance with the provisions of *Neb. Rev. Stat.* § 84-1411, printed notices of this meeting were sent to each member of the Board and were posted in the first floor lobby of Varner Hall. In addition, copies of such notices were sent to the Lincoln Journal Star, Omaha World Herald, the Daily Nebraskan, the Gateway, the Antelope, the Kearney Hub, and the Lincoln office of the Associated Press as follows: May 16, 2014, a notice containing Amendments to the *Board of Regents Bylaws 2.1* was sent to the above groups and posted in the first floor lobby of Varner Hall; May 23, 2014, a notice of this meeting was sent to the above groups and posted in the first floor lobby of Varner Hall.

Regents present:

Timothy F. Clare
Hal Daub
Howard Hawks, Chair
Bob Phares, Vice Chair
Jim Pillen
Robert Schafer
Kent Schroeder
Bob Whitehouse
Krupa Savalia, University of Nebraska Medical Center
Jordan Koch, University of Nebraska at Omaha
Connor Schulte, University of Nebraska at Kearney
Kevin Knudson, University of Nebraska-Lincoln

University officials present:

James Linder, Interim President
Susan M. Fritz, Interim Executive Vice President and Provost
Carmen K. Maurer, Corporation Secretary
John E. Christensen, Chancellor, University of Nebraska at Omaha
Jeffrey P. Gold, Chancellor, University of Nebraska Medical Center
Douglas A. Kristensen, Chancellor, University of Nebraska at Kearney
Harvey S. Perlman, Chancellor, University of Nebraska-Lincoln
David E. Lechner, Senior Vice President for Business and Finance | CFO
Joel D. Pedersen, Vice President and General Counsel
Ronnie D. Green, Vice President for Agriculture and Natural Resources

I. CALL TO ORDER/ROLL CALL

The Board convened at 11:02 a.m. in the Board room of Varner Hall, 3835 Holdrege Street, Lincoln, Nebraska on May 30, 2014. Attendance is indicated above.

II. INSTALLATION OF INTERIM PRESIDENT JAMES LINDER

Chairman of the Board Howard Hawks installed James Linder as the Interim President of the University of Nebraska.

Special greetings were offered by:

Mr. Dusty Reynolds, a graduate of the University of Nebraska at Kearney and representing the Nebraska Business Community.

Dr. Harvey Perlman, chancellor of the University of Nebraska-Lincoln representing the university administration.

Dr. Rodney Markin from the University of Nebraska Medical Center, representing the faculty and staff.

Ms. Jordan Koch, UNO student regent, representing the students of the four campuses.

Interim President Linder thanked the Board of Regents, faculty and staff, students and business community, and citizens of the state of Nebraska for their support.

III. APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS

Motion Moved by Schroeder and seconded by Clare to approve the minutes and ratify the actions of the regularly scheduled meetings on March 13, 2014 and March 21, 2014.

Action Student Opinion: Voting Aye: Koch, Savalia, Schulte, and Knudson. Voting Aye: Daub, Hawks, Phares, Pillen, Schafer, Schroeder, Whitehouse, and Clare. Motion carried.

Chairman Hawks announced the location of the Open Meetings Act in the board room.

Chairman Hawks welcomed newly-elected student regents Connor Schulte, University of Nebraska at Kearney; Kevin Knudson, University of Nebraska-Lincoln; and Jordan Koch, University of Nebraska at Omaha.

Interim President Linder welcomed newly-elected Faculty Senate Presidents Dr. Ross Taylor, University of Nebraska at Kearney; Dr. Kenneth Nickerson, University of Nebraska-Lincoln; Dr. Gay Canaris, University of Nebraska Medical Center; and Dr. Lisa Scherer, University of Nebraska at Omaha.

IV. KUDOS

Regent Phares presented a KUDOS award to Steve Geiken, business manager in Facilities Management and Planning at the University of Nebraska at Omaha

Regent Pillen presented a KUDOS award to Mari Greer, administrative assistant in the Office of Research and Economic Development at the University of Nebraska-Lincoln.

Regent Savalia presented a KUDOS award to Venkatesh Namachivayam, business analyst in the Division of Information Technology Services at the University of Nebraska at Kearney.

Regent Daub presented a KUDOS award to Jaclyn Smith, assessment associate in the Dean's office, College of Pharmacy at the University of Nebraska Medical Center.

V. PUBLIC COMMENT

Professor Bing Chen spoke on the subject of the Peter Kiewit Institute [See the Documents file for a copy of the handout distributed by Professor Chen]

Mr. Brian Reid spoke on the subject of the Breslow Ice Center (Agenda item IX-B-4)

VI. RESOLUTION

Regent Whitehouse presented the following resolution regarding the Peter Kiewit Institute:

Whereas, the academic leadership of the University of Nebraska at Omaha and University of Nebraska-Lincoln have presented to the Board of Regents an Integrated Strategic Plan (ISP) for the Peter Kiewit Institute that is intended to position PKI to meet the needs of engineering and information technology businesses in Omaha and throughout the state; and

Whereas, the ISP presented by the UNO and UNL chancellors was developed by an Academic Advisory Council that includes the deans of the two colleges that comprise PKI – the UNO College of Information Science & Technology and the UNL College of Engineering – the interim executive director of PKI, and the senior vice chancellors for academic affairs at UNO and UNL; and

Whereas, the Board of Regents remains strongly supportive of and fully committed to the advancement and success of PKI;

Now, therefore, be it resolved that the Board of Regents of the University of Nebraska:

(1) expresses its support for the concept of a unified, collaborative PKI, with two campuses, UNO and UNL working together thru the Chancellors, Vice Chancellors, Deans, Faculty and Staff; and

(2) endorses the Integrated Strategic Plan for PKI, which builds on the plans of the two colleges with added benefits of synergy, collaboration, and leveraging; and

(3) plans to regularly monitor PKI's performance to ensure agreed upon targets for process and for growth in enrollment and faculty are met; and

(4) expects at least semi-annual reports to be presented to the Board of Regents and/or to its Academic Affairs committee on benchmarks and performance in enrollment, graduation, faculty resources, research expenditures, budget, and other important elements; and

(5) commits to resources and support efforts of administration and faculty to meet the important goals of the ISP and to provide the oversight and governance appropriate to ensure PKI's success.

There was discussion

Motion Moved by Whitehouse and seconded by Daub to accept the PKI resolution

Action Student Opinion: Voting Aye: Savalia, Schulte, Knudson, and Koch. Voting Aye: Hawks, Phares, Pillen, Schafer, Schroeder, Whitehouse, Clare, and Daub. Motion carried.

VII. HEARINGS

Amendments to the *Bylaws of the Board of Regents*, Chapter II, Structure of the University, Section 2.1, Procedures for Selection of Senior Administrative Officers

Professor Kenneth Nickerson, University of Nebraska-Lincoln Faculty Senate President, spoke on the topic of the amendments to the *Bylaws* [See the Documents file for a copy of the handout distributed by Professor Nickerson]

VIII. CONSENT AGENDA

Motion Moved by Schroder and seconded by Phares to approve items VIII-A-1, VIII-A-2, VIII-B-1, VIII-B-2, and VIII-B-3

A. ACADEMIC AFFAIRS

VIII-A-1 The President's Personnel Recommendations

VIII-A-2 Approve recommendations relating to academic program reviews required by the NCCPE and approve forwarding of the program review reports to the NCCPE

B. BUSINESS AFFAIRS

VIII-B-1 Approve the appointment of James Linder, Interim President of the University of Nebraska, to the Board of Directors of the Nebraska Innovation Campus Development Corporation effective May 1, 2014

VIII-B-2 Approve Bozell & Jacobs as the provider of media buying services for the University of Nebraska-Lincoln

VIII-B-3 Approve the sole source purchase of a Dual Beam Scanning Electron Microscope for the University of Nebraska-Lincoln

There was discussion

Action Student Opinion: Voting Aye: Schulte, Knudson, Koch, and Savalia. Voting Aye: Phares, Pillen, Schroeder, Whitehouse, Clare, Daub, and Hawks. Abstain: Schafer. Motion carried.

IX. ADMINISTRATIVE AGENDA

A. ACADEMIC AFFAIRS

Chairman Hawks opened the administrative agenda, making the following statement: I would like to clarify the intent of the *Bylaw* change from the perspective of the Executive Committee as well as the entire Board. We were focused on the Presidential Search components and believe the search committees already established for the current search continue to represent our commitment to include faculty and students in our search process, in addition to other principal constituencies with which the President interacts. The Executive Committee supports the clarification that the changes today are not intended and will not affect the current campus bylaws and practices for the selection of chancellors, vice chancellors, and deans. The Board of Regents, as a practice, accepts input and we will always review and consider appropriate amendments to the Regents' *Bylaws* or policies going forward. Students and faculty are a basic and integrated part of University search processes.

There was discussion

Motion to Amend Moved by Whitehouse and seconded by Clare to amend item IX-A-1 such that the Recommended Action reads in its entirety as follows:

RECOMMENDED ACTION

It is the intent of the Board of Regents that the existing bylaws and practices of each major unit for appointing chancellors, vice chancellors, and deans are unaffected by the following: Approve amendments to the *Bylaws of the Board of Regents*, Chapter II, Structure of the University, Section 2.1, Procedures for Selection of Senior Administrative Officers

Action on Amendment Student Opinion: Voting Aye: Knudson, Koch, Savalia, and Schulte. Voting Aye: Pillen, Schafer, Schroeder, Whitehouse, Clare, Daub, Hawks, and Phares. Motion carried.

Motion Moved by Schroeder and seconded by Phares to approve item IX-A-1, as amended

IX-A-1 It is the intent of the Board of Regents that the existing bylaws and practices of each major unit for appointing chancellors, vice chancellors, and deans are unaffected by the following:

Approve amendments to the *Bylaws of the Board of Regents*, Chapter II, Structure of the University, Section 2.1, Procedures for Selection of Senior Administrative Officers

2.1 Procedures for Selection of Senior Administrative Officers. Appointment of the President shall be made by the Board. The authority to make all other senior administrative appointments, i.e., Vice Presidents, Chancellors, Vice Chancellors, Deans, and equivalent ranks, resides with the President or administrative officers designated by the President, subject to approval by the Board, as provided in this section and Section 3.2 of the *Bylaws*.

(a) Whenever a vacancy occurs in the position of President or is imminent, the Board shall be the appointing authority and shall promptly appoint an advisory one or more presidential search advisory committee(s) to assist the Board in the search for suitable candidates to fill the position and designating one of the members of the presidential search committee(s) to serve as its chair. ~~The size, composition of, and representation on each such committee shall be determined by the Board, provided that each advisory committee shall include representatives of~~ The presidential search committee(s) will consult broadly with the principal constituencies with which the President interacts and shall define the responsibilities of and prepare the qualifications and profile of the next President in a manner consistent with these Bylaws. The size, responsibilities, composition of, and representation on the search committee shall be determined by the Board.

(b) Whenever a vacancy occurs in a senior administrative position at the level of Chancellor or Vice President, and assuming the position is to be refilled, the President, shall be the appointing officer and shall promptly appoint an advisory committee to assist in the search for suitable candidates to fill the position. The size, composition of, and representation on each advisory committee shall be determined by the President, provided that each advisory committee shall include representatives of the principal constituencies with which the position in question interacts.

(c) Whenever a vacancy occurs in a senior administrative position at the level of Vice Chancellor or Dean, and assuming the position is to be refilled, the President, or an administrative officer designated by the President to make the appointment, shall be the appointing officer and shall promptly appoint an advisory committee to assist the appointing officer in the search for suitable candidates to fill the position. The size, composition of, and representation on each advisory committee shall be determined by the appointing officer in consultation with the elected heads of faculty and student governments, provided that each advisory committee shall include representatives of the principal constituencies with which the position in question interacts. ~~In making appointments to an advisory committee of faculty and student representatives from within the major administrative unit of which the position in question is a part, the appointing officer shall choose from lists of faculty and students submitted respectively by the elected heads of faculty and student governments, provided that each such list shall be prepared in consultation with the appointing officer and shall contain a number of names which is at least twice the number of representatives to be chosen therefrom.~~

(d) In those cases in which the search is for an officer other than the President, the appointing officer may serve as a nonvoting member of the advisory committee. The appointing officer shall: 1) designate one of the members of the advisory committee to serve as its chair; ~~(e) The Board or appointing officer, as appropriate, shall~~ 2) define for each advisory committee, in a manner consistent with these *Bylaws*, the responsibilities of the senior administrative position for which the search is being conducted; and 3) define the qualifications being sought in candidates for the position.

~~(f) Both the advisory committee and the Board or appointing officer, as appropriate, shall actively solicit applications and nominations of qualified candidates for the position. The advisory committee shall assist the appointing officer in the review of applications and supporting materials submitted by or on behalf of candidates being considered for the position. The advisory committee shall then submit a list of recommended candidates for consideration by the Board or appointing officer, as appropriate. Every effort shall be made by each advisory committee to submit a list of recommended candidates to the Board or appointing officer, as appropriate, within 90 days after the deadline for receipt of applications and nominations or the announced date upon which review of applications and nominations began. Any advisory committee that fails to submit a list of recommended candidates to the Board or appointing officer or authority within 120 days after the deadline for receipt of applications and nominations or the announced date upon which review of applications and nominations began may be discharged, and the work of the advisory committee shall be deemed to have been completed. Whenever it is practical to do so, the Board or appointing officer, as appropriate, shall involve some of the individual members of the advisory committee in interviewing recommended candidates for the position.~~

~~(g) The name of the person appointed to any senior administrative position must appear on the list of recommended candidates submitted by the advisory committee; provided, however, an appointing officer with approval by the Board may appoint a person who does not appear on such list. Such action by the Board shall require an affirmative vote by a majority of members qualified to serve and vote. No such exception may be made by the Board in the case of the appointment of a president.~~

~~(e) (h) Except for application materials of finalists as determined in the search process, the work and records of each search advisory committee(s), including all candidate files, shall be considered confidential and shall be treated accordingly by each member of each advisory committee.~~

Action on item as
Amended

Student Opinion: Voting Aye: Koch, Savalia, Schulte, and Knudson. Voting Aye: Schafer, Schroeder, Whitehouse, Clare, Daub, Hawks, Phares, and Schafer. Motion carried.

Motion Moved by Clare and seconded by Daub to approve items IX-A-2, IX-A-3, and IX-A-5

IX-A-2 Approve *Board of Regents Policy* RP-2.1.8, Sexual Misconduct Policy for Employees and Students

See attached Addendum A (pages 40-45) for the full text of the *Board of Regents Policy* RP-2.1.8, Sexual Misconduct Policy for Employees and Students

IX-A-3 Approve uniform procedures to respond to allegations of student sexual misconduct to replace current text of *Board of Regents Policy* RP-5.3.3

See attached Addendum B (pages 46-55) for the full text of the *Board of Regents Policy* RP-5.3.3, University of Nebraska Response to Allegations of Student Sexual Misconduct

IX-A-5 Approval is requested to revise the University of Nebraska-Lincoln Student Code of Conduct

There was discussion

Action Student Opinion: Voting Aye: Savalia, Schulte, Knudson, and Koch. Voting Aye: Schroeder, Whitehouse, Clare, Daub, Hawks, Phares, Pillen, and Schafer. Motion carried.

Motion Moved by Pillen and seconded by Clare to approve item IX-A-4

IX-A-4 Approve amendment to *Board of Regents Policy* RP-5.7.1, Residency Determination for Tuition Purposes, to ensure compliance with LB 740 (2014) regarding in-state tuition for veterans and their spouses and dependents

The first paragraph of *Board of Regents Policy* RP-5.7.1, Section 3. Resident Tuition Categories is amended as follows:

An individual will qualify as a resident of the State of Nebraska for tuition purposes at the University of Nebraska if, prior to the commencement of the term for which residency is sought, he or she meets the standards set forth in any one of the following ~~eleven~~ categories:...

Further, the text of *Regents Policy* RP-5.7.1, Section 3. Resident Tuition Categories is amended to add a new subsection m. as follows:

- m. A person who is a veteran as defined in Neb. Rev. Stat. § 80-401.01 and has been off active duty for two years or less, or a spouse or dependent of such a veteran, who enrolls at the University of Nebraska, if the person is registered to vote in Nebraska and demonstrates objective evidence of intent to be a resident of Nebraska.
- 1) For purposes of this section, objective evidence of intent to be a resident of Nebraska may be demonstrated by obtaining a Nebraska driver's license, a Nebraska identification card, or a Nebraska motor vehicle registration.
 - 2) For purposes of this section, a person who is a spouse or dependent of a veteran and who is younger than eighteen years of age is not required to register to vote in Nebraska until he or she attains eighteen years of age.
 - 3) This section does not apply to a veteran who qualifies for benefits pursuant to 38 U.S.C. § 3317 (the Yellow Ribbon program), as that section existed on January 1, 2014. Spouses or dependents of veterans who qualify for Yellow Ribbon benefits are still eligible for in-state tuition under this section.

Action Student Opinion: Voting Aye: Schulte, Knudson, Koch, and Savalia. Voting Aye: Whitehouse, Clare, Daub, Hawks, Phares, Pillen, Schafer, and Schroeder. Motion carried.

Motion Moved by Whitehouse and seconded by Hawks to approve items IX-A-6, IX-A-7, and IX-A-8

- IX-A-6 Approval is requested to create a Bachelor of Science degree in Integrated Science in the College of Agricultural Sciences and Natural Resources (CASNR) at the University of Nebraska-Lincoln
- IX-A-7 Approval is requested to create a professional certificate in Health Policy sponsored by the Department of Health Services Research and Administration and the Department of Health Promotion, Social and Behavioral Health in the College of Public Health at the University of Nebraska Medical Center
- IX-A-8 Approval is requested to create a Bachelor of Arts degree in Music in the Department of Music in the College of Communication, Fine Arts and Media at the University of Nebraska at Omaha
- There was discussion
- Action Student Opinion: Voting Aye: Knudson, Koch, Savalia, and Schulte. Voting Aye: Clare, Daub, Hawks, Phares, Pillen, Schafer, Schroeder, and Whitehouse. Motion carried.

B. BUSINESS AFFAIRS

- Motion Moved by Phares and seconded by Clare to approve item IX-B-1
- University of Nebraska
- IX-B-1 Approve the selection of Terracon Consultants, Inc. to provide Remedial Design and Remediation Services for Former Nebraska Ordnance Plant Superfund Site, Mead, Nebraska
- There was discussion
- Action Student Opinion: Voting Aye: Koch, Savalia, Schulte, and Knudson. Voting Aye: Daub, Hawks, Phares, Pillen, Schafer, Schroeder, Whitehouse, and Clare. Motion carried.
- Motion Moved by Phares and seconded by Schroeder to approve item IX-B-2
- IX-B-2 Approve the FY 2014-15 University of Nebraska operating budget, tuition rate increases, and reinstate allotment for committed carry forward funds already approved in previous fiscal years
- There was discussion
- Action Student Opinion: Voting Aye: Savalia, Schulte, Knudson, and Koch. Voting Aye: Hawks, Phares, Pillen, Schroeder, Whitehouse, Clare, and Daub. Voting No: Schafer. Motion carried.
- Motion Moved by Phares and seconded by Clare to approve item IX-B-3
- Nebraska College of Technical Agriculture
- IX-B-3 Approve the FY 2014-15 Nebraska College of Technical Agriculture Operating Budget, Tuition Rate Increases, and reinstate allotment for committed carry forward funds already approved in previous fiscal years
- Action Student Opinion: Voting Aye: Schulte, Knudson, Koch, and Savalia. Voting Aye: Phares, Pillen, Schafer, Schroeder, Whitehouse, Clare, Daub, and Hawks. Motion carried.
- Motion Moved by Clare and seconded by Phares to approve items IX-B-4 and IX-B-5
- University of Nebraska-Lincoln
- IX-B-4 Approve the Operating Agreement between the University of Nebraska-Lincoln and the City of Lincoln for the John A. Breslow Ice Hockey Center at the University of Nebraska-Lincoln

- IX-B-5 Approve an agreement with the University of Nebraska Foundation providing for acceptance of a gift of design services and reimbursement of funds to construct the John A. Breslow Ice Hockey Center at the University of Nebraska-Lincoln
- There was discussion
- Action Student Opinion: Voting Aye: Knudson, Koch, Savalia, and Schulte. Voting Aye: Pillen, Schafer, Schroeder, Whitehouse, Clare, Daub, Hawks, and Phares. Motion carried.
- Motion Moved by Schroeder and seconded by Savalia to approve item IX-B-6
- IX-B-6 Approve a five-year agreement with the City of Lincoln to provide StarTran bus service on routes connecting University of Nebraska–Lincoln City and East Campuses to Nebraska Innovation Campus
- There was discussion
- Action Student Opinion: Voting Aye: Koch, Savalia, Schulte, and Knudson. Voting Aye: Schafer, Schroeder, Whitehouse, Clare, Daub, Hawks, Phares, and Pillen. Motion carried.
- Motion Moved by Pillen and seconded by Savalia to approve item IX-B-7
- IX-B-7 Approve the selection of Sinclair Hille Architects to provide design services for the Behlen Laboratory Renovation at the University of Nebraska-Lincoln
- There was discussion
- Action Student Opinion: Voting Aye: Savalia, Schulte, Knudson, and Koch. Voting Aye: Schroeder, Whitehouse, Clare, Daub, Hawks, Phares, Pillen, and Schafer. Motion carried.
- Motion Moved by Phares and seconded by Pillen to approve item IX-B-8
- University of Nebraska Medical Center
- IX-B-8 Approve the Program Statement and Budget for the construction of an addition to and renovations in the Student Life Center building on the campus of the University of Nebraska Medical Center in Omaha
- There was discussion
- Action Student Opinion: Voting Aye: Schulte, Knudson, Koch, and Savalia. Voting Aye: Whitehouse, Clare, Daub, Hawks, Phares, Pillen, Schafer, and Schroeder. Motion carried.
- Motion Moved by Daub and seconded by Clare to approve items IX-B-9, IX-B-10, IX-B-11, and IX-B-12
- IX-B-9 Approve the creation of Med Center Development Corporation
- IX-B-10 Approve the purchase of real property at 4605 Farnam Street and 795 South 48th Street, Omaha, Nebraska
- IX-B-11 Approve the purchase of real property located at 606 and 608 South Saddle Creek Road, Omaha, Nebraska
- IX-B-12 Approve the purchase of real property at 708 South Saddle Creek Road, Omaha, Nebraska
- There was discussion
- Action Student Opinion: Voting Aye: Knudson, Koch, Savalia, and Schulte. Voting Aye: Clare, Daub, Hawks, Phares, Pillen, Schafer, Schroeder, and Whitehouse. Motion carried.
- Motion Moved by Daub and seconded by Knudson to approve item IX-B-13
- IX-B-13 Authorize and direct the UNMC Chancellor, in consultation with the Interim President, General Counsel and Chair of the Board of Regents, and such other persons as delegated

and authorized by the UNMC Chancellor or the Interim President to negotiate terms and conditions and execute agreements, notices, governance documents, approvals and other documents related to the governance, organization, management and operation of the Clinical Enterprise and System Corporation as deemed appropriate and necessary to carry out the intent and purposes generally described in EXHIBIT A (Transaction)

There was discussion

Action Student Opinion: Voting Aye: Koch, Savalia, Schulte, and Knudson. Voting Aye: Daub, Hawks, Phares, Pillen, Schafer, Schroeder, Whitehouse, and Clare. Motion carried.

Motion Moved by Savalia and seconded by Schafer to approve item IX-B-14

IX-B-14 Approve the apartment rents effective July 1, 2014 at the University of Nebraska Medical Center

There was discussion

Action Student Opinion: Voting Aye: Savalia, Schulte, Knudson, and Koch. Voting Aye: Hawks, Phares, Pillen, Schafer, Schroeder, Whitehouse, Clare, and Daub. Motion carried.

Motion Moved by Schroeder and seconded by Whitehouse to approve items IX-B-15, IX-B-16, IX-B-17, and IX-B-18

University of Nebraska at Omaha

IX-B-15 Approve the Program Statement and Budget for the Willis A. and Janet S. Strauss Performing Arts Center Addition & Renovation

IX-B-16 Approve the Program Statement and Budget for the Milo Bail Student Center Renovation at the University of Nebraska at Omaha

IX-B-17 Approve the Resolution (1) adopting the Ninth Supplemental Resolution to the Sixth Series Resolution authorizing (a) the issuance of not to exceed \$10,700,000 principal amount of Revenue Bonds, Series 2014 (University of Nebraska at Omaha Student Center Project) and (b) the expenditure of up to \$4,500,000 from the Sixth Series Surplus/Replacement Funds, (2) authorizing the execution and delivery of a Supplemental Master Indenture and the related Master Note, (3) authorizing the negotiated sale of such Revenue Bonds, approving the Bond Purchase Agreement, and the Preliminary Official Statement and authorizing the Senior Vice President for Business and Finance to determine interest rates (to provide a true interest cost not to exceed 4.50 percent), principal amounts, principal maturities and redemption provisions of such Revenue Bonds, and (4) approving the preparation and use of a Final Official Statement

IX-B-18 Approve the Resolution authorizing the expenditure of \$1,095,000 from the Bond Surplus/Replacement Funds to make student housing and student facilities improvements

There was discussion

Action Student Opinion: Voting Aye: Schulte, Knudson, Koch, and Savalia. Voting Aye: Phares, Pillen, Schafer, Schroeder, Whitehouse, Clare, Daub, and Hawks. Motion carried.

Motion Moved by Whitehouse and seconded by Clare to approve item IX-B-19

IX-B-19 Approve the naming of the University of Nebraska at Omaha Community Engagement Center the Barbara Weitz Community Engagement Center

Action Student Opinion: Voting Aye: Knudson, Koch, Savalia, and Schulte. Voting Aye: Pillen, Schafer, Schroeder, Whitehouse, Clare, Daub, Hawks, and Phares. Motion carried.

C. FOR INFORMATION ONLY

IX-C-1 University of Nebraska Strategic Planning Framework

IX-C-2 University of Nebraska Strategic Framework Accountability Measures

- IX-C-3 Calendar of establishing and reporting accountability measures
- IX-C-4 University of Nebraska Strategic Dashboard Indicators
- IX-C-5 Board of Regents agenda items related to the University of Nebraska Strategic Framework
- IX-C-6 Amendment of the *Standing Rules of the Board of Regents*. The proposed amendments of the *Standing Rules of the Board of Regents* are presented for information only in accordance with the requirements of Section 7.2 of the *Standing Rules* and Section 1.11 of the *Bylaws of the Board of Regents*. Approval of these amendments will be requested at the Regents' meeting on July 18, 2014.

D. REPORTS

- IX-D-1 Quarterly Personnel Report for the period January, February, March 2014
- IX-D-2 Establishment of a collaborative program between the Bachelor of Science in Environmental Studies (BSES) at the University of Nebraska-Lincoln and the Master of Public Health (MPH) with a concentration in Environmental and Occupational Health (EOH) at the University of Nebraska Medical Center
- IX-D-3 Expedited Approval of the Graduate Certificate in Managing Juvenile and Adult Populations which will be a joint effort of the Grace Abbott School of Social Work and the School of Criminology and Criminal Justice at the University of Nebraska at Omaha
- IX-D-4 Strategic Framework Report – Debt Management
- IX-D-5 Strategic Framework Report – Endowment Funds
- IX-D-6 Quarterly Gifts, Grants, Contracts and Bequests
- IX-D-7 Bids and Contracts
- IX-D-8 Naming of Marian Ivers Board Room in the Community Engagement Center at the University of Nebraska at Omaha
- IX-D-9 Laboratory, Student, and Miscellaneous Fees for 2014-2015
- IX-D-10 Housing allowance for Interim President
- IX-D-11 Intermediate Design Report for the College of Business Administration at the University of Nebraska-Lincoln
- IX-D-12 Naming of OPPD Community Dialogue Room in the Community Engagement Center at the University of Nebraska at Omaha

Chairman Hawks accepted the reports on behalf of the Board

X. ADDITIONAL BUSINESS

Closed Session

Motion Moved by Clare and seconded by Daub that the Board go into closed session as authorized by Neb. Rev. Stat. § 84-1410 for the protection of the public interest, and to prevent needless injury to the reputation of persons who have not requested a public hearing, for the purpose of holding a discussion limited to the following subjects:

- (a) Personnel matters involving members of the University of Nebraska at Omaha, University of Nebraska-Lincoln, and University of Nebraska Medical Center staff; and
- (b) Private gifts related to the UNO Community Arena.

Chairman Hawks declared that the closed session would be strictly limited to a discussion of:

- (a) Personnel matters involving members of the University of Nebraska at Omaha, University of Nebraska-Lincoln, and University of Nebraska Medical Center staff; and
- (b) Private gifts related to the UNO Community Arena.

Action

Student Opinion: Voting Aye: Koch, Savalia, Schulte, and Knudson. Voting Aye: Schafer, Schroeder, Whitehouse, Clare, Daub, Hawks, Phares, and Pillen. Motion carried.

The Board went into closed session at 12:50 p.m. The Board reconvened the open meeting at 1:44 p.m.

ADJOURNMENT

There being no further business, the meeting was adjourned by Chairman Hawks at 1:45 p.m.

Respectfully submitted,

Carmen K. Maurer
Corporation Secretary

Howard L. Hawks
Chairman of the Board

ADDENDUM A
UNIVERSITY OF NEBRASKA
SEXUAL MISCONDUCT POLICY

RP-2.1.8 Sexual Misconduct Policy

1. Statement of Policy

1a. Beginning with the University of Nebraska charter in 1869, Nebraska law has provided that no person shall be deprived of the privileges of this institution because of sex. Discrimination on the basis of sex is also prohibited by Federal law. The University of Nebraska has programs to promote awareness of and to help prevent domestic violence, dating violence, sexual assault, and stalking, and to assist members of the university community who are affected by such behavior. Rape, acquaintance rape, domestic violence, dating violence, sexual assault, sexual harassment and stalking are against the law and are unacceptable behaviors under University of Nebraska policy. These unacceptable behaviors are hereafter referred to as “sexual misconduct.” Sexual misconduct is conduct in violation of University policy and state and federal law that the University will take action to eliminate, prevent, and redress once the University has notice that sexual misconduct has occurred.

1b. The President and Chancellor shall implement procedures to address the rights of all individuals involved in cases of alleged sexual misconduct. This policy applies to all University of Nebraska employees and students regardless of sexual orientation or gender identity, and to all programs and activities under the jurisdiction of the University of Nebraska. The University may respond to complaints of sexual misconduct whether they are alleged to have occurred on or off University premises and to complaints of misconduct committed by third parties who are not employees or students.

2. Awareness, Education, Prevention, and Training Programs

As required by federal statutes and administrative regulations, the Office of the President and each Chancellor shall publicize and conduct ongoing programs for new students and employees and other members of the University community to promote awareness of the problems caused by sexual misconduct and to help prevent and attempt to reduce the risk of the occurrence of sexual misconduct. These programs shall include instruction on safe and positive options for bystander intervention that may be carried out by individuals to prevent harm or intervene when there is a risk of sexual misconduct being inflicted on another person. Training shall be provided to all persons designated as campus security authorities and involved in responding to charges of sexual misconduct.

3. Assistance to Persons Subjected to Sexual Misconduct

3.1 Persons subjected to sexual misconduct may be helped—sometimes anonymously—whether or not a complaint of any kind is filed. Changes in academic, living, transportation, and working situations may be made available on a confidential basis by the University as remedies to protect persons, complainants, or witnesses. The President and Chancellor shall disseminate information about university programs and resources available to assist persons who have been subjected to sexual misconduct, and about agencies outside the university located throughout the state that provide related services. In addition to identifying resources available to provide counseling and medical treatment, university sexual misconduct programs must provide instruction on the importance of preserving evidence as proof of sexual misconduct, and on the availability of protection orders and other remedies that may be afforded to persons who have been subjected to sexual misconduct. Preservation of evidence is required of all parties. Concealment or destruction of evidence is prohibited under university rules and the law.

3.2 A person who has or had been involved in a dating relationship, or who has or had a marital, shared residential, or familial relationship with the actor may obtain either a harassment or domestic protection order. Persons who have not been involved in a dating relationship may qualify for a harassment protection order. Violation of harassment or domestic protection orders issued by courts of this or another state or tribal courts can result in a violator’s arrest and subject the violator to criminal penalties.

3.3 The Protection from Domestic Abuse Act makes the Nebraska Department of Health and Human Services (DHHS) responsible to provide victims of domestic abuse emergency services, support programs, limited medical help and legal assistance in obtaining a protection order.

4. Complaints, Reporting and Investigation Process

A person subjected to sexual misconduct may be helped whether or not a complaint or report of any kind is filed. Changes in academic, living, transportation, and working situations may be made available by the University as remedies to protect persons, complainants, or witnesses. There are several avenues potentially available to make a report or formal complaint of sexual misconduct. A report of sexual misconduct could be made to the University, a civil suit could be filed against the actor responsible for the sexual misconduct, a criminal charge could be filed as a result of a law enforcement investigation, and/or

an administrative complaint can be made to the United States Department of Education, Office of Civil Rights (OCR). A person may also choose not to make a report or take further action.

Complaints to University

4.0 Students, employees and third parties may complain of violations of the university policy against sexual misconduct. Complaints of sexual misconduct can be made to Campus Security Authorities (CSAs), Investigators, Human Resources or Student Affairs Officers, and Title IX Coordinators. Information on how to file complaints will be publicized by the President and Chancellors.

4.1 The University will protect the privacy of the parties involved in a sexual misconduct case to the extent possible under the law. In some situations, including those in which disciplinary action is a possible outcome, the law may require disclosure to respondents.

4.2 The University may be required by law to investigate complaints of sexual misconduct, but that investigation may be limited by the information provided by the Complainant and the Complainant's willingness to pursue a formal complaint.

4.3 If the Complainant wishes to avoid revealing his or her identity, the University will make every reasonable effort to abide by Complainant's wishes to remain anonymous; however, the University is required to balance such a request with interest in protecting the safety of other members of the community.

4.3.1 Factors that will be considered in determining whether to disclose a report of sexual misconduct, a complaint, or the identity of the Complainant to a Respondent include: the seriousness of the alleged conduct; the Complainant's age; whether there have been other complaints about the same individual; and the Respondent's rights to receive information about the allegations.

4.3.2 If the University proceeds with an investigation or other response to the Report of sexual misconduct, then the Investigator will notify the Complainant before the Respondent is contacted. Retaliation against the Complainant or a third party in an attempt to prevent or otherwise obstruct the reporting or remediation of sexual misconduct is prohibited. The Complainant and others contacted during the course of an investigation should be notified of the University's anti-retaliation policy.

4.4 Handling of Confidential Reports

4.4.1 If the Complainant would like to remain anonymous, the Investigator will:

4.4.1.1 explain that the University endeavors to investigate the allegations as presented without revealing the Complainant's identity, but that the University cannot ensure complete confidentiality and it may be limited in its ability to take disciplinary action if the Complainant desires to remain anonymous;

4.4.1.2 advise the Complainant that the University has an obligation to investigate and document allegations of sexual misconduct, to include general information about reports of criminal sexual misconduct in annual security report statistics which do not identify either the person claiming to have been subject to criminal sexual misconduct or the actor alleged to have committed criminal sexual misconduct;

4.4.1.3 to the extent practicable, provide resources and internally manage the Complainant's situation, as the University would if the Complainant did not request anonymity; and

4.4.1.4 ask the Complainant to acknowledge and sign a document confirming that s/he has requested anonymity and that may mean that the University is unable to take disciplinary action against the Respondent.

Investigation by University

4.5 The University will investigate and act upon information that is provided to it about allegations of sexual misconduct.

4.6 The University is committed to the following when investigating sexual misconduct complaints:

4.6.1 Assigning investigators who receive annual training on the issues related to domestic violence, dating violence, sexual assault, sexual harassment, and stalking, and how to conduct an investigation that protects the safety of persons involved;

4.6.2 Basing findings on the greater weight of the evidence standard;

4.6.3 Treating all parties fairly and equally;

4.6.4 Notifying all parties that the investigation will be impartial, prompt and equitable;

and

4.6.5 Providing all parties an opportunity to be heard.

University Disciplinary Procedures

4.7 Investigations of allegations against students will be handled using the Response to Allegations of Student Sexual Misconduct disciplinary procedures.

4.8 Investigations of allegations against employees will be handled using the Response to Allegations of Employee Sexual Misconduct disciplinary procedures.

4.9 University internal investigations and any disciplinary or remedial actions are independent of any civil, criminal or external administrative investigation. The University may pursue an investigation, take appropriate remedial action and/or impose disciplinary sanctions against a member of the university community at the same time the actor is facing criminal charges for the same incident, even if the criminal prosecution is pending, has been dismissed, or the charges have been reduced.

5. Possible Sanctions after Sexual Misconduct Finding

Institutional sanctions that may be imposed against students for sexual misconduct range from warning to expulsion. Sanctions against students may be imposed by the Student Affairs Officer, Conduct Officer, or Conduct Board. Institutional sanctions against employees range from warning to termination. Institutional sanctions against employees will be recommended by the Investigator to the person or persons authorized to impose employee sanctions. Institutional sanctions against third parties range from loss of privileges to trespass exclusion orders. Notice of the outcome of a sexual misconduct complaint must be provided to both complainant and respondent.

6. Definitions

For purposes of addressing complaints of sexual misconduct against or by University students and employees, the following uniform definitions shall be used by the University.

- a. "Actor" means a person accused of sexual misconduct.
- b. "Advisor" means any person, including legal counsel, who assists the Respondent, Complainant or Investigator during a Conduct proceeding.
- c. "Bodily injury" shall mean physical pain, illness, or any impairment of physical condition.
- d. "Campus security authority" (CSA) is a University official charged with the duty to report incidents of sexual misconduct to the person in charge of Clery Act reporting. All officers of a university police department or a campus security department are campus security authorities, but there are other CSAs outside of those offices. The Office of the President and each Chancellor shall prepare and publicize a list of designated campus security authorities.
- e. "Complainant" means any individual who comes forward to complain of sexual misconduct against or by a member of the University community or a third party.
- f. "Confidentiality" means that the University will not disclose the names of individuals involved in sexual misconduct cases to others except on a need to know basis or as required by law. The University will instruct employees and students about the requirement not to disclose confidential information. Confidentiality is not the same as anonymity, where an individual is not named or personally identified.
- g. "Consent" means agreement, approval, or permission as to some act or purpose, given voluntarily by a competent person. Nebraska law states "without consent" means:
 - (1) (i) The person was compelled to submit due to the use of force or threat of force or coercion, or (ii) the person expressed a lack of consent through words, or (iii) the person expressed a lack of consent through conduct, or (iv) the consent, if any was actually given, was the result of the actor's deception as to the identity of the actor or the nature or purpose of the act on the part of the actor;
 - (2) The 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 actor the person's refusal to consent; and
 - (3) A person need not resist verbally or physically where it would be useless or futile to do so.
 - (4) In the above text, the word "person" means the individual against whom a wrongful act was allegedly committed, and the word "actor" is the individual alleged to have committed a wrongful act. When the actor knew or should have known that a person was mentally or physically incapable of resisting or understanding the nature of his or her conduct, there is no consent. A person may be incapacitated due to intoxication, mental illness or deficiency or by physical illness or disability to the extent that personal decision-making is impossible. Surprise may also prevent resistance, as where a person is grabbed from behind.

There are some persons who the law presumes are incapable of consenting to sexual contact or penetration by an actor by reason of their age. Under Nebraska law an actor nineteen years of age or older may not subject a person under the age of sixteen years of age to sexual penetration, or a person under fifteen years of age to sexual contact.

- h. "Dating violence" is included within the definition of "domestic assault."
- i. "Domestic assault" has three definitions which depend on the harm threatened or inflicted by an actor on a person. An actor commits domestic assault if he or she (i) intentionally and knowingly causes bodily injury to his or her intimate partner; (ii) threatens an intimate partner with imminent bodily injury; or (iii) threatens an intimate partner in a menacing manner. An actor commits a more severe form of domestic assault if he or she intentionally and knowingly causes bodily injury to his or her intimate partner with a dangerous instrument. An actor commits the worst form of domestic assault if he or she intentionally and knowingly causes serious bodily injury to his or her intimate partner.
- j. "Domestic violence" is included with the definition of "domestic assault."
- k. "Force or threat of force" means (a) the use of physical force which overcomes the person's resistance or (b) the threat of physical force, express or implied, against the person or a third party that places the person in fear of death or in fear of serious personal injury to the person or a third party where the person reasonably believes that the actor has the present or future ability to execute the threat.
- l. "Intimate partner" means a spouse; a former spouse; persons who have a child in common whether or not they have been married or lived together at any time; and persons who are or were involved in a dating relationship. For purposes of this definition, dating relationship means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context.
- m. "Intimate parts" means the genital area, groin, inner thighs, buttocks or breasts.
- n. The term "Investigator" means a University official authorized to investigate and recommend remediation of complaints of sexual misconduct.
- o. "In violation" means that it is more likely than not that an actor has committed one or more acts of sexual misconduct. In other words, a greater weight of the evidence standard must be used to find sexual misconduct.
- p. The term "may" is used in the permissive sense.
- q. "Member of the University community" includes any individual who is a student, staff, faculty member, University official, or any other individual employed by, or acting on behalf of, the University. An individual's status in a particular situation shall be determined by the Investigator or Title IX Coordinator.
- r. The term "not in violation" means that it is more likely than not that a member of the University community did not commit one or more acts of sexual misconduct.
- s. "Past sexual behavior" means a person's sexual behavior other than when the sexual misconduct is alleged to have occurred.
- t. "Person" means the individual who allegedly was, or was determined to have been, subjected to sexual misconduct.
- u. "Rape" is included under the definition of sexual assault and means an actor's sexual penetration of a person without consent.
- v. "Respondent" is any member of the University who is charged with one or more acts of sexual misconduct.
- w. "Retaliation" includes intimidation, threats, harassment, and other adverse action threatened or taken against the Complainant or a third party in an attempt to prevent or otherwise obstruct the reporting of sexual misconduct.

- x. “Serious bodily injury” shall mean bodily injury which involves a substantial risk of death, or which involves substantial risk of serious physical disfigurement, or protracted loss or impairment of the function of any part or organ of the body.
- y. “Serious personal injury” means great bodily injury or disfigurement, extreme mental anguish or mental trauma, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.
- z. “Sexual assault” is committed when an actor subjects a person to sexual penetration (i) without the consent of the person, (ii) when the actor knew or should have known that the person was mentally or physically incapable of resisting or appreciating the nature of the person’s own conduct, (iii) when the actor is at least nineteen years of age and the person is under twelve, or (iv) when the actor is twenty-five years of age or older when the person is at least twelve years of age but less than sixteen years of age.

Sexual assault is also committed when an actor subjects a person to sexual contact (a) without consent of the person, or (b) when the actor knew or should have known that the person was physically or mentally incapable of resisting or appraising the nature of the person’s own conduct. Sexual assault by contact should be punished more severely if the actor causes serious personal injury to a person than if the actor shall not have caused serious personal injury.

- aa. “Sexual contact” means the intentional touching of a person’s intimate parts or the intentional touching of a person’s clothing covering the immediate area of the person’s intimate parts. Sexual contact also means the touching by the person of the actor’s intimate parts or the clothing covering the immediate area of the actor’s intimate parts when such touching is intentionally caused by the actor. Sexual contact shall include only such conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification of either party.
- bb. “Sexual harassment” is unwelcome conduct or behavior of a sexual nature. Both violent and non-violent sexual harassment is prohibited. Sexual harassment can include unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal, or physical conduct of a sexual nature. Conduct that is sufficiently serious to limit or deny a person’s ability to participate in or benefit from the University’s educational program creates a hostile environment, and is prohibited. Examples of sexual harassment include, but are not limited to: (1) an exposure of an actor’s genitals done with the intent to affront or alarm any person, and (2) viewing a person in a state of undress without his or her consent or knowledge.
- cc. “Sexual misconduct” includes dating violence, domestic assault, domestic violence, rape, sexual assault, sexual harassment, and stalking.
- dd. “Sexual penetration” means sexual intercourse in its ordinary meaning, cunnilingus, fellatio, anal intercourse or any intrusion, however slight, of any part of the actor’s or person’s body or any object manipulated by the actor into the genital or anal openings of the person’s body which can be reasonably construed as being for nonmedical or nonhealth purposes. Sexual penetration does not require emission of semen.
- ee. The term “shall” is used in the imperative sense.
- ff. “Stalking” means to engage in a knowing and willful course of conduct directed at a specific person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate.
- gg. The term “student” includes all individuals taking courses at the University, whether full-time or part-time, pursuing undergraduate, graduate, or professional studies, whether or not they reside in the University residence halls. Individuals who withdraw after having allegedly committed sexual misconduct, or who are not officially enrolled for a particular term, but who have an expected continued academic relationship with the University, may be considered “students.”
- hh. The “Student Affairs Officer” is the individual authorized by the University and the University Chancellor to be responsible for the administration of the Student Disciplinary Code, and in certain circumstances includes his or her designee.
- ii. The “Title IX Coordinator” is the individual designated by the campus to respond to allegations of sexual misconduct by members of the university community, and in some circumstances can include his or her designee.
- jj. The term “University” means University of Nebraska.

kk. The term “University business day” means any calendar day where the campus offices are open for business, excluding weekends and national holidays.

OR

The term “University business day” means any calendar day where the campus offices are open for business and classes are in session, excluding weekends and national holidays.

ll. “University official” includes any individual employed by, associated with, or performing assigned administrative or professional responsibilities in the interests of the University. University officials who are designated as campus security authorities must report crimes to the person in charge of Clery Act reporting. Counselors and Healthcare Professionals are bound by professional rules that may preclude their reporting violations of University rules when they are acting within the scope of their counseling or professional responsibilities.

mm. The term “University premises” includes all land, buildings, facilities, University approved housing and other property in the possession of, or owned, used, or controlled by the University, including adjacent streets and sidewalks.

ADDENDUM B

UNIVERSITY OF NEBRASKA

RESPONSE TO ALLEGATIONS OF SEXUAL MISCONDUCT

RP-5.3.3 Procedures for Student Sexual Misconduct Complaints

Response to Allegations of Student Sexual Misconduct

1. Introduction

- a. Beginning with the University of Nebraska charter in 1869, Nebraska law has provided that no person shall be deprived of the privileges of this institution because of sex. Discrimination on the basis of sex is also prohibited by Federal law.
- b. Sexual misconduct is conduct in violation of University policy and state and federal law that the University will take action to eliminate, prevent, and redress once the University has notice that sexual misconduct has occurred. "Sexual misconduct" includes dating violence, domestic assault, domestic violence, rape, sexual assault, sexual harassment (whether sexual violence is involved or not), and stalking. This policy applies to all University of Nebraska students regardless of sexual orientation or gender identity, and to all programs and activities under the jurisdiction of the University of Nebraska. All students are protected against sexual misconduct under this policy, whether the alleged sexual misconduct is committed by another University student, University employee, or third party. Persons who have been subjected to sexual misconduct may be able to receive assistance from the University regardless of whether a charge or report of any kind is filed.
- c. The University will investigate reported allegations of sexual misconduct and may take appropriate remedial action even if the person allegedly subject to misconduct or the Complainant does not wish to pursue formal charges. Any response by the University may be hindered by a person's or the Complainant's desire for anonymity and/or inaction.
- d. Sexual misconduct by or against a student may be investigated by the University whether it is alleged to have been committed on or off campus.
- e. Any person can complain of sexual misconduct against or by a student. Complaints of sexual misconduct may be made using the University's internal processes at the same time that criminal complaints or charges are pursued with the appropriate law enforcement or external agencies. University internal investigation and disciplinary proceedings are independent of any criminal or external proceedings.
- f. The University may pursue disciplinary action against a student at the same time the student is facing criminal charges for the same offense, even if the criminal prosecution is pending, or has been dismissed, or the charges have been reduced.
- g. Complaints regarding sexual misconduct against a student by a student can be made to the campus¹ Student Affairs Officer or Title IX Coordinator.² Sexual misconduct complaints by or against employees should be made to the appropriate Human Resources Office or Title IX Coordinator.
- h. University policy prohibits retaliation against any person making a complaint of sexual misconduct or against any person cooperating in the investigation, including but not limited to witnesses. The prohibition of actual or threatened retaliation applies to employees and third parties as well as students.

2. Investigations of Alleged Sexual Misconduct; Disciplinary Complaints

- a. Upon receipt of a sexual misconduct complaint or report, the University will provide the Complainant a written notice describing the options of pursuing a criminal complaint with a law enforcement agency, filing an administrative charge with an external agency, and/or using the University's investigation and disciplinary processes. The Complainant may go forward with one or more options at the same time, but the University's investigation may need to be

¹ Insert "UNK, UNL, UNMC or UNO" wherever campus is used in this document.

² Insert the names, telephone numbers, both office and e-mail addresses of the persons with these responsibilities.

delayed temporarily by, or scheduled around, an ongoing criminal or external administrative investigation.

- b. Any member of the University community may submit allegations of sexual misconduct against a student. Allegations shall be prepared in writing and directed to the Student Affairs Officer or designee. The Student Affairs Officer shall then direct the allegation(s) to a Conduct Officer for investigation. Any allegation should be submitted as soon as possible after the alleged misconduct takes place, preferably within, but not limited to, seven (7) University business days after the misconduct occurred.
- c. The Complainant must state, in writing, if he or she wishes to pursue a complaint. If he or she does not wish to pursue the complaint and/or requests that his or her identity remain anonymous, the Student Affairs Officer will make note of that wish in the report. Regardless of the Complainant's choice, the University is still required to investigate reports of sexual misconduct. The Complainant must be informed if the University cannot ensure anonymity.
- d. The Conduct Officer or Title IX Coordinator shall conduct an investigation to determine if the allegation(s) have merit. Investigations of the allegations should be concluded within (60) calendar days of receipt of a report³, and may be permitted a longer completion period under extraordinary circumstances, but both parties must be informed in writing of the extension of the timeline. If the investigator determines by the greater weight of the evidence that a violation occurred, a recommended disposition should be included in the investigator's report. If the investigation determines it is more likely than not that the Respondent did not violate the Student Code, the complaint may be dismissed without further proceedings. If both the Complainant and the Respondent agree to the dismissal, the complaint is resolved without any further rights of appeal by either party. If the Complainant objects, he or she may appeal the dismissal decision administratively to the Student Affairs Officer within seven (7) University business days. The Student Affairs Officer will either affirm the investigative determination, or refer the complaint for further proceedings. The Student Affairs Officer's decision of the dismissal appeal will be final.
 - i. If the Complainant wishes to pursue an Administrative Resolution, the Conduct Officer will determine the Respondent's position and take actions as necessary.
 - ii. If the Complainant wishes to pursue a disciplinary hearing, a formal hearing will be held by a Conduct Officer, or in cases where University Suspension or University Expulsion is sought, a hearing before a Conduct Board must be held.
 - iii. After the fact-finding investigation the Complainant, the Respondent, and appropriate university officials shall be given timely access to any information that will be used during Administrative Resolution and/or Formal Hearing proceedings.

3. Interim Protective Measures

- a. "No contact" directives are to be issued in writing to persons involved in any alleged sexual misconduct promptly after the University receives notice of a complaint. Respondents and the Complainant will both be expected to abide by the terms of no contact directives and may go through disciplinary proceedings should they violate the directives.
- b. Students who have been subjected to sexual misconduct or Complainants have access to other available University assistance in changing academic and living situations after an alleged incident, if so requested by the student or Complainant and if such changes are reasonably available. Accommodations to minimize the burden on the student or Complainant may include but are not limited to:
 - i. Change of an on-campus student's housing to a different on-campus location;
 - ii. Assistance from the University in completing the relocation;
 - iii. Arranging to end a University housing contract and/or adjusting a student account balance for refund;
 - iv. Rescheduling an exam, paper, or assignment;
 - v. Taking an incomplete in a class;
 - vi. Transferring between class sections;
 - vii. Temporary withdrawal;

³ See "Questions and Answers on Title IX and Sexual Violence" guidance issued April 29, 2014 by the U.S. Dept. of Education, Office of Civil Rights (OCR) at F-8 and OCR April 4, 2011 Dear Colleague Letter, page 12. A maximum timeframe of 60 calendar days for the investigation is allowed. This "includes conducting the investigation . . . to determine whether the alleged sexual violence occurred . . . and determining what actions the school will take . . ." OCR Guidance, *supra*, at p. 31. This time frame is different and independent from University business days, and is not affected by closing of administrative offices, class schedules, or national holidays.

- viii. Alternative course completion options;
 - ix. Arranging to complete a course or lectures via distance education methods with the assistance of technology;
 - x. Providing increased security at locations or activities.
- c. Any student charged with sexual misconduct has the right to maintain status as a student and attend classes while the case is pending final resolution within the University Conduct process, unless it is determined by the Student Affairs Officer or his/her designee that the student's continued participation as a student, whether inside or outside of the classroom, would seriously disrupt normal operation of the University or constitute an immediate harm, threat of harm, hostile environment and/or danger to the health, safety, or welfare of the Respondent, the Complainant, any person allegedly subject to sexual misconduct, or any member of the University community.
 - d. Pending completion of an investigation or University Conduct Proceedings, the Student Affairs Officer may at any time temporarily suspend a student when the Student Affairs Officer finds and believes from information coming to his or her attention that the presence of the Respondent on the University premises would seriously disrupt normal operation of the University or constitute an immediate harm, threat of harm, hostile environment and/or danger to the health, safety, or welfare of the Respondent, the Complainant, any person allegedly subject to sexual misconduct, or any member of the University community. The Student Affairs Officer should work with the appropriate academic Dean in making the decision to discontinue the Respondent's continued participation as a student prior to the completion of the formal proceedings.
 - e. During the suspension described in this section, the Respondent may be denied access to any University premises, including classes, residence hall access, sporting events, and/or all other University programs, activities or privileges for which the student might otherwise be eligible, as the Student Affairs Officer may determine to be appropriate.
 - f. If a student placed on interim suspension is ultimately found "not in violation" of the Code, such student shall be allowed, at the reasonable discretion of the appropriate faculty, to make up academic work missed while on suspension.

4. General Provisions Applicable in Cases of Alleged Sexual Misconduct

- a. The Conduct Officer and Conduct Board can hear any allegations of any other violations of the Student Code of Conduct in addition to allegations of sexual misconduct that are directly related to the alleged sexual misconduct. If the Conduct Officer or Conduct Board determines other provisions of the Student Code of Conduct were violated, they may impose proper sanctions.
- b. Any student involved in a Conduct proceeding has the right to confidentiality as mandated by the Family Educational Rights and Privacy Act of 1974 (FERPA) and implementing regulations.
- c. No process implemented under this Sexual Misconduct Procedure shall be open to the public. The complaining party and the Respondent are entitled to the same opportunities to have others present during a disciplinary proceeding subject to conditions established by the Conduct Officer or Conduct Board. Witnesses may be sequestered and attendance at hearings may be restricted to the Complainant, Respondent and advisors.
- d. In such cases when a student fails to appear before the Conduct Officer or Conduct Board, a plea of "not in violation" shall be entered on the Respondent's behalf and the hearing may proceed as scheduled.
- e. In all cases, whether the Respondent is present or not, the evidence in support of the allegations shall be presented and considered.
- f. The determination of the merits of each case shall be made using a greater weight of the evidence standard, meaning it is more likely than not that a proposition (such as violation of the Code) was proven.
- g. The burden of proof shall rest upon the Conduct Officer or Complainant bringing the misconduct charge. A Respondent is presumed not to be in violation of the Code until proven otherwise.

5. Rights of the Complainant and the Respondent in Sexual Misconduct Proceedings

- a. Sexual misconduct proceedings will be conducted by trained University officials to provide a prompt, fair, and impartial process from initial investigation to the final result.
- b. Both a Respondent and the Complainant have the right to see sexual misconduct charges in written form.
- c. Both the Respondent and the Complainant have a right to confidentiality during sexual misconduct proceedings to the extent possible. However, the duty of confidentiality does not preclude the University from conducting a meaningful investigation or reporting such incidents as required. The duty of confidentiality shall also extend to all persons involved in processing the complaint and the investigation. The Complainant has a right to anonymity only to the extent that the Complainant does not wish to file an official complaint with the University or does not wish the University to take any action against the Respondent in regard to the complaint.
- d. All charges shall be presented to the Respondent and the Complainant in written form by a University official or the Conduct Officer within seven (7) University business days after the investigation is complete.
- e. Both a Respondent and the Complainant have a right to prepare a written statement in advance of a formal hearing. Both parties will have the right to view each other's statement.
- f. The Complainant and the Respondent have the right to be assisted by any advisor they choose, including legal counsel, at their own expense.
 - i. The role of the advisor is limited to providing advice to the party who has requested his/her presence in a manner which does not disturb Conduct proceedings. If an advisor fails to act in accordance with these guidelines, he/she may be barred from participation in the Conduct proceedings.
- g. A Respondent and the Complainant have the right to hear all evidence, present evidence, testify, and to hear and submit questions for witnesses during formal hearings.
 - i. Direct questioning of the witnesses by the Respondent and Complainant may be limited. The Conduct Officer presiding at the hearing or Chair of the Conduct Board may control questioning by requiring the Respondent and Complainant to submit questions in writing to determine if the questions are appropriate, and then the presiding Conduct Officer or Chair may pose questions to the witness.
- h. A Respondent and the Complainant have the right to inspect all documents used as evidence and a list of all witnesses for the formal hearing in advance of the hearing.
- i. The Respondent may not be found to have committed sexual misconduct solely because the respondent failed to appear for a conduct hearing.
- j. Sexual misconduct proceedings should be completed in a reasonably prompt time frame.
- k. A Respondent and the Complainant have the right to be notified of the decision rendered. Any initial, interim, and final decision to resolve disciplinary matters must include a statement of any University sanctions imposed together with the rationale for the decision.

6. Administrative Resolution Procedures in Cases of Alleged Sexual Misconduct

- a. Both the Complainant and the Respondent may elect to dispose of the claim administratively. This conference will be scheduled not less than three (3), nor more than fourteen (14), University business days after the Conduct Officer's investigation is complete. The Respondent may elect to acknowledge his or her actions and take responsibility. If the Respondent denies responsibility but the investigation determines that it was more likely than not the Respondent violated the Code, the Conduct Officer could propose a resolution and an appropriate sanction. If both the Complainant and the Respondent agree to the proposed sanction, the complaint is resolved without a formal hearing. Mediation shall not be used to resolve sexual assault complaints.
- b. Administrative Resolution procedures may be discontinued at the request of any participant, or terminated by the Conduct Officer. When Administrative Resolution fails, a formal hearing by a Conduct Officer or Conduct Board must be held.

- c. If University Suspension or University Expulsion is sought and the Complainant or the Respondent cannot agree to the proposed sanction, a hearing must be held before the Conduct Board to determine the proper sanction.
- d. When University Suspension or University Expulsion is not sought, a formal hearing will be held before a Conduct Officer. Unless the parties agree, the Conduct Officer who was responsible for investigation of sexual misconduct allegations and/or who attempted an unsuccessful Administrative Resolution will not preside over the formal hearing.

7. Formal Hearings in Cases of Alleged Sexual Misconduct

- a. Both a Respondent and the Complainant shall have the right to attend a pre-hearing conference to discuss the issues and facts that will be presented at the hearing, to exchange information about witnesses likely to be called, answer procedural questions, and settle those matters which may be agreeably concluded. The conference will **not** be used to settle the issue of whether or not the violation was committed or to challenge any recommended sanctions. This conference shall be held at least two (2) days prior to the scheduled hearing.
 - i. Students will be instructed about the use of past sexual behavior of the Complainant⁴ or past sexual assault by the Respondent⁵ as evidence at the hearing. In most situations, evidence of the past sexual history of either the Respondent or the Complainant will not be admitted at the hearing except in very limited situations.
- b. A time shall be set for a hearing, not less than three (3), nor more than fourteen (14), University business days after the Respondent and the Complainant have been notified that the complaint was referred to the hearing. Maximum time limits for scheduling of hearings may be extended at the discretion of the Conduct Officer or Conduct Board chair.
- c. Hearings shall conform to the following guidelines:
 - i. In cases where the case is referred to a Conduct Board, the Conduct Board shall be composed of at least 3 members of the University community.
 - ii. Any real or perceived conflict of interest or bias between the Conduct Officer presiding at a hearing or a member of the Conduct Board and the Respondent or the Complainant must be brought to the attention of the Conduct Officer or Conduct Board no less than two (2) University business days in advance of the hearing.
 - iii. The Respondent(s) and the Complainant and/or the Conduct Officer are responsible for presenting their respective cases to the Conduct Officer presiding at the hearing or the Conduct Board.
 - iv. The Conduct Board shall select its own Chair with all members possessing voting privileges.
 - v. In hearings involving more than one Respondent, the presiding Conduct Officer or Chair of the Conduct Board, in his or her discretion, may permit the hearings concerning each student to be conducted separately.
 - vi. The Respondent(s), the Complainant, and the Conduct Officer shall have the right to hear all evidence, present evidence, testify, and to hear and question witnesses.
 - vii. The Respondent, the Complainant, and the Conduct Officer shall have an opportunity in advance to inspect documents and a list of witnesses for the hearing no less than two (2) University business days in advance of the hearing.
 - viii. Pertinent records, facts, reports, and statements may be accepted as evidence for consideration by a presiding Conduct Officer or Conduct Board. Evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs may be admitted and given probative effect. Incompetent, irrelevant, immaterial, and unduly repetitious evidence should be excluded. The rules of privilege recognized by law shall be given effect. Evidence that would not be admissible in a State Court criminal proceeding by reason of the method or manner in which it was acquired shall not be admitted.
 - ix. All procedural and evidentiary questions are subject to the final decision of the presiding Conduct Officer or Chair of the Conduct Board.
- d. After the hearing, the Conduct Board shall determine by simple majority vote whether or not the University Suspension or University Expulsion is warranted. The decision of a presiding Conduct Officer or Conduct Board shall be based solely upon evidence introduced and received

⁴ See Neb. Rev. Stat. § 27-412 (2012 Cum. Supp.) (Relevance of person's alleged past sexual behavior or alleged sexual predisposition), see also OCR Guidance F-7.

⁵ See Neb. Rev. Stat. § 27-415 (2012 Cum. Supp.) (Evidence of crimes of sexual assault in civil cases).

at the hearing. There shall be a verbatim record made, such as by sound recording, of all formal hearings. The formal hearing record shall be the property of the University.

- e. Within seven (7) University business days following the conclusion of formal hearing proceedings, the presiding Conduct Officer or the Conduct Board Chair shall inform the Respondent, the Complainant, and the Title IX Coordinator in writing, of its findings and of the sanction(s) imposed, if any.
- f. The presiding Conduct Officer and the Conduct Board may seek advice from the University's Counsel throughout the hearing process on questions of law and procedure. However, the presiding Conduct Officer and Conduct Board are responsible for making their own factual conclusions.

8. Conduct Sanctions Against Individual Student For Sexual Misconduct

- a. The following sanction(s) may be imposed upon any individual student found to be "in violation" of the Code.
 - i. Warning: A formal, written notice that the student is violating, or has violated, one or more University Conduct Rules and Regulations and that a continuance of the misconduct may lead to additional disciplinary action. Also, that the incident has been documented and shall remain in the student's Conduct file for the remainder of their University career.
 - ii. Probation: A formal, written reprimand for a student's violation(s) of specified University Conduct Rules and Regulations. This probation, including strict campus conduct guidelines, is for a designated period of time and may remain in effect for the remainder of a student's University career. It includes the probability of more severe disciplinary sanctions if the student is found to be in violation of any University Conduct Rules and Regulations during the probationary period.
 - iii. Loss of Privileges: Denial of specified privileges for a designated period of time.
 - iv. Restitution: Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary, and/or material replacement.
 - v. Discretionary Sanctions: In accordance with the goal of education and assisting students with conduct problems, this may include work assignments, educational requirements, service to the University or local community, parental notification, or other related discretionary assignments (such assignments must have the prior approval of the Conduct Officer). Any costs associated with the assignment are the responsibility of the student.
 - vi. Residence Hall Relocation: Moving a student from one room to another and/or one residence hall to another.
 - vii. Residence Hall Suspension: Separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
 - viii. Residence Hall Expulsion: Permanent removal of the student from any and all of the residence halls. The student may not re-enter the residence halls, under any conditions, even as a visitor. Students expelled from the residence halls remain liable for all Residential and Greek Life costs and meal plan fees and may not be eligible for refunds for the full occupancy period of the students' housing contracts.
 - ix. University Suspension: Separation of the student from the University for a definite period of time, after which the student may be eligible for return, contingent upon meeting specified conditions for re-admittance. The student must satisfactorily demonstrate to the Student Affairs Officer that all conditions for re-admittance have been met before the student will be allowed to matriculate.
 - x. University Expulsion: Permanent separation of the student from the University, without the possibility of re-admission.
- b. More than one of the sanctions listed above may be imposed for any single violation.
- c. If a student fails to abide by one or more of the sanctions imposed, a hold may be placed on his/her registration account until satisfactory progress is made towards completion.
- d. Other than University Expulsion, disciplinary sanctions shall not be made part of the student's permanent academic record, but shall become part of the student's confidential disciplinary record.
 - i. After graduation, and upon application to the Conduct Officer, the student's confidential disciplinary record may be expunged of disciplinary actions other than University Suspension or University Expulsion.

- ii. Cases involving the imposition of sanctions other than University Suspension or University Expulsion shall be expunged from the student's confidential record seven (7) years after graduation, final disposition of the case, or as otherwise authorized or required by law.

9. Appeals

- a. A decision reached after a formal hearing may be appealed by the Respondent, the Complainant, or the Conduct Officer within seven (7) University business days of delivery of the decision to the parties involved in the formal hearing.
- b. Appeals shall be in writing and shall be delivered to the Appeals Officer appointed by the Chancellor.
- c. Appeals may be filed for one or more of the following purposes:
 - i. To determine whether the original hearing was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and present evidence that the Code was violated, and giving the Respondent a reasonable opportunity to prepare and to present a rebuttal of those allegations.
 - ii. To determine whether the sanction(s) imposed were appropriate.
- d. An appeal that does not clearly raise one or more of the issues listed above shall be dismissed without further consideration.
- e. An appeal shall be limited to review of the record of the initial hearing and supporting documents unless the Appeals Officer, after notice to the Complainant and Respondent, requests additional information from the presiding Conduct Officer, Chair of the Conduct Board, Complainant or Respondent.
- f. The Appeals Officer shall complete review of the appeal normally within fourteen (14) University business days after receipt of the record and any additional information, and shall promptly issue a written decision to the Respondent, the Complainant and the Conduct Officer.

10. Definitions

- a. "Actor" means a person accused of sexual misconduct.
- b. "Administrative Resolution" is at least one conference between the Conduct Officer and a Respondent and the Complainant to determine whether a student has violated the Code and to impose sanction(s), if warranted.
- c. The term "advisor" means any person, including legal counsel, who assists the Respondent, Complainant or Conduct Officer during a Conduct proceeding.
- d. The term "Appeals Officer" means the person authorized by the Chancellor to determine on appeal whether the result of a formal hearing should be affirmed or modified.
- e. "Bodily injury" shall mean physical pain, illness, or any impairment of physical condition.
- f. The term "Code" means the campus Student Code of Conduct.
- g. The term "Complainant" means any individual who comes forward to the Student Affairs Officer, Title IX Coordinator or Human Resource Officer to complain of sexual misconduct by a student, member of the University community or a third party.
- h. The term "Conduct Board" means persons authorized by the Student Affairs Officer to determine whether a student has violated the Code and to impose sanction(s), if warranted. The Conduct Board must include one or more student members when sanctions of suspension or expulsion are involved.⁶
- i. The term "Conduct Officer" means a University official authorized by the Student Affairs Officer to investigate and determine whether or not the Code has been violated. The Conduct Officer may also engage in attempts at administrative resolution or preside at a formal hearing when University Suspension or Expulsion is not sought as a sanction against a student.

⁶ Section 5.4(e) of the Bylaws of the Board of Regents requires "a hearing before a regularly constituted board in all cases involving expulsion or suspension."

- j. “Confidentiality” means that the University will not disclose the names of individuals involved in a sexual misconduct case to others except on a need to know basis or as required by law. The University will instruct employees and students about the requirement not to disclose confidential information. Confidentiality is not the same as anonymity, where an individual is not named or personally identified.
- k. “Consent” means agreement, approval, or permission as to some act or purpose, given voluntarily by a competent person. “Without consent” means:
- (1) (i) The person was compelled to submit due to the use of force or threat of force or coercion, or (ii) the person expressed a lack of consent through words, or (iii) the person expressed a lack of consent through conduct, or (iv) the consent, if any was actually given, was the result of the actor's deception as to the identity of the actor or the nature or purpose of the act on the part of the actor;
 - (2) The 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 actor the person's refusal to consent; and
 - (3) A person need not resist verbally or physically where it would be useless or futile to do so.
 - (4) In the above text, the word “person” means the individual against whom a wrongful act was allegedly committed, and the word “actor” is the individual alleged to have committed a wrongful act. When the actor knew or should have known that a person was mentally or physically incapable of resisting or understanding the nature of his or her conduct, there is no consent. A person may be incapacitated due to intoxication, mental illness or deficiency or by physical illness or disability to the extent that personal decision-making is impossible. Surprise may also prevent resistance, as where a person is grabbed from behind.
- There are some persons who the law presumes are incapable of consenting to sexual contact or penetration by an actor by reason of their age. Under Nebraska law an actor nineteen years of age or older may not subject a person under the age of sixteen years of age to sexual penetration, or a person under fifteen years of age to sexual contact.
- l. “Dating violence” is included within the definition of “domestic assault.”
- m. “Domestic assault” has three definitions which depend on the harm threatened or inflicted by an actor on a person. An actor commits domestic assault if he or she (i) intentionally and knowingly causes bodily injury to his or her intimate partner; (ii) threatens an intimate partner with imminent bodily injury; or (iii) threatens an intimate partner in a menacing manner. An actor commits a more severe form of domestic assault if he or she intentionally and knowingly causes bodily injury to his or her intimate partner with a dangerous instrument. An actor commits the worst form of domestic assault if he or she intentionally and knowingly causes serious bodily injury to his or her intimate partner.
- n. “Domestic violence” is included within the definition of “domestic assault.”
- o. “Force or threat of force” means (a) the use of physical force which overcomes the person’s resistance or (b) the threat of physical force, express or implied, against the person or a third party that places the person in fear of death or in fear of serious personal injury to the person or a third party where the person reasonably believes that the actor has the present or future ability to execute the threat.
- p. “Intimate partner” means a spouse; a former spouse; persons who have a child in common whether or not they have been married or lived together at any time; and persons who are or were involved in a dating relationship. For purposes of this definition, dating relationship means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context.
- q. “Intimate parts” means the genital area, groin, inner thighs, buttocks or breasts.
- r. The term “in violation” means that it is more likely than not⁷ that a student committed one or more violations of the Code.

⁷ By making a finding of whether it is more likely than not that a violation did or did not occur, a “greater weight of the evidence” standard is being used.

- s. The term “may” is used in the permissive sense.
- t. The term “member of the University community” includes any individual who is a student, staff, faculty member, University official, or any other individual employed by, or acting on behalf of the University. An individual’s status in a particular situation shall be determined by the investigating Conduct Officer or Title IX Coordinator.
- u. The term “not in violation” means that it is more likely than not that a student did not commit one or more violations of the Code.
- v. “Past sexual behavior” means a person’s sexual behavior other than when the sexual misconduct is alleged to have occurred.
- w. “Person” means the individual who allegedly was, or was determined to have been, subjected to sexual misconduct.
- x. “Rape” is included under the definition of sexual assault by an actor’s sexual penetration of the person without consent.
- y. “Respondent” is any student who is charged with having violated one or more provisions of the code.
- z. “Retaliation” includes intimidation, threats, harassment, and other adverse action threatened or taken against the Complainant or a third party in an attempt to prevent or otherwise obstruct the reporting of sexual misconduct.
- aa. “Serious bodily injury” shall mean bodily injury which involves a substantial risk of death, or which involves substantial risk of serious physical disfigurement, or protracted loss or impairment of the function of any part or organ of the body.
- bb. “Serious personal injury” means great bodily injury or disfigurement, extreme mental anguish or mental trauma, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.
- cc. “Sexual assault” is committed when an actor subjects a person to sexual penetration (i) without the consent of the person, (ii) when the actor knew or should have known that the person was mentally or physically incapable of resisting or appreciating the nature of the person’s own conduct, or (iii) when the actor is nineteen years of age or older and the person is at least twelve but less than sixteen years of age.

Sexual assault is also committed when an actor subjects a person to sexual contact (a) without consent of the person, or (b) when the actor knew or should have known that the person was physically or mentally incapable of resisting or appraising the nature of the person’s own conduct. Sexual assault by contact should be punished more severely if the actor causes serious personal injury to a person, than if the actor shall not have caused serious personal injury.
- dd. “Sexual contact” means the intentional touching of a person’s intimate parts or the intentional touching of a person’s clothing covering the immediate area of the person’s intimate parts. Sexual contact also means the touching by the person of the actor’s intimate parts or the clothing covering the immediate area of the actor’s intimate parts when such touching is intentionally caused by the actor. Sexual contact shall include only such conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification of either party.
- ee. “Sexual harassment” is unwelcome conduct or behavior of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal, or physical conduct of a sexual nature. Conduct that is sufficiently serious to limit or deny student’s ability to participate in or benefit from the University’s educational program creates a hostile environment, and is prohibited. Examples of sexual harassment include, but are not limited to: (1) an exposure of an actor’s genitals done with the intent to affront or alarm any person, and (2) viewing a person in state of undress without his or her consent or knowledge.
- ff. “Sexual misconduct” includes dating violence, domestic assault, domestic violence, rape, sexual assault, sexual harassment, and stalking.
- gg. “Sexual penetration” means sexual intercourse in its ordinary meaning, cunnilingus, fellatio, anal intercourse or any intrusion, however slight, of any part of the actor’s or person’s body or any object manipulated by the actor into the genital or anal openings of the person’s body which

can be reasonably construed as being for nonmedical or nonhealth purposes. Sexual penetration does not require emission of semen.

- hh. The term “shall” is used in the imperative sense.
- ii. “Stalking” means to engage in a knowing and willful course of conduct directed at a specific person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate.
- jj. The term “student” includes all individuals taking courses at the University, whether full-time or part-time, pursuing undergraduate, graduate, or professional studies, whether or not they reside in the University residence halls. Individuals who withdraw after having allegedly committed sexual misconduct, or who are not officially enrolled for a particular term, but who have an expected continued academic relationship with the University, may be considered “students.”
- kk. The “Student Affairs Officer” is the individual authorized by the University and the University Chancellor to be responsible for the administration of the Code, and in certain circumstances includes his or her designee.
- ll. The “Title IX Coordinator” is the individual designated by the campus to respond to allegations of sexual misconduct by students, and in some circumstances can include his or her designee.
- mm. The term “University” means University of Nebraska.
- nn. The term “University business day” means any calendar day where the campus offices are open for business, excluding weekends and national holidays.

OR

The term “University business day” means any calendar day where the campus offices are open for business and classes are in session, excluding weekends and national holidays.
- oo. The term “University official” includes any individual employed by, associated with, or performing assigned administrative or professional responsibilities in the interests of the University. Counselors and Healthcare Professionals are bound by professional rules that may preclude their reporting violations of University rules.
- pp. The term “University premises” includes all land, buildings, facilities, University approved housing and other property in the possession of, or owned, used, or controlled by the University, including adjacent streets and sidewalks.