

# Annual Campus Security and Fire Safety Report

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2021



**Safety and security information for the University of Nebraska at Kearney, including crime & fire statistics for the 2020 calendar year, and the information required by the Drug-Free Schools and Communities Act of 1989. This information was submitted to the U.S. Department of Education according to law.**

**The University of Nebraska at Kearney is responsive to University issues that support a diverse work and academic environment. The University of Nebraska at Kearney does not discriminate based on race, color, ethnicity, national origin, sex, pregnancy, sexual orientation, gender identity, religion, disability, age, genetic information, veteran status, marital status and/or political affiliation in its programs, activities or employment. This policy is applicable to all University administered programs including educational programs, financial aid, admission policies and employment policies. UNK is an Affirmative Action Equal Opportunity employer. Veterans or persons with disabilities are encouraged to apply. The University affirms a policy of equal education and employment opportunities, affirmative action in employment and nondiscrimination in providing services to the public. University employees, students and others associated with the University who have not received the benefits of these policies, are encouraged to contact the Chief Compliance Officer/ADA Coordinator.**

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## **Annual Campus Security and Fire Safety Report and Clery Act Overview**

The University of Nebraska at Kearney Police Department (UNKPD) has responsibility for the preparation and distribution of the University of Nebraska at Kearney's (UNK) Annual Campus Security and Fire Safety Report (ASR). This is reviewed and updated annually as one cohesive document per the requirements of federal law known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

To ensure the ASR is accurate and comprehensive, the UNKPD uses its own records as well as sends out formal requests for crime statistics and a request for other necessary information to Campus Security Authorities (see description below). Requests are also made to any applicable law enforcement agencies that have jurisdiction over Clery Act geography (while statistical requests are made, the agencies are not required to provide their statistics and so not all do); all viable statistics that are received are included in the crime numbers provided later in this report. All of the statistics are gathered, compiled and reviewed to ensure that no duplication takes place and that incidents are appropriately categorized.

Schools with on-campus student housing facilities must also submit an annual Fire Safety Report to the Department. The report must include statistics on the number of fires and causes of each fire, as well as fire-related injuries, deaths, and/or fire-related property damage for each on-campus student housing facility. The Fire Safety Report is included within the Annual Campus Security and Fire Safety Report.

All records concerning the completion of the ASR (crime reports, daily incident logs, referrals for disciplinary action, copies of timely warnings, etc.) are maintained by the UNKPD.

The ASR is completed and posted by October 1st of each year (with exception to the 2020 report that covers 2019; was due December 31, 2020.) The ASR is compiled and prepared by the Clery Coordinator position held within the UNKPD. The [ASR](#) and other crime prevention, safety and reporting information for the applicable three-year statistics can be found on the [UNKPD](#) website.

The UNKPD is also responsible for uploading the applicable three-year statistics regarding crime and fires, as found in the ASR, to the Department of Education's via the annual Campus Safety and Security Survey, a web-based data collection survey maintained by the Department of Education to disclose statistics by type, location and year. Each year, the Department sends a letter to presidents or chief executive officers of institutions with information on accessing the Campus Safety and Security Survey. The website explains how to tabulate these statistics. The letter explains any changes to the survey, the collection dates for the survey, the name of the person who completed the reporting at the school the previous year, and a new ID and password for completing the survey. The data is then posted on the Department of Education's public website for use by higher education consumers and the public. If you would like to view our statistics, they can be found at <http://ope.ed.gov/security/> click on "Get data for one school" and search for "University of Nebraska at Kearney.")

In accordance with the Student Right to Know and Campus Security Act of 1990, 20 U.S.C. Section 1092 the University of Nebraska at Kearney annually directs e-mails to all currently enrolled students and current employees notifying them of the Annual Campus Security and Fire Safety Report. Copies of the report can also be obtained at the UNK Police Department office in the Facilities Building at 2501 19th Avenue or by calling (308) 865-8911. A link to this report is located on the employment web page and the student admissions web page. Upon request, applicants for enrollment or employment will also be given a hard copy of this report.

This report includes terminology and information from multiple sources. Please note that the terms “victim”, “complainant”, and “survivor” are used interchangeably. Additionally, the terms “perpetrator” and “respondent” are used interchangeably.

The ASR includes policy statements regarding (but not limited to) crime reporting, campus facility security and access, law enforcement authority, incidence of alcohol and drug use, and the prevention of/response to sexual assault, domestic or dating violence, and stalking.

**The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 1092(f))** is the landmark federal law, originally known as the Campus Security Act, that requires colleges and universities across the United States to disclose certain timely and annual information about crime on and around their campuses. The "Clery Act" is named in memory of 19-year-old Lehigh University freshman Jeanne Ann Clery who was raped and murdered while asleep in her residence hall room on April 5, 1986. The law is tied to an institution's participation in federal student financial aid programs and it applies to most institutions of higher education both public and private. The Act is enforced by the United States Department of Education.

Among other things, the Clery Act requires colleges and universities to: Disclose “statistics” concerning the occurrence of certain criminal offenses reported to local law enforcement agencies or any official of the institution who is the CSA, which means that CSAs are required to relay the type of crime reported and its location to UNKPD for statistical purposes and to determine if there is an ongoing threat to the campus community. This does not mean that law enforcement must be involved or charges filed, as this is up to the victim, and no names will be provided by the CSA without prior approval of the reporting party. Crimes may be reported to any CSA.

**Creation of an Annual Security Report (ASR)** – a compilation of information including updated policies, updated statistics (including crimes) for the last three years and additional requirements defined by the Department of Education.

**Publish an Annual Security Report (ASR)** – by October 1<sup>st</sup> (with exception to the 2020 report that covers 2019; was due December 31, 2020), documenting three calendar years of select campus crime statistics, including security policies, procedures and information on the basic rights guaranteed to victims of sexual assault, domestic violence, dating violence and stalking. The law requires that schools notify and make the report available to all current students, current employees, prospective students and prospective employees and will also provide a copy upon request. Schools may comply with this requirement via the internet as long as required recipients are notified and have been provided the exact information regarding the on-line location of the report.

**Maintain a Daily Crime and Fire Safety log** – Institutions with a police or security department are required to maintain a public crime log documenting the "nature, date, time, general location, description of the crimes or fires and a disposition of the complaint that occurred in their patrol district. The log **does not** include names or specific locations, such as residence hall room numbers. Incidents must be entered into the log within two (2) business days.

However, if there is clear convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur. This log is available to the general public at the UNK Police Department Office located in the Facilities Building, at 2501 19<sup>th</sup> Avenue Kearney, NE and is maintained for a minimum of 60-days. Requests for crime log information in excess of the 60-day period will be honored within 2- business days.

**Disclose and provide to the U.S. Department of Education, crime statistics for incidents that occur on campus, in unobstructed public areas immediately adjacent to or running through the campus and at certain non-campus facilities, including Greek housing and remote classrooms.**

The statistics must be gathered from campus police or security, local law enforcement and other school officials who have "significant responsibility for student and campus activities," (Campus Security Authority) (CSA). The Clery Act requires reporting of crimes in seven major categories, some with significant sub-categories and conditions:

1. Criminal Homicide
  - a. Murder & Non-negligent manslaughter
  - b. Negligent manslaughter
2. Sex Offenses
  - a. Rape
  - b. Fondling
  - c. Incest
  - d. Statutory Rape
3. Robbery
4. Aggravated Assault
5. Burglary
6. Motor Vehicle Theft
7. Arson

Hate crimes must be reported by category of prejudice, including race, gender, religion, national origin, sexual orientation, gender identity, ethnicity and/or disability. In addition to the above-noted crimes, if the crime committed is classified as a hate crime, statistics are required for the following four additional crime categories:

1. Larceny/Theft
2. Simple Assault
3. Intimidation
4. Destruction/Damage/Vandalism of Property

The statistics for the following incidents must be reported in addition to those above:

1. Domestic Violence
2. Dating Violence
3. Stalking

Institutions are required to report statistics for the following categories of arrests or referrals for campus disciplinary action (if an arrest was not made):

1. Liquor Law Violations
2. Drug Law Violations
3. Illegal Weapons Possession

**Issue timely warnings about Clery Act crimes that pose a serious or ongoing threat to students and employees** – Institutions must provide timely warnings in a manner likely to reach all members of the campus community. Timely warnings are limited to those crimes and incidents an institution is required to report and include in its ASR. There are differences between what constitutes a timely warning and an emergency notification; however, both systems are in place to safeguard students and campus employees.

**Devise an emergency response, notification and testing policy** – Institutions are required to inform the campus community about a “significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus.” An emergency response expands the definition of timely warning as it includes both *Clery Act crimes* and other types of emergencies (i.e., a fire or infectious disease outbreak). Colleges and universities with and without on-campus residential facilities must have emergency response and evacuation procedures in place. Institutions are mandated to disclose a summary of these procedures in their ASR. Additionally, compliance requires one test of the emergency response procedures annually and policies for publicizing those procedures in conjunction with the annual test.

**Compile and report fire data to the federal government and publish an annual fire safety report** – Similar to the ASR and the current crime log, institutions with on-campus housing must report fires that occur in on-campus housing, generate both an annual fire report and maintain a fire log that is accessible to the public. If specifically identified as such, the fire report can be combined with the annual crime report, and the fire log can be combined with the crime log (UNK combines the reports and logs).

**Enact policies and procedures to handle reports of missing students** – This requirement is intended to minimize delays and confusion during the initial stages of a missing student investigation. Institutions must designate one or more positions or organizations to which reports of a student living in on-campus housing can be filed if it’s believed that a student has been missing for 24-hours.

**Campus Security Authority (CSA) – if someone has significant responsibility for student and campus activities, he or she is a campus security authority.** This is to include, but not limited to, the Chancellor, Senior Vice Chancellor of Academic/Student Affairs, Dean of Student Affairs, Police Officers, Community Service Officers, Student Conduct Officer, Residence Life staff, Student Activities staff, Director of Counseling and Student Health, Part-time Victim Advocate, Athletics, Human Resources, Ombudsperson, Title IX Specialist and student organization advisors. Other officials may be identified by additional policy generated by the Chancellor or his/her designee as deemed necessary and the University will maintain, revise and disseminate procedures as required to effectuate this legislation. Professional mental health, pastoral and other licensed counselors (when functioning in that capacity) are not considered campus security authorities. However, all members of the University community including the above listed are encouraged to report crimes or criminal activity for inclusion in the annual disclosure of crime statistics by utilizing the [CSA Reporting form](#), or by directly contacting the UNK Police Department.

The role of the CSAs is to be there for students as someone to whom they can report crimes, look to for guidance if they have been victims of a crime, or ask if they need advice as to whether or not they should report an incident. CSAs are not responsible for taking any action regarding suspected perpetrators, nor are they to make any judgments as to whether or not a crime took place or try convince victims of a crime to contact the police if no police involvement is desired; CSAs are simply available as a resource. It is important to be aware that the Clery Act requires universities to disclose “statistics concerning the occurrence of certain criminal offenses reported to local law enforcement agencies or any official of the institution who is the CSA,” which means that CSAs are required to relay the type of crime reported and its location to the UNLPCD for statistical purposes and to determine if there is an ongoing threat to the campus community. This does not mean that law enforcement must be involved or charges filed, as this is up to the victim, and no names will ever be provided by the CSA without prior approval of the reporting party.

The University also has an online non-emergency reporting system. It is not the University’s intent to replace direct contact with University officials, but instead to provide an additional avenue for reporting campus incidents, concerns, or comments. It is important to note that reports submitted on-line may not receive an immediate response. While anonymous reporting is an option, individuals should be aware that, if they wish to remain anonymous, a follow-up cannot be provided. This reporting system is meant to provide an additional option for the campus community to work together to ensure our university maintains a welcoming and safe environment. This can be done anonymously at the University’s “[Silent Witness](#)” web page.

This gives employees and students the ability to report a crime voluntarily and confidentially. Further, professional mental health, and other licensed counselors are encouraged to let their clients know their options for reporting such crimes.

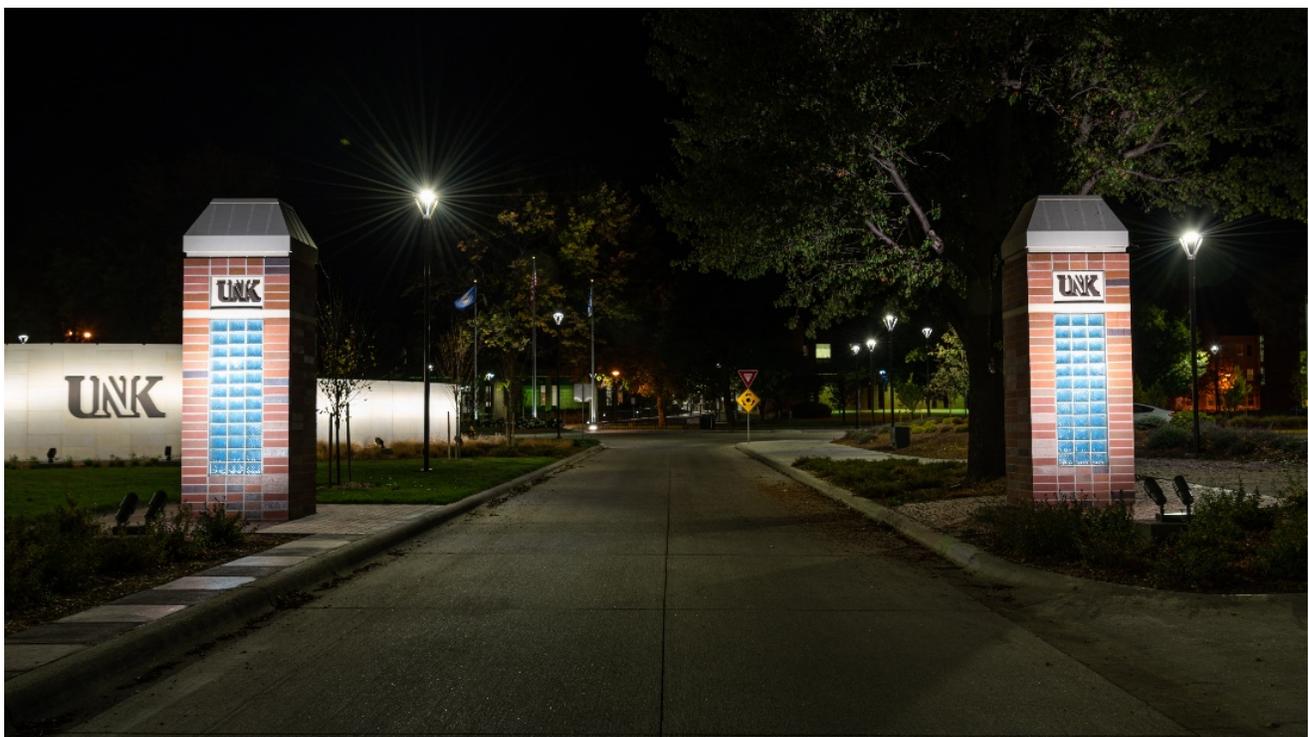
**Student Code of Conduct** – The University of Nebraska at Kearney (UNK) is a community of scholars that values the freedoms of inquiry and expression. The Student Code of Conduct is intended to present a clear statement of student rights and responsibilities and to set forth the procedures established by the University of Nebraska at Kearney to protect those rights and address the abdication of those responsibilities. The Student Code of Conduct describes the types of acts that are not acceptable in an academic community, as well as the general processes used to address those acts. The UNK Student Code of Conduct procedures act as an educationally-based fact-finding process, not a court of law. Its proceedings are not civil or criminal trials.

The hearings are not adversarial proceedings but rather inquiries conducted by the Conduct Officer and/or Board. Students do not relinquish their rights or shed their responsibilities as citizens by becoming members of the University community. Students must also be aware that, as citizens, they are subject to all federal and state laws in addition to all University regulations governing student conduct and responsibilities.

**Law Enforcement on campus** – The UNKPD, which has seven (7) full-time and one (2) part-time certified officers having full police and arrest powers, that are in charge of coordinating all campus safety and security measures. UNKPD officers enforce University regulations and laws of the State of Nebraska on the UNK campus. These men and women complete courses of certification at the Nebraska State Law Enforcement Training Center and are commissioned by the State of Nebraska as Special Deputy Sheriffs. They undergo continuous training to upgrade and maintain their professional skills as law enforcement officers.

The UNKPD also employs one (1) full-time Community Service Officer and one (1) part-time Community Service Officer (CSO) whose primary purpose is to provide security on campus. CSOs do not have arrest powers (non-commissioned); however, they do undergo training in the areas of security, life safety, and the handling of situations with which they may be confronted. CSOs patrol the buildings and surrounding areas, maintaining constant radio contact with the UNKPD officers, requesting officer assistance when necessary.

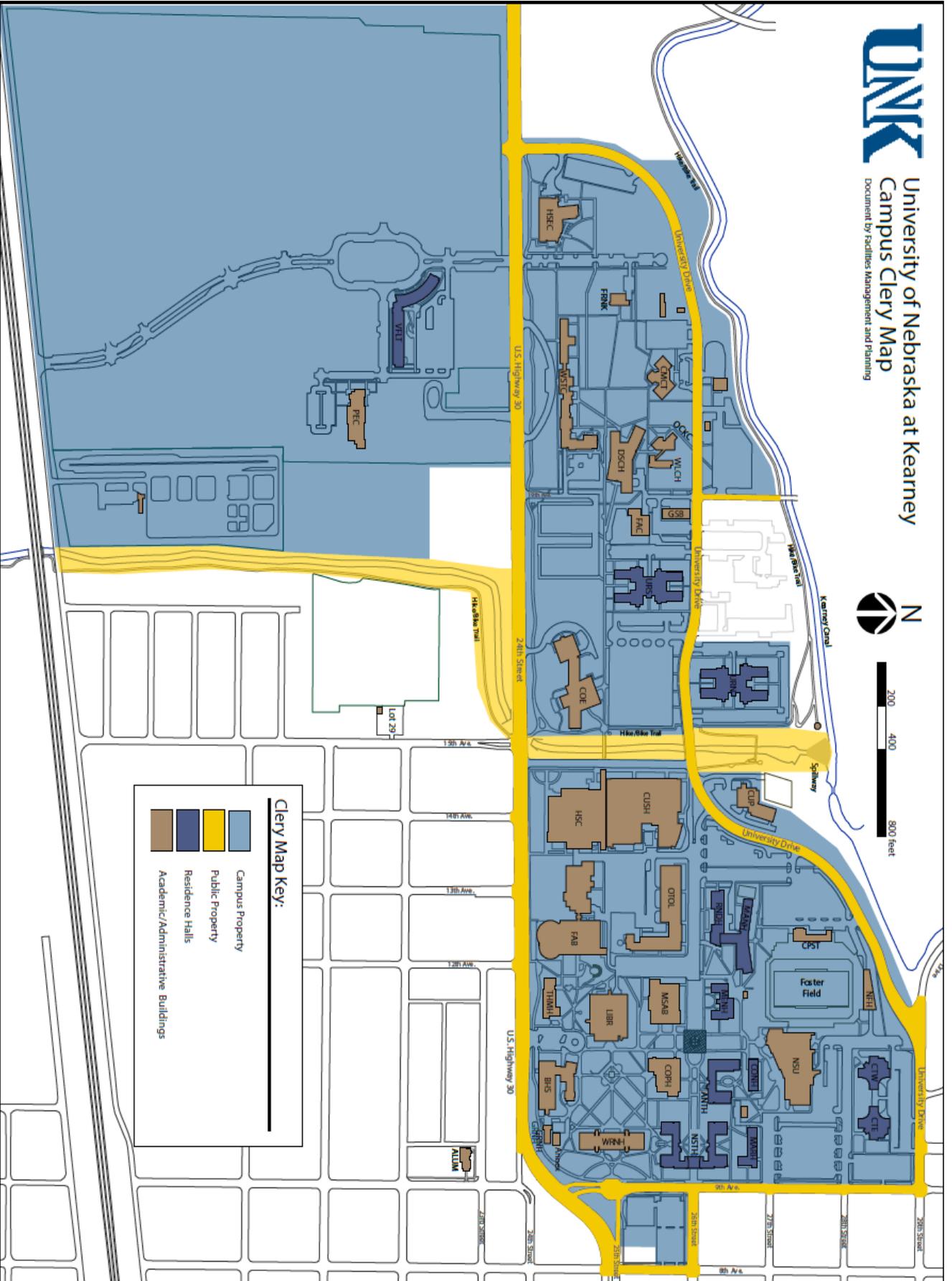
UNK Police Department officers enforce University regulations, laws of the State of Nebraska within their jurisdiction which includes all University-owned, leased or controlled property and the streets adjoining and adjacent to the University and also support the Kearney Police Department (KPD.)





# University of Nebraska at Kearney Campus Clergy Map

Document by Facilities Management and Planning



### Clergy Map Key:

	Campus Property
	Public Property
	Residence Halls
	Academic/Administrative Buildings

**Maintain a public crime log** – Institutions with a police or security department are required to maintain a public crime log documenting the "nature, date, time and general location of each crime" and its disposition, if known. Incidents must be entered into the log within two business days. The log should be accessible to the public during normal business hours; remain open for sixty (60) days and, subsequently, made available within two business days upon request.

UNK Police Department officers are responsible for a full range of public safety services, including investigations, medical emergencies, fire emergencies, traffic accidents, enforcement of state and local laws and all other incidents requiring police assistance to include arresting necessary persons.

UNK Police Department officers conduct foot, bicycle and motorized patrol of campus 24-hours a day, 365-days a year. UNK Police Department works closely with the KPD, the Buffalo County Sheriff's Office (BCSO) and the Nebraska State Patrol (NSP.) Although there are no written memoranda of understandings between these agencies, all agencies actively assist each other as needed. Incidences that cross jurisdictions or require additional personnel or equipment beyond the University's abilities will be conducted jointly with another agency. The KPD also responds to any off-campus incident involving student activities within the city limits. UNKPD will assist them upon their request. University police officers have direct radio communication with both the KPD and the BCSO and are part of the Buffalo County 911 Emergency Center, as they dispatch for the University.

A request is sent annually for information from KPD, BCSO and NSP to see if any crimes were responded to in our geographical area. In addition, a letter is sent requesting KPD, BCSO and NSP's assistance in notifying UNKPD immediately if they become aware of a situation that is a significant emergency or danger, that may pose an immediate or ongoing threat to the health and safety of students and/or employees on campus. We request information from KPD, BCSO and NSP for any crimes that occur at locations for non-campus functions where student activities are held.

**To report criminal activities or emergencies, UNKPD can be contacted by telephone, in person, or by e-mail:**

1. **Phone:** Contact UNKPD at 308-865-8911
2. **Email:** [unkpd@unk.edu](mailto:unkpd@unk.edu)
3. **Emergency:** If it is an emergency, simply dial 911. All law enforcement agencies in Buffalo County work from the same dispatch system. If dialing 911, the call will automatically be dispatched to the agency having primary jurisdiction.
4. **In person:** Stop in the UNKPD, located at 2501 19<sup>th</sup> Avenue, or if you see an UNKPD officer in a vehicle, on foot, bicycle, get their attention and they will assist you.
5. **"Silent Witness" web page:** for voluntary and confidential reporting, submit a "[Silent Witness](#)" [form](#).

Upon receipt of a call, UNK Police Officers are dispatched to the site of the complaint to investigate the situation. They prepare and submit incident reports for use by the UNK authorities, other law enforcement agencies, and city, county, state or federal prosecutors. All incident reports involving UNK students or reports that occur in the residence halls are forwarded to the Student Conduct Officer and/or the Office of Residence Life for review and potential disciplinary action. Incidents of sexual misconduct are forwarded to the University Title IX Coordinator.

Reporting will assist the University in taking steps to ensure the safety of yourself and others. With such information, the University can also keep accurate records of the number of incidents occurring on University property, determine where there is a pattern of crime and alert the campus community to potential dangers.

Every month, the UNKPD provides its Uniform Crime Report to the Nebraska Crime Commission as required for inclusion of crime statistics that is published annually by the Federal Bureau of Investigation. The yearly report provides detailed statistical information and is available at public libraries.

The University strongly encourages accurate and prompt reporting of all crimes to the UNKPD. The crime may, and should, be reported to local law enforcement agencies (KPD, BCSO and/or NSP) if the incident occurred off campus. If unable to make the report, it is desired that someone else (witness, family member, etc.) who is aware of the incident does the reporting to ensure that the police are aware of the situation. Law enforcement will provide safety planning and should be notified, even if the incident is reported to other entities, internal or external, to the University. Victims and witnesses have the right to report any crime to law enforcement.

Not everyone may want to report crimes and/or press charges. It is the right of victims, no matter what the crime, to not report the crime to UNKPD, a CSA, or any other authority. However, it is important for the safety of campus, as well as for the community as a whole, that any crime is reported so that appropriate measures can be taken (timely warnings, more police patrols, etc.). In addition, reporting helps ensure that statistics publicized by the University are accurate. The University allows victims and witnesses to provide crime information on a voluntary, confidential basis if so desired.

## **Crime Statistics**

The following criminal offenses were reported to the University police, designated Campus Security Authority or to local law enforcement agencies for University owned, leased or controlled property and the public property immediately adjacent to the main campus. To view a map of [UNK campus](#). All years reflect a 12-month calendar year. The definitions for these crime categories are taken from the FBI's Uniform Crime Reporting Program and the Violence Against Women Act (VAWA).

A hate crime is: A crime that manifests evidence that the victim was intentionally selected because of the perpetrator's bias in a belief whether actual or perceived of the victim's race, gender, religion, national origin, sexual orientation, gender identity, ethnicity or disability.

From time to time, an agency will receive a complaint that is determined, through investigation, to be false or baseless. In other words, no crime occurred. If the investigation shows no crime occurred, nor was attempted, the complaint is counted as an unfounded crime. If a thorough investigation is completed by UNKPD, the Director of the UNKPD or by a sworn or commissioned law enforcement officer and a complaint is determined to be false or baseless, then can it be classified as an unfounded crime.

Incidents shown in the "On-Campus Residential" category are also included in the statistics shown in the "On Campus" category.

In 2020, 2019 and 2018, the University Study Abroad program held classes and stayed at the Park Lodge Hotel located at Galway Ireland. In 2020, 2019 and 2018, statistics were not included as the information provided was for regions rather than specific locations and was not detailed enough for these purposes. In 2019, we did not receive responses from the Tahlequah Police Department, the Little Rock Police Department and the Mayetta Police Department.



Type of Crime	Year	On-Campus	On-Campus Residential	Non-Campus	Public Property	Unfounded Crimes	Hate Crimes
<b>Criminal Homicide:</b>							
<b>Murder/Non-Negligent Manslaughter</b>	2020	0	0	0	0	0	0
	2019	0	0	0	0	0	0
	2018	0	0	0	0	0	0
<b>Manslaughter By Negligence</b>	2020	0	0	0	0	0	0
	2019	0	0	0	0	0	0
	2018	0	0	0	0	0	0
<b>*Sex Offenses:</b>							
<b>Rape</b>	2020	1	1	0	0	0	0
	2019	2	1	0	0	1	0
	2018	2	2	0	0	0	0
<b>Fondling</b>	2020	0	0	0	0	0	0
	2019	1	0	0	0	0	0
	2018	2	2	0	0	0	0
<b>Incest</b>	2020	0	0	0	0	0	0
	2019	0	0	0	0	0	0
	2018	0	0	0	0	0	0
<b>Statutory Rape</b>	2020	0	0	0	0	0	0
	2019	0	0	0	0	0	0
	2018	0	0	0	0	0	0
<b>Robbery</b>	2020	0	0	0	0	0	0
	2019	0	0	0	0	0	0
	2018	0	0	0	0	0	0
<b>Aggravated Assault</b>	2020	0	0	0	0	0	0
	2019	0	0	0	0	0	0
	2018	0	0	0	0	0	0
<b>Burglary</b>	2020	3	2	0	0	0	0
	2019	3	2	0	0	0	0
	2018	2	2	0	0	0	0
<b>Motor Vehicle Theft</b>	2020	0	0	0	0	0	0
	2019	0	0	1	0	0	0
	2018	0	0	0	0	0	0
<b>**Arson</b>	2020	0	0	0	0	0	0
	2019	1	0	0	0	0	0
	2018	0	0	0	0	0	0

Type of Crime	Year	On-Campus	On-Campus Residential	Non-Campus	Public Property	Unfounded Crimes	Hate Crimes
<b>Violence Against Women Act (VAWA):</b>							
<b>**Domestic Violence</b>	2020	0	0	0	1	0	0
	2019	1	1	0	0	0	0
	2018	0	0	0	0	0	0
<b>**Dating Violence</b>	2020	0	0	0	0	0	0
	2019	0	0	0	0	0	0
	2018	0	0	0	0	0	0
<b>**Stalking</b>	2020	3	0	0	0	0	0
	2019	3	2	0	0	0	0
	2018	2	2	0	0	0	0
<b>Weapons Law Violation:</b>							
<b>Arrest</b>	2020	0	0	0	1	0	0
	2019	0	0	0	0	0	0
	2018	0	0	0	0	0	0
<b>Disciplinary Referrals</b>	2020	0	0	0	0	0	0
	2019	0	0	0	0	0	0
	2018	1	0	0	0	0	0
<b>Drug Related Violations:</b>							
<b>Arrest</b>	2020	14	6	1	6	0	0
	2019	7	3	0	1	0	0
	2018	8	8	0	2	0	0
<b>Disciplinary Referrals</b>	2020	4	4	0	0	0	0
	2019	6	6	0	0	0	0
	2018	7	7	0	0	0	0
<b>Liquor Law Violations:</b>							
<b>Arrest</b>	2020	25	14	0	2	0	0
	2019	18	15	0	2	0	0
	2018	13	13	0	0	0	0
<b>Disciplinary Referrals</b>	2020	18	15	0	0	0	0
	2019	15	14	0	0	0	0
	2018	16	10	1	0	0	0
*If a homicide occurred during the commission of a sex offense, both the sex offense and homicide will appear in the statistics. **These crimes are non-hierarchical, meaning they are reported separately; the crime may have occurred in conjunction with one of the above-noted crimes							

## **Reported Hate Crimes**

Hate crimes on campus:

2020 – No hate crimes were reported.

2019 – Two (2) vandalism based on sexual orientation was reported.

2018 – No hate crimes were reported.

Hate crimes in on-campus housing:

2020 – No hate crimes were reported.

2019 – Two (2) vandalism based on sexual orientation was reported.

2018 – No hate crimes were reported.

Hate crimes non-campus:

2020 – No hate crimes were reported.

2019 – No hate crimes were reported.

2018 – No hate crimes were reported.

Hate crimes on public property:

2020 – No hate crimes were reported.

2019 – No hate crimes were reported.

2018 – No hate crimes were reported.

## **Unfounded Crimes**

Unfounded crimes on campus:

2020 – No unfounded crimes.

2019 – One (1) unfounded crime was reported.

2018 – No unfounded crimes.

There were no unfounded crimes located in on-campus housing, non-campus or public property for 2020, 2019 or 2018.

## **University Notification**

UNK believes that dissemination of information is the key to educating our community about the occurrence of crime on campus. Efforts are made to advise members of the campus community on a timely basis about University crime and crime-related problems. These efforts include the following:

1. Annual Report - An annual report of crime-related information is compiled. An e-mail is sent to University members telling them where/how to access the report.
2. Uniform Crime Report - UNK Police Department monthly submits crime statistics to the Uniform Crime Report that is published annually by the Federal Bureau of Investigation. The yearly report provides detailed statistical information and is available at public libraries.

3. Daily Crime and Fire Log - UNK Police Department document a daily crime log and fire log that details the date, time, general location, description of the crimes or fires and a disposition of the complaint that occurred in their patrol district. The log **does not** include names or specific locations, such as residence hall room numbers. This log is updated within 2-business days of the initial report being taken or any new information being obtained. However, if there is clear convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur. This log is available to the general public at the UNK Police Department Office located in the Facilities Building, at 2501 19<sup>th</sup> Avenue Kearney, NE and is maintained for a minimum of 60-days. Requests for crime log information in excess of the 60-day period will be honored within 2-business days.
4. UNK Alert - Is a notification system that allows the University to notify campus community members of a campus threat. Messages can be sent by e-mail, text message and phone. It may be also be decided to manually update Facebook, Twitter and the UNK website home page with the information.

The release of information to the public shall be in compliance with all federal, state and local laws.



## Timely Warning Policy

### 1. Scope –

Timely Warnings are issued by the University of Nebraska Kearney Police Department (UNKPD), or their designee and are used to notify the campus community and visitors in a timely manner of specific crimes that occur within the University Clery geographic area that pose a serious or continued threat to the campus community members. This notification is intended to aid in the prevention of future crimes and allow community members and visitors to take steps to aid in their own safety. Timely Warnings withhold the victim's Personal Identifying Information. Timely warnings are designed to inform you of something that has already happened but may have a potential serious or ongoing impact on the University community.

The Clery Act doesn't define timely. A warning will be issued as soon as pertinent information is available. Generally, there is no allowance for taking time to review video footage, interviewing involved parties beyond the initial report, or completing an investigation, etc. Even if all of the facts surrounding a Clery Act criminal incident that represents a serious and continuing threat to students and employees are not available or known, a Timely Warning must be issued.

It is further the policy of this department to maintain compliance with applicable features of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

### 2. Policy Statement –

The University of Nebraska at Kearney, in compliance with Clery Act – 20 USC 1092, will notify the campus community of Clery-specified crimes reported to UNKPD occurring in Clery geographic areas that represent a serious or continued threat to students, employees and members of the Community by providing Timely Warnings.

### 3. Reason for Policy –

This policy was created to establish the University's responsibilities and procedures for timely notifying the campus community members and visitors of specific crimes that occur within the Clery geographic area, upon confirmation of the threat.

### 4. Procedures –

#### A. How to Report –

1. Campus Security Authorities (CSA's) are required to notify UNKPD any time that they believe an incident has occurred that may be a Clery reportable crime within the predetermined Clery geographic areas. Due to the confidential nature of their job responsibilities, Pastoral or Professional Counselors are exempt from reporting to the police.
2. UNKPD can be notified by calling 308-865-8911 or 911.
3. Local law enforcement agencies also have been asked to notify UNKPD if they become aware of a situation that warrants a notice to the University students, staff and faculty.
4. If this emergency is a serious health matter, he or she should contact Student Health and Counseling at 308-865-8218, or 911.

- B. When to send a Timely Warning –
1. The UNKPD Chief or the designee is responsible for making the decision whether a Timely Warning will be issued. He or she can do this in consultation with other University and city departments if needed.
  2. A Timely Warning must be issued for any Clery reportable crime that occurs within the institution's Clery geography.
  3. Is the reported incident considered by the institution to represent a serious or continuing threat to the campus. Whether a reported crime constitutes a continuing threat must be decided on a case-by-case basis in light of all facts surrounding a crime. This includes factors such as the nature of the crime, the continuing danger to the campus community and the possible risk of compromising law enforcement efforts.
  4. A Timely Warning may be issued for other incidents as deemed necessary by UNKPD taking into consideration the seriousness of the threat, its likelihood to continue to be a threat to the community, and the frequency of the incidents.
  5. The UNKPD Supervisor or the designee is responsible for making the decision whether a timely warning will be issued. He or she can do this in consultation with other University and city departments if needed.
  6. When assessing if a notification is necessitated, officers will determine if the incident was a Clery crime, if the incident happened on Clery geographic area and if there is a serious or continuing threat to the campus
  7. If a large amount of time has elapsed between the occurrence and the report, it may be determined that a notification is no longer needed.
  8. If there is a compromise to law enforcement efforts to assist a victim, contain an emergency, respond to an emergency or otherwise mitigate an emergency, it may be determined that a notification is no longer needed.
- C. Determine the Content of the Message –
1. The timely warning must contain sufficient information about the nature of the threat to allow members of the campus community to take action to protect themselves. The timely warning should include information that would promote safety and that would aid in the prevention of similar crimes.
  2. A timely warning may include but is not limited to the following, unless issuing any of this information would risk compromising law efforts:
    - a) Date and approximate time of the incident;
    - b) A brief description of the incident;
    - c) Possible connection to previous incidents;
    - d) Information that will promote safety and potentially aid in the prevention of similar crimes (crime prevention or safety tips);
    - e) This notification will withhold the names of the victims associated with any emergency;
    - f) Suspect description(s) when deemed appropriate and if there is sufficient detail; (The description of the subjects in a case will only be included in a timely warning if there is a sufficient amount of detail to describe the individual. If the only known descriptors are sex and race, they will not be included in the notification);
    - g) Information on crime prevention, personal safety or other community safety resources;
    - h) UNKPD contact information.

D. Review of the Message –

1. Unless exigent circumstances exist, UNKPD Chief or designee will draft an email containing the proposed Timely Warning and forward it to UNK Communications and Community Relations for review and distribution.
2. If other departments are available at the time of the incident UNKPD may request assistance in sending the message. Other departments who have access and the ability to send the Timely Warnings are:
  - a) Communications and Community Relations
  - b) Emergency Planning and Management
  - c) Risk Management
3. If exigent circumstances exist, the notification will be sent by UNKPD without consultation or the review process.

E. Timing of the Timely Warning –

1. Although federal regulations provide no clear guidelines on the length of time between the receipt of a crime report and the dissemination of timely warnings, the University will take no more time than necessary to analyze the threat, determine the need for the notice and disseminate the timely warning. Due to necessity, a timely warning may be issued with few facts and then updated as more information is provided, if needed.
2. This does not preclude UNKPD personnel from issuing follow-up messages independently if the nature of the emergency changes and continues to pose a threat to the University community.

F. Distribution –

1. The Timely Warning must be distributed in a manner reasonably likely to reach the entire campus community (students, staff and faculty) as well as visitors.
2. Depending on the circumstances, any of the following methods, or combination thereof, may be used, including but not limited to:
  - a) UNK Alert. Communication devices can be cell phones (text and voice), landline phones, and e-mail addresses. Telephone numbers and e-mail addresses for UNKAlert will be maintained from SAP for employees and MyBLUE for students.
  - b) Students and employees who do not wish to receive emergency messages on their personal telephones or e-mail addresses may "opt-out". ([Opt-Out Form](#)) Students and employees **cannot** "opt-out" of receiving UNKAlert on UNK landline telephones, UNK e-mail addresses or cell phones provided by UNK.
  - c) It may be also be decided to manually update Facebook, Twitter and the UNK website home page with the information
  - d) Campus-wide Announce e-mail to employees
  - e) Campus-wide Announce or Student Bulletin e-mail to students
  - f) Voice Over Fire Alarm system
  - g) News release or media statement
  - h) Manual posting of notices
3. In order to disseminate emergency information to a larger community (other than UNK) we would contact the Buffalo County dispatch for them to utilize their alert system.

4. Unless exigent circumstances exist, the Department of Communications and Community Relations will determine the content of any follow-up messages with the assistance, as needed, from the Incident Commander, responding agencies and collaborating agencies. Any follow-up message will use some or all of the distribution systems available to the University.
5. This policy is **not** applicable if a notification is sent out under the Emergency Notification Policy.

G. External Notifications –

All external notifications will be handled by Communications and Community Relations, unless external media was used in the initial notification. Communications and Community Relations will be the contact department for all external media unless otherwise determined through the Incident Command Process.

H. System Testing –

1. The UNK Alert system is tested a minimum of once a semester by the EOT, unless it has already been activated for a real event prior to the scheduled drill.
2. The Voice Over Fire Alarm Speaker system is tested bi-annually and the sprinkler systems are tested quarterly per NFPA requirements.
3. Any issues or concerns discovered during testing or during issuance of any message will be immediately addressed.

4. Definitions –

- A. Campus Security Authority: A Campus Security Authority (CSA) is any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution. This includes anyone with security responsibility or anyone who has a significant responsibility for student and campus activities, including but not limited to, the following:

- Chancellor
- Senior Vice Chancellor of Academic/ Student Affairs
- Dean of Student Affairs
- Police Officers
- Community Service Officers
- Student Conduct
- Housing Director, Resident Assistants, and Residential Life Coordinators
- Student Activities Staff
- Student Health Care
- Athletics Director and Coaches
- Human Resources
- Ombudsperson
- Title IX Coordinator
- Student Organization Advisors
- Part-time Victim's Advocate

- B. The Clery Act requires reporting of crimes in seven major categories, some with significant sub-categories and conditions:

1. Criminal Homicide
  - a) Murder & Non-negligent Manslaughter
  - b) Manslaughter by Negligence

2. Sex Offenses
    - a) Rape
    - b) Fondling
    - c) Incest
    - d) Statutory Rape
  3. Robbery
  4. Aggravated Assault
  5. Burglary
  6. Motor Vehicle Theft
  7. Arson
- C. Hate crimes must be reported by category of prejudice, including race, gender, religion, national origin, sexual orientation, gender identity, ethnicity, and/or disability. In addition to the above-noted crimes, if the crime committed is classified as a hate crime, statistics are required for the following four additional crime categories:
1. Larceny/Theft
  2. Simple Assault
  3. Intimidation
  4. Destruction/Damage/Vandalism of Property
- D. The statistics for the following incidents must be reported in addition to those above:
1. Domestic Violence
  2. Dating Violence
  3. Stalking
- E. Institutions are required to report statistics for the following categories of arrests or referrals for campus disciplinary action (if an arrest was not made):
1. Liquor Law Violations
  2. Drug Law Violations
  3. Illegal Weapons Possession
- F. Clery Geographic Area -
1. Campus – Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes. This includes residence halls and any building or property that is within or reasonably contiguous and owned by the institution but controlled by another person, is frequently used by students and supports the institutional purposes (such as food or retail vendors).
  2. Non-campus building or property – Any building or property owned or controlled by a student organization that is officially recognized by the institution or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution’s educational purposes. It is frequently used by students and is not within the same reasonably contiguous geographic area of the institution.

3. Public Property –

All public property, including thoroughfares, streets, sidewalks or parking facilities that is within the campus or immediately adjacent to and accessible from the campus.

G. Pastoral Counselor -

A person who is associated with a religious order or denomination and is recognized by that religious order or denomination as someone who provides confidential counseling and is functioning within the scope of that recognition as a pastoral counselor.

H. Professional Counselor -

A person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her license or certification. This definition applies even to professional counselors who are not employees of the institution but are under contract to provide counseling at the institution.



# Emergency Notification Policy

## 1. Scope –

Emergency Notifications are issued by the University of Nebraska Kearney Police Department (UNKPD), or their designee and are used to notify the campus community and visitors immediately upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of the campus community. An Emergency Notification is used to inform the University community to do something differently immediately (such as evacuate a building) and to anticipate a potential future incident.

It is further the policy of this department to maintain compliance with applicable features of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

## 2. Policy Statement –

The University of Nebraska at Kearney, in compliance with Clery Act – 20 USC 1092, will notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus.

This notification is intended to allow community members to take steps to aid in their own safety. The university will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to or otherwise mitigate the emergency.

## 3. Reason for Policy –

To immediately notify the campus community and visitors of significant emergencies or dangerous situations involving the immediate threat to the health and safety of students, employees or visitors on campus, upon the threat's confirmation. This notification is intended to allow community members to take steps to aid in their own safety.

## 4. Procedures -

### A. How to Report –

1. UNKPD can be notified by calling 308-865-8911 or 911.
2. Local law enforcement agencies also have been asked to notify UNKPD if they become aware of a situation that warrants a notice to the University students, staff and faculty.
3. If this emergency is a serious health matter, he or she should contact Student Health and Counseling at 308-865-8218, or 911.

### B. When to send an Emergency Notification –

1. The UNKPD Chief or the designee is responsible for making the decision whether an Emergency Notification will be issued. He or she can do this in consultation with other University and city departments if needed.
2. An Emergency Notification is triggered by an event that is currently occurring on or imminently threatening the campus.
3. Implement Emergency Notification procedures for any significant emergency or dangerous situation occurring on the campus involving an immediate threat to the health or safety of students, employees or visitors on campus.

4. Initiate procedures immediately upon confirmation that a dangerous situation or emergency exists or threatens the campus.
- C. Determine the Content of the Message –
1. Once facts are present to show there is a significant emergency or dangerous situation involving the immediate threat to the campus community, the department confirming these facts will contact the UNKPD Chief or designee.
  2. If other departments are available at the time of the incident UNKPD may request assistance in sending the message. Other departments who have access and the ability to send the Emergency Notification message are:
    - a) Communications and Community Relations
    - b) Emergency Planning and Management
    - c) Risk Management
  3. This notification will warn people in the affected area of the emergency and list any precautionary steps to take, if known.
  4. This notification will withhold the names of the victims associated with any emergency.
- D. Review of the Message –
1. Unless exigent circumstances exist, UNKPD Chief or designee will draft an email containing the proposed Emergency Notification and forward it to UNK Communications and Community Relations for review and distribution.
  2. If exigent circumstances exist, the notification will be sent by UNKPD without consultation or the review process.
- E. Determine who will receive the Notification –
1. Notification shall be sent to the appropriate segment or segments of the University that will be directly impacted by the incident.
  2. There will be a continuous assessment of the situation and that additional segments of the campus community may be notified if a situation warrants such action.
  3. The entire campus community will be notified when there is at least the potential that a very large segment of the community will be affected or when a situation threatens the operation of the campus as a whole.
  4. The communication of this information will be determined by the department confirming the facts of the incident.
- F. Distribution –
1. Based on the above determination, the emergency and who is affected, UNKPD or their assisting agency will determine what modes of communication will be used.
  2. Depending on the circumstances, any of the following methods, or combination thereof, may be used, including but not limited to:
    - a) UNK Alert. Communication devices can be cell phones (text and voice), landline phones, and e-mail addresses. Telephone numbers and e-mail addresses for UNKAlert will be maintained from SAP for employees and MyBLUE for students.
    - b) Students and employees who do not wish to receive emergency messages on their personal telephones or e-mail addresses may "opt-out". ([Opt-Out Form](#)) Students and employees **cannot** "opt-out" of receiving UNKAlert on UNK landline telephones, UNK e-mail addresses or cell phones provided by UNK.

- c) It may be also be decided to manually update Facebook, Twitter and the UNK website home page with the information
  - d) Campus-wide Announce e-mail to employees
  - e) Campus-wide Announce or Student Bulletin e-mail to students
  - f) Voice Over Fire Alarm system
  - g) News release or media statement
  - h) Manual posting of notices
3. In order to disseminate emergency information to a larger community (other than UNK) we would contact the Buffalo County dispatch for them to utilize their alert system.
  4. Unless exigent circumstances exist, the Department of Communications and Community Relations will determine the content of any follow-up messages with the assistance, as needed, from the Incident Commander, responding agencies and collaborating agencies. Any follow-up message will use some or all of the distribution systems available to the University.
  5. If this policy is utilized, the Timely Warning policy is not relevant. Federal law specifies that “an institution that follows its Emergency Notification procedure is not required to issue a timely warning based on the same circumstances; however, the institution must provide adequate follow-up information to the community as needed.

G. External Notifications –

All external notifications will be handled by Communications and Community Relations, unless external media was used in the initial notification. Communications and Community Relations will be the contact department for all external media unless otherwise determined through the Incident Command Process.

H. System Testing –

1. The UNK Alert system is tested a minimum of once a semester by the EOT, unless it has already been activated for a real event prior to the scheduled drill.
2. The Voice Over Fire Alarm Speaker system is tested bi-annually and the sprinkler systems are tested quarterly per NFPA requirements.
  - a) Any issues or concerns discovered during testing or during issuance of any message will be immediately addressed.

# Emergency Response Procedures

UNK has an Emergency Operation Team (EOT), which has plans in place to deal with emergency situations on the University of Nebraska at Kearney campus. This plan is designed to provide guidance to the University's responders and the campus community applicable to all emergencies. It has identified functional responsibilities of various organizations and offices within the University.

UNK has a detailed [emergency operations plan](#) for the protection of the campus community. Everyone on campus property is expected to know and follow these plans so emergency situation can be minimized. To view in person or request a copy, contact UNKPD at (308) 865-8911 or at 2501 19<sup>th</sup> Avenue.

All new employees are given a copy of the Emergency Procedures. Posters of the Emergency Procedures are also placed on public bulletin boards in academic buildings.

Upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health and safety of students or employees, the University will immediately notify the campus community of the situation.

The EOT designs and implements exercises and trainings throughout the year to test the University's emergency operations plans. These exercises are conducted for both the University as a whole and for single departments or areas. This committee also oversees annual evacuation drills for academic buildings and residence halls. For these drills, occupants are made aware of a date range the drill will be held but not the time. Building evacuation plans are reviewed, updated and sent out at this same time. These drills are documented and any issues of concern are forwarded to the proper department to be addressed.

In 2020 some of the exercises and/or trainings the University conducted or participated in were:

- Tornado Drill
  - Announced prior to drill
  - Drill held: March 25, 2020, 10:15 a.m.
  - This is the same day as the Statewide Tornado Drill. We use this day to educate the campus about the University Emergency Operation Plan and shelter locations.
  
- Severe Weather Awareness Week
  - Announced prior
  - March 23 – 27, 2020
  - Used to train on what to do in various severe weather situations.
  - Posts regarding information sent out via social media every afternoon.
  
- RA Fire Drill Training
  - Announced prior
  - August 15, 2020
  - Used to train RA's what their role would be in an emergency.

## UNK Alert Tests

- Announced prior for tests; however, can also be actual alerts.
- Alerts sent on: April 30, 2020 at 3:24 a.m. and 3:34 a.m. and December 11, 2020 at 10:31 a.m.

## ● Campus Wide Evacuation Drills

- Received waiver from University of Nebraska Fire Marshall Rich Firebaugh. This was due to COVID-19 protocols and distancing. Evacuation procedures were discussed and demonstrated at Residential meetings by individual floors and at UNK employee departmental meetings.

## ● COVID-19 EOC activation - COVID pandemic

- UNK EOC activated February 5, 2020 at 3:00 p.m.
- Frequent meetings throughout the year. Nearly daily Mid-March through first of May; then at least weekly.
- Numerous trainings and information briefings were associated with COVID-19 activities.

## ● UNK Active Shooter Full Scale Exercise

- January 8-9, 2020 – AALERT active shooter training for all UNK Police Officers and several UNK Administrative members.

## ● Trainings

- February 4, 2020 – Muslim / Sikh Training
- March 5, 2020 – Disaster PIO training
- March 16-17, 2020 – G205 Recovery from Disaster
- May 12, 2020 – National Weather Service severe weather spotter training
- September 24, 2020 – Anti-Bias training
- October 14-15, 2020 – Road to Recovery webinar series



## University of Nebraska at Kearney Shelter-In-Place Plan

1. Purpose -
  - A. To provide for the timely and orderly process to shelter in place all or part of the University of Nebraska at Kearney campus when it is determined that such action is the most effective means available for protecting the population.
2. Definitions of Shelter-In-Place -
  - A. The action of seeking immediate shelter indoors following the announcement of an emergency situation.
3. Responsibilities -
  - A. EOT Emergency Coordinator -

Oversee the dissemination of internal information related to the emergency. Including: activating UNK Alert to notify the campus that they should shelter in place; coordinate support activities, work with outside entities and manage resources for the response; serve as a liaison between the University administrative group, the EOC, the Incident Commander and the city EOC.
  - B. Incident Commander -

Responsible for the overall control of the incident. Identify the emergency and make decisions as to whether or not to shelter-in-place.
  - C. Building Emergency Coordinator -

Implement shelter-in-place procedures after receiving official notification. Keep occupants calm and informed regarding reason for shelter-in-place and possible duration. Provide notification and status updates to Incident Commander. Restore building to normal function following an all-clear.
  - D. UNK Police Department -

Responsible to coordinate security for the affected area(s).
  - E. Facilities -

Responsible for managing all HVAC systems to preserve life safety, the building and its contents, generator operations, lead and advise the EOC and the Incident Command for all HAZMAT events and assist in securing University buildings occupied by Facilities staff. Facilities will assist in determining any damage to campus property and the ability of the University to occupy/utilize them.
  - F. Student Health and Counseling -

Available for telephone triage regarding health issues.
  - G. Human Resources -

Responsible for advising the EOC on any employee information needed. Afterwards, Human Resources would advise the campus community on payroll matters for the affected time, coordinate and provide EAP services and handle the need for any altered work schedules for the future of recruitment to replace any employees.
  - H. Residential Life -

Responsible for communicating shelter-in-place plans to all residents and locking residence hall doors.
  - I. University Relations -

Responsible for the dissemination of external information related to the emergency and evacuation, maintain and post an emergency webpage, and monitor and control rumors both internally and externally.

- J. Information Technology Services -  
Responsible for maintaining network and application service to include SAP, PeopleSoft and integrated applications, e-mail, and the University web page as long as possible. Arrange for activation of the alternate hosting site for the UNK web pages if needed. Establish Internet connectivity for Incident Command and EOC. Secure and shut down network equipment when it becomes imperative.
- K. Academic Affairs -  
Responsible for advising the EOC of sensitive functions or areas of campus that may need special response consideration such as animal labs or radioactive/hazmat materials. After the initial sheltering is concluded, Academic Affairs will advise the EOC on COOP (Continuity of Operation Plan) matters.
- L. Student Affairs -  
Coordinate all student response efforts.
- M. Disabilities Services -  
Coordinate and execute preplanning for emergency situations with students registered with a disability.
- N. Business Services -  
Responsible for activating the emergency alert system for the University cable television. Assist in establishing telecommunications services for the Incident Command and the Emergency Operation Center.
- O. Buffalo County Emergency Manager -
  - 1. Responsible for advising the UNK Emergency Management Coordinator on city decisions, coordinate support activities and manage resources.
- P. American Red Cross -
  - 1. Responsible for coordinating mass care activities including registration, lodging and feeding individuals who were off campus when the shelter-in-place was declared and now cannot access their homes. This effort will be supported by the Salvation Army and other service organizations.
- 4. Concept of Operation -
  - A. Shelter-In-Place Order -
    - 1. Shelter-in-place orders will be made by the Chancellor of the University or his/her designee or by the direction of the City of Kearney.
    - 2. In situations where rapid deployment of shelter-in-place is critical to ensure the continued health and safety of the community, the on-scene command has authority to order the shelter-in-place.
  - B. Shelter-In-Place Decision Consideration -
    - 1. When deciding whether to shelter-in-place, care must be exercised by decision-makers to ensure that a directed shelter-in-place will not place the affected population into a more dangerous situation than posed by the primary hazard or alternative response actions. When making this decision the following considerations should be addressed:
      - a. Weather conditions
      - b. How quickly the different responses can be implemented
      - c. How safely the different responses can be implemented
      - d. Availability of alternative shelters

- C. Shelter-In-Place Area Definition -
  - 1. The definition of the area to be sheltered will be determined by those officials recommending or ordering the shelter-in-place based on the advice of appropriate advisory agencies.
  - 2. Public Notification.
  - 3. Shelter-In-Place Warning -
    - a. All possible warning modes will be utilized to direct the affected population to shelter-in-place. This includes the use of UNK Alert System to notify individuals by phone, e-mail and text message. The University will also post information on the University web page and television scrolling, if possible. Whenever possible, the University building evacuation personnel will walk through the building, going door to door to notify occupants.
- D. Public Information -
  - 1. UNK Communications and Marketing will ensure that emergency information is disseminated to the media in a timely manner. Instructions to the public and situation updates will be issued as the information becomes available.
- E. Building Emergency Personnel
- F. For the purpose of this plan, Emergency Personnel and their alternates are regular employees who have been selected to ensure that building sheltering is carried out as planned. Building emergency personnel and their alternates shall be selected by the Building Supervisor among building occupants and on a voluntary basis. For the identification of your building's emergency personnel refer to your building evacuation plan.
- G. Following is a list of building emergency personnel and their corresponding duties.
- H. PLEASE NOTE: Assigned duties are to be carried out only if you are **not** putting yourself in danger or risking your personal safety.
  - 1. Work Area Representative -
    - a. Maintain a current list of employees, including part time and student employees and their work schedule.
    - b. Instruct area occupants to shelter-in-place when notified of an emergency.
    - c. Assist and/or direct occupants with limited mobility to their safe rooms
    - d. Check off co-workers who have sheltered-in-place.
    - e. Report emergency situations and missing persons to the Emergency Coordinator.
    - f. Transmit the All-Clear signal to building occupants.
  - 2. Floor Monitor -
    - a. Check all rooms, corridors and restrooms on assigned floors to ensure building occupants have been notified of the shelter-in-place order.
    - b. Make sure windows, doors and fire doors on enclosed stairways and exits are closed.
    - c. Assist and/or direct occupants with limited mobility to their safe rooms.
    - d. Report emergency situations and missing persons to the Emergency Coordinator.
    - e. Transmit the All-Clear signal to building occupants.

3. Emergency Coordinator -
  - a. Secure and lock all exterior doors as needed.
  - b. Collect information on building occupants from Floor Monitors and Work Area Reps.
  - c. Report information to first responders or the UNK EOC on occupants needing assistance or those who may be missing.
  - d. Relay information and updates to building occupants about the situation as they become available.
  - e. Transmit the All-Clear signal to Floor Monitors and Work Area Reps.
  - f. Supply the EOT with necessary information and assist them with any necessary debriefings.
- I. Procedures -
  1. Upon notification of sheltering in place, emergency personnel will complete the job tasks listed above. It is the responsibility of all building occupants to follow any emergency directions and immediately proceed to a safe location within the building. Faculty are responsible for dismissing their classes and relaying all emergency directions to their students. University employees and students are responsible for relaying all emergency directions to their visitors/customers.
  2. Contract workers will be made familiar with the procedure outlined herein and are expected to shelter upon notification.
  3. Designated essential personnel needed to continue or shut down critical operations while a shelter-in-place is underway are responsible for recognizing and/or determining when to abandon the operation and shelter themselves.
- J. Sheltering Instructions by Types -
  1. If sheltering for a tornado, go to the predetermined tornado shelter in your building.
  2. If you are sheltering due to a civil disturbance/Hostage/Active shooter situation:
    - a. Lock and barricade doors.
    - b. Turn off lights, close the blinds and block any windows.
    - c. Turn off or silence anything that makes noise radios, cell phones and computers.
    - d. Keep yourself and occupants calm, quiet and out of sight. Take adequate cover/protection i.e. concrete walls, thick desks, filing cabinet (cover may protect you from bullets).
    - e. As quietly as possible have one person call 911. Give detailed information about the situation.
    - f. Stay alert and adjust your plan as the situation changes.
  3. If you are sheltering due to hazardous materials, harmful contaminants or weather conditions.
    - a. Close and lock all windows, exterior doors and any other opening to the outside.
    - b. Close window shades, blinds or curtains.
    - c. If possible, seal gaps around doors and windows.
    - d. Select an interior room above the ground floor, with the fewest windows or vents. Avoid overcrowding and avoid rooms with mechanical equipment.
    - e. Close the interior door to the room you are sheltering in.
    - f. Shut down all experiments.
    - g. Consider having a room with a standard landline phone available in case radios or cell phones systems fail during the emergency.
    - h. Anyone showing obvious symptoms of exposure to a contaminant must be separated from others. They should wash/shower with soap and water and place contaminated clothing in a sealed bag if possible.

K. Disability Procedures -

1. Any person unable to shelter-in-place or who needs assistance with sheltering-in-place should inform a building occupant or a floor monitor. Move to an interior room. If it is unsafe to do so, remain in your office/classroom/residence.
2. Supervisory personnel and course instructors are responsible for identifying and escorting to safety individuals with disabilities located in their offices/classrooms, if possible.
  - a. Access Control
    - i. If possible building emergency personnel will lock all building outside doors to limit access to the building when necessary.
  - b. Re-Entry
    - i. Remain indoors until “All Clear” message is received and then follow any directions given. If needed Facilities will inspect University buildings and property to ensure they are able to be utilized after a shelter-in-place event.



# Evacuation Procedures

## Building Evacuation -

At the sound of the Emergency Alarm, it is the responsibility of all building occupants to evacuate immediately and proceed to predetermined assembly points, away from the building.

Building occupants are also responsible for ensuring that their visitors/customers follow the evacuation procedure described herein, and leave the building along with all other occupants.

Faculty are responsible for dismissing their classes and directing students to leave the building by the nearest exit upon hearing the alarm or being notified of an emergency.

Essential personnel designated to continue or shut down critical operations while an evacuation is underway are responsible for determining when to abandon the operation and evacuate themselves.

Contract workers will be made familiar with the procedure outlined herein and are expected to leave the building when the alarm sounds.

## Evacuation Instructions –

Whenever you hear the building alarm or are informed of a general building emergency:

- Do not panic or ignore the alarm.
- Dismiss classes in session and leave the building in an orderly fashion immediately.
- Do not go back to your office or classroom area for any reason.
- Do not use the elevators.
- Follow the quickest evacuation route from where you are currently located.
- Proceed to the designated emergency assembly point for your area. If the designated assembly point/area is unsafe or blocked due to the emergency, proceed to the alternate assembly point.
- Report to your Work Area Rep or Instructor at the assembly point to be checked off as having evacuated safely. In addition, report any knowledge you may have of missing persons.
- Return to the building only after emergency officials or building monitors give the all-clear signal. (The silencing of the alarm does not mean the emergency is over.)

Any person unable to evacuate or needs assistance should proceed to the nearest stairwell. If it is unsafe to do so, remain in your office/classroom/residence. Emergency evacuation personnel will check stairwells and ensure emergency response and rescue personnel are notified if someone has taken refuge there.

- Supervisory personnel and course instructors are responsible for identifying and escorting individuals with disabilities that are located in their offices/classrooms to safety, if possible. If they are not able to evacuate the individual, they need to at least get them to a stairwell and notify rescue personnel.

- If you are on a building floor WITHOUT an exit that goes directly to the outside and you hear a fire alarm or are informed of an evacuation:
  - Go to a stairwell immediately.
  - Inform and/or ask someone, a building occupant or a floor monitor in particular, to alert the first arriving emergency responders of your presence and location.
  - Call 911 to ensure rescue personnel are notified of your location and your need for assistance in order to evacuate.
  - Provide operator with your exact location, building name, floor and room number(s).
  - Give the phone number you are calling from.
  - If possible, remain by phone. The officers on the phone have radio contact with officers at scene and will keep you informed of the situation. (The information you provide to the emergency operator will be relayed to emergency and rescue personnel arriving at the scene, who will assist in your safe evacuation, if circumstances warrant.)

### **Campus Evacuation –**

Responsibility for issuing an evacuation order rests with the Chancellor, his/her designee or by direction of the City of Kearney. When there is an immediate need to protect lives and provide for public safety, the on-scene commander can make the decision to evacuate. Individual responsibility should be taken by all faculty, staff, students and guests to ensure their own safety.

#### Public Notification -

Persons to be evacuated should be given as much warning time as possible. On slow moving events, pre-evacuation notice will be given to affected residents. All warning modes will be utilized to direct the affected population to evacuate campus. This will include use of the UNK Alert system to notify individuals by phone, e-mail and text message. The University will also post information on the University website and UNK's primary social media channels. Wherever possible, the University building evacuation plans will be implemented and work-area reps and floor monitors will walk through buildings going door-to-door to notify occupants.

Communications and Marketing will ensure emergency and evacuation information is disseminated to the news media on a timely basis. Instructions to the public such as traffic routes to be followed, location(s) of temporary reception centers and situation updates will be issued as information becomes available.

#### Movement -

It is anticipated that the primary evacuation mode will be in private vehicles. Evacuation routes will be selected by law enforcement officials at the time the evacuation decision is made. If at all possible, two-way traffic will be maintained on all evacuation routes to allow continued access for emergency vehicles. Movement instructions will be part of the warning and subsequent public information releases.

#### Transportation -

The Incident Commander will determine the need for special transportation, coordinate the use of transportation resources to support the evacuation and announce convenient centralized locations as assembly areas. There could be cases where elderly, infirm or persons with a disability in the evacuation area will not be able to get to the assembly point or would need a special type of transportation. Provisions will be made for vehicles to transport these individuals. The public will be instructed how to notify EOC of any special transportation problems. The Plambeck Early Childhood Education Center will take priority when assessing transportation needs.

#### Access Control -

During times of evacuation, University buildings will be locked down. In certain situations, buildings will be pinned so that only authorized emergency personnel have access. A perimeter would be established and enforced by the UNK Police Department. An access pass system would be established.

#### Re-entry -

The re-entry decision and order will be made by the Chancellor or his/her designee after the threat has passed and the evacuated area has been inspected by all necessary safety personnel.

## **Firearms and Weapons Policy**

Possession of firearms, explosives, destructive devices, dangerous chemicals, fireworks or any other item defined by Nebraska state statutes (Chapter 28, Article 12) as a deadly weapon are **prohibited** on property controlled by the University of Nebraska at Kearney, in University vehicles and at events sponsored by the University. This prohibition applies to all members of the general public, students and University employees, except University employees who are specifically so authorized as part of their job responsibilities and authorized law enforcement personnel performing official duties. Exceptions to this policy may only be authorized by the Vice Chancellor for Business and Finance or his/ her designee. Any person violating this policy is subject to University discipline up to and including expulsion/termination and/or may be charged with the appropriate criminal offense.

The possession of concealed weapons on property controlled by the University of Nebraska is prohibited (State statute 69-2441). This ban applies to University of Nebraska vehicles and events sponsored by the University. This prohibition applies to all members of the general public, students, and University employees, except University employees who are specifically authorized to carry concealed weapons as part of their job responsibilities and authorized law enforcement personnel performing official duties.

For the purpose of this policy, the term “property controlled by the University of Nebraska” shall mean and include all property owned by the University, all property leased by or licensed to the University and all fraternity houses, sorority houses or other student housing facilities recognized by the University.

# DRUG AND ALCOHOL ABUSE PREVENTION UPDATE

Last Revised: July 7, 2021

## A. STANDARDS OF CONDUCT FOR EMPLOYEES AND STUDENTS REGARDING ALCOHOL AND DRUGS (BOARD OF REGENTS POLICY 2.1.5)

The illegal possession, use, or distribution of drugs or alcohol by students and employees is a violation of University rules as well as State and Federal laws. Officers of the University are to cooperate with State and Federal agencies in the prevention of drug abuse. Insatisfaction of this mandate and in order to fulfill its obligations under the Drug Free Workplace Act of 1988, 41 U.S.C. § 701, and the Drug Free Schools and Communities Act of 1989, 20 U.S.C. § 1145g, the University has formulated standards of conduct for both its employees and its students which prohibit the following acts:

1. use, possession, manufacture, distribution, or sale of illegal drugs or drug paraphernalia on University premises or while on University business or at University activities, or in University supplied vehicles either during or after working hours;
2. unauthorized use, possession, manufacture, distribution, or sale of a controlled substance as defined by the Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., or Nebraska Drug Control Laws, Neb. Rev. Stat. §§ 28-401 et seq., on University premises, or while engaged on University business or at University activities or in University supplied vehicles, either during or after working hours;
3. unauthorized use, manufacture, distribution, possession, or sale of alcohol on University premises or while on University business, or at University activities, or in University-supplied vehicles, either during or after working hours;
4. storing in a locker, desk, vehicle, or other place on University owned or occupied premises any unauthorized controlled substances, drug paraphernalia, or alcohol;
5. use of alcohol off University premises that adversely affects an employee's or student's work or academic performance, or an employee's or student's safety or the safety of others;
6. possession, use, manufacture, distribution, or sale of illegal drugs off University premises that adversely affects the employee's work performance or the student's academic performance, or an employee's or student's safety or the safety of others;
7. violation of State or Federal laws relating to the unauthorized use, possession, manufacture, distribution or sale of alcohol, controlled substances, or drug paraphernalia;
8. in the case of employees, failure to notify an employee's supervisor of an employee's arrest or conviction under any criminal drug statute as a result of a violation of law which occurs at the University of Nebraska workplace.

[The Standards of Conduct were approved by the Regents in 1990. See Board of Regents of the University of Nebraska, *Minutes*, Vol. 55, p. 204 (October 12, 1990) and Vol. 56, p. 149 (September 6, 1991).]

## **B. DESCRIPTION OF APPLICABLE LEGAL SANCTIONS UNDER FEDERAL, STATE, OR LOCAL LAW FOR UNLAWFUL POSSESSION OR DISTRIBUTION OF ILLICIT DRUGS AND ALCOHOL**

The information on the following pages summarizes selected provisions of Federal, State, and local laws that provide criminal and civil penalties for unlawful possession or distribution of drugs and alcohol.

### **1. Federal Penalties and Sanctions for Illegal Possession of Controlled Substances**

#### *21 U.S.C. § 844(a)*

First Conviction: Up to 1-year imprisonment and fine of at least \$1,000 or both. After one prior drug conviction: At least 15 days in prison, not to exceed 2 years, and a fine of at least \$2,500. After 2 or more prior drug convictions: at least 90 days in prison, not to exceed 3 years, and a fine of at least \$5,000.

#### *21 U.S.C. §§ 853(a) and 881(a)*

Forfeiture of tangible and intangible personal and real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than 1- year imprisonment. Forfeiture of vehicles, boats, aircraft, or any other conveyance used, or intended for us, to transport or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of controlled substances.

#### *21 U.S.C. § 844a*

Civil fine of up to \$10,000 for each violation of 21 U.S.C. § 844 involving controlled substances listed in 21 U.S.C. § 841(b)(1)(A).

#### *21 U.S.C. § 862*

Denial of Federal benefits, such as financial aid grants, contracts, student loans, and professional and commercial licenses, for individuals convicted of distributing controlled substances (drug trafficking). The denial can last up to 5 years for the first conviction and up to 10 years for the second conviction. Those who have three or more convictions will be permanently ineligible for all Federal benefits.

#### *18 U.S.C. § 922(g)*

Ineligible to receive or possess a firearm or ammunition.

#### *Miscellaneous*

Authority to revoke certain Federal licenses and benefits, e.g. pilot licenses, public housing tenancy, etc., is vested with the officials of individual Federal agencies.

The United States Drug Enforcement Administration publishes information that summarizes trafficking penalties under Federal law for various drugs. The information is available at [www.dea.gov/sites/default/files/drug\\_of\\_abuse.pdf](http://www.dea.gov/sites/default/files/drug_of_abuse.pdf). Note: These are only Federal penalties and sanctions. Additional *State* penalties and sanctions may apply.

## **2. State Penalties and Sanctions for Illegal Possession of Controlled Substances**

The framework for the regulation of most drugs, also called controlled substances, is set out in the Uniform Controlled Substances Act. In addition, other Nebraska State laws establish penalties for various drug-related offenses as summarized below. Charts 1 and 2 summarize the sanctions under Nebraska law for possession or distribution of various drugs.

### **Crimes Involving Minors:**

Any person 18 years of age or older who knowingly or intentionally manufactures, distributes, delivers, dispenses, or possesses with intent to manufacture, distribute, deliver or dispense a controlled substance or a counterfeit controlled substance (i) to a person (under the age of 18 years); (ii) in, on, or within 1,000 feet of a school, college, university, or playground; or (iii) within 100 feet of a youth center, public swimming pool, or video arcade shall be punished more severely. The law also provides for an enhanced penalty for anyone 18 years of age or older to knowingly and intentionally employ, hire, use, cause, persuade, coax, induce, entice, seduce, or coerce any person under the age of 18 years to manufacture, transport, distribute, carry, deliver, dispense, prepare for delivery, offer for delivery, or possess with intent to do the same a controlled substance or a counterfeit controlled substance. *See* Neb. Rev. Stat. § 28-416(4)(a) and (5)(a) (Cum. Supp. 2020).

Persons under the age of eighteen who violate the drug laws may be subject to additional sentencing provisions found in Neb. Rev. Stat. § 28-416(18) and (19) (C), these include impounding licenses or permits issued under the Motor Vehicle Operator's License Act, completion of community service, and attending drug education classes.

The law provides immunity from violations of §28-441 or subsection (3) of §28-416 in certain circumstances when a person may need medical assistance as a result of a drug overdose and the evidence for the violation of the laws was obtained as a result of the drug overdose and the request for medical assistance. A penalty may not be imposed on a person who otherwise violated the law if the person (i) made a good faith request for emergency medical assistance in response to the possible drug overdose of themselves or another person as soon as the emergency situation was apparent; (ii) made the request for medical assistance; and (iii) when emergency medical assistance was requested for the possible drug overdose of another person:

(A) remained on the scene until the medical assistance arrived; and (B) cooperated with medical assistance and law enforcement personnel. Neb. Rev. Stat. § 28-472.

### **Probation Conditions:**

Any person convicted of a drug law violation, if placed on probation, shall, as a condition of probation, satisfactorily attend and complete appropriate treatment and counseling on drug abuse. Neb. Rev. Stat. § 28-416 (14) (Cum. Supp. 2020).

## **Tax Provisions:**

Anyone who possesses or sells the following amounts of controlled substances or imitation controlled substances must pay the appropriate taxes to the Nebraska Department of Revenue and have the stamps attached to the controlled substances. Marijuana is not included in the definition of “controlled substances” here but is also taxed, as follows:

Illegal marijuana is taxed at \$100 for each ounce or portion of an ounce. Neb. Rev. Stat. § 77-4303 (Reissue 2018).

Any controlled substance that is sold by weight or volume (i.e., cocaine, crack, methamphetamine, etc.) is taxed at \$150 for each gram or portion of a gram. Neb. Rev. Stat. § 77-4303 (Reissue 2018).

Any controlled substance that is not sold by weight (i.e., LSD, Quaaludes, methamphetamine in tablets, PCP, etc.) is taxed at \$500 for each 50 dosage units or portion thereof. Neb. Rev. Stat. § 77-4303 (Reissue 2018).

Failure to have the proper tax stamps attached to the controlled substance is a Class IV felony, with a criminal penalty of up to a 2-year imprisonment and 12-month post-release supervision or a \$10,000 fine or both. Neb. Rev. Stat. § 28-105(1) (Cum. Supp. 2020) *available at* <http://nebraskalegislature.gov/laws>; Neb. Rev. Stat. §§ 77-4309 (Reissue 2018).

## **Property Forfeiture:**

Property used to manufacture, sell, or deliver controlled substances can be seized and forfeited to the State. Property subject to forfeiture may include cash, cars, boats, and airplanes, as well as drug paraphernalia, books, records, and research, including formulas, microfilm, tapes, and data. Neb. Rev. Stat. § 28-431 (Reissue 2016).

## **Being Under the Influence of Any Controlled Substance for Unauthorized Purpose:**

It is a violation of Nebraska law to be under the influence of any controlled substance for a purpose other than the treatment of a sickness or injury as prescribed or administered by a practitioner. In a prosecution, the State need not prove that the accused was under the influence of a specific controlled substance, only that the accused manifested symptoms or reactions caused by the use of any controlled substance. Neb. Rev. Stat. § 28-417(1)(g) (Reissue 2016).

## **Drug Paraphernalia Offenses:**

It is a violation of Nebraska law to use, or to possess with intent to use, drug paraphernalia to manufacture, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Neb. Rev. Stat. § 28-441(1) (Cum. Supp. 2020). Individuals who make a good faith request for emergency medical assistance in response to their drug overdose or when assisting another person may experience limited immunity from drug possession and paraphernalia charges if they meet certain requirements, such as requesting medical assistance as soon as the drug overdose is apparent and remaining on the scene and cooperating with medical assistance or law enforcement personnel. Neb. Rev. Stat. § 28-441(3) (Cum. Supp. 2020); Neb. Rev. Stat. § 28-472 (Cum. Supp. 2020).

"Drug paraphernalia" is defined to include such things as hypodermic syringes, needles, pipes, bongs, roach clips, and other items used, intended for use, or designed for use with controlled substances. Neb. Rev. Stat. § 28-439 (Reissue 2016).

It is unlawful to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances in which one should reasonably know, that it will be used to manufacture, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. This section does not apply to pharmacists, pharmacist interns, pharmacy technicians, and pharmacy clerks who sell hypodermic syringes or needles for the prevention of the spread of infectious diseases. Neb. Rev. Stat. § 28-442 (Cum. Supp. 2020).

It is a violation of Nebraska law for a person 18 years of age or older to deliver drug paraphernalia to a person under the age of 18 who is at least three years his or her junior. Neb. Rev. Stat. § 28-443 (Reissue 2016).

A violation of Neb. Rev. Stat. § 28-441 (use or possession of drug paraphernalia) is an infraction and is punishable on the first offense by a fine of up to a maximum of \$100; a second offense within two years of the first is punishable by a fine between \$100 and \$300; a third offense within two years of the second is punishable by a fine between \$200 and \$500. Neb. Rev. Stat. §§ 28-441 (Cum. Supp. 2020) and 28-436 (Reissue 2016). The penalty for violation of Neb. Rev. Stat. § 28-442 (delivery or manufacture of drug paraphernalia), which is a Class II misdemeanor, is up to a 6-month imprisonment or a \$1,000 fine or both. Neb. Rev. Stat. § 28-442 (Cum. Supp. 2020) and § 28-106(1) (Reissue 2016). The penalty for violation of Neb. Rev. Stat. § 28-443 (delivery of drug paraphernalia to a minor), a Class I misdemeanor, is imprisonment for up to one year or a \$1,000 fine or both. Neb. Rev. Stat. § 28-443 (Reissue 2016) and § 28-106(1) (Reissue 2016).

### **Imitation Controlled Substances:**

It is a violation of Nebraska law to knowingly or intentionally manufacture, distribute, deliver, or possess with intent to distribute or deliver an imitation controlled substance. Neb. Rev. Stat. § 28-445 (Reissue 2016). "Imitation controlled substance" is a substance that is not a controlled substance or controlled substance analogue, but which is represented to be an illicit controlled substance or controlled substance analogue. Neb. Rev. Stat. § 28-401(30) (Cum. Supp. 2020). The first violation of this law is a Class III misdemeanor and the penalty may be a 3-month imprisonment or a \$500 fine or both. A second offense violation of this law is a Class I I misdemeanor and the penalty may be imprisonment for up to six months or a \$1,000 fine or both. Neb. Rev. Stat. § 28-445 (Reissue 2016) and § 28-106(1) (Reissue 2016).

### **Controlled Substance Analogues:**

For purposes of Nebraska's Uniform Controlled Substance Act, controlled substance analogues (often called "designer drugs") are treated as controlled substances. Such an analogue is defined as (i) substantially similar in chemical structure to the chemical structure of a controlled substance or (ii) having a stimulant, depressant, analgesic or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the effect of a controlled substance. Neb. Rev. Stat. § 28-401(31)(a) (Cum. Supp. 2020).

## **3. State Law Penalties and Sanctions for Selected Alcohol Offenses**

### **Minor In Possession:**

It is against the law for a person under the age of 21 years to sell, dispense, consume, or possess alcohol. Neb. Rev. Stat. § 53-180.02 (Reissue 2010). In general, unless an exception applies, any person under the age of 21 years violating this law is guilty of a Class III misdemeanor; additional consequences may apply if the person is 18 years of age or younger. Neb. Rev. Stat. § 53-180.05(4) and § 53-181 (Cum. Supp. 2020); § 28-106(1) (Reissue 2016). Penalties for violation of this law may include one or more of the following: the impoundment of the offender's license for thirty days or more; the requirement to attend an alcohol education class; the requirement to complete twenty hours or more of community service; submission to an alcohol assessment by a licensed counselor; imprisonment of up to three months; and/or a \$500 fine;. Neb. Rev. Stat. § 53-180.05(4) and § 53-181 (Cum. Supp. 2020); § 28-106(1) (Reissue 2016).

The law provides immunity from minor in possession alcohol charges when someone under age is in need of medical assistance. A penalty may not be imposed on a person who otherwise violated the law if the person (i) made a good faith request for emergency medical assistance in response to the possible alcohol overdose of themselves or another person as soon as the emergency situation is apparent; (ii) made the request for medical assistance; and (iii) when emergency medical assistance was requested for the possible alcohol overdose of another person: (A) remained on the scene until the medical assistance arrived; and (B) cooperated with medical assistance and law enforcement personnel. Neb. Rev. Stat. § 53-180.05(4) and § 53-181(3) (Cum. Supp. 2020).

### **Procuring Alcohol:**

It is a violation of Nebraska law to sell, furnish, give away, exchange, deliver, or permit the sale, gift, or procuring of any alcoholic liquors to or for any minor or to any person who is mentally incompetent. Neb. Rev. Stat. § 53-180 (Cum. Supp. 2020). Violation of this law is generally punishable by not more than a one-year imprisonment or a \$1,000 fine or both. Neb. Rev. Stat. § 53-180.05(1) (Cum. Supp. 2020) and § 28-106(1) (Reissue 2016). However, if alcohol is knowingly and intentionally provided to a minor and the minor's consumption of the alcohol or impaired condition attributed to the alcohol leads to the serious bodily injury or death of any person, the person who provided the alcohol shall be guilty of a Class IIIA felony and serve a mandatory minimum of at least 30 days' imprisonment. The penalty for a Class IIIA felony is a 3-year imprisonment and 18-month post release supervision or a \$10,000 fine or both and a minimum of a 9-month post-release supervision if imprisonment is imposed. *See* Neb. Rev. Stat. § 53-180.05(2) (Cum. Supp. 2020) and Neb. Rev. Stat. § 28-105(1) (Cum. Supp. 2020) available at <http://nebraskalegislature.gov/laws>.

### **Consumption on Public Property:**

It is a violation of Nebraska law for any person to consume alcoholic liquors upon property owned or controlled by the State or any governmental subdivision thereof, unless authorized by the governing bodies having jurisdiction over such properties. Neb. Rev. Stat. § 53-186 (Cum. Supp. 2018). A violation of this statute is punishable on the first offense by a fine of up to \$100; a second offense within two years of the first is punishable by a fine between \$100 and \$300; a third offense within two years of the second is punishable by a fine between \$200 and \$500. Neb. Rev. Stat. § 53-186 (Cum. Supp. 2020) and § 29-436 (Reissue 2016).

### **Driving While Intoxicated:**

Operating or being in physical control of a vehicle while under the influence of alcoholic liquors or drugs is a violation of Nebraska law when such person has a concentration of eight-hundredths (.08) of 1 gram or more by weight of alcohol per 100 milliliters of blood or per 210 liters of breath. Neb. Rev. Stat. § 60-6,196 (Reissue 2010).

Violation of this law is punishable on first offense by seven to 60 days of imprisonment and a \$500 fine. Neb. Rev. Stat. § 60-6,197.03 (Cum. Supp. 2020) and § 28-106(1) (Reissue 2016). In addition, an offender's driver's license is revoked for 6 months and the offender is ordered not to drive any motor vehicle for any purpose for a like period. Neb. Rev. Stat. § 60-6,197.03(1) (Cum. Supp. 2020). Suspended sentence or probation includes a mandatory requirement that probation or suspension be conditioned on an order that the offender will not drive any motor vehicle for any purpose for 60 days and pay a \$500 fine. Neb. Rev. Stat. § 60-6,197.03(1) (Cum. Supp. 2020).

Penalties for a second conviction include a \$500 fine and a maximum of a 6-month imprisonment, with no less than a mandatory 30-day imprisonment. Neb. Rev. Stat. § 60-6,197.03 (Cum. Supp. 2020) and § 28-106(1) (Reissue 2016). As part of the judgment of conviction, the offender's operator's license is revoked for 18 months. Neb. Rev. Stat. § 60-6,197.03(3) (Cum. Supp. 2020). If an offender is placed on probation or the sentence is suspended, a mandatory condition is that the offender must not drive any motor vehicle for any purpose for a period of 18 months. Neb. Rev. Stat. § 60-6,197.03(3) (Cum. Supp. 2020). In addition, the probation order shall include as one of its conditions the payment of a \$500 fine and confinement in the city or county jail for 10 days or the imposition of not less than 240 hours of community service. Neb. Rev. Stat. § 60-6,197.03(3) (Cum. Supp. 2020).

Penalties for a third conviction include a \$1,000 fine and a maximum of a one-year imprisonment, with a minimum 90-day imprisonment, and an order of license revocation for 15 years. Neb. Rev. Stat. § 28-106(1) (Reissue 2016) and Neb. Rev. Stat. § 60-6,197.03(4) (Cum. Supp. 2020). If an offender is placed on probation, or the sentence is suspended, a mandatory condition is that the offender's operator's license shall be revoked for a period of at least 2 years but not more than 15 years. Neb. Rev. Stat. § 60-6,197.03(4) (Cum. Supp. 2020). In addition, the probation order shall include the payment of a \$1,000 fine and as one of its conditions confinement in the city or county jail for 30 days. Neb. Rev. Stat. § 60-6,197.03(4) (Cum. Supp. 2020).

Fourth convictions are a Class IIIA felony. Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2020). Offenders in this class will have their licenses revoked for a period of 15 years and the offender must spend at least 180 days imprisoned in a city or county jail or an adult correctional facility. Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2020). Probation or suspension of sentence must be conditioned so that the offender's license is revoked for a period of 15 years. The revocation order shall require that the offender not drive for 45 days after which he or she may apply for an ignition interlock permit and installation of such device. Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2020). In addition, the probation order shall include as one of its conditions a \$2,000 fine and confinement in the city or county jail for no less than 90 days with required use of a continuous alcohol monitoring device and abstention from alcohol use for no less than 90 days after release. Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2020).

Fifth and subsequent convictions are a Class IIA felony. Neb. Rev. Stat. § 60-6,197.03(9) (Cum. Supp. 2020). Offenders in this class will have their licenses revoked for a period of 15 years and the offender must spend at least two years' in prison. Neb. Rev. Stat. § 60-6,197.03(9) (Cum. Supp. 2020). Probation or suspension of sentence must be conditioned so that the offender's license is revoked for a period of 15 years. The revocation order shall require that the offender not drive for 45 days after which he or she may apply for an ignition interlock permit and installation of such device. Neb. Rev. Stat. § 60-6,197.03(9) (Cum. Supp. 2020). In addition, the probation order shall include as one of its conditions a \$2,000 fine and confinement in the city or county jail for 180 days with required use of a continuous alcohol monitoring device and abstention from alcohol use for no less than 180 days. Persons with a higher concentration of alcohol, fifteen-hundredths (.15) of 1 gram or more by weight of alcohol per 100 milliliters of blood or per 210 liters of breath on a first conviction and subsequent conviction, are subject to even stiffer penalties. Neb. Rev. Stat. § 60-6,197.03(2), (5), (6), (8) and (10) (Cum. Supp. 2020). Where a person has three prior convictions and then has another conviction involving this higher alcohol concentration, he or she shall be guilty of a Class IIA felony with a minimum sentence of one year of imprisonment, and has his or her license

revoked for a period of 15 years. Neb. Rev. Stat. § 60-6,197.03(8) (Cum. Supp. 2020). In addition, any probation order shall be applied as previously indicated under Neb. Rev. Stat. § 60-6,197.03(7) (Cum. Supp. 2020).

Persons convicted of a DWI violation may be ordered to have an ignition interlock device installed at their expense on each motor vehicle operated by the convicted person during the period of revocation. Neb. Rev. Stat. §§ 60-6,197.03 and 60-6,211.05 (Cum. Supp. 2020). DWI convictions also have an impact on the ability of a person to obtain both automobile and life insurance coverage.

Local laws may also make it a crime to operate a motor vehicle under the influence of alcohol or to commit certain acts involving the consumption or possession of alcohol, e.g. “open container” laws.

### **C. DESCRIPTION OF HEALTH RISKS ASSOCIATED WITH USE OF ILLICIT DRUGS AND ABUSE OF ALCOHOL**

Serious health risks are associated with the use of illicit drugs and alcohol. The National Institute on Drug Abuse states that most drugs of abuse can alter a person’s thinking and judgment, leading to health risks, including addiction, drugged driving and infectious disease. Most drugs could potentially harm an unborn baby; pregnancy-related issues are listed for drugs where there is enough scientific evidence to connect the drug use to specific negative effects. The following are some important facts to know regarding alcohol and drugs.

**1. Alcohol:** Below are key points the National Institute on Alcohol Abuse and Alcoholism provides regarding alcohol’s effects on the body at <https://www.niaaa.nih.gov>. Drinking too much – on a single occasion or over time – can take a serious toll on your health. Here’s how alcohol can affect your body:

- **Brain:** Alcohol interferes with the brain’s communication pathways and can affect the way the brain looks and works. These disruptions can change mood and behavior and make it harder to think clearly and move with coordination.
- **Heart:** Drinking a lot over a long time or too much on a single occasion can damage the heart, causing problems including cardiomyopathy – stretching and drooping of heart muscle; arrhythmias – irregular heart beat; stroke; and high blood pressure.
- **Liver:** Heavy drinking takes a toll on the liver and can lead to a variety of problems and liver inflammations including steatosis, or fatty liver; alcoholic hepatitis; fibrosis; and cirrhosis.
- **Pancreas:** Alcohol causes the pancreas to produce toxic substances that can eventually lead to pancreatitis, a dangerous inflammation and swelling of the blood vessels in the pancreas that prevents proper digestion.

- **Cancer:** Based on extensive reviews of research studies, there is a strong scientific consensus of an association between alcohol drinking and several types of cancer. In its Report on Carcinogens, the National Toxicology Program of the US Department of Health and Human Services lists consumption of alcoholic beverages as a known human carcinogen. The research evidence indicates that the more alcohol a person drinks—particularly the more alcohol a person drinks regularly over time—the higher his or her risk of developing an alcohol-associated cancer. Based on data from 2009, an estimated 3.5 percent of all cancer deaths in the United States (about 19,500 deaths) were alcohol related. Clear patterns have emerged between alcohol consumption and the development of the following types of cancer: head and neck cancer; esophageal cancer; liver cancer; breast cancer; and colorectal cancer.
- **Immune System:** Drinking too much can weaken your immune system, making your body a much easier target for disease. Chronic drinkers are more liable to contract diseases like pneumonia and tuberculosis than people who do not drink too much. Drinking a lot on a single occasion slows your body’s ability to ward off infections – even up to 24 hours after getting drunk.

2. **Drugs:** With drugs, it has been shown that while initial use may have been voluntary, drugs of abuse alter gene expression and brain circuitry, which affects human behavior and becomes an addiction. Once addiction develops, the brain changes interfere with one’s ability to make voluntary decisions, leading to compulsive drug craving, seeking and use. The long-term use of drugs can be far reaching and affect cardiovascular disease, stroke, cancer, HIV/AIDS, hepatitis, and lung disease. Drugs use has respiratory, gastrointestinal and musculoskeletal effects, and can damage kidneys, the liver, the brain and lead to premature death. In addition, the changes that occur in the brain through long-term drug use can lead to paranoia, depression, aggression, and hallucinations. These issues affect not only the individual, but loved ones, fellow students, and the public in general.

The health risks of alcohol and substances abuse are more thoroughly described by the National Institute on Drug Abuse through charts and information available at <http://www.drugabuse.gov/drugs-abuse/commonly-abused-drugs-charts>.<sup>1</sup>

#### **D. ASSISTANCE, UNIVERSITY SANCTIONS, AND OTHER INFORMATION**

##### **Assistance:**

Employees and students needing help in dealing with drug or alcohol problems are encouraged to make voluntary use of their campus Employee Assistance Programs and Student Counseling Centers. The Employee Assistance Programs and Student Counseling Centers can help by offering the following services:

- Objectively assessing the situation and referring employees or students to the proper resources.
- Supplying short-term personal counseling and problem solving.
- Providing education and training to supervisors on how to intervene with troubled employees.

## **University Sanctions:**

In the event a faculty or staff member violates this policy or is convicted of unlawful manufacture, distribution, dispensation, possession or use of controlled substances or alcohol on University property or as part of any University activity, the University will take appropriate action.

For Administrators, staff, and faculty not included in the UNK or UNO collective bargaining units, one or more of the following actions may be taken:

- Referral to the Faculty/Employee Assistance Program for evaluation and assessment to determine the appropriate treatment for rehabilitation;
- Participation in a drug rehabilitation program;
- Disciplinary action, up to and including termination of employment and referral for prosecution.

For faculty included in the UNK or UNO collective bargaining units, conviction of drug law offenses may be considered adequate cause for imposition of the disciplinary process provided in the Collective Bargaining Agreement. Violation of this policy may also be considered adequate for imposition of the disciplinary process and referral for prosecution.

As required by 41 U.S.C. § 8102(a)(1), part of the Drug-Free Workplace Act of 1988, faculty and staff involved in the performance of federal contracts or grants must notify their supervisor within five days if they are convicted of any criminal drug statute as a result of violation of the law that occurs at the workplace. The term “conviction” means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violation of the Federal or State criminal drug statutes. The supervisor will immediately notify the Academic Affairs Office when faculty members are affected or the Human Resources Office when staff members are affected. The University, in turn, will notify the applicable granting or contracting agency or agencies of the conviction within ten days after receiving notice of an employee’s criminal drug statute conviction.

## **Review:**

Biennially, the University will review its Substance Abuse Policy/Program to determine its effectiveness and to ensure that the sanctions required for violations of the policy are consistently enforced.

**CHART 1**  
**SANCTIONS UNDER NEBRASKA LAW FOR UNLAWFUL POSSESSION OR DISTRIBUTION OF ANABOLIC STEROIDS, MARIJUANA, AND HASHISH OR OTHER SUBSTANCES CONTAINING TETRAHYDROCANNABINOLS**

Drug	Quantity	Penalty for "simple" possession	Penalty for manufacture, distribution, delivery, dispensation, or possession with intent to manufacture, distribute, deliver or dispense
Anabolic Steroids <sup>1</sup> Schedule III(d)	Any detectable amount	Up to 2 years imprisonment and 12 months post-release supervision (with 9-month minimum post-release supervision if imprisoned) or \$10,000 fine, or both. Class IV felony.	Up to 20 years imprisonment; Class IIA felony.
Hashish or Concentrated Cannabis <sup>2</sup> Schedule I(c)(16)	Any detectable amount	Up to 2 years imprisonment and 12 months post-release supervision (with 9-month minimum post-release supervision if imprisoned) or \$10,000 fine, or both. Class IV felony.	Up to 20 years imprisonment; Class IIA felony.
Marijuana <sup>3</sup> Schedule I(c)(7)  Or  Synthetically Produced Cannabinoids <sup>4</sup> Schedule I(c)(25)	Any detectable amount upto 1 ounce	1st offense - \$300 fine and possible assignment to controlled substances course. Infraction.  2nd offense - \$400 fine and up to five days imprisonment. Class IV misdemeanor.  3rd and subsequent offenses - \$500 fine and imprisonment not to exceed 7 days. Class IIIA misdemeanor.	Up to 20 years imprisonment; Class IIA felony.
	More than 1 ounce but less than 1 pound	Up to 3 months imprisonment or \$500 fine or both. Class III misdemeanor.	
	More than one pound	Up to 2 years imprisonment and 12 months post-release supervision (with 9-month minimum post-release supervision if imprisoned) or \$10,000 fine, or both. Class IV felony.	

<sup>1</sup> "Anabolic steroid means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids), that promotes muscle growth and includes any controlled substance in Schedule III(d) of section 28-405. Anabolic steroid does not include any anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and has been approved by the Secretary of Health and Human Services for such administration, but if any person prescribes, dispenses, or distributes such a steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subdivision" Neb. Rev. Stat. § 28-401 (32) (Cum. Supp. 2020).

<sup>2</sup> "Hashish or concentrated cannabis means (a) the separated resin, whether crude or purified, obtained from a plant of the genus cannabis or (b) any material, preparation, mixture, compound, or other substance which contains ten percent or more by weight of tetrahydrocannabinols. When resins extracted from industrial hemp as defined in section 2-5701 are in the possession of a person as authorized under section 2-5701, they are not considered hashish or concentrated cannabis for purposes of the Uniform Controlled Substances Act." Neb. Rev. Stat. § 28-401(28) (Cum. Supp. 2020).

<sup>3</sup> "Marijuana" is defined at Neb. Rev. Stat. § 28-401(14) (Cum. Supp. 2020).

<sup>4</sup> Nomenclature for these cannabinoids is not internationally recognized and may change; so as long as the chemical structure of a drug fits into this drug's enumerated categories, it shall be included. See Neb. Rev. Stat. § 28-405, Schedule I(c)(25) (Cum. Supp. 2020).

*Last reviewed July 7, 2021*

**CHART 2  
SANCTIONS UNDER NEBRASKA LAW FOR UNLAWFUL POSSESSION OR DISTRIBUTION OF ILLICIT DRUGS**

<b>Drug<sup>1</sup></b>	<b>Quantity</b>	<b>Penalty for "simple" possession</b>	<b>Penalty for manufacture, distribution, delivery, dispensation, possession with intent to manufacture, distribute, deliver or dispense</b>
Methamphetamine "Meth" or "Speed" Schedule <sup>2</sup> II(c)(3)	Any detectable amount up to 10grams	Up to 2 years imprisonment and 9-12 months post-release supervision or \$10,000 fine or both. Class IV felony.	Not less than 1 year imprisonment and not more than 50 years imprisonment. Class II felony.
	At least 10 grams but less than 28 grams		Not less than 3 years imprisonment and not more than 50 years imprisonment. Class 1D felony.
	At least 28 grams but less than 140 grams		Not less than 5 years imprisonment and not more than 50 years imprisonment. Class 1C felony.
	140 grams or more		Not less than 20 years imprisonment and not more than life imprisonment. Class 1B felony.
Heroin Schedule I(b)(11)	Any detectable amount up to 10grams	Up to 2 years imprisonment and 9-12 months post-release supervision or \$10,000 fine or both. Class IV felony.	Not less than 1 year imprisonment and not more than 50 years imprisonment. Class II felony.
	At least 10 grams but less than 28 grams		Not less than 3 years imprisonment and not more than 50 years imprisonment. Class 1D felony.
	At least 28 grams but less than 140 grams		Not less than 5 years imprisonment and not more than 50 years imprisonment. Class 1C felony.
	140 grams or more		Not less than 20 years imprisonment and not more than life imprisonment. Class 1B felony.
Cocaine or Base Cocaine "Crack Cocaine" Schedule II(a)(4)	Any detectable amount up to 10grams	Up to 2 years imprisonment and 9-12 months post-release supervision or \$10,000 fine or both. Class IV felony.	Not less than 1 year imprisonment and not more than 50 years imprisonment. Class II felony.
	At least 10 grams but less than 28 grams		Not less than 3 years imprisonment and not more than 50 years imprisonment. Class 1D felony.
	At least 28 grams but less than 140 grams		Not less than 5 years imprisonment and not more than 50 years imprisonment. Class 1C felony.
	140 grams or more		Not less than 20 years imprisonment and not more than life imprisonment. Class 1B felony.
Phencyclidine "PCP" or "Angel Dust" Schedule II(d)(4)	Any detectable amount	Up to 2 years imprisonment and 9-12 months post-release supervision or \$10,000 fine or both. Class IV felony.	Not less than 1 year imprisonment and not more than 50 years imprisonment. Class II felony.
Lysergic Acid Diethylamide "LSD" Schedule I(c)(6)	Any detectable amount	Up to 2 years imprisonment and 9-12 months post-release supervision or \$10,000 fine or both. Class IV felony.	Up to 20 years imprisonment. Class IIA felony.
Fentanyl "China White" Schedule II(b)(5)	Any detectable amount	Up to 2 years imprisonment and 9-12 months post-release supervision or \$10,000 fine or both. Class IV felony.	Not less than 1 year imprisonment and not more than 50 years imprisonment. Class II felony.
"Exceptionally Hazardous Drugs" <sup>3</sup>	Any detectable amount	Up to 2 years imprisonment and 9-12 months post-release supervision or \$10,000 fine or both. Class IV felony.	Not less than 1 year imprisonment and not more than 50 years imprisonment. Class II felony.
Schedule I/II/III drugs not classified as "Exceptionally Hazardous Drugs"	Any detectable amount	Up to 2 years imprisonment and 9-12 months post-release supervision or \$10,000 fine or both. Class IV felony.	Up to 20 years imprisonment. Class IIA felony.
Any Controlled Substances classified in Schedule IV or V	Any detectable amount	Up to 2 years imprisonment and 9-12 months post-release supervision or \$10,000 fine or both. Class IV felony.	Up to 3 years imprisonment and 9-18 months post-release supervision or \$10,000 or both. Class IIIA felony.

<sup>1</sup> Outlined in Neb. Rev. Stat. § 28-416 (Cum. Supp. 2020).

<sup>2</sup> All references are to the controlled substances schedules enumerated in Neb. Rev. Stat. § 28-405 (Cum. Supp. 2020).

<sup>3</sup> "Exceptionally Hazardous Drug" is defined in the Uniform Controlled Substances Act, Neb. Rev. Stat. § 28-401 (29) (Cum.. Supp. 2020).

### CHART 3: COMMONLY ABUSED DRUGS AND HEALTH RISKS

Source: National Institute on Drug Abuse, <http://www.drugabuse.gov/drugs-abuse/commonly-abused-drugs-charts>

Alcohol	
<b>Possible Health Effects</b>	Drinking too much – on a single occasion or over time – can take a serious toll on your health. According to the National Institute on Alcohol Abuse and Alcoholism, alcohol can interfere with the healthy functioning of various parts of your body and cause problems with your brain, heart, liver, pancreas, and immune system. It may increase your risk of developing certain cancers such as mouth, esophagus, throat, liver, and/or breast. Alcohol can disrupt fetal development at any stage during a pregnancy. Drinking during pregnancy can cause brain damage, leading to a range of developmental, cognitive, and behavioral problems, which can appear at any time during childhood. Fetal Alcohol Spectrum Disorders (FASD) is the umbrella term for the different diagnoses. Combining alcohol with many of the drugs listed below increases the negative health risks associated with the drugs.

Ayahuasca		<b>Possible Health Effects:</b>
<b>Street Name</b>	Aya, Yagé, Vine, Hoasca	<b>Short-Term:</b> Strong hallucinations including perceptions of otherworldly imagery, altered visual and auditory perceptions; increased blood pressure; vomiting. <b>Long-Term:</b> Possible changes to the serotonergic and immune systems, although more research is needed. <b>Other Health-Related Issues:</b> Unknown
<b>Commercial Name</b>	None	
<b>Common Forms</b>	Brewed as tea	
<b>Common Ways Taken</b>	Swallowed as tea	
<b>DEA Schedule</b>	DMT is Schedule I, but plants containing it are not controlled	

Central Nervous System Depressants		<b>Possible Health Effects:</b>
<b>Street Name</b>	Barbs, Dolls, Phennies, Red/Blue Birds, Tooties, Yellow Jackets, Yellows	<b>Short Term:</b> Drowsiness, slurred speech, poor concentration, confusion, dizziness, problems with movement and memory, lowered blood pressure, slowed breathing. <b>Long-Term:</b> Unknown <b>Other Health-Related Issues:</b> Sleep medications are sometimes used as date rape drugs. Risk of HIV, hepatitis, and other infectious diseases from shared needles.
<b>Commercial Name</b>	Barbiturates: pentobarbital (Nembutal®)	
<b>Common Forms</b>	Pill, capsule, liquid	
<b>Common Ways Taken</b>	Swallowed, injected	
<b>DEA Schedule</b>	Schedule II, III, or IV	
Central Nervous System Depressants (continued)		
<b>Street Name</b>	Benzos, Downers, Poles, Tranks, Totem Z-Bars, Vs, Yellow/Blue Zs, Zannies	
<b>Commercial Name</b>	Benzodiazepines: alprazolam (Xanax®), chlorodiazepoxide (Librium®), diazepam (Valium®), lorazepam (Ativan®), triazolam (Halcion®)	
<b>Common Forms</b>	Pill, capsule, liquid	
<b>Common Ways Taken</b>	Swallowed, snorted	
<b>DEA Schedule</b>	Schedule IV	
Central Nervous System Depressants (continued)		
<b>Street Name</b>	Forget-me pill, Looney Bar, Mexican Valium, R2, Roche, Tic-Tacs, Sleepy, Symphony, Zombieflip	
<b>Commercial Name</b>	Sleep Medications: eszopiclone (Lunesta®), zaleplon (Sonata®), zolpidem (Ambien®)	
<b>Common Forms</b>	Pill, capsule, liquid	
<b>Common Ways Taken</b>	Swallowed, snorted	
<b>DEA Schedule</b>	Schedule IV	

<b>Cocaine</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Narrowed blood vessels; enlarged pupils; increased body temperature, heart rate, and blood pressure; headache; abdominal pain and nausea; euphoria; increased energy, alertness; insomnia, restlessness; anxiety; erratic and violent behavior, panic attacks, paranoia, psychosis; heart rhythm problems, heart attack; stroke, seizure, coma. <u>Long-Term:</u> Loss of sense of smell, nosebleeds, nasal damage and trouble swallowing from snorting; infection and death of bowel tissue from decreased blood flow; poor nutrition and weight loss from decreased appetite. <u>Other Health-Related Issues:</u> Pregnancy: premature delivery, low birth weight, neonatal abstinence syndrome. Risk of HIV, hepatitis, and other infectious diseases from shared needles.
<b>Street Name</b>	Blow, Bump, C, Coke, Crack, Dust, Flake, Nose Candy, Rock, Snow, Sneeze, Sniff, Toot, White Rock <i>With heroin:</i> Speedball	
<b>Commercial Name</b>	Cocaine hydrochloride topical solution (anesthetic rarely used in medical procedures)	
<b>Common Forms</b>	White powder, whitish rock crystal	
<b>Common Ways Taken</b>	Snorted, smoked, injected	
<b>DEA Schedule</b>	Schedule II	

<b>DMT</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Intense visual hallucinations, depersonalization, auditory distortions, and an altered perception of time and body image, usually resolving in 30- 45 minutes or less. Physical effects include hypertension, increased heart rate, agitation, seizures, dilated pupils, involuntary rapid eye movements, dizziness, incoordination. <u>Long-Term:</u> Unknown <u>Other Health-Related Issues:</u> At high doses, coma and respiratory arrest have occurred.
<b>Street Name</b>	Businessman's Special, DMT, Dimitri	
<b>Commercial Name</b>	None	
<b>Common Forms</b>	White or yellow crystalline powder	
<b>Common Ways Taken</b>	Smoked, injected	
<b>DEA Schedule</b>	Schedule I	

<b>GHB</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Euphoria, drowsiness, decreased anxiety, confusion, memory loss, hallucinations, excited and aggressive behavior, nausea, vomiting, unconsciousness, seizures, slowed heart rate and breathing, lower body temperatures, coma, death. <u>Long-Term:</u> Unknown. <u>Other Health-Related Issues:</u> Sometimes used as a date rape drug.
<b>Street Name</b>	G, Gamma-oh, GEEB, Georgia Home Boy, Gina, Goop, Grievous Bodily Harm, Liquid Ecstasy, Liquid X, Scoop, Soap	
<b>Commercial Name</b>	Gamma-hydroxybutyrate or sodium oxybate (Xyrem®)	
<b>Common Forms</b>	Colorless liquid, white powder	
<b>Common Ways Taken</b>	Swallowed (often combined with alcohol or other beverages)	
<b>DEA Schedule</b>	Schedule I	

<b>Hallucinogens and dissociative drugs</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Disrupt a person's ability to think and communicate rationally, or even recognize reality; some results in bizarre or dangerous behavior; some cause emotions to swing wildly and real-world sensations to appear unreal; feel out of control; feeling of disconnection from body or environment. <u>Long-Term:</u> Associated with psychotic-like episodes long after a person has taken the drug; respiratory depression; heart rate abnormalities; withdrawal syndrome.
<b>Street Name</b>	Acid, Angel Dust, and Vitamin K	
<b>Commercial Name</b>	None	
<b>Common Forms</b>	Varies by type. <i>See hallucinogens - LSD, Psilocybin, DMT, &amp; Ayahuasca; See also dissociative drugs - PCP, ketamine, dextromethorphan, and Salvia</i>	
<b>Common Ways Taken</b>	Varies by type. <i>See hallucinogens - LSD, Psilocybin, DMT, &amp; Ayahuasca; See also dissociative drugs - PCP, ketamine, dextromethorphan, and Salvia</i>	
<b>DEA Schedule</b>	Schedule I	

<b>Heroin</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Euphoria; dry mouth; itching; nausea; vomiting; analgesia; slowed breathing and heart rate. <u>Long-Term:</u> Collapsed veins; abscesses (swollen tissue withpus); infection of the lining and valves in the heart; constipation and stomach cramps; liver or kidney disease; pneumonia. <u>Other Health-Related Issues:</u> Pregnancy: miscarriage, low birth weight, neonatal abstinence syndrome. Risk of HIV, hepatitis, and other infectious diseases from shared needles. Dangerous slowdown of heart rate and breathing, coma, death. Restlessness, muscle and bone pain, insomnia, diarrhea, vomiting, cold flashes with goose bumps ("coldturkey"), leg movements.
<b>Street Name</b>	Brown sugar, China White, Dope, H, Horse, Junk, Skag, Skunk, Smack, White Horse With OTC cold medicine and antihistamine: Cheese <i>With Marijuana: A-Bomb</i>	
<b>Commercial Name</b>	None	
<b>Common Forms</b>	White or brownish powder, or black sticky substance known as "black tar heroin"	
<b>Common Ways Taken</b>	Injected, smoked, snorted	
<b>DEA Schedule</b>	Schedule I	

<b>Inhalants</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Confusion; nausea; slurred speech; lack of coordination; euphoria; dizziness; drowsiness; disinhibition,lightheadedness, hallucinations/delusions; headaches; sudden sniffing death due to heart failure (from butane, propane, and other chemicals in aerosols); death from asphyxiation, suffocation, convulsions or seizures, coma, orchoking. Nitrites: enlarged blood vessels enhanced sexual pleasure, increased heart rate, brief sensation of heat and excitement, dizziness, headache. <u>Long-Term:</u> Liver and kidney damage; bone marrow damage; limb spasms due to nerve damage; brain damage from lack of oxygen that can cause problems with thinking,movement, vision, and hearing. Nitrates: increased risk of pneumonia. <u>Other Health-Related Issues:</u> Pregnancy: low birth weight,bone problems, delayed behavioral development due to brain problems, altered metabolism and body composition.
<b>Street Name</b>	Air blast, Aimies, Bullets, Laughing gas, Moon gas, Oz, Poppers, Snappers, Snotballs, Toilet Water, Whippets, Whiteout	
<b>Commercial Name</b>	Various	
<b>Common Forms</b>	Paint thinners or removers, degreasers, dry-cleaning fluids, gasoline, lighter fluids, correction fluids, permanent markers, electronics cleaners and freeze sprays, glue, spray paint, hair or deodorant sprays, fabric protector sprays, aerosol computer cleaning products, vegetable oil sprays,butane lighters, propane tanks, whipped cream aerosol containers, refrigerant gases, ether, chloroform, halothane, nitrous oxide, prescriptionnitrites	
<b>Common Ways Taken</b>	Inhaled through the nose or mouth	
<b>DEA Schedule</b>	Not scheduled.	

<b>Ketamine</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Problems with attention, learning, and memory; dreamlike states, hallucinations; sedation; confusion and problems speaking; loss of memory; problems moving, to the point of being immobile; raised blood pressure; unconsciousness; slowed breathing that canlead to death. <u>Long-Term:</u> Ulcers and pain in the bladder; kidneyproblems; stomach pain; depression; poor memory. <u>Other Health-Related Issues:</u> Sometimes used as a date rape drug. Risk of HIV, hepatitis, and other infectious diseasesfrom shared needles.
<b>Street Name</b>	Cat Valium, K, Lady K, Special K, Vitamin K	
<b>Commercial Name</b>	Ketalar®	
<b>Common Forms</b>	Liquid, white powder	
<b>Common Ways Taken</b>	Injected , snorted, smoked (powder added totobacco or marijuana cigarettes), swallowed	
<b>DEA Schedule</b>	Schedule III	

<b>Khat</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Euphoria, increased alertness and arousal, increased blood pressure and heart rate, depression, inability to concentrate, irritability, loss of appetite, insomnia. fine tremors, loss of short-term memory. <u>Long-Term:</u> Gastrointestinal disorders such as constipation, ulcers, and stomach inflammation; and increased risk of heart attack. <u>Other Health-Related Issues:</u> In rare cases associated with heavy use: psychotic reactions such as fear, anxiety, grandiose delusions (fantastical beliefs that one has superior qualities such as fame, power, and wealth), hallucinations, and paranoia.
<b>Street Name</b>	Abyssinian Tea, African Salad, Catha, Chat, Kat, Oat	
<b>Commercial Name</b>	None	
<b>Common Forms</b>	Fresh or dried leaves	
<b>Common Ways Taken</b>	Chewed, brewed as tea	
<b>DEA Schedule</b>	Cathinone is a Schedule I drug, making khat use illegal, but the khat plant is not controlled	

<b>Kratom</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Nausea, dizziness, itching, sweating, dry mouth, constipation, loss of appetite. Low doses: increased energy, sociability, alertness. High doses: sedation, euphoria, decreased pain. <u>Long-Term:</u> Anorexia, weight loss, insomnia, skin darkening, dry mouth, frequent urination, constipation; hallucinations with long-term use at high doses in some users. <u>Other Health-Related Issues:</u> Unknown
<b>Street Name</b>	Herbal Speedball, Biak-biak, Ketum, Kahuam, Thang, Thom	
<b>Commercial Name</b>	None	
<b>Common Forms</b>	Fresh or dried leaves, powder, liquid, gum	
<b>Common Ways Taken</b>	Chewed (whole leaves); eaten (mixed in food or brewed as tea); occasionally smoked	
<b>DEA Schedule</b>	Not scheduled.	

<b>LSD</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Rapid emotional swings; distortion of a person's ability to recognize reality, think rationally, or communicate with others; raised blood pressure, heart rate, body temperature; dizziness and insomnia; loss of appetite; dry mouth; sweating; numbness; weakness; tremors; enlarged pupils. <u>Long-Term:</u> Frightening flashbacks (called Hallucinogen Persisting Perception Disorder [HPPD]); ongoing visual disturbances, disorganized thinking, paranoia, and mood swings. <u>Other Health-Related Issues:</u> Unknown
<b>Street Name</b>	Acid, Blotter, Boomers, Cid, Golden Dragon, Looney Tunes, Lucy Mae, Microdots, Tabs, Yellow Sunshine	
<b>Commercial Name</b>	None	
<b>Common Forms</b>	Tablet; capsule; clear liquid; small, decorated squares of absorbent paper that liquid has been added to	
<b>Common Ways Taken</b>	Swallowed, absorbed through mouth tissues (paper squares)	
<b>DEA Schedule</b>	Schedule I	

<b>Marijuana (Cannabis)</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Enhanced sensory perception and euphoria followed by drowsiness/relaxation; slowed reaction time; problems with balance and coordination; increased heart rate and appetite; problems with learning and memory; anxiety. <u>Long-Term:</u> Mental health problems, chronic cough, frequent respiratory infections. <u>Other Health-Related Issues:</u> THC vaping products mixed with the filler Vitamin E acetate (and possibly other chemicals) has led to serious lung illnesses and deaths.
<b>Street Name</b>	420, Blunt, Bud, Doobie, Dope, Ganja, Grass, Green, Herb, Joint, Mary Jane, Pot, Reefer, Sinsemilla, Skunk, Smoke, Stinkweed, Trees, Weed, <i>Hashish:</i> Boom, Gangster, Hash, Hemp <i>Concentrates:</i> Budder, Crumble, Shatter, Wax <i>In food:</i> Edibles <i>Added to hollowed out cigar:</i> Blunt	
<b>Commercial Name</b>	Various brand names in states where the sale of marijuana is legal	

<b>Common Forms</b>	Greenish-gray mixture of dried, shredded leaves, stems, seeds, and/or flowers; resin (hashish) or sticky, black liquid (hash oil)	Pregnancy: babies born with problems with attention, memory, and problem solving.
<b>Common Ways Taken</b>	Smoked, eaten (mixed in food or brewed as tea)	
<b>DEA Schedule</b>	Schedule I	

<b>MDMA (Ecstasy/Molly)</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Lowered inhibition; enhanced sensory perception; confusion; depression; sleep problems; anxiety; increased heart rate and blood pressure; muscle tension; teeth clenching; nausea; blurred vision; faintness; chills or sweating; sharp rise in body temperature leading to liver, kidney, or heart failure and death. <u>Long-Term:</u> Long-lasting confusion, depression, problems with attention, memory, and sleep; increased anxiety, impulsiveness, aggression; loss of appetite; less interest in sex. <u>Other Health-Related Issues:</u> Unknown.
<b>Street Name</b>	Adam, E, X, XTC, Beans, Candy, E-bomb, Thizz, Love Drug, Molly, Rolls, Skittles, Sweets, Vitamin E or X.	
<b>Commercial Name</b>	None	
<b>Common Forms</b>	Colorful tablets with imprinted logos, capsules, powder, liquid	
<b>Common Ways Taken</b>	Swallowed, snorted	
<b>DEA Schedule</b>	Schedule I	

<b>Mescaline (Peyote)</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Enhanced perception and feeling; hallucinations; euphoria; anxiety; increased body temperature, heart rate, blood pressure; sweating; problems with movement <u>Long-Term:</u> Unknown. <u>Other Health-Related Issues:</u> Unknown.
<b>Street Name</b>	Big Chief, Buttons, Cactus, Mesc	
<b>Commercial Name</b>	None	
<b>Common Forms</b>	Fresh or dried buttons, capsule	
<b>Common Ways Taken</b>	Swallowed (chewed or soaked in water and drunk)	
<b>DEA Schedule</b>	Schedule I	

<b>Methamphetamine</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Increased wakefulness and physical activity; decreased appetite; increased breathing, heart rate, blood pressure, temperature; irregular heartbeat. <u>Long-Term:</u> Anxiety, confusion, insomnia, mood problems, violent behavior, paranoia, hallucinations, delusions, weight loss, severe dental problems ("meth mouth"), intense itching leading to skin sores from scratching. <u>Other Health-Related Issues:</u> Pregnancy: premature delivery; separation of the placenta from the uterus; low birth weight; lethargy; heart and brain problems. Risk of HIV, hepatitis, and other infectious diseases from shared needles. When combined with alcohol, it masks the depressant effect of alcohol, increasing risk of alcohol overdose; may increase blood pressure and jitters. Withdrawal symptoms include depression, anxiety, and tiredness.
<b>Street Name</b>	Crank, Chalk, Crystal, Dunk, Gak, Ice, Meth, Pookie, Quartz, Rocket Fuel, Scooby Snax, Speed, Trash <i>With cocaine:</i> Croak, Shabu <i>With MDMA:</i> Hugs and Kisses, Party and Play (P&P)	
<b>Commercial Name</b>	Desoxyn®	
<b>Common Forms</b>	White powder or pill; crystal meth looks like pieces of glass or shiny blue-white "rocks" of different sizes	
<b>Common Ways Taken</b>	Swallowed, snorted, smoked, injected	
<b>DEA Schedule</b>	Schedule II	

<b>Over-the-counter Cough/Cold Medicines (Dextromethorphan or DMX)</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Cough relief; euphoria; slurred speech; increased heart rate and blood pressure; dizziness; nausea; vomiting <u>Long-Term:</u> Unknown. <u>Other Health-Related Issues:</u> Breathing problems, seizures, and increased heart rate may occur from other ingredients in cough/cold medicines. In combination with alcohol, increased risk of these adverse effects.
<b>Street Name</b>	Poor Man's PCP, Robo, Robotripping, Skittles, Triple C	
<b>Commercial Name</b>	Various (many brand names include "DM")	
<b>Common Forms</b>	Syrup, capsule	
<b>Common Ways Taken</b>	Swallowed	
<b>DEA Schedule</b>	Not scheduled	

Over-the-County Medicines--Loperamide		Possible Health Effects:
Street Name	Lope dope, Poor man's methadone	Short-Term: Controls diarrhea symptoms. In high doses, can produce euphoria. May lessen cravings and withdrawal symptoms of other drugs. Long-Term: Unknown Other Health-Related Issues: Fainting, stomach pain, constipation, loss of consciousness, cardiovascular toxicity, pupil dilation, and kidney failure from urinary retention.
PCP		Possible Health Effects:
Street Name	Angel Dust, Embalming fluid, Hog, Rocket Fuel, Sherms, <i>Mixed with marijuana: Zoom</i>	Short-Term: Delusions, hallucinations, paranoia, problems thinking, a sense of distance from one's environment, anxiety. Low doses: slight increase in breathing rate; increased blood pressure and heart rate; shallow breathing; face redness and sweating; numbness of the hands or feet; problems with movement. High doses: nausea; vomiting; flicking up and down of the eyes; drooling; loss of balance; dizziness; violence; seizures, coma, and death. Long-Term: Memory loss, problems with speech and thinking, loss of appetite, anxiety. Other Health-Related Issues: PCP has been linked to self-injury. Risk of HIV, hepatitis, and other infectious diseases from shared needles. Increased risk of coma. Headaches, sweating.
Commercial Name	None	
Common Forms	White or colored powder, tablet, or capsule; clear liquid	
Common Ways Taken	Injected, snorted, swallowed, smoked (powder added to mint, parsley, oregano, or marijuana)	
DEA Schedule	Schedule I, II	

Prescription Opioids		Possible Health Effects:
Street Name	Captain Cody, Cody, Lean, Schoolboy, Sizzurp, Purple Drank with glutethimide: Doors & Fours, Loads, Pancakes and Syrup	Short-Term: Pain relief, drowsiness, nausea, constipation, euphoria, confusion, slowed breathing, death. Long-Term: Increased risk of overdose or addiction if misused. Other Health-Related Issues: Pregnancy: Miscarriage, low birth weight, neonatal abstinence syndrome. Older adults: higher risk of accidental misuse or abuse because many older adults have multiple prescriptions, increasing the risk of drug-drug interactions, and breakdown of drugs slows with age; also, many older adults are treated with prescription medications for pain. Risk of HIV, hepatitis, and other infectious diseases from shared needles. In combination with alcohol, dangerous slowing of heart rate and breathing leading to coma and death. Withdrawal symptoms include restlessness, muscle and bone pain, insomnia, diarrhea, vomiting, cold flashes with goose bumps ("cold turkey"), leg movements.
Commercial Name	Codeine (various brand names)	
Common Forms	Tablet, capsule, liquid	
Common Ways Taken	Injected, swallowed (often mixed with soda and flavorings)	
DEA Schedule	Schedule II, III, V	
Prescription Opioids (continued)		Possible Health Effects:
Street Name	Apache, Blonde, Blue Diamond, Blue Diamond, China Buffet, China White, Snowflake, Humid, Jackpot, Murder 8, Tango and Cash, TNT, White Ladies, <i>With heroin: Birria</i> <i>With heroin pills: Facebook</i>	
Commercial Name	Fentanyl (Actiq®, Duragesic®, Sublimaze®)	
Common Forms	Lozenge, sublingual tablet, film, buccal tablet	
Common Ways Taken	Injected, smoked, snorted	
DEA Schedule	Schedule II	
Prescription Opioids (continued)		Possible Health Effects:
Street Name	Vikes, Veeks, Idiot Pills, Scratch, 357s, Lemonade, Bananas, Dones, Droco, Lorries, <i>With valium and vodka: Triple V</i>	
Commercial Name	Hydrocodone or dihydrocodeinone (Vicodin®, Lortab®, Lorcet®, and others)	
Common Forms	Capsule, liquid, tablet	
DEA Schedule	Schedule II	
		Possible Health Effects: See Prescription Opioids, page 4

Prescription Opioids (continued)	
Street Name	D, Dillies, K4, Needle Candy,
Commercial Name	Hydromorphone (Dilaudid®)
Common Forms	Liquid, suppository
Common Ways Taken	Injected, rectal
DEA Schedule	Schedule II

Prescription Opioids (continued)	
Street Name	Demmies, Pain Killer
Commercial Name	Meperidine (Demerol®)
Common Forms	Tablet, liquid
Common Ways Taken	Swallowed, snorted, injected
DEA Schedule	Schedule II

Prescription Opioids (continued)	
Street Name	Amidone, Biscuits, Fizzies , Jungle Juice, Maria, Wafer With MDMA: Chocolate Chip Cookies
Commercial Name	Methadone (Dolophine®, Methadose®)
Common Forms	Tablet, dispersible tablet, liquid
Common Ways Taken	Swallowed, injected
DEA Schedule	Schedule II

Prescription Opioids (continued)	
Street Name	Dreamer, First Line, Joy Juice, Morpho, Miss Emma, Monkey, White Stuff, Mister Blue, Unkie
Commercial Name	Morphine (Duramorph®, Roxanol®)
Common Forms	Tablet, liquid, capsule, suppository
Common Ways Taken	Injected, swallowed, smoked
DEA Schedule	Schedule II, III

Prescription Opioids (continued)	
Street Name	30s, 40s, 512s, Oxy, Beans, Blues, Buttons, Cotton,Hillbilly Heroin Kickers, Killers, Percs, Roxy
Commercial Name	Oxycodone (OxyContin®, Percodan®, Percocet®,and others)
Common Forms	Capsule, liquid, tablet
Common Ways Taken	Swallowed, snorted, injected
DEA Schedule	Schedule II

Prescription Opioids (continued)	
Street Name	Biscuits, Blue Heaven, Blues, Mrs. O, O Bomb,Octagons, Stop Signs
Commercial Name	Oxymorphone (Opana®)
Common Forms	Tablet
Common Ways Taken	Swallowed, snorted, injected
DEA Schedule	Schedule II

Prescription Stimulants		Possible Health Effects:
Street Name	Addys, Bennies, Beans, Black Beauties, Crosses, Hearts, Ivy League Drug, Pep Pills, Speed, Truck Drivers, Uppers	<b>Short-Term:</b> Increased alertness, attention, energy; increased blood pressure and heart rate; narrowed blood vessels; increased blood sugar; opened-up breathing passages. High doses: dangerously high body temperature and irregular heartbeat; heart failure; seizures. <b>Long-Term:</b> Heart problems, psychosis, anger, paranoia. <b>Other Health-Related Issues:</b> Risk of HIV, hepatitis, and other infectious diseases from shared needles. Masks the depressant action of alcohol, increasing risk of alcohol overdose; may increase blood pressure and jitters. Withdrawal symptoms include depression, tiredness, and sleep problems.
Commercial Name	Amphetamine (Adderall®, Bensedrine®)	
Common Forms	Tablet, capsule	
Common Ways Taken	Swallowed, snorted, smoked, injected	
DEA Schedule	Schedule II	
Street Name	Diet Coke, JIF, Kiddie Coke, MPH, R-Ball, R-Pop, Skippy, Study Buddies , The Smart Drug, Vitamin R	
Commercial Name	Methylphenidate (Concerta®, Ritalin®)	
Common Form	Liquid, tablet, chewable tablet, capsule	
Common Ways Taken	Swallowed, snorted, smoked, injected, chewed	
DEA Schedule	Schedule II	

<b>Psilocybin</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Hallucinations, altered perception of time, inability to tell fantasy from reality, panic, muscle relaxation or weakness, problems with movement, enlarged pupils, nausea, vomiting, drowsiness. <u>Long-Term:</u> Risk of flashbacks and memory problems. <u>Other Health-Related Issues:</u> Risk of poisoning if a poisonous mushroom is accidentally used. In combination with alcohol, may decrease the perceived effects of alcohol.
<b>Street Name</b>	Little Smoke, Magic Mushrooms, Purple Passion, Sacred Mush, Sewage Fruit, Shrooms, Zoomers	
<b>Commercial Name</b>	None	
<b>Common Forms</b>	Fresh or dried mushrooms with long, slender stems topped by caps with dark gills	
<b>Common Ways Taken</b>	Swallowed (eaten, brewed as tea, or added to other foods)	
<b>DEA Schedule</b>	Schedule I	

<b>Rohypnol® (Flunitrazepam)</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Drowsiness, sedation, sleep; amnesia, blackout; decreased anxiety; muscle relaxation, impaired reaction time and motor coordination; impaired mental functioning and judgment; confusion; aggression; excitability; slurred speech; headache; slowed breathing and heart rate. <u>Long-Term:</u> Unknown. <u>Other Health-Related Issues:</u> Unknown. In combination with alcohol, severe sedation, unconsciousness and slowed heart rate and breathing, which can lead to death. Withdrawal symptoms include headache, muscle pain, extreme anxiety, tension, restlessness, confusion, irritability, numbness, tingling of hands or feet, hallucinations, delirium, convulsions, seizures or shock
<b>Street Name</b>	Circles, Date Rape Drug, Forget-Me Pill, La Rocha, Mexican Valium, Mind Eraser, Pingus, R2, Rib, <i>Variations of:</i> Roaches, Roopies, Rochas Dos, Roofies, Rope, Rophies, Rowie, Ruffies	
<b>Commercial Name</b>	Flunitrazepam, Rohypnol®	
<b>Common Forms</b>	Tablet	
<b>Common Ways Taken</b>	Swallowed (as a pill or as dissolved in a drink), snorted	
<b>DEA Schedule</b>	Schedule IV; Rohypnol® is not approved for medical use in the United States; it is available as a prescription sleep aid in other countries	

<b>Salvia</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Short-lived but intense hallucinations; altered visual perception, mood, body sensations; mood swings, feelings of detachment from one's body; sweating. <u>Long-Term:</u> Unknown. <u>Other Health-Related Issues:</u> Unknown.
<b>Street Name</b>	Chia seeds, Diviner's Sage, Magic Mint, Sally-D, Ska Pastora	
<b>Commercial Name</b>	Sold legally in most states as Salvia divinorum	
<b>Common Forms</b>	Fresh or dried leaves	
<b>Common Ways Taken</b>	Smoked, chewed, or brewed as tea	
<b>DEA Schedule</b>	Not Scheduled (but labeled drug of concern by DEA and illegal in some states)	

<b>Steroids (Anabolic)</b>		<b>Possible Health Effects:</b> <u>Short-Term:</u> Builds muscles, improved athletic performance. Acne, fluid retention (especially in the hands and feet), oily skin, yellowing of the skin, infection. <u>Long-Term:</u> Kidney damage or failure; liver damage; high blood pressure, enlarged heart, or changes in cholesterol leading to increased risk of stroke or heart attack, even in young people; aggression; extreme mood swings; anger ("Roid rage"); paranoid jealousy; extreme irritability; delusions; impaired judgment. <u>Other Health-Related Issues:</u> Males: shrunken testicles, lowered sperm count, infertility, baldness, development of breasts, increased risk for prostate cancer. Females: facial hair, male-pattern baldness, menstrual cycle changes, enlargement of the clitoris, deepened voice.
<b>Street Name</b>	Gear, Juice, Gym Candy, Pumpers, Roids, Stacking	
<b>Commercial Name</b>	Nandrolone (Oxandrin®), oxandrolone (Anadrol®), oxymetholone (Anadrol-50®), testosterone cypionate (Depo-testosterone®)	
<b>Common Forms</b>	Tablet, capsule, liquid drops, gel, cream, patch, injectable solution	
<b>Common Ways Taken</b>	Injected, swallowed, applied to skin	
<b>DEA Schedule</b>	Schedule III	

		Adolescents: stunted growth. Risk of HIV, hepatitis, and other infectious diseases from shared needles. Increased risk of violent behavior.
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<b>Synthetic Cannabinoids ("K2" / "Spice")</b>		<b>Possible Health Effects:</b>
<b>Street Name</b>	Black Mamba, Bliss, Bombay Blue, Fake Weed, Fire, Genie, K-2, Moon Rocks, Solar Flare, Skunk, Smacked, Spice, Yucatan, Zohai	<u>Short-Term:</u> Increased heart rate; vomiting; agitation; confusion; hallucinations, anxiety, paranoia; increased blood pressure and reduced blood supply to the heart; heart attack.
<b>Commercial Name</b>	None	<u>Long-Term:</u> Unknown.
<b>Common Forms</b>	Dried, shredded plant material that looks like potpourri and is sometimes sold as "incense"	<u>Other Health-Related Issues:</u> Use of synthetic cannabinoid has led to an increase in emergency room visits in certain areas.
<b>Common Ways Taken</b>	Smoked, swallowed (brewed as tea)	
<b>DEA Schedule</b>	Schedule I	

<b>Bath Salts (Synthetic Cathinones)</b>		<b>Possible Health Effects:</b>
<b>Street Name</b>	Bath Blow, Bloom, Blue Silk, Bubbles, Cloud Nine, Cosmic Blast, Flakka, Ivory Wave, Lunar Wave, Salting, Scarface, Vanilla Sky, White Lightning, Wicked X	<u>Short-Term:</u> Increased heart rate and blood pressure; euphoria; increased sociability and sex drive; paranoia, agitation, and hallucinations; psychotic and violent behavior; nosebleeds; sweating; nausea, vomiting; insomnia; irritability; dizziness; depression; suicidal thoughts; panic attacks; reduced motor control; cloudy thinking.
<b>Commercial Name</b>	None	<u>Long-Term:</u> Death
<b>Common Forms</b>	White or brown crystalline powder sold in small plastic or foil packages labeled "not for human consumption" and sometimes sold as jewelry cleaner; tablet, capsule, liquid	<u>Other Health-Related Issues:</u> Risk of HIV, hepatitis, and other infectious diseases from shared needles.
<b>Common Ways Taken</b>	Swallowed, snorted, or injected	
<b>DEA Schedule</b>	Schedule I Some formulations have been banned by the DEA	

<b>Tobacco</b>		<b>Possible Health Effects:</b>
<b>Street Name</b>	<i>Cigarettes/Cigars:</i> Butts, Cancer sticks, Ciggys, Cigs, Coffin nails, Smokes, Stogies, Stokes <i>Cigar hollowed out with marijuana added:</i> Blunt <i>Vaping:</i> Cig-A-Like, E-Hookah, E-Juice, JUULing, vape pens, mods	<u>Short-term:</u> Increased blood pressure, breathing, and heart rate. <u>Long-Term:</u> Greatly increased risk of cancer, especially lung cancer when smoked and oral cancers when chewed; chronic bronchitis; emphysema; heart disease; leukemia; cataracts; pneumonia.
<b>Commercial Name</b>	Multiple brand names	<u>Other Health-Related Issues:</u> Pregnancy: miscarriage, low birth weight, premature delivery and stillbirth, and learning and behavior problems.
<b>Common Forms</b>	Cigarettes, cigars, bidis, hookahs, smokeless tobacco (snuff, spit tobacco, chew)	
<b>Common Ways Taken</b>	Smoked, snorted, chewed, vaporized	
<b>DEA Schedule</b>	Not Scheduled	

Last Reviewed: July 7, 2021

# University of Nebraska at Kearney Conduct Sanction Guidelines

Violation	1st Violation	2nd Violation	3rd Violation
Alcohol	Warning & 3rd Millennium Online Course	Probation, Referral to Counseling for Alcohol Assessment & Educational Sanction	Refer to Assistant Dean/ Conduct Board
Drugs/ Controlled Substances	Warning & 3rd Millennium Online Course	Probation, Referral to Counseling for Assessment & Educational Sanction	Refer to Assistant Dean/ Conduct Board
Smoking/ Tobacco	Warning & Restitution (if applicable)	Probation, Restitution & Educational Sanction	Refer to Assistant Dean/ Conduct Board
Theft	Warning/ Probation, Educational Sanction & Restitution	Probation, Educational Sanction & Restitution/ Refer to Assistant Dean/ Conduct Board	Refer to Assistant Dean/ Conduct Board
Damage	Warning/ Probation & Restitution	Warning/ Probation & Restitution or Refer to Assistant Dean	Warning/ Probation & Restitution or Refer to Assistant Dean
Disorderly Conduct	Warning/ Probation & Educational Sanction	Warning/ Probation & Educational Sanction or Refer to Assistant Dean	Refer to Assistant Dean/ Conduct Board
False Reports/ Fire Safety	Probation, Fine & Educational Sanction	Probation, Fine & Educational Sanction/ Refer to Assistant Dean/ Conduct Board	Refer to Assistant Dean/ Conduct Board
Residence Hall Violation(s)	Warning & Restitution and/or Educational Sanction	Warning/Probation & Restitution and/or Educational Sanction	Probation, Restitution and/or Educational Sanction or Refer to Assistant Dean/ Conduct Board
Weapons/ Firearms	Refer to Assistant Dean/ Conduct Board	Refer to Assistant Dean/ Conduct Board	Refer to Assistant Dean/ Conduct Board
Failure to Complete Assigned Sanction(s)	Warning & Hold on Student Account	Warning/ Probation & Hold on Student Account	Probation & Hold on Student Account or Refer to Assistant Dean

All recommended sanctions listed in the “University of Nebraska at Kearney Conduct Sanction Guidelines” should be considered the minimum sanction(s) for a student held “in violation” of the Student Code of Conduct. Should a violation occur that is particularly egregious stronger and/or more sanctions may be imposed by the conduct hearing officer. All cases that may involve a potential suspension, expulsion and/or a large restitution must be referred to the Student Conduct Board.

More information about the Student Conduct Board can be found in the Student Code of Conduct. ([https://www.unk.edu/offices/reslife/\\_documents/university-of-nebraska-at-kearney-student-code-of-conduct.pdf](https://www.unk.edu/offices/reslife/_documents/university-of-nebraska-at-kearney-student-code-of-conduct.pdf))

All questions related to sanctioning should be referred to the Assistant Dean for Student Affairs. The illegal possession, use, or distribution of drugs or alcohol by students and employees is a violation of University rules as well as State and Federal laws.

## Missing Persons Policy

The purpose of this policy is to provide guidelines regarding the handling of any residential student who is believed to be missing. This policy applies to all students of University Housing. This policy is a direct result of the passing of the Higher Education Act of 2008.

This policy contains the official notification procedures of the University of Nebraska at Kearney for missing students who reside in on-campus housing, in accordance with the requirements of the Higher Education Opportunity Act (HEOA). This policy is intended to promote the safety and welfare of members of the University community through compliance with the HEOA.

If a member of the University community has reason to believe that a student who resides in on-campus housing is missing, he or she must immediately notify the University of Nebraska at Kearney Police Department (UNKPD) at (308) 865-8911. The UNKPD will make all appropriate notifications, determined by the circumstances of each individual case. UNKPD will generate a missing person report and keep a copy for themselves, or in their absence, forward to KPD. Following is an investigation.

In addition to registering an emergency contact, students may also designate a confidential missing person contact to be notified in the event that the student is determined to be missing that only authorized campus officials and law enforcement officers in the furtherance of a missing persons investigation may access. University administration will utilize the confidential missing person contact when a student has been missing for less than 24-hours.

If the confidential missing person contact cannot be reached, does not know the location of the missing person, or more than 24-hours have passed, regardless of whether a confidential contact person has been registered by the student, the UNKPD will notify the student's emergency contact and enter the missing person on NCIS and NCIC in order for law enforcement officials throughout Nebraska and the United States to be aware of the circumstances. For missing students who are under the age of 18 and not emancipated, a parent or legal guardian must be notified of the situation, in accordance with HEOA.

The procedures outlined above may be implemented in less than 24-hours after a student has been determined missing if circumstances warrant a faster implementation.

Students will be given the opportunity to designate an individual or individuals to be contacted by the University no more than 24-hours after the time the student is determined to be missing in accordance with the procedures set forth below. This individual will further be updated as to the progress of the investigation into the missing person. This designated emergency contact will remain in effect until changed or revoked by the student.

## 1. PROCEDURE

A. Students Living on Campus will be given the opportunity during the time of move-in to designate an individual or individuals to be contacted by the University no more than 24-hours after the time the student is determined to be missing in accordance with the procedures set forth below. A designation will remain in effect until changed or revoked by the student. This information will be maintained in the Housing Office.

Students enrolled at UNK but do not live on campus will be able to identify a confidential contact person or persons who will be notified within 24-hours in the event that a determination is made by one of the UNK Police Department that the student is missing through MyBlue.

B. In the event a student who is under the age of 18 and is not emancipated is determined to be missing pursuant to the procedures set forth below, the University is required to notify a custodial parent or guardian, in addition to the student's designated contact, no more than 24-hours after the student is determined to be missing in accordance with the procedures set forth below.

C. Official notification procedures for missing students:

- 1) Any individual who believes a residential student may be missing must notify either the Office of Residence Life at 308-865-8519, 2615 11<sup>th</sup> Avenue, Conrad Hall or UNKPD at 308-865-8911, 2501 19<sup>th</sup> Avenue as soon as possible.
- 2) If an individual who lives off campus is believed to be missing, the reporting person will be immediately referred to their local police department. All University departments will work with these agencies to assist them in their investigation.
- 3) The Office of Residence Life and UNKPD will work together to gather all essential information about the residential student to determine the validity and credibility of the report. UNKPD will gather all essential information about the resident from the reporting person and from the resident's acquaintances. Appropriate campus staff will be notified to aid in the search for the resident.
- 4) If the above actions are unsuccessful in locating the student or it is apparent immediately that the student is a missing person (e.g.,witnessed abduction) UNKPD will report the missing person to the National Crime Information Center of the Department of Justice and contact the appropriate law enforcement agency to report the student as a missing person and request their assistance as the lead investigating agency on the case.
- 5) No later than 24-hours after determining that a residential student is missing, the Office of Residence Life will notify the emergency contact for the students, UNKPD will notify the local law enforcement (KPD). In addition, the parent/guardian for the students under the age of 18 will be contacted.
- 6) The University's Administrative and Emergency Operation Teams will also be notified at this time. The lead investigating agency will be the contact point for the release of any information pertaining to the case. This agency may consult with Communications and Marketing. All inquiries to the University regarding the missing student's case, or information provided to any individual about a missing student, shall be referred to the UNKPD, who shall refer such inquiries and information to the lead investigating agency.

## **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 of 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.

## **Procedures for Sexual Misconduct Reports against Students**

### **Response to Allegations of Student Sexual Misconduct**

#### **A. Introduction**

These Procedures supplement the University of Nebraska Sexual Misconduct Policy and describe the grievance process related to reports of sexual misconduct against students.

#### **B. Prohibited Conduct 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.

1. “Dating violence” means violence committed by a person—
  - a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - i. The length of the relationship;
    - ii. The type of relationship; and
    - iii. The frequency of interaction between the persons involved in the relationship.
2. “Domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

Domestic violence includes domestic assault. Under Nebraska law, a person commits domestic assault if the person (i) intentionally and knowingly causes bodily injury to their intimate partner; (ii) threatens an intimate partner with imminent bodily injury; or (iii) threatens an intimate partner in a menacing manner.

Under Nebraska law an “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.

3. “Retaliation” means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by the Sexual Misconduct Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Sexual Misconduct Policy.
4. “Sexual assault” means an offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI's Uniform Crime Reporting system. A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
  - a. Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
  - b. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of the victim’s age or because of the victim’s temporary or permanent mental incapacity.
  - c. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - d. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.
5. “Sexual exploitation” includes, but is not limited to: prostituting another person; non-consensual visual or audio recording of sexual activity; non-consensual display or distribution of photos, images or information of an individual’s sexual activity or intimate body parts; non-consensual voyeurism; coercing someone against their will to engage in sexual activity, or; knowingly transmitting sexually transmitted disease (STD) without disclosing STD status.
6. “Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:
  - a. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct;

- b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity;
- c. Sexual assault (see definition herein);
- d. Dating violence (see definition herein);
- e. Domestic violence (see definition herein); or
- f. Stalking (see definition herein).

To be considered sexual harassment for the purposes of Title IX, the conduct must meet the additional requirements of occurring in the University's education program or activity and against a person in the United States.

For employees, sexual harassment also means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment, sufficiently severe or pervasive to alter the conditions of the individual's employment and create an abusive working environment.

- 7. "Sexual misconduct" includes dating violence, domestic violence, rape, sexual assault, sexual harassment, sexual exploitation, and stalking.
- 8. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - a. fear for their safety or the safety of others or
  - b. suffer substantial emotional distress.

## C. **Related Definitions**

1. “Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to the University’s Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. “Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.
2. “Bodily injury” shall mean physical pain, illness, or any impairment of physical condition.
3. “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.
4. “Consent” is a freely and affirmatively communicated willingness to participate in particular sexual activity or behavior, expressed either by words or clear, unambiguous actions.
  - a. Consent can be withdrawn at any time, as long as the withdrawal of consent is clearly communicated by words or actions.
  - b. Consent cannot be coerced or compelled by force, threat, deception, or intimidation.
  - c. Consent cannot be given by someone who is incapacitated or does not have the legal capacity to consent, as defined below in the definition of “incapacitated”.
  - d. Consent cannot be assumed based on silence, the absence of “no” or “stop,” the existence of a prior or current relationship, or prior sexual activity.

There are some persons who Nebraska law presumes are incapable of consenting to sexual contact or penetration as defined by Nebraska law 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.
5. “Crimes of violence” are those offenses that involve force or threat of force, including murder and non-negligent manslaughter, rape, robbery, and aggravated assault.

6. “Education program or activity” includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the sexual misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.
7. “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.
8. “Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual misconduct, including sexual harassment under Title IX, against a Respondent and requesting that the University investigate the allegation of sexual misconduct. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party under the Sexual Misconduct Policy and will comply with the requirements of the Sexual Misconduct Policy.
9. “Incapacitated” means an individual is unable to understand the facts, nature, extent, or implications of the situation due to drugs, alcohol, a mental disability, being asleep, unconscious or in any other state where the individual is unaware that sexual contact is occurring, or based on their age (pursuant to Nebraska law). With respect to alcohol and drugs, intoxication and/or impairment is not presumptively equivalent to incapacitation. Consent does not exist when the individual initiating sexual activity knew or should have known of the other individual’s incapacitation.

There are some persons who Nebraska law presumes are incapable of consenting to sexual contact or penetration as defined by Nebraska law 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.

10. “In violation” means that it is more likely than not that a Respondent has committed one or more acts of sexual misconduct. In other words, a preponderance of the evidence standard must be used to find sexual misconduct.
11. “May” is used in the permissive sense.
12. “Not in violation” means that it is more likely than not that a Respondent did not commit one or more acts of sexual misconduct.

13. “Past sexual behavior” means a person’s sexual behavior other than when the sexual misconduct is alleged to have occurred.
14. “Private body parts” means the genital area, groin, inner thighs, buttocks, or breasts.
15. “Preponderance of the Evidence” is the standard of evidence the University uses to determine whether the Respondent violated the Sexual Misconduct Policy. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all the reasonable evidence and reasonable inferences from the evidence, that the Respondent violated the Sexual Misconduct Policy.
16. “Relevant evidence” means evidence that has any tendency to make a fact more or less probable than it would be without the evidence and the fact is of consequence in determining the action.
17. “Remedies” are measures designed to restore or preserve equal access to the University’s education program or activity. Such remedies may include the same supportive measures that are already being provided to the Complainant; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.
18. “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.
19. “Shall” is used in the imperative sense.
20. “Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the University’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.
21. “Past sexual behavior” means a person’s sexual behavior other than when the sexual misconduct is alleged to have occurred.

22. “University” means University of Nebraska.

23. “University Day” means a weekday on which the campus offices are open. Check the academic calendar on the campus website to determine the days on which the campus offices are closed.

#### D. Roles

Individuals play a number of important roles within the University’s Sexual Misconduct investigation and adjudication process. The following are descriptions of each of those roles within the process.

1. “Advisor” means any individual who provides the Complainant or Respondent support, guidance, or advice and may accompany the Complainant or the Respondent to any meeting or grievance proceeding, such as a meeting in the investigation or the Hearing. The Complainant and the Respondent may choose their advisor, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of the advisor for either the Complainant or Respondent in any meeting or grievance proceeding; however, the University may establish restrictions regarding the extent to which the advisor may participate in the proceeding. If a Complainant or the Respondent does not have an advisor present at a live hearing, the University will provide without fee or charge to that party, an advisor of the University’s choice who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

Other than to conduct cross-examination as described above, the parties’ respective advisors may not speak on behalf of the parties during the hearing and may not directly participate in any aspect of the hearing. The Complainant or the Respondent, however, may consult with their respective advisors during a meeting or the hearing. The Hearing Board Chair may limit the length and frequency of consultations so that they do not unreasonably delay the hearing or unreasonably interfere with the presentation of evidence.

2. “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.
3. “Complainant” means any individual who is alleged to be the victim of conduct that could constitute sexual misconduct. A Complainant may also be referred to as a “party”.
4. “Conduct Officer” is a University employee who has responsibilities related to student conduct and usually presents the University’s information during a hearing.

5. “Decision-maker” is an individual who makes a determination as part of the Sexual Misconduct grievance process. There may be more one or more decision-maker(s) involved in any given proceeding, for example, a hearing or appeal. The decision-maker(s), will not be the same person(s) as the Title IX Coordinator or the Investigator(s) and will issue a written determination regarding responsibility. Decision-makers may include Hearing Officers, Appeals Officers, and Hearing Board Members.
6. “Hearing Board” is a subset of the University Conduct Board. The Hearing Board will composed of an odd number of three or more members, including one (1) student member.
7. “Hearing Facilitator” is a University official designated to coordinate a Hearing.
8. “Investigator” means a University official authorized to investigate of complaints of sexual misconduct.
9. “Member of the University community” includes any individual who is a student, staff or 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.
10. “Official with Authority” means an official of the University who has authority to institute corrective measures for sexual misconduct on behalf of the University. The following individuals are Officials with Authority: President, Chancellors; Provost/Vice Presidents and Vice Chancellors; and UNCA and Campus Title IX Coordinators.
11. “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct. A Respondent may also be referred to as a “party”.
12. “Student” has the same meaning as used in the Student Code of Conduct. The term “student” includes all persons enrolled at the University, including online and non-degree seeking individuals. A student’s enrollment ends when the student graduates, withdraws from the University, or fails to register for classes for three (3) consecutive semesters, with summer term considered to be a semester, or no longer has a continuing student relationship with the University. Students who are accused of committing a violation of the Student Code of Conduct while they are enrolled at the University may still be held responsible for the violation even if they later withdraw from the University prior to a resolution of the alleged violation.

13. “Title IX Coordinator” is a person designated by the University to coordinate the University’s effort to comply with its responsibilities under Title IX. The Title IX Coordinator oversees the University’s gender equity work to ensure compliance with Title IX, including its policies and procedures, education/prevention efforts, and training. The Title IX Coordinator reviews information about sexual misconduct to identify and address any patterns or systemic problems that arise during the review of such complaints. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment) to the Title IX Coordinator.
14. “University Conduct Board” has the authority to hear and resolve charges that a student or a student organization violated the Standards of Academic Integrity and Responsible Conduct (“Standards”) and if the Board determines that a violation occurred, for determining the University’s response.
15. “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 will report crimes, arrests, and disciplinary referrals 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.
16. “University Presenter” is the person who presents the case on behalf of the University at the Hearing. This person may be, but is not required to be, the Investigator or the Title IX Coordinator.
17. “Witness” is a person believed to have information regarding an incident which may violate the Sexual Misconduct Policy, including but not limited to someone present when the incident occurred, someone the Complainant or Respondent communicated with about the incident, and/or someone who may have information relevant to the incident. Witness participation in the grievance process is voluntary. While the University encourages witnesses to cooperate with the grievance processes, the University cannot compel or require witnesses to participate.

## **E. Jurisdiction: Locations Where and Circumstances When the Procedures Apply**

These Procedures apply to alleged sexual misconduct that occurs in the University's education program or activities, on-campus, or off-campus as described in this section.

### **1. Education Program and Activities**

Education program or activity includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the sexual misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

### **2. On-Campus**

On-campus includes all University premises, including all University of Nebraska locations; physical campuses, including all adjacent streets and sidewalks, and any University affiliated programs; events or activities, including those located in other states or countries; and the use of any University electronic systems.

### **3. Off-Campus**

Off-campus means any location that is not on-campus.

- a. These Procedures apply to conduct that occurs off-campus in the following situations:
  - i. The Student Code of Conduct states that it applies to conduct that occurs off-campus.
  - ii. The conduct occurs in or on the grounds of a University-approved housing unit.
  - iii. The conduct occurs at events or during travel authorized, funded, or sponsored by the University.
  - iv. The conduct occurs at events or during travel funded or sponsored by a student organization.
  - v. The conduct poses a risk to the health and safety of individuals and application of the Student Code of Conduct is reasonably necessary to educate the student about the risks of the conduct or to help the student avoid engaging in the conduct in the future.
  - vi. The conduct poses a serious risk to the health or safety of individuals and is of the type that the student could easily engage in on-campus.
  - vii. The conduct was intentional and caused, or attempted to cause, physical injury to a University employee or another student.
  - viii. The conduct could, or was intended to, cause harm on-campus.

- ix. The Title IX Coordinator:
  - a) determines that the conduct in a particular matter distinctly and clearly implicates the University's interests;
  - b) prepares a written explanation of the interests and how the conduct implicates them; and
  - c) provides the written explanation to the student or student organization.
- b. The University must dismiss an allegation of sexual harassment under Title IX in a Formal Complaint if the conduct did not occur in the University's education program or activity or if the conduct did not occur against a person in the United States.
- c. Pursuant to Board of Regents By-Law 5.5, the Student Code of Conduct should not be applied as a matter of course to off-campus conduct simply because the conduct also violates federal, state, or local law.

## **F. Reporting Sexual Misconduct**

### **1. Where to Report Sexual Misconduct**

All individuals are expected to promptly report conduct that may violate the University's Sexual Misconduct Policy to the University. In addition, all individuals are expected to report conduct that may also violate criminal law to both the Title IX Coordinator and to local law enforcement. These processes are not mutually exclusive and both may happen simultaneous or at different times.

Any University student, employee, or other individual who seeks to report may contact the:

- Title IX Coordinator;
- University Police or Public Safety for assisting in filing a criminal complaint and preserving physical evidence; and/or
- Local law enforcement to file a criminal complaint.

The University will respond to reported allegations of sexual misconduct and may provide appropriate supportive measures to the Complainant, as described below, even if the Complainant does not wish to pursue a Formal Complaint. If an individual would like the University to respond to allegations of sexual misconduct, it is important that the individual report to the Title IX Coordinator. In some cases, an individual who may have experienced sexual misconduct may share information with another member of the University community. While the University encourages University community members with knowledge of potential violations of the sexual misconduct Policy to the Title IX Coordinator, the University will only have actual notice of sexual misconduct if an individual reports to an Official with Authority. The following individuals are Officials with Authority: President, Chancellors; Provost/Vice Presidents and Vice Chancellors; and UNCA and Campus Title IX Coordinators.

## 2. Reporting to the Title IX Coordinator

Any person may report sex discrimination, including sexual misconduct (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual misconduct), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

### Title IX Coordinator Contact Information:

Mary Chinnock Petroski  
Title IX Coordinator  
University of Nebraska at Kearney  
2113 Warner Hall  
(308) 865-8655  
petroskimj@unk.edu

- The University of Nebraska hotline is available for online reporting at <https://secure.ethicspoint.com/domain/media/en/gui/52126/index.html> or by phone at 844-348-9584.
- A person may also contact the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting [www2.ed.gov/about/offices/list/ocr/complaintintro.html](http://www2.ed.gov/about/offices/list/ocr/complaintintro.html) or calling 1-800-421- 3481.

## 3. Reporting to Law Enforcement

An individual who has experienced sexual misconduct has the right to choose whether to file a police report. The University encourages individuals to report incidents of sexual misconduct to University Police or local law enforcement. Filing a police report can result in the investigation of whether sexual violence or related crimes occurred and the prosecution of the perpetrator. Timely reporting to the police is an important factor in successful investigation and prosecution of crimes, including sexual violence.

The Title IX Coordinator or their designee provides information on contacting local and campus law enforcement and will assist an individual in doing so. However, the Title IX Coordinator or their designee will not compel an individual to go to law enforcement.

### Contact Information for University Police:

Police Department (UNK)  
Facilities Building, 2501 19<sup>th</sup> Avenue  
(308) 865-8911  
unkpd@unk.edu

#### 4. What Happens When A Title IX Coordinator Receives A Report

Upon receiving a report of sexual misconduct, the Title IX Coordinator or their designee will promptly contact the Complainant to discuss the availability of supportive measures. (Please see the Supportive Measures Section for more details). The Title IX Coordinator or their designee will:

- a. Discuss the availability of supportive measure;
- b. Consider the Complainant's wishes with respect to supportive measures;
- c. Inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint;
- d. Explain to the Complainant the process for filing a Formal Complaint against the Respondent; and
- e. If applicable, explain to the Complainant that if a Formal Complaint alleging sexual harassment under Title IX is dismissed the alleged sexual misconduct may be addressed under a different provision of the Student Code of Conduct using these Procedures.

Additionally, upon receiving a sexual misconduct report or complaint, the University will provide, or confirm that the Complainant has already received from the University, written information describing:

- a. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;
- b. How and to whom the alleged offense should be reported;
- c. Options about the involvement of law enforcement and campus authorities, including notification of the Complainant's option to—
  - i. Notify proper law enforcement authorities, including on-campus and local police;
  - ii. Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
  - iii. Decline to notify such authorities;
- d. Information about orders of protection, "no-contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the University;

- e. Information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for Complainants, both within the University and in the community; and
- f. Options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

A Complainant may go forward with one or more reporting options at the same time. The University's investigation may need to be delayed temporarily by, or scheduled around, an ongoing criminal or external administrative investigation.

## 5. Anonymous Reports

Any individual may make a report of sexual misconduct to the University, and if preferred, may do so without disclosing one's name. Depending on the level of information available about the incident or the individuals involved, the University's ability to respond to an anonymous report may be limited.

## 6. Confidentiality, Privacy, and Sharing of Information

The University shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of sexual misconduct, any Complainant, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA) or as required by law, or to carry out the purposes of Title IX, including conducting any investigation, hearing, or judicial proceeding arising thereunder. The University may be required to share information with other individuals in accordance with FERPA, Title IX, or other applicable law, including lawfully issued subpoenas in criminal, administrative, and civil matters.

The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. The Complainant and the Respondent and their respective advisors are asked to keep private information that does not consist of "the allegations under investigation" (For example, evidence related to the allegations that has been collected and exchanged between the parties and their advisors during the investigation under or the Investigative Report summarizing relevant evidence sent to the parties and their advisors.

The Complainant and the Respondent and their respective advisors are asked to keep the information related to the investigation and resolution private, to the extent consistent with applicable law. Witnesses are asked to keep any information learned in an investigation meeting confidential, to the extent consistent with applicable law.

## 7. Time Frame for Reporting an Incident

Although the University does not limit the time frame for reporting sexual misconduct in order to promote timely and effective review, the University strongly encourages individuals to report possible sexual misconduct within one hundred and eighty (180) calendar days of the last occurrence of the concerning conduct. A report made after one hundred and eighty (180) days may make it more difficult to gather relevant and reliable information.

## 8. Amnesty for Reports of Sexual Misconduct

The University encourages reporting of sexual misconduct and seeks to remove barriers to making a report. The University recognizes that an individual who has been consuming unauthorized alcohol (including underage consumption) or using illegal drugs or unauthorized prescription drugs at the time of an incident may be hesitant to make a report due to potential consequences. To encourage reporting, and except as provided below, an individual who makes a good faith report of sexual misconduct and/or participates in an investigation will not be subject to disciplinary action for a policy violation related to consuming unauthorized alcohol or using illegal drugs or unauthorized prescription drugs. This policy provision may also apply to registered student organizations when a report of sexual misconduct is made that could reasonably result in the organization facing student conduct disciplinary action for a policy violation related to consuming unauthorized alcohol or using illegal drugs or unauthorized prescription drugs. This policy does not preclude or prevent action by law enforcement or other legal authorities.

### G. **Preservation of Evidence**

Individuals involved in a report of sexual misconduct should preserve evidence to the extent possible, as it may assist the University or law enforcement in making factual determinations about the reported violence or misconduct, or might be helpful to a court's determination regarding the issuance of a Personal Protection Order. The University encourages individuals to go to the police or another resource in order to assist in the preservation of evidence.

### H. **Supportive Measures**

The University will provide supportive measures to Complainants and Respondents. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. The following supportive measures may be made available to the Complainant and the Respondent based on the facts and circumstances of the individual case:

1. Transfer or re-assignment of living space within University residence halls;
2. Assistance from the University in completing the relocation if transferred or re-assigned;
3. Mutual restrictions on contact between the parties;
4. Cancelling a University housing contract and/or adjusting a student account balance for refund;
5. Coordinating course-related adjustments (e.g. excused absences, flexible attendance, revised deadlines, reschedules, substitutions, etc.);
6. Endorsing or authorizing a grade change (e.g. incomplete, pass/no pass);
7. Transferring between class sections;
8. Endorsing or authorizing a withdrawal after the deadline has passed with or without a refund of tuition and fees;
9. Alternative course completion options (e.g. substitutions, independent study, correspondence);
10. Arranging to complete a course or lectures via distance education methods with the assistance of technology;
11. Providing increased security at location or activities (e.g. accompaniment or escort, surveillance, monitoring);
12. Modifying work schedules, job responsibilities, supervision, or re-assignment to a different work site; and
13. Counseling at a campus clinic or center.

The University will maintain as confidential any supportive measures provided to the Complainant or the Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. Any supportive measures offered to either party cannot punish, discipline, or unreasonably burden the other party.

## **I. Emergency Removal**

1. Overview
  - a. The University may remove a Respondent from the University's education program or activity on an emergency basis, provided that the University

- i. undertakes an individualized safety and risk analysis;
    - ii. determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct justifies removal; and
    - iii. provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
  - b. The emergency removal process may be initiated by the Title IX Coordinator.
  - c. Emergency removal may be undertaken in addition to implementing supportive measures designed to restore or preserve a Complainant's equal access to education.
  - d. Emergency removal does not preclude a Respondent from receiving supportive measures as appropriate.
  - e. The University has discretion to determine the appropriate scope and conditions of removal of the Respondent from the University's education program or activity. During an emergency removal, a 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 Respondent might otherwise be eligible, as the Vice Chancellor responsible for student conduct or other designated University Official may determine to be appropriate to address an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct.
2. The Vice Chancellor responsible for student conduct or other designated University Official must provide the Respondent with a Notice of Emergency Removal. The Notice must be sent to the Respondent's e-mail address of record and must:
  - a. state the factual basis for the Respondent's emergency removal and explain why the Respondent's conduct or presence on campus presents an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct that emergency removal is necessary; merely reciting the language of the Code is insufficient;
  - b. state that the Respondent may challenge the decision immediately, in writing, following the removal;
  - c. state that the Respondent has a right to a meeting, in person or remotely, with the Vice Chancellor responsible for student conduct or other designated University Official within three (3) University Days after the emergency removal becomes effective to present information to show that the requirements for an emergency removal have not been satisfied and that the emergency removal should therefore be lifted;

- d. state the time, date, and place of the meeting with the Vice Chancellor responsible for student conduct or other designated University Official and state that the student may be accompanied by an advisor of their choosing, including an attorney, but that the student is responsible for any fees that the advisor may charge
    - e. state that after the expiration of the three (3)-day period, a student may seek to have the emergency removal lifted by making a Request for Reinstatement.
  3. After the expiration of the three (3)-day period, a student who has been removed on an emergency basis may seek reinstatement by making a Request for Reinstatement (“the Request”) on the ground that:
    - a. the requirements for an emergency removal were not met when the student was removed on an emergency basis and are not currently met or
    - b. circumstances have changed such that the requirements for an emergency removal are no longer met.
  4. The Request must be in writing, state the reasons for request, and include the evidence that supports the Request. The Request must be sent to the Vice Chancellor responsible for student conduct or other designated University Official by e-mail or certified mail or may be hand-delivered to the Vice Chancellor’s office or the designated University Official’s Office.
  5. The Vice Chancellor responsible for student conduct or other designated University Official must make a decision on the Request as soon as reasonably practicable. Before making a decision, the Vice Chancellor responsible for student conduct or their designee has the discretion to seek additional information, to ask the Title IX Coordinator (in the event the Title IX Coordinator is not the designated University Official), an Investigator, or Conduct Officer to review and comment on the Request, or to schedule a meeting with the Respondent and their advisor.
  6. The fact that a student was removed on an emergency basis should not be taken into account by the Hearing Officer or Hearing Board in determining whether the student violated the Code, including the Sexual Misconduct Policy.
  7. If a Respondent who is removed on an emergency basis is ultimately found “not in violation” of the Student Code of Conduct, the Respondent may be allowed, at the reasonable discretion of the appropriate faculty member or instructor, to make up academic work missed while on emergency removal.

## J. Grievance Process for Formal Complaints

The grievance process begins when a Complainant files, or a Title IX Coordinator signs, a Formal Complaint requesting that the University investigate an allegation of sexual misconduct. Filing a Formal Complaint is the first step of a grievance process that determines whether the Respondent is responsible for violating the Policy. Unless a Formal Complaint is dismissed or resolved during one of the steps of the grievance process, the grievance process will include a preliminary review of the Formal Complaint, an investigation, a hearing, and the opportunity for the parties to challenge certain decisions through an appeal. Additionally, an Informal Resolution process may be available at any time prior to reaching a University determination regarding responsibility. If applicable, the University may initiate Informal Resolution or either party may request Informal Resolution.

If the Respondent is no longer a student, employee, or participant in any University-related program or activity at the time of the report, or if the conduct does not fall within the scope of the Policy, the Formal Complaint may be dismissed. The University will, however, help a Complainant identify reporting options outside the University and provide supportive measures. A Respondent is presumed not responsible for the alleged conduct unless a determination regarding responsibility is made at the conclusion of the grievance process by the decision maker(s) based upon the preponderance of the evidence standard.

Individuals who knowingly or intentionally file a false formal complaint or provide false or misleading information during a grievance process may be subject to disciplinary action up to and including termination of employment or expulsion. Disciplinary action is not warranted where an individual provides information in good faith, even if the information is ultimately not substantiated. An individual provides information in good faith when that individual reasonably believes that the information they have provided is accurate.

### 1. Filing A Formal Complaint

- a. A Complainant may file a Formal Complaint against a Respondent requesting that the University investigate the allegation of sexual misconduct.
  - i. A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator
    - a) alleging sexual misconduct, including sexual harassment under Title IX, against a Respondent and
    - a) requesting that the University investigate the allegation of sexual misconduct.

- ii. A “document filed by a Complainant” means a document or electronic submission (such as by e-mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.
  - iii. At the time of filing a Formal Complaint, for the purposes of Title IX, a Complainant must be participating in or attempting to participate in the education program or activity of the University.
- b. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator above.

## 2. Consolidation of Complaints

- a. The University may consolidate Formal Complaints as to allegations of sexual misconduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual misconduct arise out of the same facts or circumstances.
- b. Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

## 3. Notice of Allegations

Upon receipt of a Formal Complaint, the Title IX Coordinator or their designee will provide a written notice to the parties who are known.

The Notice of Allegations will include the following information:

- a. Notice of the University’s Sexual Misconduct Policy and Procedures, and an explanation of the grievance process and Informal Resolution process.
- b. Notice of the allegations of the conduct potentially constituting sexual misconduct, including
  - i. The identities of the parties involved in the incident, if known;
  - ii. The conduct allegedly constituting sexual misconduct;
  - iii. The date and location of the alleged incident, if known;
  - iv. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;

- v. Information that the parties may have up to two advisors of their choice, who may be, but are not required to be, attorneys, and may inspect and review evidence;
- vi. Information related to any provision in the University's Student Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process;
- vii. Information related to the availability of supportive measures;
- viii. Information related to the availability of reasonable accommodations;
- ix. Prohibition of retaliation; and
- x. Notice of other potential Student Code of Conduct violations.

If, in the course of an investigation, if the University decides to investigate allegations about the Complainant or Respondent that are not included in the notice, the University will provide notice of the additional allegations to the parties whose identities are known.

#### **4. Preliminary Review of Formal Complaint and Situation When A Formal Complaint Must or May Be Dismissed**

When a Title IX Coordinator receives a Formal Complaint, the Title IX Coordinator or their designee will do a Preliminary Review of the Formal Complaint. The University will investigate the allegations in a Formal Complaint. However, there are certain circumstances when the University is either required to, or may, dismiss a Formal Complaint or an allegation within the Formal Complaint.

- a. The University will dismiss an allegation of sexual harassment under Title IX in a Formal Complaint under the following circumstances:
  - i. The conduct would not constitute sexual harassment as defined by the Sexual Misconduct Policy and Procedures, even if proved;
  - ii. The conduct did not occur in the University's education program or activity; or
  - iii. The conduct did not occur against a person in the United States.
- b. A dismissal of an allegation of sexual harassment under Title IX does not preclude action under another provision of the University's Student Code of Conduct.
- c. A Complainant not participating in or attempting to participate in the education program or activity of the University at the time of the Formal

Complaint does not preclude the Title IX Coordinator from signing the Formal Complaint or proceeding under another provision of the University's Student Code of Conduct.

- d. In the event the Title IX Coordinator or their designee determines another provision of the Student Code of Conduct may apply to the alleged sexual misconduct and it is appropriate to proceed, the Formal Complaint will be investigated, adjudicated, and resolved in accordance with the process set forth in these Procedures.
- e. The University may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:
  - i. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
  - ii. The Respondent is no longer enrolled or employed by the University; or
  - iii. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.
- f. Upon dismissal of any or all of the allegations in the Formal Complaint, the Title IX Coordinator must provide a Notice of the Dismissal to the parties within (7) days of the Title IX Coordinator's decision to dismiss any or all of the allegations.
- g. The Notice of Dismissal must be provided to the parties simultaneously. The Notice of Dismiss must:
  - i. Explain the reason(s) for dismissal;
  - ii. Explain information regarding the appeal rights of the parties; and
  - iii. Notify the parties of the ongoing investigation in circumstances where the alleged sexual misconduct may otherwise be subject to a different provision of the Student Code of Conduct and the grievance process will continue.
- h. Notice of dismissal must be provided even if the grievance process will continue because the Title IX Coordinator determines the alleged sexual harassment may otherwise be subject to a different provision in the Student Code of Conduct and the investigation and grievance process will continue. Under these circumstances, the notice of dismissal must notify the parties of the ongoing investigation.

For example: If the alleged sexual misconduct occurred during a University sponsored event outside of the United States, the Title IX Coordinator must dismiss the Formal Complaint for the purposes of the Title IX sexual harassment Complaint. The Title IX Coordinator must send notice to the parties. However, the Title IX Coordinator may determine the alleged sexual misconduct falls under the off-campus jurisdiction of the Student Code of Conduct and may continue the investigation and grievance process.

## 5. Appeals of the Dismissal of a Formal Complaint

### a. Overview

The Complainant and the Respondent may appeal the dismissal of allegations of sexual harassment under Title IX contained in a Formal Complaint. The Title IX Coordinator or their designee's dismissal of any non-Title IX allegations of sexual misconduct in a Formal Complaint or determination not to apply other provisions in the Student Code of Conduct are final and not subject to appeal. This appeal process provides both the Complainant and Respondent a reasonable, equal opportunity to submit a written statement in support of, or challenging, the dismissal.

The Appeals Officer will not be the same person as the decision-maker(s) who reached the determination regarding dismissal, the Investigator(s), or the Title IX Coordinator. The Appeals Officer will not have a conflict of interest or bias for or against Complainants and Respondents generally or an individual Complainant or Respondent and comply with the training requirements set forth in the Sexual Misconduct Policy.

### b. Reasons for Appeal

Dismissal of allegations of sexual harassment under Title IX in a Formal Complaint may be appealed on the following reasons:

- i. A procedural irregularity that affected the outcome of the matter;
- ii. The discovery of new evidence that was not reasonably available at the time of the Dismissal and that could affect the outcome of the matter;  
or
- iii. The Title IX Coordinator or their designee or the Investigator had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

### c. Appeal Process

- i. The appeal must be in writing and delivered to the Appeals Officer appointed by the Chancellor or their designee within seven (7) University Days of the delivery of the Notice of Dismissal.

- ii. An appeal must be in writing and specify the reason(s) for the appeal.
  - iii. If either party submits an appeal, the other party and the Title IX Coordinator will be provided with a copy of the appeal and both will be given seven (7) University Days to submit their respective written responses.
  - iv. The Appeals Officer may request additional information from the Title IX Coordinator or the parties at the Appeals Officer's discretion.
  - v. The Appeals Officer will review all of the information and determine whether to grant or deny the appeal.
    - a) The written decision will describe the result of the appeal and the rationale for the result.
    - b) If an appeal does not clearly raise one or more of the reasons listed above, the Appeals Officer will dismiss the appeal without further consideration.
    - c) If the Appeals Officer determines that the appeal clearly raises one or more of the reasons, the Appeals Officer may
      - 1) affirm, in whole or in part, the decision on Dismissal, 2) overturn, in whole or in part, the decision on Dismissal, 3) or refer the Formal Complaint back to the Title IX Coordinator for further consideration or proceeding.
    - d) A final outcome on an appeal is not subject to further appeal.
  - vi. The Appeals Officer shall complete review of the appeal normally within fourteen (14) University Days after receipt of the record and any additional information, though this may vary based on the scope of the appeal or unforeseen circumstances.
  - vii. The written determination will be provided simultaneously to the Complainant, the Respondent, and the Title IX Coordinator.
- d. Any non-Title IX alleged violations may continue to be investigated during the Appeal Process.

## 6. Investigation

The investigation process is conducted by the Title IX Coordinator or one or more Investigators. The University has the burden of gathering evidence sufficient to allow the Hearing Board to reach a determination regarding responsibility.

a. Meeting Notice

Prior to meeting with the Complainant or the Respondent, the Investigator will provide, written notice to the person being interviewed of the date, time, location, participants, and purpose all investigative interviews or other meetings, with sufficient time for the party to prepare to participate. In general, sufficient time will be at least five (5) University Days, however, a party may agree to meet sooner.

b. Advisors

The University will provide the parties with the same opportunities to have others present during any meeting or grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by up to two advisors of their choice, who may be, but are not required to be, attorneys, and not limit the choice or presence of advisors for either the Complainant or the Respondent in any meeting or grievance proceeding. However, the University may establish restrictions regarding the extent to which the advisors may participate in the proceedings, as long as the restrictions apply equally to both parties.

c. Gathering Evidence

The Investigator will meet separately with the Complainant and the Respondent. The Investigator will ask for all information relevant to the allegations. The parties will have an equal opportunity to identify witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. For both parties, this is an opportunity to present any information regarding the incident, including names of witnesses, the existence of documents, emails, text messages, or other recordings, or any other information the parties feel may be relevant. As part of the investigation, the Investigator may conduct additional investigative and witness interviews at the Investigator's discretion. The Investigator is responsible for contacting and interviewing relevant witnesses the Complainant identifies and witnesses the Respondent identifies, and any witnesses the Investigator deems necessary. The Investigator will review all available pertinent evidence. This may include reviewing student and/or personnel files and reviewing law enforcement documents or evidence. The Complainant and the Respondent may also submit supplemental information at any time during the investigation until the Investigator issues a final Investigative Report.

The Investigator will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for a grievance process under this section.

Additionally the Investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. Examples of privileges include Lawyer-Client, Physician-Patient, Professional Counselor-Client; Spousal, Clergy, and Victim's Advocate.

In summary, as a general rule, the following information may not be used during the grievance process: Information protected by a legally recognized privilege unless the person holding such privilege has waived the privilege; evidence about a party's prior sexual history unless an exception applies; and any party's medical, psychological, and similar records unless the party has given voluntary, written consent. Additionally, party or witness statements that are not subjected to cross examination at a live hearing cannot be considered to make a determination.

d. Review of the Evidence

The Investigator will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint. This includes evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Prior to completion of the Investigative Report, the Investigator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The parties will have at least ten (10) University Days to submit a written response, which the Investigator will consider prior to completion of the Investigative Report. The University will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

e. Investigative Report

The Investigator will create an Investigative Report that fairly summarizes relevant evidence. At least ten (10) University Days prior to a hearing, or other time of determination regarding responsibility (whichever allows for a longer time period), the Investigator will send to each party and the party's advisor, if any, the Investigative Report in an electronic format or a hard copy, for their review and written response. Both parties will have the right to review each other's responses and the responses will be provided at the hearing.

General Provisions Concerning the Investigative Report

- i. The parties will have an equal opportunity to review the Investigative Report; if a party disagrees with an Investigator's determination about relevance, the party can make that argument in the party's written response to the Investigative Report and to the Hearing Board at any hearing held; either way the Hearing Board is obligated to objectively evaluate all relevant evidence and the parties have the opportunity to argue about what is relevant (and about the persuasiveness of relevant evidence).
- ii. The Investigator may redact from the Investigative Report information that is not relevant, which is contained in documents or evidence that is relevant.

- iii. The Investigator may include facts and interview statements in the Investigative Report.

- f. Case Resolution Timeline

Though the University strives to resolve all cases in a prompt and timely manner, the timeline varies based on the circumstances of the case. Additionally, the timeline for a case may be affected by breaks in the academic calendar; absence of a party, a party's advisor, or a witness; (including due to leave of absence); concurrent law enforcement activity; the need for language assistance; accommodation of disabilities; scope of the investigation; and unforeseen or exigent circumstances. The parties will be periodically updated on the status of their case. In cases where there is a simultaneous law enforcement investigation, the University may need to temporarily delay its investigation while law enforcement gathers evidence. However, the University investigation will generally proceed with its investigation and resolution of a complaint during any law enforcement investigation.

The University will strive to conduct investigations of the allegations within ninety (90) University Days of receipt of the Formal Complaint. If the investigation will take a longer amount of time to complete, both parties must be informed in writing of the extension of the timeline. While the University will attempt to accommodate the schedules of parties and witnesses throughout the grievance process in order to provide parties with a meaningful opportunity to exercise the rights granted to parties under the Policy and Procedures, it is the University's obligation to meet its own designated time frames, and the grievance process can proceed to conclusion even in the absence of a party or witness.

## **7. Formal Hearings in Cases of Alleged Sexual Misconduct**

- a. Overview

After an investigation, the University will conduct a hearing to determine whether the Respondent is responsible for violating the Sexual Misconduct Policy. During the hearing, the Student Conduct Officer or their designee, the Complainant, and the Respondent will each have an opportunity to

- i. Discuss and explain their position;
- ii. Present evidence, including documents and witnesses; and
- iii. Have their advisor ask questions of other party and witnesses (e.g. cross-examination).

If a determination of responsibility for sexual misconduct is made against the Respondent, the decision-maker(s) will determine appropriate sanctions for Respondent and confirm that the University will provide remedies to the Complainant. A hearing must be held unless the case has been resolved pursuant to the Informal Resolution Section. The University will strive to conduct a hearing within thirty (30) University Days from the issuance of the investigation report.

b. Hearing Scheduling and Notice

When the Investigator sends the Investigative Report to the Respondent and the Complainant, the Title IX Coordinator or their designee will forward a copy of the Investigative Report to the Hearing Facilitator. The Hearing Facilitator will schedule a hearing date, time, and location and notify the parties of the same. The University will strive to complete a hearing within one (1) month from the issuance of the investigation report. (May be delayed due to Informal Resolution)

A Pre-hearing conference will be held at least two (2) University Days prior to the scheduled hearing. The University will provide written notice of the date, time, location, participants, and purpose of both the prehearing conference and of the hearing at least five (5) University Days prior to the prehearing conference.

c. Pre-Hearing Conference

The Respondent and the Complainant shall have the right to attend a Pre-Hearing Conference. The purpose of the Pre-Hearing Conference is to plan for the hearing, discuss the issues and facts that will be presented at the hearing, exchange information about witnesses likely to be called, answer procedural questions, and settle those matters which may be agreeably concluded. Generally, the Chair of the Hearing Board will preside over the Pre-Hearing Conference. During or prior to the Pre-Hearing Conference, the parties shall be informed of the names of the Hearing Board members.

i. Hearing Information Exchange Prior to the Pre-Hearing Conference

The Respondent, the Complainant, and the University Presenter shall have an opportunity to inspect documents and a list of witnesses prior to the hearing. The Hearing Board will receive a copy of the Investigative Report. If there are any additional documents, that the Respondent, the Complainant, or the University Presenter would like to offer at the hearing, this information should be provided at least two (2) University Days before the Pre-Hearing Conference. This information will be exchanged with all parties.

ii. Use of Past Sexual Behavior

During the Prehearing conference, the parties will be instructed about the use of past sexual behavior of the Complainant<sup>1</sup> or past sexual assault by the Respondent<sup>2</sup> as evidence at the hearing. In most situations, questions and evidence of the past sexual history of either the Respondent or the Complainant are not relevant and will not be admitted at the hearing except in very limited situations set forth below.

- a) such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or
- b) if the questions and evidence concern specific incidents or the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

d. General Hearing Information

- i. At the request of either party, the University will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.
- ii. The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.
- iii. The Hearing Board is a subset of the University Conduct Board. It will be composed of an odd number of three or more members, including one (1) student member.
- iv. Any real or perceived conflict of interest or bias between a member of the Hearing Board and the Respondent or the Complainant must be brought to the attention of the Hearing Facilitator or Chair of the Hearing Board no less than two (2) University Days in advance of the hearing.
- v. The Hearing Board shall select its own Chair with all members possessing voting privileges.
- vi. The Respondent and the Complainant have the right to be present for the hearing. If the Respondent is a student organization, then one of its officers has the right to be present for the hearing. The hearing is closed to the public.
- vii. The Respondent may not be found to be responsible for sexual misconduct solely because the Respondent is not present at the Hearing.
- viii. In such cases when a Respondent fails to appear before the Hearing Board, a plea of “not in violation” shall be entered on the Respondent’s behalf and the hearing may proceed as scheduled. In this situation, the University will provide an advisor to conduct cross-examination of the Complainant and witnesses.

1 See Neb. Rev. Stat. § 27-412 (2016) (Relevance of person’s alleged past sexual behavior or alleged sexual predisposition).

2 See Neb. Rev. Stat. § 27-415 (2016) (Evidence of crimes of sexual assault in civil cases)

- ix. In hearings involving more than one Respondent, the Chair of the Hearing Board, in their discretion, may permit the hearings concerning each Respondent to be conducted separately.
- x. The Respondent(s), the Complainant, and the University Presenter shall have the right to hear all evidence, present evidence, testify, and to hear and question witnesses.
- xi. The process must not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. Examples of privileges under law include Lawyer-Client, Physician-Patient, Professional Counselor-Client; Spousal, Clergy, and Victim's Advocate.
- xii. The role of the Complainant's and the Respondent's advisor of choice is limited to providing advice to the party and conducting cross-examination of witnesses. The role of a University appointed advisor is limited to conducting cross-examination. Advisors must fulfill their role in a manner which does not disturb Conduct proceedings. If an advisor fails to act in accordance with these guidelines, they may be barred from participation in the Conduct proceedings and the hearing may be continued.
- xiii. The Hearing Board may seek advice from the University's Counsel throughout the hearing process on questions of law and procedure. However, the members of the Hearing Board are responsible for making their own factual conclusions.
- xiv. The Hearing 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 Hearing Board determines other provisions of the Student Code of Conduct were violated, they may impose proper sanctions.
- xv. No process implemented under this Sexual Misconduct Procedure shall be open to the public. The Complainant and the Respondent are entitled to the same opportunities to have others present during a disciplinary proceeding subject to conditions established by the Sexual Misconduct Policy and these Procedures, the Title IX Coordinator, and the Hearing Board. Witnesses may be sequestered and attendance at hearings may be restricted to the Complainant, the Respondent and their respective advisors.

- xvi. The Investigative Report may include recommended findings or conclusions as to whether Respondent violated the University's Student Code of Conduct in the Investigative Report. However, the Hearing Board is under an independent obligation to objectively evaluate relevant evidence, and thus cannot simply defer to recommendations made by the Investigator in the Investigative Report.
  - xvii. If the Investigative Report includes general findings of credibility, the Hearing Board cannot interpret the Investigator's finding of credibility as a finding of responsibility.
  - xviii. The determination of the merits of each case shall be made using a preponderance of the evidence standard.
  - xix. The burden of proof and burden of gathering evidence sufficient to reach a determination regarding responsibility shall rest upon the University. A Respondent is presumed to be not responsible for the alleged misconduct until proven otherwise.
- e. The Hearing Procedures
- i. The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspections and review upon request.
  - ii. At the beginning of the hearing, the Chair of the Hearing Board should state for the record:
    - a) the date, time, and place and
    - b) their name and role as the Chair of the Hearing Board.
  - iii. The Chair should:
    - a) have the other members of the Hearing Board identify themselves and
    - b) state whether there is a quorum. If there is not a quorum, then the hearing must be rescheduled unless all parties waive on the recording any objection to the lack of a quorum.
  - iv. The Chair should then identify the other persons present, ask the University Presenter to read the alleged violation(s), and ask the Respondent if the Respondent admits to the alleged violation(s).

- v. The Chair must conduct the hearing in a manner that facilitates the presentation of relevant evidence by the Complainant, the Respondent, and the University Presenter. The Complainant, the Respondent, and the University Presenter have the right to call witnesses, including expert witnesses, and present their respective cases. The members of the Hearing Board may ask questions to clarify what the witness said or to elicit more detailed information.
  - vi. The Chair of the Hearing Officer has the discretion to:
    - a) allow the parties to make opening statements, closing statements, or both, with reasonable time limits;
    - b) allow witnesses to testify by videoconferencing technology;
    - c) require that the witnesses who have not yet testified wait somewhere other than the hearing room until they are called to testify; and
    - d) schedule separate hearings if charges have been brought against multiple respondents or multiple charges have been brought against a single respondent.
  - vii. The University Presenter will present evidence first, followed by the Complainant, and then the Respondent. Courtroom rules of evidence do not apply.
  - viii. The presentation of evidence may include calling witnesses who have relevant information. A party may question the witness they call in support of their position.
- f. Questioning of Parties and Witnesses During the Hearing
- i. The Chair will permit each party's advisor to ask the other party and any witnesses called by another party all relevant questions and follow-up questions, including those challenging credibility ("cross-examination").
  - ii. Such cross-examination will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the Chair to otherwise restrict the extent to which advisors may participate in the proceedings.

- iii. Before a Complainant, a Respondent, or a witness answers a cross-examination or other question, the Chair will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- iv. Additionally, the Chair will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- v. As a general rule, the following information may not be used during the grievance process: Information protected by a legally recognized privilege unless the person holding such privilege has waived the privilege; evidence about a Complainant's prior sexual history unless an exception applies; any party's medical, psychological, and similar records unless the party has given voluntary, written consent; and, party or witness statements that have not been subjected to cross examination at a live hearing.
- vi. The Chair will explain to the party proposing the questions any decision to exclude a question as not relevant.
- vii. If a party does not have an advisor present at the live hearing, the University will provide without fee or charge to that party, an advisor of the University's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
- viii. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- ix. If a party or a witness does not submit to cross-examination at the live hearing, the Hearing Board will not rely on any statement of that party or witness in reaching a determination regarding responsibility.
- x. The Hearing Board cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing, or decision not to answer questions or otherwise not participate in the live hearing.

- xi. Other than to conduct cross-examination as described above, the parties' respective advisors may not speak on behalf of the parties during the hearing and may not directly participate in any aspect of the hearing. The Complainant or the Respondent, however, may consult with their respective advisors during the hearing. The Hearing Board Chair may limit the length and frequency of consultations so that they do not unreasonably delay the hearing or unreasonably interfere with the presentation of evidence.
- xii. At the conclusion of the hearing, the Hearing Board must go into closed session to deliberate and make its decision based solely upon the evidence introduced and received at the hearing. The decision must be made by a majority vote.
- xiii. A Respondent is presumed to be not responsible. The determination of the merits of the case shall be made using the preponderance of the evidenced standard.

**e. Determination**

Within seven (7) University Days following the conclusion of formal hearing proceedings, the presiding Hearing Board Chair shall inform the Respondent, the Complainant, the University Presenter, and the Title IX Coordinator in writing, of its findings and if relevant, any sanction(s). Please see the section on sanctions below.

The findings must include the following information.

1. Identification of the allegations potentially constituting sexual misconduct;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, methods used to gather evidence; and hearings held;
3. Finding of fact supporting the determination;
4. Conclusions regarding the application of the University's Student Code of Conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Hearing Board imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and

6. The University's procedures and permissible bases for the Complainant and Respondent to appeal.

The 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.

If a timely appeal is filed within seven (7) University Days of the decision being delivered to the parties, the Record of the Hearing, including the determination, will be provided to the Appeals Officer. The Record of the Hearing consists of the information, documents, and recordings related to the hearing such as the notice of the Hearing, documents related to the Pre-Hearing Conference, Investigative Report, evidence submitted by the Complainant, the Respondent, and the University Presenter, audio or audiovisual recording, transcript if any, determination, etc.

8. Appeals of Hearing Board Determination after Formal Hearing

- i. Overview

The Complainant and the Respondent may appeal a decision reached after a formal hearing for seven (7) University Days after the decision is delivered to the parties. This appeal process provides both the Complainant and Respondent a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome of the Hearing.

The Appeals Officer will not be the same person as the decision-maker(s) that reached the determination regarding dismissal, the Investigator(s), or the Title IX Coordinator. The Appeals Officer will not have a conflict of interest or bias for or against Complainants and Respondents generally or an individual Complainant or Respondent and comply with the training requirements set forth in the Sexual Misconduct Policy.

- ii. Reasons for Appeal

A determination may be appealed for the following reasons:

- a) A procedural irregularity that affected the outcome of the matter;
- b) The discovery of new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- c) The Title IX Coordinator, Investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter;
- d) The sanction(s) imposed were arbitrary and capricious or an abuse of discretion; or

- e) A finding of fact in the determination is clearly erroneous and does not have factual support in the record and affected the outcome of the matter.

### iii. Appeal Process

1. The appeal must be in writing and delivered to the Appeals Officer appointed by the Chancellor or their designee within seven (7) University Days of the delivery of the Notice of Dismissal.
2. An appeal must be in writing and specify the reason(s) for the appeal.
3. If either party submits an appeal, the other party and the University Presenter and/or the Title IX Coordinator will be provided with a copy of the appeal and will be given seven (7) University Days to submit their respective written responses.
4. The Appeals Officer may request additional information from the University Presenter and/or the Title IX Coordinator or the parties at the Appeal's Officer discretion.
5. The Appeals Officer will review all of the information and determine whether to grant or deny the appeal.
  - a. The written decision will describe the result of the appeal and the rationale for the result.
  - b. If an appeal does not clearly raise one or more of the reasons listed above, the Appeals Officer will dismiss the appeal without further consideration.
  - c. If the Appeals Officer determines that the appeal clearly raises one or more of the reasons, in the written decision, the Appeals Officer may 1) affirm, in whole or in part, the decision on responsibility, 2) overturn, in whole or in part, the decision on responsibility, 3) affirm, overturn, or adjust the decision on disciplinary sanctions, or 4) remand the matter to remedy procedural errors or consider new evidence.
  - d. The determination of the Appeals Officer is final and not subject to further appeal.
6. The Appeals Officer shall complete review of the appeal normally within fourteen (14) University Days after receipt of the record and any additional information, though this may vary based on the scope of the appeal or unforeseen circumstances.

7. The written determination will be provided simultaneously to the Complainant, Respondent, University Presenter, and Title IX Coordinator.

## **K. Sanctions**

If a Respondent or student organization is found to be responsible for a violation of the Sexual Misconduct Policy, the University's response may involve requirements designed to educate the student about the risks of the conduct, to assist the student in refraining from the conduct in the future, or to protect others. The University's response may also involve sanctions to the student or the student organization for engaging in the conduct and to deter the student or student organization from engaging in the conduct in the future. If the Hearing Board determines the Respondent is responsible for a violation of the Sexual Misconduct Policy, it may consider the Respondent's academic and disciplinary history in determining the appropriate sanction.

Responsive action is intended to eliminate prohibited conduct, prevent its recurrence, and promote accountability while supporting the University's educational mission and legal obligations. Responsive action may include disciplinary, rehabilitative (including educational), restorative, and monitoring components.

The University's response may include one (1) or more of the following:

1. Written Warning
  - a. This is a warning by a Hearing Officer or the Hearing Board that the Respondent committed a violation of the Standards and that future violations may result in a harsher response.
  - b. The warning may also include advice on steps that the Respondent may take to avoid future violations.
2. Probation for a specified period of time
  - a. Probation may include conditions that must be satisfied.
  - b. The conditions must be reasonably related to the violation or the reasons for the violation.
    - i. Examples of conditions for Respondents include the completion of educational programs and behavioral evaluations.
    - ii. Examples of conditions for student organizations include completing educational programs and adopting policies and procedures to minimize the risk of the wrongful conduct occurring in the future.

Other examples include not engaging in specified recruitment practices holding specified events, or participating in specified events.

- c. The failure to satisfy a condition of probation may be treated as an independent violation of the Standards of Responsible Conduct.
  - d. A violation of the Student Code of Conduct while a student or student organization is on probation may result in a more severe response to the new violation than if the new violation was considered in isolation.
3. Expulsion from University Housing
- a. The Respondent is permanently barred from living in or being present on the premises of any University residence hall or housing unit.
4. Suspension from University Housing
- a. The Respondent may not live in or be present on the premises of any University residence hall or housing unit for a specified period of time.
  - b. Conditions may be imposed on the Respondent returning at the end of the specified period, but any such conditions must be reasonably related to the reasons for the suspension.
5. Mandatory Relocation
- a. The student is required to move to a different room, University residence hall, or housing unit.
6. Loss of Privileges for a Specified Period of Time
- a. Loss of a privilege to engage in any activity or experience not required to satisfy graduation requirements, including but not limited to:
    - i. Prohibition or limitation on the use of University electronic resources such as, internet access, email access, computers, or tablets;
    - ii. Prohibition or limitation on the use of University media resources, such as communal televisions, projectors, etc.;
    - iii. Prohibition or limitation on the use of University wellness/recreation center equipment;
    - iv. Prohibition or limitation on on-campus dining;
    - v. Prohibition or limitation on use of on-campus transportation;

- vi. Prohibition or limitation on use of University purchasing cards or accounts;
  - vii. Prohibition or limitation on use of University keys and/or card access.
  - viii. Prohibition or limitation on the use of personal media devices; and
  - ix. Restriction on access to campus.
7. Restitution
- a. Requiring the student to return to the owner money or property that the student wrongfully took.
  - b. Requiring the student to pay the owner for property destroyed or damaged.
8. Performance of Service to the University Community
- a. The service must be reasonable in type and duration.
  - b. When possible, the service should be designed to make amends for the violation, to educate the student about the harmful consequences of the violation, or to allow the student to develop their academic or professional skills.
9. Completion of Educational Programs, Assignments, or Behavioral Evaluations that are reasonably related to the violation
- a. These may include, but are not limited to, sexual harassment education and/or training programs, anger management programs, completing presentations or written assignments, substance abuse evaluations, and other such programs and evaluations that are designed to help the student identify and address factors that may have contributed to the violation. Students may be responsible for the costs or fees associated with any such programs or evaluations.
10. Employment Restrictions
- a. Prohibition or limitation on University student employment.

11. Revocation of Admission and/or Degree
  - a. Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of the Standards in obtaining the degree, or for other serious violations committed by a student prior to graduation that may have resulted in suspension or expulsion.
12. Withholding Degree
  - a. The University may permanently withhold awarding of a degree or withhold the award of a degree pending the completion of Disciplinary Procedures, including the completion of all University responses imposed.
13. No Contact
  - a. A No Contact order may prohibit, but is not limited to, the following:
    - i. Approaching one (1) or more specified individuals at any time;
    - ii. Calling one (1) or more specified individuals at any time;
    - iii. Sending via email or by any other means, any communication to one (1) or more specified individuals at any time; and
    - iv. Contacting or communicating with one (1) or more specified individuals through a third-party.
  - b. If the student subject to the No Contact order believes contact with one (1) or more of the specified individuals is necessary, any such contact must be made through the Student Conduct Office or with the expressed permission of a Conduct Officer.
14. Loss of Status as a Recognized Student Organization
  - a. The loss may be permanent or for a specified period of time.
  - b. Conditions may be imposed on the organization for regaining its status at the end of the specified period, including the condition that the members comply with the Code of Conduct during the specified period.
15. Suspension for a Specified Period
  - a. Suspension is a temporary separation from the University of Nebraska.
  - b. During the suspension period, the student is precluded from registration, class attendance or participation, and residence on campus.

- c. During the suspension period the student is prohibited from entering University property, functions, events, and activities without prior written approval of the Vice Chancellor responsible for student conduct or their designee. The University response may be enforced with a trespass action as necessary.
- d. A notation will be made on the student's transcript but will be removed after the suspension period ends.
- e. Conditions, including the reapplication for admission, may be imposed on the student returning at the end of the specified period, but any such conditions must be reasonably related to the reasons for the suspension.

#### 16. Expulsion

- a. Expulsion is a permanent separation from the University of Nebraska.
- b. An expelled student is precluded from registration, class attendance or participation, and residence on campus.
- c. An expelled student is prohibited from entering University property, functions, events, and activities without prior written approval of the Vice Chancellor responsible for student conduct or their designee. This University response may be enforced with a trespass action as necessary.
- d. A notation will be made on the student's transcript.

#### Additional Provisions Related to Sanctions:

- 1. If there is a dispute about whether a student or a student organization complied with any of the conditions imposed as part of the response to a violation, the dispute will be resolved through the Title IX Coordinator or as a Student Conduct matter.
  - a. The factors relevant to the determination of the appropriate response(s) include, among others;
  - b. the nature and seriousness of the conduct;
  - c. the harm that the conduct caused or might have caused;
  - d. the student's academic progress or experience;
  - e. the student or student organization's acceptance of responsibility for the conduct;

- f. the student or student organization's efforts to conceal or avoid responsibility for the conduct;
  - g. the student or student organization's explanations for the conduct;
  - h. the student or student organization's prior record of violations; and
  - i. the interests of the University, and the imposition of any sanctions pursuant to procedures other than those authorized by this Code (for example, sanctions imposed by a faculty member or by civil authorities).
2. 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.
  3. 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.
  4. 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.

#### **L. Remedies for Complainant**

1. Where a determination of responsibility for sexual misconduct has been made against the Respondent, the University must provide or give the Complainant remedies. Remedies must be designed to restore or preserve equal access to the University's education program or activity. Such remedies may include the same supportive measures that are already being provided to the Complainant; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.
2. The Title IX Coordinator is responsible for effective implementation of any remedies.
3. Where the final determination has indicated that remedies will be provided, the Complainant can then communicate separately with the Title IX Coordinator to discuss what remedies are appropriately designed to preserve or restore the Complainant's equal access to education.
4. Remedies that do not directly affect the Respondent must not be disclosed to the Respondent

## M. **Informal Resolution**

### 1. Overview

At any time prior to reaching a determination regarding responsibility, the University may facilitate an Informal Resolution process, such as mediation, that does not involve a full investigation and adjudication. The University will not require the parties to participate in an Informal Resolution process and may not offer an Informal Resolution process unless a Formal Complaint is filed. Additionally, the University will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints of sexual misconduct. The University will not offer or facilitate an Informal Resolution process to resolve allegations that an employee engaged in sexual misconduct against or sexually harassed a student.

The Informal Resolution process is facilitated by the Title IX Coordinator or their designee. The parties to any Informal Resolution process will not be required to deal directly with one another without the University's involvement.

An Informal Resolution may include the range of supportive measures described above, as well as targeted and/or broad-based training and educational programming for relevant individuals and groups and/or any other remedy. For example, both parties may agree that the permanent application of supportive measures (e.g. no contact agreement) may be sufficient to resolve the Formal Complaint. An Informal Resolution process may also include a remedies-based process, which allows both parties to come to a mutual agreement regarding the resolution of the Formal Complaint.

Once an Informal Resolution process is complete, both parties will be notified simultaneously/contemporaneously (to the greatest extent possible, and consistent with FERPA or other applicable law) of the resolution. The Informal Resolution process does not conclude with a University finding; the Respondent is not found to be "responsible" or "not responsible" of a Policy violation. However, the parties may negotiate the extent to which a Respondent may agree or concede responsibility for alleged misconduct.

Any party may request that the Informal Resolution process be terminated at any time, in which case the grievance process would proceed. The University may, at its discretion, also terminate the Informal Resolution Process at any time. In addition, while the results of the Informal Resolution process cannot be appealed, any party can withdraw from the Informal Resolution process and resume the grievance process with respect to the Formal Complaint.

## 2. General Provisions Related to Informal Resolution

- a. At the beginning of the Informal Resolution process, the University will:
  - i. Provide to the parties a written notice disclosing:
    - a) the allegations,
    - b) the requirements of the Informal Resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and resume the grievance process with respect to the Formal Complaint, and
    - c) any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared
  - ii. Obtain the parties' voluntary, written consent to the Informal Resolution process; and
- b. The University will provide the parties timely access to any information that will be used during the Informal Resolution process.
- c. Any statements, admissions, or other statements made by the Complainant or Respondent during the Informal Resolution process may not be used as evidence if the matter proceeds to a Formal Hearing.
- d. The Title IX Coordinator or their designee must approve the terms of any Informal Resolution.
- e. The Respondent may be subject to discipline for potential violations of policies in addition to the Sexual Misconduct Policy outside of the Informal Resolution Process. However, the Informal Resolution process may also address other potential violations of policies in addition to the Sexual Misconduct Policy.
- f. Informal Resolution procedures may be discontinued at the request of any party or terminated by the Title IX Coordinator or their designee.

- g. If the University and parties do not reach an agreement to resolve the Formal Complaint through the Informal Resolution process, the grievance process will be resumed with respect to the Formal Complaint, including investigation and adjudication and any Formal Hearing.

**N. Retaliation**

No member of the University community may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the Sexual Misconduct Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Sexual Misconduct Policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for Student Code of Conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by the Sexual Misconduct Policy, constitutes retaliation.

**O. Periodic Review**

This Sexual Misconduct Procedures will be reviewed at least every two (2) years. The Provost will initiate this review.

**P. Effective Date**

These Procedures apply to reports of sexual misconduct received by the Title IX Coordinator on or after August 14, 2020, except that definitions from the Policy in place at the time the alleged prohibited conduct occurred will be used to make the decision on responsibility.

## **Procedures for Sexual Misconduct Reports against Employees**

### **Response to Allegations of Employee Sexual Misconduct**

#### **A. Introduction**

These Procedures supplement the University of Nebraska Sexual Misconduct Policy and describe the grievance process related to reports of sexual misconduct against employees. Employee as used in the Procedures includes all University faculty, staff, and other personnel within the categories defined by §§ 3.1.1 through 3.1.3 of the *Bylaws of the Board of Regents of the University of Nebraska* whether full or part time. When the Respondent is both a student and an employee, the Title IX Coordinator or their designee will determine whether the Student or Employee Sexual Misconduct Procedures (and/or the adjudication process from both) apply based upon the facts and circumstances, such as whether the Respondent's status as a student or an employee predominates in the context of the Prohibited Conduct. If the Respondent is found responsible for violating the Sexual Misconduct Policy, the sanctions may affect both their status as a student and employee.

#### **B. Prohibited Conduct 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.

1. "Dating violence" means violence committed by a person—
  - a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - i. The length of the relationship;
    - ii. The type of relationship; and
    - iii. The frequency of interaction between the persons involved in the relationship.
2. "Domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domestic violence includes domestic assault. Under Nebraska law, a person commits domestic assault if the person (i) intentionally and knowingly causes bodily injury to their intimate partner; (ii) threatens an intimate partner with imminent bodily injury; or (iii) threatens an intimate partner in a menacing manner.

Under Nebraska law an “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.

3. “Retaliation” means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by the Sexual Misconduct Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Sexual Misconduct Policy.
4. “Sexual assault” means an offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI’s Uniform Crime Reporting system. A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
  - a. Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
  - b. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of the victim’s age or because of the victim’s temporary or permanent mental incapacity.
  - c. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - d. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.
5. “Sexual exploitation” includes, but is not limited to: prostituting another person; non-consensual visual or audio recording of sexual activity; non-consensual display or distribution of photos, images or information of an individual’s sexual activity or intimate body parts; non-consensual voyeurism; coercing someone against their will to engage in sexual activity, or; knowingly transmitting sexually transmitted disease (STD) without disclosing STD status.

6. “Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:
  - a. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct;
  - b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity;
  - c. Sexual assault (see definition herein);
  - d. Dating violence (see definition herein);
  - e. Domestic violence (see definition herein); or
  - f. Stalking (see definition herein).

To be considered sexual harassment for the purposes of Title IX, the conduct must meet the additional requirements of occurring in the University’s education program or activity and against a person in the United States.

For employees, sexual harassment also means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment, sufficiently severe or pervasive to alter the conditions of the individual’s employment and create an abusive working environment.

7. “Sexual misconduct” includes dating violence, domestic violence, rape, sexual assault, sexual harassment, sexual exploitation, and stalking.
8. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - a. fear for their safety or the safety of others; or
  - b. suffer substantial emotional distress.

### C. **Related Definitions**

1. “Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to the University’s Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. “Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.
2. “Bodily injury” shall mean physical pain, illness, or any impairment of physical condition.
3. “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.
4. “Consent” is a freely and affirmatively communicated willingness to participate in particular sexual activity or behavior, expressed either by words or clear, unambiguous actions.
  - a. Consent can be withdrawn at any time, as long as the withdrawal of consent is clearly communicated by words or actions.
  - b. Consent cannot be coerced or compelled by force, threat, deception, or intimidation.
  - c. Consent cannot be given by someone who is incapacitated or does not have the legal capacity to consent, as defined below in the definition of “incapacitated”.
  - d. Consent cannot be assumed based on silence, the absence of “no” or “stop,” the existence of a prior or current relationship, or prior sexual activity.

There are some persons who Nebraska law presumes are incapable of consenting to sexual contact or penetration as defined by Nebraska law 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.
5. “Crimes of violence” are those offenses that involve force or threat of force, including murder and non-negligent manslaughter, rape, robbery, and aggravated assault.

6. “Education program or activity” includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the sexual misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.
7. “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.
8. “Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual misconduct, including sexual harassment under Title IX, against a Respondent and requesting that the University investigate the allegation of sexual misconduct. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party under the Sexual Misconduct Policy and will comply with the requirements of the Sexual Misconduct Policy.
9. “Incapacitated” means an individual is unable to understand the facts, nature, extent, or implications of the situation due to drugs, alcohol, a mental disability, being asleep, unconscious or in any other state where the individual is unaware that sexual contact is occurring, or based on their age (pursuant to Nebraska law). With respect to alcohol and drugs, intoxication and/or impairment is not presumptively equivalent to incapacitation. Consent does not exist when the individual initiating sexual activity knew or should have known of the other individual’s incapacitation.

There are some persons who Nebraska law presumes are incapable of consenting to sexual contact or penetration as defined by Nebraska law 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.

10. “In violation” means that it is more likely than not that a Respondent has committed one or more acts of sexual misconduct. In other words, a preponderance of the evidence standard must be used to find sexual misconduct.
11. “May” is used in the permissive sense.
12. “Not in violation” means that it is more likely than not that a Respondent did not commit one or more acts of sexual misconduct.

13. “Past sexual behavior” means a person’s sexual behavior other than when the sexual misconduct is alleged to have occurred.
14. “Private body parts” means the genital area, groin, inner thighs, buttocks, or breasts.
15. “Preponderance of the Evidence” is the standard of evidence the University uses to determine whether the Respondent violated the Sexual Misconduct Policy. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all the reasonable evidence and reasonable inferences from the evidence, that the Respondent violated the Sexual Misconduct Policy.
16. “Relevant evidence” means evidence that has any tendency to make a fact more or less probable than it would be without the evidence and the fact is of consequence in determining the action.
17. “Remedies” are measures designed to restore or preserve equal access to the University’s education program or activity. Such remedies may include the same supportive measures that are already being provided to Complainant; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.
18. “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.
19. “Shall” is used in the imperative sense.
20. “Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the University’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.
21. “University” means University of Nebraska.

22. “University Day” means a weekday on which the campus offices are open. Check the academic calendar on the campus website to determine the days on which the campus offices are closed.

#### D. **Roles**

Individuals play a number of important roles within the University’s Sexual Misconduct investigation and adjudication process. The following are descriptions of each of those roles within the process.

1. “Advisor” means any individual who provides the Complainant or Respondent support, guidance, or advice and may accompany the Complainant or the Respondent to any meeting or grievance proceeding, such as a meeting in the investigation or the Hearing. The Complainant and the Respondent may choose their advisor, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of the advisor for either the Complainant or Respondent in any meeting or grievance proceeding; however, the University may establish restrictions regarding the extent to which the advisor may participate in the proceeding. If a Complainant or Respondent does not have an advisor present at a live hearing, the University will provide without fee or charge to that party, an advisor of the University’s choice who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

Other than to conduct cross-examination as described above, the parties’ respective advisors may not speak on behalf of the parties during the hearing and may not directly participate in any aspect of the hearing. The Complainant or Respondent, however, may consult with their respective advisors during a meeting or the hearing. The Hearing Board Chair may limit the length and frequency of consultations so that they do not unreasonably delay the hearing or unreasonably interfere with the presentation of evidence.

2. “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.
3. “Complainant” means any individual who is alleged to be the victim of conduct that could constitute sexual misconduct. A Complainant may also be referred to as a “party”.
4. “Decision-maker” is an individual who makes a determination as part of the Sexual Misconduct grievance process. There may be more one or more decision-maker(s) involved in any given proceeding, for example, a hearing or appeal. The decision-maker(s) will not be the same person(s) as the Title IX Coordinator or the Investigator(s) and will issue a written determination regarding responsibility.

Decision-makers may include Hearing Officers, Appeals Officers, and Hearing Board Members.

5. “Hearing Board” is a group of individuals who may preside over a Hearing. The Hearing Board must be composed of an odd number of three or more members. Hearing Board members may include student, staff, and/or faculty as appropriate.
6. “Hearing Officer” is an individual Hearing Officer who may preside over a Hearing.
7. “Hearing Facilitator” is a University official designated to coordinate a Hearing.
8. “Investigator” means a University official authorized to investigate of complaints of sexual misconduct.
9. “Member of the University community” includes any individual who is a student, staff or 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.
10. “Official with Authority” means an official of the University who has authority to institute corrective measures for sexual misconduct on behalf of the University. The following individuals are Officials with Authority: President, Chancellors; Provost/Vice Presidents and Vice Chancellors; and UNCA and Campus Title IX Coordinators.
11. “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct. A Respondent may also be referred to as a “party”.
12. “Student” has the same meaning as used in the Student Code of Conduct. The term “student” includes all persons enrolled at the University, including online and non-degree seeking individuals. A student’s enrollment ends when the student graduates, withdraws from the University, or fails to register for classes for three (3) consecutive semesters, with summer term considered to be a semester, or no longer has a continuing student relationship with the University. Students who are accused of committing a violation of the Student Code of Conduct while they are enrolled at the University may still be held responsible for the violation even if they later withdraw from the University prior to a resolution of the alleged violation.
13. “Title IX Coordinator” is a person designated by the University to coordinate the University’s effort to comply with its responsibilities under Title IX. The Title IX Coordinator oversees the University’s gender equity work to ensure compliance with Title IX, including its policies and procedures, education/prevention efforts, and training. The Title IX Coordinator reviews information about sexual misconduct to identify and address any patterns or systemic problems that arise during the review of such complaints. The Title IX Coordinator is responsible for coordinating the

effective implementation of supportive measures. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment) to the Title IX Coordinator.

14. “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 will report crimes, arrests, and disciplinary referrals 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.
15. “University Presenter” is the person who presents the case on behalf of the University at the Hearing. This person may be, but is not required to be, the Investigator or the Title IX Coordinator.
16. “Witness” is a person believed to have information regarding an incident which may violate the Sexual Misconduct Policy, including but not limited to someone present when the incident occurred, someone the Complainant or Respondent communicated with about the incident, and/or someone who may have information relevant to the incident. Witness participation in the grievance process is voluntary. While the University encourages witnesses to cooperate with the grievance processes, the University cannot compel or require witnesses to participate.

#### **E. Jurisdiction: Locations Where and Circumstances When the Procedures Apply**

These Procedures apply to alleged sexual misconduct that occurs in the University’s education program or activities. Education program or activity includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the sexual misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

The University’s jurisdiction under the Procedures will continue to extend to conduct that occurs outside the context of the University employment or education program or activity where the Title IX Coordinator or their designee determines that action is necessary 1) in order to protect the health or safety of members of the University community, 2) there are effects of the conduct that interfere with a person’s ability to participate in an education program or activity, including employment, 3) if the conduct is related to an employee’s performance or their capacity to perform their work responsibilities, or 4) if the conduct occurs when the faculty or staff member is serving in the role of a University employee.

The University must dismiss an allegation of sexual harassment under Title IX in a Formal Complaint if the conduct did not occur in the University’s education program or activity or if the conduct did not occur against a person in the United States.

## **F. Reporting Sexual Misconduct**

### **1. Where to Report Sexual Misconduct**

All individuals are expected to promptly report conduct that may violate the University's Sexual Misconduct Policy to the University. In addition, all individuals are expected to report conduct that may also violate criminal law to both the Title IX Coordinator and to local law enforcement. These processes are not mutually exclusive and both may happen simultaneous or at different times.

Any University student, employee, or other individual who seeks to report may contact the:

- Title IX Coordinator
- University Police or Public Safety for assisting in filing a criminal complaint and preserving physical evidence; and/or
- Local law enforcement to file a criminal complaint.

The University will respond to reported allegations of sexual misconduct and may provide appropriate supportive measures to the Complainant, as described below, even if the Complainant does not wish to pursue a Formal Complaint. If an individual would like the University to respond to allegations of sexual misconduct, it is important that the individual report to the Title IX Coordinator. In some cases, an individual who may have experienced sexual misconduct may share information with another member of the University community. While the University expects University community members with knowledge of potential violations of the sexual misconduct Policy to report to the Title IX Coordinator, the University will only have actual notice of sexual misconduct if an individual reports to an Official with Authority. The following individuals are Officials with Authority: President, Chancellors; Provost/Vice Presidents and Vice Chancellors; and UNCA and Campus Title IX Coordinators.

### **2. Reporting to the Title IX Coordinator**

Any person may report sex discrimination, including sexual misconduct (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual misconduct), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Title IX Coordinator Contact Information:

Mary Chinnock Petroski Title

IX Coordinator

University of Nebraska at Kearney 2113

Warner Hall

(308) 865-8655

petroskimj@unk.edu

The University of Nebraska hotline is available for online reporting at <https://secure.ethicspoint.com/domain/media/en/gui/52126/index.html> or by phone at 844-348-9584.

A person may also contact the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting [www2.ed.gov/about/offices/list/ocr/complaintintro.html](http://www2.ed.gov/about/offices/list/ocr/complaintintro.html) or calling 1-800- 421- 3481.

### **3. Reporting to Law Enforcement**

An individual who has experienced sexual misconduct has the right to choose whether to file a police report. The University encourages individuals to report incidents of sexual misconduct to University Police or local law enforcement. Filing a police report can result in the investigation of whether sexual violence or related crimes occurred and the prosecution of the perpetrator. Timely reporting to the police is an important factor in successful investigation and prosecution of crimes, including sexual violence.

The Title IX Coordinator or their designee provides information on contacting local and campus law enforcement and will assist an individual in doing so. However, the Title IX Coordinator or their designee will not compel an individual to go to law enforcement.

Contact Information for University Police:  
Police Department (UNK) Facilities Building  
2501 19<sup>th</sup> Avenue  
(308) 865-8911  
[unkpd@unk.edu](mailto:unkpd@unk.edu)

### **4. What Happens When A Title IX Coordinator Receives A Report**

Upon receiving a report of sexual misconduct, the Title IX Coordinator or their designee will promptly contact the Complainant to discuss the availability of supportive measures. (Please see the Supportive Measures Section for more details). The Title IX Coordinator or their designee will:

- a. Discuss the availability of supportive measure;
- b. Consider the Complainant's wishes with respect to supportive measures,
- c. Inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint;
- d. Explain to the Complainant the process for filing a Formal Complaint against the Respondent; and
- e. If applicable, explain to the Complainant that if a Formal Complaint alleging sexual harassment under Title IX is dismissed the alleged sexual misconduct may be addressed under a different provision of the Sexual Misconduct Policy using these Procedures.

Additionally, upon receiving a sexual misconduct report or complaint, the University will provide, or confirm that the Complainant has already received from the University, written information describing:

- a. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;
- b. How and to whom the alleged offense should be reported;
- c. Options about the involvement of law enforcement and campus authorities, including notification of the Complainant's option to—
  - i. Notify proper law enforcement authorities, including on-campus and local police;
  - ii. Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
  - iii. Decline to notify such authorities;
- d. Information about orders of protection, “no-contact” orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the University;
- e. Information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for Complainants, both within the University and in the community; and
- f. Options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

A Complainant may go forward with one or more reporting options at the same time. The University's investigation may need to be delayed temporarily by, or scheduled around, an ongoing criminal or external administrative investigation.

## **5. Anonymous Reports**

Any individual may make a report of sexual misconduct to the University, and if preferred, may do so without disclosing one's name. Depending on the level of information available about the incident or the individuals involved, the University's ability to respond to an anonymous report may be limited.

## **6. Confidentiality, Privacy, and Sharing of Information**

The University shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of sexual misconduct, any Complainant, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA) or as required by law, or to carry out the purposes of Title IX, including conducting any investigation, hearing, or judicial proceeding arising thereunder. The University may be required to share information with other individuals in accordance with FERPA, Title IX, or other applicable law, including lawfully issued subpoenas in criminal, administrative, and civil matters.

The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. The Complainant and the Respondent and their respective advisors are asked to keep private information that does not consist of “the allegations under investigation” (For example, evidence related to the allegations that has been collected and exchanged between the parties and their advisors during the investigation under or the Investigative Report summarizing relevant evidence sent to the parties and their advisors.

The Complainant and the Respondent and their respective advisors are asked to keep the information related to the investigation and resolution private, to the extent consistent with applicable law. Witnesses are asked to keep any information learned in an investigation meeting confidential, to the extent consistent with applicable law.

## **7. Time Frame for Reporting an Incident**

Although the University does not limit the time frame for reporting sexual misconduct to promote timely and effective review, the University strongly encourages individuals to report possible sexual misconduct within one hundred and eighty (180) calendar days of the last occurrence of the concerning conduct. A report made after one hundred and eighty (180) days may make it more difficult to gather relevant and reliable information.

## **8. Amnesty for Reports of Sexual Misconduct**

The University encourages reporting of sexual misconduct and seeks to remove barriers to making a report. The University recognizes that an individual who has been consuming unauthorized alcohol (including underage consumption) or using illegal drugs or unauthorized prescription drugs at the time of an incident may be hesitant to make a report due to potential consequences. To encourage reporting, and except as provided below, an individual who makes a good faith report of sexual misconduct and/or participates in an investigation will not be subject to disciplinary action for a policy violation related to consuming unauthorized alcohol or using illegal drugs or unauthorized prescription drugs. This policy provision may also apply to registered student organizations when a report of sexual misconduct is made that could reasonably result in the organization facing student conduct disciplinary action for a policy violation related to consuming unauthorized alcohol or using illegal drugs or unauthorized prescription drugs. This policy does not preclude or prevent action by law enforcement or other legal authorities.

## **G. Preservation of Evidence**

Individuals involved in a report of sexual misconduct should preserve evidence to the extent possible, as it may assist the University or law enforcement in making factual determinations about the reported violence or misconduct, or might be helpful to a court's determination regarding the issuance of a Personal Protection Order. The University encourages individuals to go to the police or another resource in order to assist in the preservation of evidence.

## **H. Supportive Measures**

The University will provide supportive measures to Complainants and Respondents. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. The following supportive measures may be made available to the Complainant and the Respondent based on the facts and circumstances of the individual case:

1. Transfer or re-assignment of living space within University residence halls;
2. Assistance from the University in completing the relocation if transferred or re-assigned;
3. Mutual restrictions on contact between the parties;
4. Cancelling a University housing contract and/or adjusting a student account balance for refund;
5. Coordinating course-related adjustments (e.g. excused absences, flexible attendance, revised deadlines, reschedules, substitutions, etc.);
6. Endorsing or authorizing a grade change (e.g. incomplete, pass/no pass);
7. Transferring between class sections;
8. Endorsing or authorizing a withdrawal after the deadline has passed with or without a refund of tuition and fees;
9. Alternative course completion options (e.g. substitutions, independent study, correspondence);
10. Arranging to complete a course or lectures via distance education methods with the assistance of technology;
11. Providing increased security at location or activities (e.g. accompaniment or escort, surveillance, monitoring);
12. Modifying work schedules, job responsibilities, supervision, or re-assignment to a different work site; and

13. Counseling at a campus clinic or center.

The University will maintain as confidential any supportive measures provided to the Complainant or the Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. Any supportive measures offered to either party cannot punish, discipline, or unreasonably burden the other party.

**I. Administrative Leave and Emergency Removal**

1. Administrative Leave

The University may place a non-student employee Respondent on Administrative Leave or the equivalent during the pendency of the Procedures. A Respondent will be presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. Placing a student-employee Respondent on administrative leave with pay may be permissible as a supportive measure for a Complainant (for instance, to maintain the Complainant's equal educational access and/or to protect the Complainant's safety or deter sexual harassment) as long as that action meets the conditions that a supportive measure is not punitive, disciplinary, or unreasonably burdensome to the Respondent.

2. Emergency Removal

The University may remove a Respondent from the University's education program or activity on an emergency basis, provided that the University 1) undertakes an individualized safety and risk analysis, 2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct justifies removal, and 3) provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

**J. Grievance Process for Formal Complaints**

The grievance process begins when a Complainant files, or a Title IX Coordinator signs, a Formal Complaint requesting that the University investigate an allegation of sexual misconduct. Filing a Formal Complaint is the first step of a grievance process that determines whether the Respondent is responsible for violating the Policy. Unless a Formal Complaint is dismissed or resolved during one of the steps of the grievance process, the grievance process will include a preliminary review of the Formal Complaint, an investigation, a hearing, and the opportunity for the parties to challenge certain decisions through an appeal. Additionally, an Informal Resolution process may be available at any time prior to reaching a University determination regarding responsibility. If applicable, the University may initiate Informal Resolution or either party may request Informal Resolution.

If the Respondent is no longer a student, employee, or participant in any University-related program or activity at the time of the report, or if the conduct does not fall within the scope of the Policy, the Formal Complaint may be dismissed. The University will, however, help a Complainant identify reporting options outside the University and provide supportive measures. A Respondent is presumed not responsible for the alleged conduct unless a determination regarding responsibility

is made at the conclusion of the grievance process by the decision maker(s) based upon the preponderance of the evidence standard.

Individuals who knowingly or intentionally file a false formal complaint or provide false or misleading information during a grievance process may be subject to disciplinary action up to and including termination of employment or expulsion. Disciplinary action is not warranted where an individual provides information in good faith, even if the information is ultimately not substantiated. An individual provides information in good faith when that individual reasonably believes that the information they have provided is accurate.

1. Filing A Formal Complaint

- a. A Complainant may file a Formal Complaint against a Respondent requesting that the University investigate the allegation of sexual misconduct.
  - i. A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator
    - a) alleging sexual misconduct, including sexual harassment under Title IX, against a Respondent and
    - b) requesting that the University investigate the allegation of sexual misconduct.
  - ii. A “document filed by a Complainant” means a document or electronic submission (such as by e-mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.
  - iii. At the time of filing a Formal Complaint, for the purposes of Title IX, a Complainant must be participating in or attempting to participate in the education program or activity of the University.
- b. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator above.

## 2. Consolidation of Complaints

- a. The University may consolidate Formal Complaints as to allegations of sexual misconduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual misconduct arise out of the same facts or circumstances.
- b. Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

## 3. Notice of Allegations

Upon receipt of a Formal Complaint, the Title IX Coordinator or their designee will provide a written notice to the parties who are known.

The Notice of Allegations will include the following information:

- a. Notice of the University’s Sexual Misconduct Policy and Procedures, and an explanation of the grievance process and Informal Resolution process.
- b. Notice of the allegations of the conduct potentially constituting sexual misconduct, including
  - i. The identities of the parties involved in the incident, if known;
  - ii. The conduct allegedly constituting sexual misconduct;
  - iii. The date and location of the alleged incident, if known;
  - iv. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
  - v. Information that the parties may have up to two advisors of their choice, who may be, but are not required to be, attorneys, and may inspect and review evidence;
  - vi. Notice of any policy provision that prohibits knowingly making false statements or knowingly submitting false information during the grievance process;
  - vii. Information related to the availability of supportive measures;
  - viii. Information related to the availability of reasonable accommodations; and

ix. Prohibition of retaliation.

If, in the course of an investigation, if the University decides to investigate allegations about the Complainant or the Respondent that are not included in the notice, the University will provide notice of the additional allegations to the parties whose identities are known.

**4. Preliminary Review of Formal Complaint and Situation When A Formal Complaint Must or May Be Dismissed**

When a Title IX Coordinator receives a Formal Complaint, the Title IX Coordinator or their designee will do a Preliminary Review of the Formal Complaint. The University will investigate the allegations in a Formal Complaint. However, there are certain circumstances when the University is either required to, or may, dismiss a Formal Complaint or an allegation within the Formal Complaint.

- a. The University will dismiss an allegation of sexual harassment under Title IX in a Formal Complaint under the following circumstances:
  - i. The conduct would not constitute sexual harassment as defined by the Sexual Misconduct Policy and Procedures, even if proved;
  - ii. The conduct did not occur in the University's education program or activity;
  - iii. The conduct did not occur against a person in the United States.
- b. A dismissal of an allegation of sexual harassment under Title IX does not preclude action under another provision of the Sexual Misconduct Policy.
- c. A Complainant not participating in or attempting to participate in the education program or activity of the University at the time of the Formal Complaint does not preclude the Title IX Coordinator from signing the Formal Complaint or proceeding under provision of the Sexual Misconduct Policy, such as the broader definition of sexual harassment (e.g. Title VII).
- d. In the event the Title IX Coordinator or their designee determines another provision of the Sexual Misconduct Policy may apply to the alleged sexual misconduct and it is appropriate to proceed, the Formal Complaint will be investigated, adjudicated, and resolved in accordance with the process set forth in these Procedures.
- e. The University may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:
  - i. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;

- ii. The Respondent is no longer enrolled or employed by the University;  
or
  - iii. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.
- f. Upon dismissal of any or all of the allegations in the Formal Complaint, the Title IX Coordinator must provide a Notice of the Dismissal to the parties within (7) days of the Title IX Coordinator's decision to dismiss any or all of the allegations.
- g. The Notice of Dismissal must be provided to the parties simultaneously. The Notice of Dismiss must:
- i. Explain the reason(s) for dismissal;
  - ii. Explain information regarding the appeal rights of the parties; and
  - iii. Notify the parties of the ongoing investigation in circumstances where the alleged sexual misconduct may otherwise be subject to a different provision of the Sexual Misconduct Policy and the grievance process will continue.
- h. Notice of dismissal must be provided even if the grievance process will continue because the Title IX Coordinator determines the alleged sexual harassment may otherwise be subject to a different provision in the Sexual Misconduct Policy and the investigation and grievance process will continue. Under these circumstances the notice of dismissal must notify the parties of the ongoing investigation.

For example: If the alleged sexual misconduct occurred during a University sponsored event outside of the United States, the Title IX Coordinator must dismiss the Formal Complaint for the purposes of the Title IX sexual harassment Complaint. The Title IX Coordinator must send notice to the parties. However, the Title IX Coordinator may determine the alleged sexual misconduct falls within the University's jurisdiction as provided in Section E above and may continue the investigation and grievance process.

## **5. Appeals of the Dismissal of a Formal Complaint**

### **a. Overview**

The Complainant and the Respondent may appeal the dismissal of allegations of sexual harassment under Title IX contained in a Formal Complaint. The Title IX Coordinator or their designee's dismissal of any non-Title IX allegations of sexual misconduct in a Formal Complaint or determination not to apply other provisions of the Sexual Misconduct Policy are final and not subject to appeal. This appeal process provides both the Complainant and the Respondent a reasonable, equal opportunity to submit a written statement in support of, or challenging, the dismissal.

The Appeals Officer will not be the same person as the decision-maker(s) who reached the determination regarding dismissal, the Investigator(s), or the Title IX Coordinator. The Appeals Officer will not have a conflict of interest or bias for or against Complainants and Respondents generally or an individual Complainant or Respondent and comply with the training requirements set forth in the Sexual Misconduct Policy.

b. Reasons for Appeal

Dismissal of allegations of sexual harassment under Title IX in a Formal Complaint may be appealed on the following reasons:

- i. A procedural irregularity that affected the outcome of the matter;
- ii. The discovery of new evidence that was not reasonably available at the time of the Dismissal and that could affect the outcome of the matter; or
- iii. The Title IX Coordinator or their designee or the Investigator had a conflict of interest or bias for or against the Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

c. Appeal Process

- i. The appeal must be in writing and delivered to the Appeals Officer appointed by the Chancellor or their designee within seven (7) University Days of the delivery of the Notice of Dismissal.
- ii. An appeal must be in writing and specify the reason(s) for the appeal.
- iii. If either party submits an appeal, the other party and the Title IX Coordinator will be provided with a copy of the appeal and both will be given seven (7) University Days to submit their respective written responses.
- iv. The Appeals Officer may request additional information from the Title IX Coordinator or the parties at the Appeals Officer's discretion.
- v. The Appeals Officer will review all of the information and determine whether to grant or deny the appeal.
  - a) The written decision will describe the result of the appeal and the rationale for the result.
  - b) If an appeal does not clearly raise one or more of the reasons listed above, the Appeals Officer will dismiss the appeal without further consideration.

- c) If the Appeals Officer determines that the appeal clearly raises one or more of the reasons, the Appeals Officer may 1) affirm, in whole or in part, the decision on Dismissal, 2) overturn, in whole or in part, the decision on Dismissal, 3) or refer the Formal Complaint back to the Title IX Coordinator for further consideration or proceeding.
- d) A final outcome on an appeal is not subject to further appeal.
- vi. The Appeals Officer shall complete review of the appeal normally within fourteen (14) University Days after receipt of the record and any additional information, though this may vary based on the scope of the appeal or unforeseen circumstances.
- vii. The written determination will be provided simultaneously to the Complainant, Respondent, and Title IX Coordinator.
- d. Any non-Title IX alleged violations may continue to be investigated during the Appeal Process.

## 6. Investigation

The investigation process is conducted by the Title IX Coordinator or one or more Investigators. The University has the burden of gathering evidence sufficient to allow the Hearing Officer to reach a determination regarding responsibility.

### a. Meeting Notice

Prior to meeting with the Complainant or the Respondent, the Investigator will provide, written notice to the person being interviewed of the date, time, location, participants, and purpose all investigative interviews or other meetings, with sufficient time for the party to prepare to participate. In general, sufficient time will be at least five (5) University Days, however, a party may agree to meet sooner.

### b. Advisors

The University will provide the parties with the same opportunities to have others present during any meeting or grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by up to two advisors of their choice, who may be, but are not required to be, attorneys, and not limit the choice or presence of advisors for either the Complainant or the Respondent in any meeting or grievance proceeding. However, the University may establish restrictions regarding the extent to which the advisors may participate in the proceedings, as long as the restrictions apply equally to both parties.

### c. Gathering Evidence

The Investigator will meet separately with the Complainant and the Respondent. The Investigator will ask for all information relevant to the allegations. The parties will have an equal opportunity to identify witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. For both parties, this is an opportunity to present any information regarding the incident, including names of witnesses, the existence of documents, emails, text messages, or other recordings, or any other information the parties feel may be relevant. As part of the investigation, the Investigator may conduct additional investigative and witness interviews at the Investigator's discretion. The Investigator is responsible for contacting and interviewing relevant witnesses the Complainant identifies and witnesses the Respondent identifies, and any witnesses the Investigator deems necessary. The Investigator will review all available pertinent evidence. This may include reviewing student and/or personnel files and reviewing law enforcement documents or evidence. The Complainant and the Respondent may also submit supplemental information at any time during the investigation until the Investigator issues a final Investigative Report.

The Investigator will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for a grievance process under this section.

Additionally the Investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. Examples of privileges include Lawyer-Client, Physician-Patient, Professional Counselor-Client; Spousal, Clergy, and Victim's Advocate.

In summary, as a general rule, the following information may not be used during the grievance process: Information protected by a legally recognized privilege unless the person holding such privilege has waived the privilege; evidence about a party's prior sexual history unless an exception applies; and any party's medical, psychological, and similar records unless the party has given voluntary, written consent. Additionally, party or witness statements that are not subjected to cross examination at a live hearing cannot be considered to make a determination.

### d. Review of the Evidence

The Investigator will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint. This includes evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Prior to completion of the Investigative Report, the Investigator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The parties will have at least ten (10) University Days to submit a written response, which the Investigator will consider prior to completion of the Investigative Report. The University will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

e. Investigative Report

The Investigator will create an Investigative Report that fairly summarizes relevant evidence. At least ten (10) University Days prior to a hearing, or other time of determination regarding responsibility (whichever allows for a longer time period), the Investigator will send to each party and the party's advisor, if any, the Investigative Report in an electronic format or a hard copy, for their review and written response. Both parties will have the right to review each other's responses and the responses will be provided at the hearing.

General Provisions Concerning the Investigative Report

- i. The parties will have an equal opportunity to review the Investigative Report; if a party disagrees with an Investigator's determination about relevance, the party can make that argument in the party's written response to the Investigative Report and to the Hearing Officer at any hearing held; either way the Hearing Officer is obligated to objectively evaluate all relevant evidence and the parties have the opportunity to argue about what is relevant (and about the persuasiveness of relevant evidence).
- ii. The Investigator may redact from the Investigative Report information that is not relevant, which is contained in documents or evidence that is relevant.
- iii. The Investigator may include facts and interview statements in the Investigative Report.

f. Case Resolution Timeline

Though the University strives to resolve all cases in a prompt and timely manner, the timeline varies based on the circumstances of the case. Additionally, the timeline for a case may be affected by breaks in the academic calendar; absence of a party, a party's advisor, or a witness; (including due to leave of absence); concurrent law enforcement activity; the need for language assistance; accommodation of disabilities; scope of the investigation; and unforeseen or exigent circumstances. The parties will be periodically updated on the status of their case. In cases where there is a simultaneous law enforcement investigation, the University may need to temporarily delay its investigation while law enforcement gathers evidence. However, the University investigation will generally proceed with its investigation and resolution of a complaint during any law enforcement investigation.

The University will strive to conduct investigations of the allegations within ninety (90) University Days of receipt of the Formal Complaint. If the investigation will take a longer amount of time to complete, both parties must be informed in writing of the extension of the timeline. While the University will attempt to accommodate the schedules of parties and witnesses throughout the grievance process in order to provide parties with a meaningful opportunity to exercise the rights granted to parties under the Policy and Procedures, it is the University's obligation to meet its own designated time frames, and the grievance process can proceed to conclusion even in the absence of a party or witness.

## 7. Formal Hearings in Cases of Alleged Sexual Misconduct

### a. Overview

After an investigation, the University will conduct a hearing to determine whether the Respondent is responsible for violating the Sexual Misconduct Policy. During the hearing, the University Presenter or their designee, the Complainant, and the Respondent will each have an opportunity to

1. Discuss and explain their position;
2. Present evidence, including documents and witnesses; and
3. Have their advisor ask questions of other party and witnesses (e.g. cross-examination).

If a determination of responsibility for sexual misconduct is made against the Respondent, the decision-maker(s) will determine appropriate sanctions for Respondent and confirm that the University will provide remedies to the Complainant. A hearing must be held unless the case has been resolved pursuant to the Informal Resolution Section. The University will strive to conduct a hearing within thirty (30) University Days from the issuance of the investigation report.

### b. Hearing Scheduling and Notice

When the Investigator sends the Investigative Report to the Respondent and the Complainant, the Title IX Coordinator or their designee will forward a copy of the Investigative Report to the Hearing Facilitator. The Hearing Facilitator will schedule a hearing date, time, and location and notify the parties of the same. The University will strive to complete a hearing within one (1) month from the issuance of the investigation report. (May be delayed due to Informal Resolution)

A Pre-hearing conference will be held at least two (2) University Days prior to the scheduled hearing. The University will provide written notice of the date, time, location, participants, and purpose of both the prehearing conference and of the hearing at least five (5) University Days prior to the prehearing conference.

c. Pre-Hearing Conference

The Respondent and the Complainant shall have the right to attend a Pre-Hearing Conference. The purpose of the Pre-Hearing Conference is to plan for the hearing, discuss the issues and facts that will be presented at the hearing, exchange information about witnesses likely to be called, answer procedural questions, and settle those matters which may be agreeably concluded. Generally, the Hearing Officer or the Chair of the Hearing Board will preside over the Pre-Hearing Conference. During or prior to the Pre-Hearing Conference, the parties shall be informed of the names of the Hearing Officer and/or other Hearing Board members.

i. Hearing Information Exchange Prior to the Pre-Hearing Conference

The Respondent, the Complainant, and the University Presenter shall have an opportunity to inspect documents and a list of witnesses prior to the hearing. The Hearing Officer or Hearing Board will receive a copy of the Investigative Report. If there are any additional documents, that the Respondent, the Complainant, or the University Presenter would like to offer at the hearing, this information should be provided at least two (2) University Days before the Pre-Hearing Conference. This information will be exchanged with all parties.

ii. Use of Past Sexual Behavior

During the Prehearing conference, the parties will be instructed about the use of past sexual behavior of the Complainant<sup>1</sup> or past sexual assault by the Respondent<sup>2</sup> as evidence at the hearing. In most situations, questions and evidence of the past sexual history of either the Respondent or the Complainant are not relevant and will not be admitted at the hearing except in very limited situations set forth below.

- a) such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or
- b) if the questions and evidence concern specific incidents or the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

d. General Hearing Information

- i. At the request of either party, the University will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.

<sup>1</sup> See Neb. Rev. Stat. § 27-412 (2016) (Relevance of person's alleged past sexual behavior or alleged sexual predisposition).

<sup>2</sup> See Neb. Rev. Stat. § 27-415 (2016) (Evidence of crimes of sexual assault in civil cases).

- ii. The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.
- iii. Any real or perceived conflict of interest or bias between the Hearing Officer or a Hearing Board member and the Respondent or the Complainant must be brought to the attention of the Hearing Facilitator, Hearing Officer, or Chair of the Hearing Board no less than two (2) University Days in advance of the hearing.
- iv. The Hearing Board shall select its own Chair with all members possessing voting privileges.
- v. The Respondent and the Complainant have the right to be present for the hearing. The hearing is closed to the public.
- vi. The Respondent may not be found to be responsible for sexual misconduct solely because the Respondent is not present at the Hearing.
- vii. In such cases when a Respondent fails to appear before the Hearing Officer or Hearing Board, a plea of “not in violation” shall be entered on the Respondent’s behalf and the hearing may proceed as scheduled. In this situation, the University will provide an advisor to conduct cross-examination of the Complainant and witnesses.
- viii. In hearings involving more than one Respondent, the presiding Hearing Officer or Chair of the Hearing Board, in their discretion, may permit the hearings concerning each Respondent to be conducted separately.
- ix. The Respondent(s), the Complainant, and the University Presenter shall have the right to hear all evidence, present evidence, testify, and to hear and question witnesses.
- x. The process must not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. Examples of privileges under law include Lawyer-Client, Physician-Patient, Professional Counselor-Client; Spousal, Clergy, and Victim’s Advocate.

- xi. The role of the Complainant's and the Respondent's advisor of choice is limited to providing advice to the party and conducting cross-examination of witnesses. The role of a University appointed advisor is limited to conducting cross-examination. Advisors must fulfill their role in a manner which does not disturb Conduct proceedings. If an advisor fails to act in accordance with these guidelines, they may be barred from participation in the Conduct proceedings and the hearing may be continued.
- xii. The Hearing Officer or the Hearing Board may seek advice from the University's Counsel throughout the hearing process on questions of law and procedure. However, the Hearing Officer and Hearing Board are responsible for making their own factual conclusions.
- xiii. No process implemented under this Sexual Misconduct Procedure shall be open to the public. The Complainant and the Respondent are entitled to the same opportunities to have others present during a disciplinary proceeding subject to conditions established by the Sexual Misconduct Policy and these Procedures, the Title IX Coordinator, and the Hearing Officer or Hearing Board. Witnesses may be sequestered and attendance at hearings may be restricted to the Complainant, the Respondent, and their respective advisors.
- xiv. The Investigative Report may include recommended findings or conclusions as to whether Respondent violated the University's Sexual Misconduct Policy in the Investigative Report. However, the Hearing Officer or Hearing Board is under an independent obligation to objectively evaluate relevant evidence, and thus cannot simply defer to recommendations made by the Investigator in the Investigative Report.
- xv. If the Investigative Report includes general findings of credibility, the Hearing Officer or Hearing Board cannot interpret the Investigator's finding of credibility as a finding of responsibility.
- xvi. The determination of the merits of each case shall be made using a preponderance of the evidence standard.
- xvii. The burden of proof and burden of gathering evidence sufficient to reach a determination regarding responsibility shall rest upon the University. A Respondent is presumed to be not responsible for the alleged misconduct until proven otherwise.

- e. The Hearing Procedures
  - i. The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspections and review upon request.
  - ii. At the beginning of the hearing, the Hearing Officer or Chair of the Hearing Board should state for the record:
    - a) the date, time, and place and
    - b) their name and role as the Hearing Officer or Chair of the Hearing Board.
  - iii. If the hearing is before a Hearing Board, the Chair should:
    - a) have the other members of the Hearing Board identify themselves and
    - b) state whether there is a quorum. If there is not a quorum, then the hearing must be rescheduled unless all parties waive on the recording any objection to the lack of a quorum.
  - iv. The Hearing Officer or Chair of the Hearing Board should then identify the other persons present, ask the University Presenter to read the alleged violation(s), and ask the Respondent if the Respondent admits to the alleged violation(s).
  - v. The Hearing Officer or Chair of the Hearing Board must conduct the hearing in a manner that facilitates the presentation of relevant evidence by the Complainant, the Respondent, and the University Presenter. The Complainant, the Respondent, and the University Presenter have the right to call witnesses, including expert witnesses, and present their respective cases. The Hearing Officer or the members of the Hearing Board may ask questions to clarify what the witness said or to elicit more detailed information.
  - vi. The Hearing Officer or Chair of the Hearing Board has the discretion to:
    - a) allow the parties to make opening statements, closing statements, or both, with reasonable time limits;
    - b) allow witnesses to testify by videoconferencing technology;
    - c) require that the witnesses who have not yet testified wait somewhere other than the hearing room until they are called to testify; and

- d) schedule separate hearings if charges have been brought against multiple respondents or multiple charges have been brought against a single respondent.
  - vii. The University Presenter will present evidence first, followed by the Complainant, and then the Respondent. Courtroom rules of evidence do not apply.
  - viii. The presentation of evidence may include calling witnesses who have relevant information. A party may question the witness they call in support of their position.
- f. Questioning of Parties and Witnesses During the Hearing
- i. The Hearing Officer or Chair will permit each party's advisor to ask the other party and any witnesses called by another party all relevant questions and follow-up questions, including those challenging credibility ("cross-examination").
  - ii. Such cross-examination will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the Hearing Officer or Chair to otherwise restrict the extent to which advisors may participate in the proceedings.
  - iii. Before a Complainant, a Respondent, or a witness answers a cross-examination or other question, the Hearing Officer or Chair will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
  - iv. Additionally the Hearing Officer or Chair will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
  - v. As a general rule, the following information may not be used during the grievance process: Information protected by a legally recognized privilege unless the person holding such privilege has waived the privilege; evidence about a Complainant's prior sexual history unless an exception applies; any party's medical, psychological, and similar records unless the party has given voluntary, written consent; and, party or witness statements that have not been subjected to cross examination at a live hearing.
  - vi. The Hearing Officer or Chair will explain to the party proposing the questions any decision to exclude a question as not relevant.

- vii. If a party does not have an advisor present at the live hearing, the University will provide without fee or charge to that party, an advisor of the University's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
- viii. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- ix. If a party or a witness does not submit to cross-examination at the live hearing, the Hearing Officer or Hearing Board will not rely on any statement of that party or witness in reaching a determination regarding responsibility.
- x. The Hearing Officer or Hearing Board cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing, or decision not to answer questions or otherwise not participate in the live hearing.
- xi. Other than to conduct cross-examination as described above, the parties' respective advisors may not speak on behalf of the parties during the hearing and may not directly participate in any aspect of the hearing. The Complainant or the Respondent, however, may consult with their respective advisors during the hearing. The Hearing Officer or Chair may limit the length and frequency of consultations so that they do not unreasonably delay the hearing or unreasonably interfere with the presentation of evidence.
- xii. At the conclusion of the hearing, the Hearing Officer or Hearing Board must deliberate and make a decision based solely upon the evidence introduced and received at the hearing. The decision must be made by a majority vote.
- xiii. A Respondent is presumed to be not responsible. The determination of the merits of the case shall be made using the preponderance of the evidenced standard.

g. Determination

Within seven (7) University Days following the conclusion of formal hearing proceedings, the Hearing Officer or Chair shall inform the Respondent, the Complainant, the University Presenter, and the Title IX Coordinator in writing, of their findings and of any recommended sanction(s), if applicable.

The findings must include the following information.

- i. Identification of the allegations potentially constituting sexual misconduct
- ii. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, methods used to gather evidence; and hearings held;
- iii. Findings of fact supporting the determination;
- iv. Conclusions regarding the application of the Sexual Misconduct Policy to the facts;
- v. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any recommended disciplinary sanctions the Hearing Officer or Hearing Board recommends be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and
- vi. The University's procedures and permissible bases for the Complainant and Respondent to appeal.

The 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.

- h. Record of Hearing to Appeals Officer or Appropriate University Officials. If a timely appeal is filed within seven (7) University Days of the decision being delivered to the parties, the Record of the Hearing, including the determination, will be provided to the Appeals Officer.

If no appeal is filed within seven (7) University Days, the Record of the Hearing will be provided to the appropriate supervisor, unit head, Vice Chancellor or other relevant administrator responsible for appropriate employment action consistent with the Hearing Officer or Hearing Board's findings and recommendations, in accordance with applicable employment laws, policies, practices, and agreements.

The Record of the Hearing consists of the information, documents, and recordings related to the hearing such as the notice of the Hearing, documents related to the Pre-Hearing Conference, Investigative Report, evidence submitted by the Complainant, the Respondent, and the University Presenter, audio or audiovisual recording, transcript if any, determination, etc.

8. Appeals of Hearing Officer Determination after Formal Hearing

i. Overview

The Complainant and the Respondent may appeal a decision reached after a formal hearing for seven (7) University Days after the decision is delivered to the parties. This appeal process provides both the Complainant and Respondent a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome of the Hearing.

The Appeals Officer will not be the same person as the decision-maker(s) that reached the determination regarding dismissal, the Investigator(s), or the Title IX Coordinator. The Appeals Officer will not have a conflict of interest or bias for or against Complainants and Respondents generally or an individual Complainant or Respondent and comply with the training requirements set forth in the Sexual Misconduct Policy.

ii. Reasons for Appeal

A determination may be appealed for the following reasons:

- a) A procedural irregularity that affected the outcome of the matter;
- b) The discovery of new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- c) The Title IX Coordinator, Investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter;
- d) The sanction(s) imposed were arbitrary and capricious or an abuse of discretion; or
- e) A finding of fact in the determination is clearly erroneous and does not have factual support in the record and affected the outcome of the matter

iii. Appeal Process

- a) The appeal must be in writing and delivered to the Appeals Officer appointed by the Chancellor or their designee within seven (7) University Days of the delivery of the Notice of Dismissal.

- b) An appeal must be in writing and specify the reason(s) for the appeal.
- c) If either party submits an appeal, the other party and the University Presenter and/or the Title IX Coordinator will be provided with a copy of the appeal and will be given seven (7) University Days to submit their respective written responses.
- d) The Appeals Officer may request additional information from the University Presenter and/or the Title IX Coordinator or the parties at the Appeal Officer's discretion.
- e) The Appeals Officer will review all of the information and determine whether to grant or deny the appeal.
  - 1) The written decision will describe the result of the appeal and the rationale for the result.
  - 2) If an appeal does not clearly raise one or more of the reasons listed above, the Appeals Officer will dismiss the appeal without further consideration.
  - 3) If the Appeals Officer determines that the appeal clearly raises one or more of the reasons, in the written decision, the Appeals Officer may 1) affirm, in whole or in part, the decision on responsibility, 2) overturn, in whole or in part, the decision on responsibility, 3) affirm, overturn, or adjust the decision on disciplinary sanctions, or 4) remand the matter to remedy procedural errors or consider new evidence.
  - 4) The determination of the Appeals Officer is final and not subject to further appeal.
- f) The Appeals Officer shall complete review of the appeal normally within fourteen (14) University Days after receipt of the record and any additional information, though this may vary based on the scope of the appeal or unforeseen circumstances.
- g) The written determination will be provided simultaneously to the Complainant, Respondent, University Presenter, and Title IX Coordinator.
- h) The Record of the Hearing will be provided to the appropriate supervisor, unit head, Vice Chancellor or other relevant administrator responsible for appropriate employment action in accordance with applicable employment laws, policies, practices, and agreements.

## K. Sanctions

Responsive action is intended to eliminate prohibited conduct, prevent its recurrence, and promote accountability while supporting the University's educational mission and legal obligations. Responsive action may include disciplinary, rehabilitative (including educational), restorative, and monitoring components.

The types of sanctions that are possible as the result of a sexual misconduct disciplinary proceeding are:

1. coaching or education;
2. mentoring;
3. verbal warning;
4. written warning;
5. changes to work duties or location;
6. probation or transfer of position
7. completion of mandatory conditions;
8. suspension without pay;
9. nonrenewal or non-reappointment;
10. loss of rank or position;
11. denial of salary increase;
12. activity termination;
13. demotion in rank or pay;
14. termination of employment; and
15. ban on University re-employment.

Sanctions may be imposed in combination with one another.

The following factors among others, may be considered in determining the appropriate disciplinary sanctions or other responsive actions to address a decision of responsibility for prohibited conduct:

1. the severity, persistence, or pervasiveness of the prohibited conduct;
2. the nature of the prohibited conduct;
3. whether the prohibited conduct threatened physical safety;
4. any incidents of prior misconduct by a Respondent, including the Respondent's disciplinary history, at the University or elsewhere;
5. the impact of the prohibited conduct on other members of the University community;
6. an assessment of a Respondent's potential for development, including whether the Respondent has accepted responsibility for the prohibited conduct;
7. the maintenance of a safe, nondiscriminatory, and respectful work and learning environment; and
8. any other mitigating, aggravating, or compelling factors.

#### **L. Remedies for Complainant**

1. Where a determination of responsibility for sexual misconduct has been made against the Respondent, the University must provide or give the Complainant remedies. Remedies must be designed to restore or preserve equal access to the University's education program or activity. Such remedies may include the same supportive measures that are already being provided to the Complainant; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.
2. The Title IX Coordinator is responsible for effective implementation of any remedies.
3. Where the final determination has indicated that remedies will be provided, the Complainant can then communicate separately with the Title IX Coordinator to discuss what remedies are appropriately designed to preserve or restore the Complainant's equal access to education.
4. Remedies that do not directly affect the Respondent must not be disclosed to the Respondent.

## M. Informal Resolution

### 1. Overview

At any time prior to reaching a determination regarding responsibility, the University may facilitate an Informal Resolution process, such as mediation, that does not involve a full investigation and adjudication. The University will not require the parties to participate in an Informal Resolution process and may not offer an Informal Resolution process unless a Formal Complaint is filed. Additionally, the University will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints of sexual misconduct. The University will not offer or facilitate an Informal Resolution process to resolve allegations that an employee engaged in sexual misconduct against or sexually harassed a student.

The Informal Resolution process is facilitated by the Title IX Coordinator or their designee. The parties to any Informal Resolution process will not be required to deal directly with one another without the University's involvement.

An Informal Resolution may include the range of supportive measures described above, as well as targeted and/or broad-based training and educational programming for relevant individuals and groups and/or any other remedy. For example, both parties may agree that the permanent application of supportive measures (e.g. no contact agreement) may be sufficient to resolve the Formal Complaint. An Informal Resolution process may also include a remedies-based process, which allows both parties to come to a mutual agreement regarding the resolution of the Formal Complaint.

Once an Informal Resolution process is complete, both parties will be notified simultaneously/contemporaneously (to the greatest extent possible, and consistent with FERPA or other applicable law) of the resolution. The Informal Resolution process does not conclude with a University finding; the Respondent is not found to be "responsible" or "not responsible" of a Policy violation. However, the parties may negotiate the extent to which a Respondent may agree or concede responsibility for alleged misconduct.

Any party may request that the Informal Resolution process be terminated at any time, in which case the grievance process would proceed. The University may, at its discretion, also terminate the Informal Resolution Process at any time. In addition, while the results of the Informal Resolution process cannot be appealed, any party can withdraw from the Informal Resolution process and resume the grievance process with respect to the Formal Complaint.

### 2. General Provisions Related to Informal Resolution

- a. At the beginning of the Informal Resolution process, the University will:
  - i. Provide to the parties a written notice disclosing:
    - a) the allegations;

- b) the requirements of the Informal Resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and resume the grievance process with respect to the Formal Complaint; and
    - c) any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared.
  - ii. Obtain the parties' voluntary, written consent to the Informal Resolution process.
- b. The University will provide the parties timely access to any information that will be used during the Informal Resolution process.
- c. Any statements, admissions, or other statements made by the Complainant or Respondent during the Informal Resolution process may not be used as evidence if the matter proceeds to a Formal Hearing.
- d. The Title IX Coordinator or their designee and the administrator who oversees the Respondent or the Respondent's department or unit (e.g. the Respondent's supervisor) must approve the terms of any Informal Resolution.
- e. The Respondent may be subject to discipline for potential violations of policies in addition to the Sexual Misconduct Policy outside of the Informal Resolution Process. However, the Informal Resolution process may also address other potential violations of policies in addition to the Sexual Misconduct Policy.
- f. Informal Resolution procedures may be discontinued at the request of any party or terminated by the Title IX Coordinator or their designee.
- g. If the University and parties do not reach an agreement to resolve the Formal Complaint through the Informal Resolution process, the grievance process will be resumed with respect to the Formal Complaint, including investigation and adjudication and any Formal Hearing.

#### **N. Retaliation**

No member of the University community may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the Sexual Misconduct Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Sexual Misconduct Policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for alleged employee misconduct or Sexual Misconduct Policy violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by the Sexual Misconduct Policy, constitutes retaliation.

#### **O. Periodic Review**

This Sexual Misconduct Procedures will be reviewed at least every two (2) years. The Provost will initiate this review.

#### **P. Effective Date**

These Procedures apply to reports of sexual misconduct received by the Title IX Coordinator on or after August 14, 2020, except that definitions from the Policy in place at the time the alleged prohibited conduct occurred will be used to make the decision on responsibility.

## State Statute Definitions and Penalties

### Consent to Sexual Activity (R.R.S. Neb. §28-318):

Consent” means agreement, approval, or permission as to some act or purpose, given voluntarily by a competent person.

1. “Without consent” means:
  - A. The person was compelled to submit due to the use of force or threat of force or coercion; or
  - B. The person expressed a lack of consent through words; or
  - C. The person expressed a lack of consent through conduct; or
  - D. 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 victim need only resist, either verbally or physically, so as to make the victim's refusal to consent genuine and real and so as to reasonably make known to the actor the victim's refusal to consent; and
3. A victim need not resist verbally or physically where it would be useless or futile to do so.

In the above text, the word “victim” 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.

**Important Note:** 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.

*\*It is important to note that **incapacitated** does not mean that one or more of the parties involved had been drinking or were drunk. Rather, it means that one of the parties was unable to make a rational decision about their actions due to intoxication. In Title IX investigations, the investigator will analyze whether the individuals involved had the capacity to make rational decisions at the time of the sexual activity.*

### Sexual Assault (R.R.S. Neb. §28-317):

It is the intent of the Legislature to enact laws dealing with sexual assault and related criminal sexual offenses which will protect the dignity of the victim at all stages of judicial process, which will insure that the alleged offender in a criminal sexual offense case have preserved the constitutionally guaranteed due process of law procedures, and which will establish a system of investigation, prosecution, punishment, and rehabilitation for the welfare and benefit of the citizens of this state as such system is employed in the area of criminal sexual offenses.

**Terms, defined (R.R.S. Neb. §28-318):**

As used in sections [28-317](#) to [28-320.02](#), unless the context otherwise requires:

1. Actor means a person accused of sexual assault;
2. Intimate parts means the genital area, groin, inner thighs, buttocks or breasts;
3. Past sexual behavior means sexual behavior other than the sexual behavior upon which the sexual assault is alleged;
4. 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;
5. Sexual contact means the intentional touching of the victim's sexual or intimate parts or the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts. Sexual contact shall also mean the touching by the victim of the actor's sexual or intimate parts or the clothing covering the immediate area of the actor's sexual or 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. Sexual contact shall also include the touching of a child with the actor's sexual or intimate parts on any part of the child's body for purposes of sexual assault of a child under sections [28-319.01](#) and [28-320.01](#);
6. 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 victim's body or any object manipulated by the actor into the genital or anal openings of the victim's body which can be reasonably construed as being for nonmedical or non-health purposes. Sexual penetration shall not require emission of semen;
7. Victim means the person alleging to have been sexually assaulted;
8. Without consent means:
  - A. (i) The victim was compelled to submit due to the use of force or threat of force or coercion, or (ii) the victim expressed a lack of consent through words, or (iii) the victim 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;
  - B. The victim need only resist, either verbally or physically, so as to make the victim's refusal to consent genuine and real and so as to reasonably make known to the actor the victim's refusal to consent; and
  - C. A victim need not resist verbally or physically where it would be useless or futile to do so; and
9. Force or threat of force means:
  - A. The use of physical force which overcomes the victim's resistance or
  - B. The threat of physical force, express or implied, against the victim or a third person that places the victim in fear of death or in fear of serious personal injury to the victim or a third person where the victim reasonably believes that the actor has the present or future ability to execute the threat.

**Sexual assault; first degree; penalty (R.R.S. Neb. §28-319):**

1. Any person who subjects another person to sexual penetration
  - A. Without the consent of the victim, or
  - B. Who knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct, or
  - C. When the actor is nineteen years of age or older and the victim is at least twelve but less than sixteen years of age is guilty of sexual assault in the first degree.
2. Sexual assault in the first degree is a Class II felony. The sentencing judge shall consider whether the actor caused serious personal injury to the victim in reaching a decision on the sentence.
3. Any person who is found guilty of sexual assault in the first degree for a second time when the first conviction was pursuant to this section or any other state or federal law with essentially the same elements as this section shall be sentenced to a mandatory minimum term of twenty-five years in prison.

**Sexual assault of a child; first degree; penalty (R.R.S. Neb. §28-319.01):**

1. A person commits sexual assault of a child in the first degree:
  - A. When he or she subjects another person under twelve years of age to sexual penetration and the actor is at least nineteen years of age or older; or
  - B. When he or she subjects another person who is at least twelve years of age but less than sixteen years of age to sexual penetration and the actor is twenty-five years of age or older.
2. Sexual assault of a child in the first degree is a Class IB felony with a mandatory minimum sentence of 15-years in prison for the first offense.
3. Any person who is found guilty of sexual assault of a child in the first degree under this section and who has previously been convicted
  - A. Under this section,
  - B. Under section 28-319 of first degree or attempted first degree sexual assault,
  - C. Under section 28-320.01 before July 14, 2006, of sexual assault of a child or attempted sexual assault of a child,
  - D. Under section 28-320.01 on or after July 14, 2006, of sexual assault of a child in the second or third degree or attempted sexual assault of a child in the second or third degree, or
  - E. In any other state or federal court under laws with essentially the same elements as this section, section 28-319, or section 28-320.01 as it existed before, on, or after July 14, 2006, shall be guilty of a Class IB felony with a mandatory minimum sentence of twenty-five years in prison.
4. In any prosecution under this section, the age of the actor shall be an essential element of the offense that must be proved beyond a reasonable doubt.

**Sexual assault; second or third degree; penalty (R.R.S. Neb. §28-320):**

1. Any person who subjects another person to sexual contact
  - A. Without consent of the victim, or
  - B. Who knew or should have known that the victim was physically or mentally incapable of resisting or appraising the nature of his or her conduct is guilty of sexual assault in either the second degree or third degree.
2. Sexual assault shall be in the second degree and is a Class IIA felony if the actor shall have caused serious personal injury to the victim.
3. Sexual assault shall be in the third degree and is a Class I misdemeanor if the actor shall not have caused serious personal injury to the victim.

**Sexual assault of a child; second or third degree; penalties (R.R.S. Neb. §28-320-01):**

1. A person commits sexual assault of a child in the second or third degree if he or she subjects another person fourteen years of age or younger to sexual contact and the actor is at least nineteen years of age or older.
2. Sexual assault of a child is in the second degree if the actor causes serious personal injury to the victim. Sexual assault of a child in the second degree is a Class II felony for the first offense.
3. Sexual assault of a child is in the third degree if the actor does not cause serious personal injury to the victim. Sexual assault of a child in the third degree is a Class IIIA felony for the first offense.
4. Any person who is found guilty of second degree sexual assault of a child under this section and who has previously been convicted
  - A. Under this section, or
  - B. Under section [28-319](#) of first degree or attempted first degree sexual assault, or
  - C. Under section [28-319.01](#) for first degree or attempted first degree sexual assault of a child, or
  - D. In any other state or federal court under laws with essentially the same elements as this section, section [28-319](#), or section [28-319.01](#) shall be guilty of a Class IC felony and shall be sentenced to a mandatory minimum term of twenty-five years in prison.
5. Any person who is found guilty of third degree sexual assault of a child under this section and who has previously been convicted
  - A. Under this section, or
  - B. Under section [28-319](#) of first degree or attempted first degree sexual assault, or
  - C. Under section [28-319.01](#) for first degree or attempted first degree sexual assault of a child, or
  - D. In any other state or federal court under laws with essentially the same elements as this section, section [28-319](#), or [28-319.01](#) shall be guilty of a Class IC felony.

**Sexual assault; use of electronic communication device; prohibited acts; penalties (R.R.S. Neb. §28-320.02):**

1. No person shall knowingly solicit, coax, entice or lure:
  - A. A child sixteen years of age or younger, or
  - B. A peace officer who is believed by such person to be a child sixteen years of age or younger, by means of an electronic communication device as that term is defined in section [28-833](#), to engage in an act which would be in violation of section [28-319](#), [28-319.01](#), or [28-320.01](#) or subsection (1) or (2) of section [28-320](#). A person shall not be convicted of both a violation of this subsection and a violation of section [28-319](#), [28-319.01](#), or [28-320.01](#) or subsection (1) or (2) of section [28-320](#) if the violations arise out of the same set of facts or pattern of conduct and the individual solicited, coaxed, enticed or lured under this subsection is also the victim of the sexual assault under section [28-319](#), [28-319.01](#), or [28-320.01](#) or subsection (1) or (2) of section [28-320](#).

**Incest; penalty (R.R.S. Neb. §28-703):**

1. Any person who shall knowingly intermarry or engage in sexual penetration with any person who falls within the degrees of consanguinity set forth in section [28-702](#) or any person who engages in sexual penetration with his or her stepchild who is under nineteen years of age commits incest.
2. Incest is a Class III felony, except that incest with a person who is under eighteen years of age is a Class IIA felony.
3.
  - A. For purposes of this section, the definitions found in section [28-318](#) shall be used.
  - B. The testimony of a victim shall be entitled to the same weight as the testimony of victims of other crimes under this code.

**Dating Violence (R.R.S. Neb. §79-2.140):**

A pattern of behavior where one person uses threats of, or actually uses, physical, sexual, verbal, or emotional abuse, to control his or her dating partner. Dating partner means any person, regardless of gender, involved in an intimate relationship with another person primarily characterized by the expectation of affectionate/sexual involvement, whether casual (e.g. “friends with benefits”), serious, or long-term. It is based on a consideration of length of relationship, type of relationship and the frequency of interaction between those involved in the relationship.

**Domestic Violence (R.R.S. Neb. §28-323):**

Any felony or misdemeanor crime of violence committed by a current or former spouse of the victim, by a person with who the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence law of the jurisdiction receiving grant monies or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence of the jurisdiction.

**Associated State of Nebraska Statutes:**

1. Statute [28-323](#) defines Intimate relationship as “a spouse; former spouse; person 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.
2. Statute [42-903](#) defines Family and Household members as “spouse of former spouse, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common whether or not they have been married or have lived together at any time, other persons related by consanguinity or affinity, and persons who are presently involved in a dating relationship..
3. Statute [42-903](#) defines abuse as “Attempting to cause or intentionally and knowingly causing bodily injury with or without a dangerous instrument. Or, placing by means of credible threat, another person in fear of bodily injury. For the purpose of this subdivision, a credible threat means a verbal or written threat, including a threat performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal written, or electronically communicated statements and conduct that is made by a person with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. Or engaging in sexual contact or sexual penetration without consent.

**Stalking and harassment** - Any person who willfully harasses another person, family or household member with the intent to injure, terrify, threaten or intimidate commits the offense of stalking.

**28-311.02. Stalking and harassment; legislative intent; terms, defined.**

1. It is the intent of the Legislature to enact laws dealing with stalking offenses which will protect victims from being willfully harassed, intentionally terrified, threatened or intimidated by individuals who intentionally follow, detain, stalk, harass or impose any restraint on their personal liberty and which will not prohibit constitutionally protected activities.
2. For purposes of sections [28-311.02](#) to [28-311.05](#), [28-311.09](#), and [28-311.10](#):
  - A. Harass means to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens or intimidates the person and which serves no legitimate purpose;
  - B. Course of conduct means a pattern of conduct composed of a series of acts over a period of time; however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, stalking the person, telephoning, contacting or otherwise communicating with the person;

- C. Family or household member means a spouse or former spouse of the victim, children of the victim, a person presently residing with the victim, a person who has resided with the victim in the past, a person who had a child in common with the victim, other persons related to the victim by consanguinity or affinity or any person presently involved in a dating relationship with the victim or who has been involved in a dating relationship with the victim. For purposes of this subdivision, dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement but does not include a causal relationship or an ordinary association between persons in a business or social context; and
- D. Substantially conforming criminal violation means a guilty plea, a nolo contendere plea or a conviction for a violation of any federal law or law of another state or any county, city, or village ordinance of this state or another state substantially similar to section [28-311.03](#). Substantially conforming is a question of law to be determined by the court.

## **Federal Definitions**

**Sexual Assault** – Penetration, no matter how slight, of the vagina or anus with any body part or object or oral penetration by a sex organ of another person without the consent of the victim. This definition includes any gender of victim or perpetrator. Sexual penetration means the penetration, no matter how slight, of the vagina or anus with any body part or object or oral penetration by a sex organ of another person or by a sex-related object. The definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent. As defined by “Uniform Crime Reporting”

### **Sex Offenses –**

1. **Incest**- Non-forcible sexual intercourse between persons who are related to each other within the degree wherein marriage is prohibited by law.
2. **Statutory Rape**- Non-forcible sexual intercourse with a person who is under statutory age of consent.
3. **Forcible Fondling** – The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and or against that person’s will: or, not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her youth or because his/her temporary or permanent mental incapacity. As defined by “Uniform Crime Reporting.”

**Domestic Violence:** Any Felony or misdemeanor crimes of violence committed by:

1. A current or former spouse or intimate partner of the victim;
2. A person with whom the victim has a child in common;
3. A person who is cohabitating with or has cohabitated with the victim as a spouse;
4. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
5. By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Dating Violence:** Violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors:

1. The length of the relationship
2. The type of relationship
3. The frequency of interaction between the persons involved in the relationship

**Stalking:** The term “stalking” means: engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for the person’s safety of others; or
2. Suffer substantial emotional distress.

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

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic standing.
2. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile, or offensive working/academic environment.

### **Steps to take if you have been a victim of:**

#### **Sexual Assault:**

1. Go to a safe place.
2. Preserve all physical evidence of the assault. Do not shower, bathe, douche or brush your teeth. If possible, do not urinate, eat, drink liquids, take any medications, smoke or brush your teeth if oral contact took place. Save all of the clothing you were wearing at the time of the assault. Place each item of clothing in a separate paper bag. Do not use plastic bags. Do not clean any clothing garments. Do not disturb or destroy any physical evidence. If the crime occurred in the victim’s home, the victim should not clean or straighten until the police have had an opportunity to collect evidence.
3. Following an incident, victims are encouraged to make a report to campus or local police. If an individual needs assistance in notifying authorities, University officials will assist them in doing so. Filing a police report does not obligate prosecution, but does provide the opportunity for the collection of evidence, investigation into the allegations and makes legal action possible. The earlier an incident is reported the easier it is to collect valuable evidence. Furthermore, reporting the crime can help you regain a sense of personal power and control and can also help to ensure the safety of other potential victims.

**Report the incident to the University Police at (308) 865-8911, local police at (308) 237-2104 or 911.**

4. Call a friend, a family member or someone else you trust and ask her/him to stay with you.
5. Seek medical care even if you think that you do not have any physical injuries. You should still have a medical examination and discuss with a health care provider the risk of exposure to sexually transmitted diseases and the possibility of pregnancy resulting from the sexual assault.

- A. Students can contact: Student Health Care at (308) 865-8218, FAN at 308-865-7492 or your local physician.
- B. Employees can contact FAN at 308-865-7492 or your local physician.
- 6. If you suspect that you may have been given a rape drug, ask the clinician where you can go to provide a urine sample. Rape drugs, such as Rohypnol and GSB, are more likely to be detected in the urine than in blood.
- 7. Write down as much as you can remember about the circumstances of the assault, including a description of the assailant.
- 8. Talk with an advocate who is trained to assist sexual assault victims with the emotional and physical impacts of the assault. Advocates are available 24-hours a day, 365 days a year.
  - A. Students can contact one of the following: University Gender and Sexuality resource office at (308) 865-8248, Student Health and Counseling at (308) 865-8248 (24/7) or contact your local counselor.
  - B. Employees can contact Best Care EAP at (800) 801-4182. Complainants both have access to University assistance in changing academic, living, working, and transportation situations after an alleged incident. If the request is made by the student or complainant and if such changes are possible, accommodations may be made to minimize the burden on the student or complainant.
  - C. To begin the University conduct process, the campus authority or victim should contact the Title IX Specialist, Warner Hall #2113, (308) 865-8400; the Dean–Student Affairs, Memorial Student Affairs Building #180, (308) 865-8528; University Student Conduct Officer, Nebraskan Student Union #142A, (308) 865-8888 or the Human Resources Office Warner Hall #1200, (308) 865-8888. Once the University has been notified, they are obligated to investigate the incident and complete their processes.

**Domestic Violence/ Dating Violence:**

- 1. If you are in IMMEDIATE DANGER, call 911.
- 2. Go to a safe place.
- 3. Seek medical assistance if needed.
- 4. Preserve any physical evidence of the violence. If the crime occurred in your home, do not clean or straighten until the police have had an opportunity to collect evidence.
- 5. Report the offense to campus or local police. If an individual needs assistance in notifying authorities, University officials will assist them in doing so.
- 6. Call a friend, a family member or someone else you trust and ask him or her to stay with you. Let your friends know how they can help you.
- 7. Talk with a confidential advocate who is trained to assist with dating/domestic violence. Advocates are available 24-hours a day, 365 days a year.
  - A. Students can contact: University Gender and Sexuality resource office at (308) 865-8248, Student Health and Counseling at (308) 865-8248 (24/7), or contact your local counselor.
  - B. Employees can contact Best Care EAP at (800) 801-4182 or contact your local counselor.
- 8. Develop a SAFETY PLAN. Include things like changing your routine, arranging a place to stay and having a friend go places with you. Also, decide in advance what to do if the offender shows up at your residence, classroom, work or somewhere else. University Gender and Sexuality resource office, Student Health and Counseling or the S.A.F.E. Center can assist you in developing a safety plan.

9. Consider getting a COURT ORDER/PROTECTIVE ORDER that tells the offender to stay away from you. The University Gender and Sexuality resource office, Student Health and Counseling or the S.A.F.E. Center can assist you in filling out the paperwork.
10. File a complaint with the University
  - A. For Students contact:
    1. Title IX Specialist, Chief Compliance Officer, Warner Hall #2113, (308) 865-8400
    2. UNK Senior Student Affairs Officer (Dean), Memorial Student Affairs Building, #180, (308) 865-8528
    3. Associate Dean: Conrad Hall, (308) 865-8519
    4. Associate Director Residence Life: Conrad Hall, (308) 865-8519
  - B. For Employees contact:
    1. Title IX Specialist, Chief Compliance Officer, Warner Hall #2113, (308) 865-8400
11. Students and Employees who are in domestic/dating violence situations have access to University assistance in changing academic, living, working and transportation situations after an alleged incident. If a request is made by the student, employee or complainant and if such changes are reasonably available, accommodations may be made to minimize burden on the student or employee.

### **Stalking:**

1. If you are in IMMEDIATE DANGER, call 911.
2. Contact University Police to file a report. They can assist you with understanding and taking action if the stalker has broken the law. Remember, every state has stalking laws, including Nebraska. If you don't want to contact the Police alone, consider contacting the UNK University Gender and Sexuality resource office, UNK Student Health and Counseling or Safe Center for assistance.
3. Keep EVIDENCE by documenting the stalking. When the stalker follows you or contacts you, keep a log of the time, date, place and other details you may find of importance. Keep all e-mails, phone messages, letters, notes or social media messages. Photograph anything of yours that the stalker damages and any injuries they may have caused. Keep a list of any witnesses to the incidents. Ask witnesses to write down what they saw. Keeping this information will be very beneficial if you decide to get a protection order.
4. Consider getting a COURT ORDER/PROTECTIVE ORDER that tells the stalker to stay away from you. University Gender and Sexuality resource office, Student Health and Counseling or Safe Center can assist you in filling out the paperwork.
5. Don't COMMUNICATE with the stalker or respond to their attempts to contact you. Communicating with them will only encourage them to continue.
6. Develop a SAFETY PLAN. Include things like changing your routine, arranging a place to stay and having a friend go places with you. Also, decide in advance what to do if the stalker shows up at your apartment/residence hall, classroom, work or somewhere else. Let your friends know how they can help you. The University Gender and Sexuality resource office, Student Health and Counseling or Safe Center can assist in helping you devise a personal safety plan, provide you with information about local laws, University policies and provide support.
7. Tell FAMILY, FRIENDS and OTHERS YOU TRUST about the stalking and seek their support.

8. Get CAMPUS SUPPORT. The prevalence of anxiety, insomnia, social dysfunction and severe depression is much higher among stalking victims than the general population. Especially if the stalking involves being followed or having one's property destroyed. There are many services on campus that are here to offer you support.
9. Trust your INSTINCTS. Don't downplay the danger. If you feel you are unsafe, you probably are. Take THREATS seriously. Danger generally is higher when the stalker talks about harming themselves or someone else, or when a victim/survivor tries to leave or end a relationship.

### **Sexual Harassment:**

1. Tell the perpetrator in person or other documented way (in a manner or at a time when it is reasonably certain that such action will not jeopardize the student's personal safety, academic status or professional future) that the behavior is neither humorous nor welcomed and should cease immediately.
2. Keep a written record, documenting as precisely as possible what happened, when it took place, the names of witnesses (if any), the student's response and any other information that may be helpful later.
3. Seek advice on how to deal with the situation from a supportive and knowledgeable person.
4. File a complaint regarding the sexual harassment
  - A. For a student on a student violation contact:
    - 1) UNK Senior Student Affairs Officer (Dean), Memorial Student Affairs Building, #180, (308) 865-8528
    - 2) Associate Dean: Conrad Hall, (308) 865-8519
    - 3) Associate Director Residence Life: Conrad Hall, (308) 865-8519
    - 4) Title IX Specialist, Chief Compliance Officer: Warner Hall #2113, (308) 865-8400
  - B. For an employee on a student or employee violation contact:
    - 1) Title IX Specialist, Director Human Resources: Warner Hall #2113, (308) 865-8400.
5. Talk with a confidential advocate who is trained to assist sexual harassment victims with the emotional and physical impacts of the harassment. Advocates are available 24-hours a day, 365 days a year.
  - A. Students can contact: University Gender and Sexuality resource office at (308) 865-8248, Student Health and Counseling at (308) 865-8248 (24/7) or contact your local counselor.
  - B. Employees can contact Best Care EAP at (800) 801-4182 or contact your local counselor.
6. **Report the incident to the University Police Department at (308) 865-8911 or local police at (308) 237-2104 or 911.**
7. Preserve all physical evidence of the harassment.
8. Students that have been sexually assaulted or harassed and complainants both have access to University assistance in changing academic, living, working and transportation situations after an alleged incident. If the request is made by the student or complainant and if such changes are reasonably available.

## Procedures for Reporting Criminal Conduct

The University has procedures for those who report incidents of sexual misconduct including informing individuals about their right to file criminal charges as well as the availability of counseling, health care, victim advocacy, legal assistance, visa and immigration assistance and other services on and/or off campus.

1. Additional remedies to prevent contact between a complainant and an accused party such as housing, academic transportation and working accommodations are also available. The University will make such accommodations if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to the campus police or local law enforcement. To request such accommodations students and employees should contact the Title IX Specialist at (308) 865-8400.

After an incident of sexual assault, dating violence or domestic violence, the victim should consider seeking medical attention as soon as possible at the UNK Health Care in the Memorial Student Affairs Building, with your local physician or at the Family Advocacy Network (308) 865-7492.

If the offense occurred within the past 96-hours and evidence is to be collected it is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen/area where the assault took place. This is so evidence may be preserved. This may assist in proving that the alleged criminal offense occurred, or is occurring, or it may also be helpful in obtaining a protection order.

If evidence is collected, it will be turned over to local law enforcement and the victim's name would need to be attached to the evidence. If evidence is collected through the Family Advocacy Network, they can attach a FAN id number instead of the name and their name will not be associated with the evidence. In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease(s).

Victims of sexual assault, domestic violence, stalking and dating violence are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, keeping pictures, logs, copies of documents or other communications, if they have any, as it would be useful to University hearing boards/investigators or police. By completing a physical exam, it does not mean that you have to file a police report. In addition, having a forensic examination will help preserve evidence should the victim decide later to do a police report.

Although the University strongly encourages all members of its community to report violations of this policy to law enforcement, it is the victim's choice whether or not to make such a report and victims have the right to decline involvement with the Police. The University will assist any victim with notifying local police if they so desire. The KPD may also be reached directly by calling (308) 237-2104 or in person at 2025 Avenue A. Additional information about the KPD may be found online at the [City of Kearney Police Department](#).

If you have been the victim of domestic violence, dating violence, sexual assault or stalking you should report the incident promptly to the Title IX Specialist, Mary Chinnock-Petroski by calling at (308) 865-8400, e-mailing at [petroskimj@unk.edu](mailto:petroskimj@unk.edu) or coming into the office in-person at 2113 Warner Hall with Campus Police (if the victim so desires.) The University will provide resources on campus, off campus, or both to the victim and will apply appropriate disciplinary procedures to those who violate this policy. The procedures set forth below are intended to afford a prompt response to charges of sexual misconduct, to maintain confidentiality and fairness consistent with applicable legal requirements and to impose appropriate sanctions on violators of this policy.

As time passes, evidence may dissipate or become lost or unavailable; thereby, making investigation, possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If a victim chooses not to make a complaint regarding an incident, he/she nevertheless should consider speaking with Campus Police or other law enforcement to preserve evidence in the event that the victim changes his/her mind at a later date.

### **Assistance for Victims: Rights and Options**

Regardless of whether a victim elects to pursue a criminal complaint or whether the offense is alleged to have occurred on or off campus, the University will assist victims of sexual assault, domestic violence, dating violence, and stalking and will provide each victim with a written explanation of their rights and options. UNK complies with Nebraska state law in recognizing orders of protection, any person who obtains an order of protection should provide a copy to the UNK Police Department and the Office of the Title IX Specialist. A complainant may then meet with Student Health and Counseling or Campus Police to develop a Safety Plan. A Safety Plan is a plan for the victim to reduce risk of harm while on campus or while coming and going from campus.

The University cannot apply for a legal order of protection, a no contact order or a restraining order for a victim. The victim is required to apply directly for these services. Protection orders may be available through the Buffalo County or District Court at the corner of 16th street and Central Avenue. The University may issue an institutional no contact order if deemed appropriate or at the request of the victim or accused. To the extent of the victim's cooperation and consent, University offices will work cooperatively to ensure that the complainant's health, physical safety, work and academic status are protected, pending the outcome of a formal University investigation of the complaint.

Additionally, personal identifiable information about the victim will be treated as confidential and only shared with persons with a specific need to know who are investigating/adjudicating the complaint or delivering resources or support services to the complainant. Further, the institution will maintain as confidential, any accommodations or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

The University does not publish the name of crime victims nor house identifiable information regarding victims in the Campus Police departments Daily Crime and Fire Log. Victims may request that directory information on file be removed from public sources by contacting the Registrar's Office at (308) 865-8527, [unkregistrar@unk.edu](mailto:unkregistrar@unk.edu), 2504 9<sup>th</sup> Avenue, Kearney NE 68849, Warner Hall. All publicly available documentation is maintained without the inclusion of personally identifiable information about the victim.

Other resources available to persons who report being the victim of sexual assault, domestic violence, dating violence, or stalking, include:

**The S.A.F.E. Center** provides a place for individuals to escape domestic violence situations. They provide support groups and assist victims throughout the court process.

Phone: (308) 237-2599

24 Hour Toll-Free Crisis Line: 877-237-2513

Location: 620 E. 25<sup>th</sup> St. Suite 14

Website: <http://www.safecenter.org>

**Victim Witness** is given your information if legal proceedings have begun. They will contact you and explain all the steps of the legal process and support you along the way.

Phone: (308) 233-5263

Location: 2025 Avenue A (Law Enforcement Center)

**Family Advocacy Network (FAN)** provides a safe environment for the survivor while meeting their medical, psychological and safety needs. FAN brings together all necessary parties needed to meet these needs for the survivors. They have trained staff to assist in all aspects of the assault and are equipped with trained medical personnel and equipment.

Phone: (308) 865-7492 (24/7)

Website: [www.familyadvocacynetwork.com](http://www.familyadvocacynetwork.com)

**C-SART (Sexual Assault Response Team)** is a UNK/community coordinated response to sexual assaults which include a sexual assault nurse examiner (SANE), a sexual assault investigator and trained mental and physical health care providers. The SART team can be activated by the majority of the listed agencies.

The **University Gender and Sexuality Resource Office** is located within the Office of Diversity and Inclusion and is staffed by the Gender and Sexuality Resource Officer. This office is a central point of contact for students who are survivors of sexual assault, stalking, dating violence, or domestic abuse. The Resource Officer can provide resources to these students and connect them with supportive services. The office is a safe space for survivors and for students identifying in the LGBTQIA+ community. They also provide prevention programming on campus around gender equality.

Phone: (308) 865-8751

Hours: Monday through Friday

Location: Nebraskan Student Union room 106

Website: <https://www.unk.edu/offices/odi/gender-sexuality-resource-office/index.php>

**The UNK Counseling Center** provides professional mental health counseling to currently enrolled UNK students. All mental health counselors are licensed within the State of Nebraska and adhere to the American Counseling Association Code of Ethics. Services include individual counseling, group counseling, assessment and consultation.

Phone: (308) 865-8248 (after hours will be connected with an on-call service)

Hours: Monday – Friday from 8:00 a.m. to 5:00 p.m.

Location: Memorial Student Affairs Building, South Hallway, Room 144

Website: [https://www.unk.edu/offices/counseling\\_healthcare/counseling\\_care/index.php](https://www.unk.edu/offices/counseling_healthcare/counseling_care/index.php)

**Student Health** staff is comprised of fully licensed, qualified nurse practitioners and registered nurses who provide primary health care services for UNK students. All are trained to respond to victims of sexual assault using strict confidential guidelines.

Phone: (308) 865-8218

Hours: The Student Health clinic is open from 8:00 a.m. to 5:00 p.m. Monday through Friday (Wednesdays 9:00 a.m. to 5:00 p.m.). Walk-in clinic hours are from 8:15 a.m. until 4:00 p.m.

Location: Memorial Student Affairs Building, Northwest Door, Room 184

Website: [http://www.unk.edu/offices/counseling\\_healthcare/health-care/](http://www.unk.edu/offices/counseling_healthcare/health-care/)

**Best Care Employee Assistance Program (EAP)** offers free, confidential counseling for benefit eligible employees and their families:

Phone: (800) 801-4182

**Visa and Immigration Assistance:** International Student Services assists with visa and immigration questions and provides support for International Students. Contact Tracy Falconer at (308) 865-8873 email: [falconerts@unk.edu](mailto:falconerts@unk.edu)

### **Office of Financial Aid**

Phone: (308)865-8520

### **Kearney Police Department**

Phone: (308) 237-2104

### **Other Resources:**

[Rape, Abuse and Incest National Network](#) – 1-800-656-HOPE (4673)

[Department of Justice](#)

[Department of Education, Office of Civil Rights](#)

[UNK Title IX Resources](#)

[National Domestic Violence Hotline](#): 1-800-799-SAFE (7233)

[National Teen Dating Abuse Helpline](#): 1-866-331-9474

[National Suicide Prevention Lifeline](#): 1-800-273-8255

## How to be an Active Bystander

Bystanders play a critical role in the prevention of sexual and relationship violence. They are “individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it.” We want to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help. Below is a list of some ways to be an active bystander. If you or someone else is in immediate danger, dial 911. This could be when a person is yelling at or is being physically abusive towards another and it is not safe for you to interrupt.

- Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
- Confront people who seclude, hit on, or try to make out with, or have sex with people who are incapacitated.
- Speak up when someone discusses plans to take sexual advantage of another person.
- Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
- Refer people to on or off campus resources listed in this document for support in health, counseling, or with legal assistance.



## Risk Reduction

Recognizing that only rapists are responsible for rape and with no intent to blame the victim, the following are some strategies to increase one's safety on campus (taken from Rape, Abuse, & Incest National Network, [www.rainn.org](http://www.rainn.org)) Risk reduction is options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

- **Know your resources.** Who should you contact if you or a friend needs help? Where should you go? Locate resources such as the campus health center, campus police station, and a local sexual assault service provider. Program the UNKPD number into your cell phone for easy access.
- **Stay alert.** When you're moving around on campus or in the surrounding neighborhood, be aware of your surroundings. Consider inviting a friend to join you or asking campus security for an escort. If you're alone, only use headphones in one ear to stay aware of your surroundings.
- **Be careful about posting your location.** Many social media sites, like Facebook and Foursquare, use geolocation to publicly share your location. Consider disabling this function and reviewing other social media settings.
- **Make others earn your trust.** A college environment can foster a false sense of security. They may feel like fast friends, but give people time to earn your trust before relying on them.
- **Think about Plan B.** Spend some time thinking about back-up plans for potentially sticky situations. If your phone dies, do you have a few numbers memorized to get help? Do you have emergency cash in case you can't use a credit card? Do you have the address to your dorm or college memorized? If you drive, is there a spare key hidden, gas in your car, and a set of jumper cables?
- **Be secure.** Lock your door and windows when you're asleep and when you leave the room. If people constantly prop open the main door to the dorm or apartment, tell security or a trusted authority figure.

If the victim is 18 years and older and has not experienced serious bodily injury, the patient/victim may choose one of the following options. When choosing one of the following options, the health care provider must assist in the reporting to law enforcement if the victim so chooses. The options are as follows:

- **Full Law Enforcement Report with Evidence Collection**  
If the patient wishes to report the crime to law enforcement, is opting to have evidence collected and law enforcement has not yet been contacted, the provider must notify the law enforcement agency in the jurisdiction where the sexual assault occurred. When the responding officer arrives, the provider should record the officer's name and associated case number in the patient's record.

- **Partial Report with Evidence Collection**

Some patients who present themselves for medical forensic treatment may, because of the trauma they have experienced or for other reasons, be undecided over whether to formally report the crime to law enforcement. Such patients will have the option of participating in a partial reporting option that will allow the patient to have forensic evidence collected, consent to submit such evidence for DNA testing, and report only their name to law enforcement. Law enforcement is encouraged to only make contact with an individual making a partial report in the event that a potential match with another case is identified. Although the patient is not fully participating in the investigation, they can choose to speak with law enforcement on a limited basis. Partial reporting victims may also choose to later convert their case to a full law enforcement report by reinitiating contact with the appropriate law enforcement agency.

- **Anonymous Reporting with Evidence Collection**

Nebraska sexual assault victims also have the right to have forensic evidence collected without providing their name or any other personal information to law enforcement. The anonymous report ensures that these sexual assault victims have the opportunity to preserve evidence that would otherwise be destroyed. In cases where the victim opts for an anonymous report, the examiner should place the kit number instead of the patient name for tracking purposes. They then should notify the law enforcement agency in the jurisdiction where the consultation occurred of the anonymous report and turn over the evidence collected to them for storage and/or transport to the jurisdiction where the sexual assault occurred. The kit or accompanying paperwork SHALL NOT contain the patient name anywhere. Sexual Assault kits are held within the law enforcement facilities for 20 years. The victim may convert their case at any time to a full law enforcement or partial report. Victims who have experienced serious bodily injury or if a weapon was used during the assault are not eligible for anonymous reporting.



## Safety in social settings

It's possible to relax and have a good time while still making safety a priority. Consider these tips for staying safe and looking out for your friends in social settings.

- **Make a plan.** If you're going to a party, go with people you trust. Agree to watch out for each other and plan to leave together. If your plans change, make sure to touch base with the other people in your group. Don't leave someone stranded in an unfamiliar or unsafe situation.
- **Protect your drink.** Don't leave your drink unattended, and watch out for your friends' drinks if you can. If you go to the bathroom or step outside, take the drink with you or toss it out. Drink from unopened containers or drinks you watched being made and poured. It's not always possible to know if something has been added to someone's drink. In drug-facilitated sexual assault, a perpetrator could use a substance that has no color, taste, or odor.
- **Know your limits.** Keep track of how many drinks you've had and be aware of your friends' behavior. If one of you feels extremely tired or more drunk than you should, you may have been drugged. Leave the party or situation and find help immediately.
- **It's okay to lie.** If you want to exit a situation immediately and are concerned about frightening or upsetting someone, it's okay to lie. You are never obligated to remain in a situation that makes you feel uncomfortable, pressured, or threatened. You can also lie to help a friend leave a situation that you think may be dangerous. Some excuses you could use are needing to take care of another friend or family member, an urgent phone call, not feeling well, and having to be somewhere else by a certain time.
- **Be a good friend.** Trust your instincts. If you notice something that doesn't feel right, it probably isn't. Learn more about how to keep your friends safe in social settings.



## **Education and Prevention Programs**

The University engages in comprehensive programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, stalking, sexual assault and risk reduction and other forms of sexual misconduct that are culturally relevant, responsive to the community's needs, and assessed for effectiveness. Educational programming consists of primary prevention and awareness programs for all incoming students and new employees as well as current students.

### **Primary prevention and awareness programs offered for all students in 2020**

- This same training was also presented in a classroom setting for early arriving groups. The online training included information on prohibited behavior concerning Domestic Violence, Dating Violence, Sexual Assault, Stalking as well as Bystander Intervention.

### **Primary prevention and awareness programs offered for all new employees in 2020**

- In 2020 Human Resources gave new employees informational materials on Sexual Misconduct policies. They further have a library of training resources available to departments and offer training on sexual harassment and Title IX issues.

In 2020, the majority of new students completed the Title IX training during New Student Enrollment. All other students were reminded to complete Title IX training and given the instructions to do so via their MyBlue/Canvas. Also, additional Title IX training was available to students on campus by making a request to the Title IX Office or attending other campus events/activities as available.

In 2020, UNK employees completed the Title IX training via Firefly Portal. Also, additional Title IX training was available to employees on campus either by making a request to the Title IX Office or attending other campus events/activities as available.

### **The University offered the following ongoing awareness and prevention programs for students and employees in 2020**

- Campus Security Authority training is sent out bi-annually
- 1/22/20 Podcast on Healthy Relationships
- 1/24/20 First Year program podcast on coping skills
- 1/27/20 The Men's Project
- 2/3/20 The Men's Project
- 2/5/20 Mindfulness for Leadership UNK
- 2/10/20 The Men's Project
- 2/17/20 The Men's Project
- 2/20/20 Coping with Anxiety- Psychology undergrad class
- 2/24/20 The Men's Project
- 2/26/20 Alcohol and Vaping Abuse Prevention Program
- 2/28/20 Big Yikes. Big Tobacco.
- 3/1/20 Mental Health First Aid Training Part 1
- 3/2/20 The Men's Project
- 3/7/20 Mental Health First Aid Training Part 2

- 3/10/20 Sleep Hygiene Trivia Night
  - March 20 Spring Break Safety Bulletin Boards
  - 3/16/20 Alcohol and Vaping Abuse Prevention Program
  - April 20 April Positivity Series
  - 04-05/20 Coping with COVID (5 videos)- open to all of the campus community to view
  - 8/1/20 RA Training- College Mental Health & Suicide Prevention
  - 8/20/20 Gender and Sexuality MGC Retreat
  - 9/1/20 Stress Management- KHOP Learning Community
  - 9/13/20 Bystander Intervention Training
  - 9/14/20 – 9/18/20- Wellness Week
  - 9/19/20 Gender and Sexuality ODI Retreat
  - 10/1/20 Test Anxiety- CDIS class
  - 10/9/20 Be Safe. Be Smart. Education Campaign
  - 10/14/20 The Men's Project
  - 10/15/20 Stress Management and Sleep Hygiene
  - 10/21/20 The Men's Project
  - 10/26/20 Alcohol Education and Vaping Awareness
  - 10/28/20 The Men's Project
  - 10/30/20 OkSOBERfest
  - 10/30/20 VIA Character Strengths- for staff at the Student Affairs Professional Development workshop
  - 11/3/20 Gender and Sexuality UNK Equity & Compliance
  - 11/3/20 The Men's Project
  - 11/6/20 Men & Mental Health- Pi Kappa Alpha student members
  - 11/9/20 Stress Management and Sleep Hygiene
  - 11/10/20 The Men's Project
  - 11/12/20 Alcohol Education and Vaping Awareness
  - 11/13/20 Alcohol Education and Vaping Awareness
  - 11/16/20 TSLC Mentors: self-care & how to help mentees
  - 11/17/20 The Men's Project
- Alcohol and Vaping Abuse Prevention Program- A brief alcohol abuse and vaping awareness prevention program. (In person and Zoom)
  - April Positivity Series- A social media campaign that provided daily self-care ideas, study tips, and positive coping strategies during the beginning of the pandemic.
  - Be Safe. Be Smart. Education Campaign- A social media, poster, and door to door educational campaign focused on a harm reduction approach to Cruise Nite (done in conjunction with Buffalo County Community Partners.)
  - Big Yikes. Big Tobacco- A workshop given to increase knowledge around the effects of vaping and tobacco.

- Bystander Intervention- An interactive training focused on teaching students how to intervene into high-risk situations.
- Campus Security Authority training- An online training that includes the current Clery Center training video as well as slides that defines what a Campus Security Authority is, their responsibilities for reporting, what to report, what crimes are reportable, what a hate crime is and their responsibilities for reporting, the Clery reportable geography, information on what a Timely Warning and what an Immediate Notification is as well as generating a quiz that scores and generates reports for recording.
- Coping with Anxiety- Presentation for students enrolled in a psychology undergraduate course. Education on common causes of anxiety, signs of excessive anxiety and strategies for coping.
- Coping With COVID- 5-part video series posted the UNK You Tube channel. Each short video reviewed one way to cope with stress related to COVID-19.
- First Year Program Podcast: Intended audience- UNK students, particularly first year students. Podcast focused on how common stressors first year students experience and ways to manage stress.
- Gender and Sexuality Resource Office (GSRO) prevention education workshops- learn how to identify elements of rape culture, identify and reduce risk factors, and become agents of change within their own communities. The workshops give community members more awareness of issues relating to sexual violence. Information covered in the GSRO workshops include:
  - Sexual assault statistics
  - Cultural beliefs and practices that have normalized or promoted sexual violence (rape culture)
  - Legal rights of victims
  - Resources for survivors of sexual violence
  - Tools and techniques for supporting a survivor
- Healthy Relationships Podcast- Intended audience- UNK students. Podcast covered signs of healthy and unhealthy relationships, dating violence and gender violence.
- Healthy Relationships- A workshop that explores the signs of a healthy versus unhealthy relationship and what consent means. (Zoom)
- The Men's Project- a group of male students that meet to discuss issues related to toxic masculinity, healthy masculinity, gender violence, mental health, sexual assault, and rape culture/consent. The idea of the group is to talk about how stereotypes around masculinity sometimes contribute to the issues mentioned above and what these young men can do to change the culture.
- Men and Mental Health- Presentation to the members of Pi Kappa Alpha fraternity. Discussed specific mental health concerns male students might experience and how to address those concerns.

- Mental Health First Aid Training Part 1- An 8-hour curriculum designed to teach individuals how to respond to mental health crisis (national program.)
- Mental Health First Aid Training Part 2- An 8-hour curriculum designed to teach individuals how to respond to mental health crisis (national program.)
- Mindfulness for Leadership UNK- Presentation to the UNK Leadership class (for UNK staff enrolled in the Leadership class). Education on what mindfulness is, how it can increase leadership skills, and mindfulness exercises.
- OkSOBERfest- An alternative event on a typically high-risk night-this event featured a mystery box for students to solve and included alcohol education content.
- RA Training- Presentation to all UNK Resident Assistants on the latest trends in college mental health along with warning signs of suicide and how to help someone who is considering suicide.
- Sleep Hygiene Trivia Night- A fun event designed to increase student knowledge around the benefits of sleep and ways to cultivate sleep hygiene.
- Spring Break Safety Bulletin Boards- Produced educational safety bulletin boards at the beginning of March that were displayed in all Residence Halls.
- Stress Management- Presentation to students in the KHOP learning community focused on identifying sources of stress and how to manage stress effectively.
- Stress Management and Sleep Hygiene- A workshop focused on promoting positive coping strategies to handle stress and ways to improve sleep.
- Test Anxiety- Presentation to undergraduate class in the CDIS department. Reviewed causes of test anxiety, signs of test anxiety, and how to overcome test anxiety to be successful in school.
- TSLC Mentors- Presentation to the student mentors in the Thompson Scholars Learning Community on how to implement their own self-care practice, avoid burnout, and set healthy boundaries with mentees.
- VIA Character Strengths- Professional Development workshop for staff in the Student Affairs Division. Participants completed the VIA Strengths Survey; identified their top character strengths and discussed how to use strengths to overcome adversity.
- Wellness Week- A social Media and zoom workshop series designed to expose students to the eight dimensions of wellness.

## Sex Offender Registry and Access to Related Information

The federal Campus Sex Crimes Prevention Act requires institutions of higher education to issue a statement advising the campus community where they may be able to obtain information provided by the state concerning registered sex offenders. It also requires sex offenders already registered in a state, to provide notice of each institution of higher education in that state at which the person is employed, carries on a vocation, volunteers' services or is a student.

In Nebraska, convicted sex offenders must register with the Nebraska State Patrol. To access this information you can go to the Nebraska State Patrol [sex offender web site](#).

Here is the United States registered sex offenders [web site](#).

## Supporting a Survivor

There may come a time when a friend will disclose that they have experienced sexual or relationship violence. It can be shocking, and may be hard to know what to do or say. Here are some tips that might be helpful if a friend discloses an incident:

- **Listen:** Let your friend tell you their experience in their own words, at their own pace. Let them decide how much information and what information they are ready and willing to share.
- **Believe:** Tell your friend that you believe them and let them know that what happened to them is not their fault.
- **Connect with resources:** There are many resources on campus that can help a survivor with issues related to safety and well-being (see above in this report).
- **Support:** Your friend may not be ready to make decisions yet, or they may not make the decision that you think is best. It may be hard to understand, but remember that you are not in their position. It's important that survivors be able to regain some control by making their own choices and decisions.
- **Ask:** If you are not sure how to help, just ask. Ask your friend what they need from you and be honest about whether or not you can provide that help.
- **Respect:** Your friend trusted you with this information so it is important to respect their privacy. Please do not share their story with anyone without their permission.
- **Understand:** It is normal for a traumatic event to cause people to act differently than usual. For example, your friend may laugh at something very serious, or sleep more than usual. Try to be patient and understanding.
- **Take care of you:** It can be difficult being the person your friend trusted this information with. We support those who support survivors. It is important to take care of yourself, too.

## Crime Prevention

A variety of programs are offered by UNK Police Department continually throughout the year and upon specific request. During new freshman orientation and transfer days, parents are informed of services offered to the students by multiple departments including but not limited to Residence Life, Student Affairs, the University Gender and Sexuality resource office, and Student Health and Counseling. Often a program is designed to respond to a specific problem or request and is generally handled through the Crime Prevention Officer that serves as a resource to the UNK community for addressing issues of safety and prevention. For additional information, please contact UNK Police Department at (308) 865-8911. The following is a list of crime prevention programs and projects employed by the University, which are not already noted above (not necessarily presented in 2020):

1. *Drug Facilitated Sexual Assault* – This class is designed to raise awareness of the dangers lurking around every corner. Attendees can hopefully gain the knowledge to be aware of their surroundings and to stay safe as possible. Real life examples and situations will be discussed and attendees will leave with the knowledge to be safer today than they were yesterday.
2. *Work Place Violence* – Informational workshop on work place violence. Recognizing and reporting signs indicating a potentially violent co-worker, employee or student. Developing codes within your office regarding potentially dangerous subjects and tips on de-escalating volatile situations. Referral systems for help with students and co-workers.
3. *Active Shooter Prevention* - During any given month or year, the reality of an active shooter will strike somewhere. If that somewhere is where you are, you will need the proper mindset and tools to react with purpose to maximize your chance of survival. This course will assist you in getting that mindset. Instructors will discuss what options an individual has in those fleeting moments, what University policy and procedures are in place, and what options individuals have to help prevent such incidents.
4. *Stalking in the Digital Age* – Participants will learn the dangers of using the Internet and social media. Also, ways to maintain their safety while on campus.
5. *Safe Walk* – Community Service Officers/Police Officers are available to escort anyone within a two-block radius of campus to another location in that same area. To utilize this service, call (308) 865-8911.
6. *Security Surveys* – Upon request, the UNK Police Department will perform a security survey or audit for individual areas or departments.
7. *Grounds and Building Surveys* – Safety surveys of the University property is completed by the University Safety Committee bi-annually. The committee notes any safety issues and submits work orders to the Facilities Management Department to be corrected.

8. *Lighting Surveys* – UNK Police Department completes a monthly lighting survey of University property. All non-functioning lights or poorly lit areas are noted and a work order is submitted to the Facilities Management Department to be corrected. Facilities Management and Residence Life with Student Government conduct annual campus walks to review lighting on campus and identify problem areas.
9. *Informational Materials* – Brochures, posters, flyers and a website with information regarding these programs are made available at all presentations and at the UNK Police Department office. This information is provided at the following website:  
[http://www.unk.edu/offices/police/Crime Prevention](http://www.unk.edu/offices/police/Crime_Prevention)

## Other Educational Classes

Prevention, intervention and educational programs addressing alcohol, tobacco, sexual assault, domestic/dating violence, stalking, bystander intervention, relationship classes and body image are also presented. These classes can be tailored to the group wanting the presentation. The following is one of these classes which is not already listed above:

*Alcohol and Marijuana Education*– Education classes on alcohol and/or marijuana use are provided online in collaboration with the company, 3<sup>rd</sup> Millennium. The courses assist the student by increasing their awareness of their drinking and/or using patterns and behaviors, and how that might be affecting their lives. These courses are approximately three hours in length, online, with a follow-up component 30 days after course completion.



## **Access to Campus Facilities**

During business hours, the University will be open to students, parents, employees, contractors and guests. The areas of the University; academic, research, public service and administrative buildings used for classrooms, laboratories, faculty and staff offices, and areas of University student residence buildings used for student living quarters are not open to the general public. Any person not authorized to be or remain in any such building area will be deemed to be trespassing on University property, and may be cited and subject to prosecution for criminal trespass in violation of Nebraska Rev. Stat 28-520 or 28-521.

Other than normal business hours, all buildings are locked in order to maintain building/content security. Some areas within the buildings also need to remain secure; therefore, they are locked with only authorized personnel allowed access. Appropriate Facilities, UNK Police Department and Residence Life staff will have keys to all areas to provide immediate repair, maintenance and emergency response. UNK campus is patrolled 24-hours a day that includes the interior of the buildings. This is done by foot, bike, UTV and car.

Some outside doors to residence halls doors are unlocked from 7:00 a.m. to 8:00 p.m. to allow access to dining centers and offices located in residence halls. All residence living quarters will have 24-hour key access. During times the University is closed, the doors of all residence halls are secured 24-hours a day. Those residence halls not housing students will have the door locks pinned so that regular keys issued to resident students will not work.

Employees needing access to buildings after hours may request a building key through the Facilities Department by completing a key request form and getting the proper authorized signatures. While on University property, they need to have their University I.D. on their persons, to present upon request. Students needing access to buildings after hours need to get prior written approval through the UNK Police Department and an authorized instructor or supervisor. These students will be required to carry a blue pass indicating their areas of access and a photo I.D. In addition, several colleges/departments have elected to give entire classes after-hours access to buildings including Fine Arts, Discovery Hall and Health Sciences buildings. The Nebraskan Student Union has an area available at all hours, based on ID card.

## **University of Nebraska at Kearney Trespass Policy RP-6.4.7 1.**

Persons Not Authorized in Non-Public Areas of University Buildings. The areas of University academic, research, public service, and administrative buildings of the University used for classrooms, laboratories, faculty and staff offices, and the areas of University student residence buildings used for student living quarters are not open to the general public. Any person not authorized to be or remain in any such building area will be deemed to be trespassing on University property, and may be cited and subject to prosecution for criminal trespass in violation of Neb. Rev. Stat. § 28-520 or § 28-521.

### **1. Persons on University Property Between the hours of 11:00 p.m. and 6:00 a.m.**

Persons who are not students, faculty, staff, tenants, licensees, agents or contractors of the University, or their employees, visitors or guests, shall not be permitted on University property between the hours of 11:00 p.m. and 6:00 a.m. Visitors and guests are expected to conduct themselves in a proper and lawful manner while on University property. Failure to do so may result in imposition of personal restrictions relating to their presence on University property.

Specifically, the right of a visitor or guest to be present on University property will be restricted when the visitor or guest has disrupted normal services, or has harmed or threatened to harm a member of the student body, faculty or staff. The right of a visitor or guest to be on University property will also be restricted when the visitor or guest has damaged or poses a risk of damage or loss to University property or to the property of others located on University property.

### **2. Persons in University Buildings After Closing to the Public.**

Many University buildings are open to the public at designated times which are posted at building entrances. Some University buildings are closed and locked during the times they are not open to the public. Also, some University buildings, such as the Student Union, are closed to the public at designated times which are posted at building entrances, but remain unlocked for access and use by students, faculty, staff and other authorized persons. Persons who are not authorized by the University to be in a University building after the posted time of closing to the public will be deemed to be trespassing on University property, and may be cited and subject to prosecution for criminal trespass in violation of Neb. Rev. Stat. § 28-520 or § 28-521.

### **3. Ban and Bar Notices.**

University law enforcement or security personnel may issue written notices to any person who has been contacted or observed on University property while engaged in any unlawful or unauthorized activity banning and barring such person from University property, except as may be specifically authorized in such notice. Violation of any such notice will be deemed to be trespassing on University property, and the offending party may be cited and subject to prosecution for criminal trespass in violation of Neb. Rev. Stat. § 28-520 or § 28-521. The term “unlawful or unauthorized activity” shall mean any conduct, act or omission by any person that is in violation of (i) any law, rule, regulation or order of the State of Nebraska or of the United States, or (ii) any policy, rule or regulation of the University of Nebraska.

## Maintenance and Security of Campus Facilities

1. Parking lots, pedestrian walkways and building exteriors are well lighted and patrolled by officers on foot, bike and vehicle patrol.
2. Formal exterior lighting surveys are conducted by the UNK Police Department on a monthly basis. Any deficiencies are reported to the Facilities Management and Planning Department. Members of the University community are also encouraged to report any exterior lighting deficiencies to the UNK Police Department at (308) 865-8911 or Facilities Management and Planning at (308) 865-1800.
3. The UNK Police Department annually conducts an operational survey of all buildings' exterior doors on campus. Survey results are then submitted to Facilities Management and Planning for follow-up repair. The purpose of this survey is to determine that each exterior door and its locking mechanisms are working properly.
4. Facilities and the UNK Police Department employees lock exterior doors to academic buildings on campus each evening. Residence Life staff verifies that access systems have locked exterior doors to Residence buildings. The UNK Police Department then complete a nightly door check to make sure all doors are secure. Operating deficiencies to the doors and security hardware are reported to Facilities Management and Planning. Residence Life is also notified of doors that are left unlocked or propped open on Residence Halls.
5. Facilities Management and Planning trims shrubbery, trees and other vegetation on campus on a regular basis.
6. The Safety Committee conducts an annual survey of the University grounds and refers problem areas to Facilities Management and Planning.
7. All residence halls are locked and residents have a key-card access which means that they must scan their ID in order to gain entrance to the building. The buildings are always locked.
8. During the regular school-week, the academic buildings are unlocked. In addition, several colleges/departments have elected to give entire classes after-hours access to buildings including Fine Arts, Discovery Hall and Health Sciences buildings. On the weekend, they are locked with exception to those buildings that have scheduled events.



## Annual Fire Safety Report

**University Staff Responsible for Fire and Life Safety:** Responsibility for fire and life safety resides with the Vice Chancellor of Business and Finance. The Dean - Student Affairs, the Director of Residence Life and the Director of Facilities all have secondary responsibilities. Further, the University utilizes the State Fire Marshalls office, Nebraska Fire and Sprinkler Company, Electronic Systems, Central Fire and Safety and Global Risk Consultants to inspect fire alarms, sprinkler systems and fire extinguishers.

Each year Zurich Risk Engineering performs an assessment to provide suggestions for additional safety steps and protocols on campus. This company does so on behalf of FM Global.

**Fire Protection Equipment/Systems:** As of December 31, 2020, rooms with 2,221 beds (100% of total occupancy) were sprinkled. All residence halls have central panels in public areas and hard-wired room smoke detectors. All residence halls are also equipped with fire extinguishers. Village Flats opened August 1<sup>st</sup>, 2018 with 68 1-bedrooms and 31 2-bedrooms and is complete with all required fire protection equipment/systems.

Location	Fire Alarm Monitoring (Hard Wired Systems)	Partial Sprinkler System *	Full Sprinkler System	Smoke Detection	Fire Extinguisher	Evacuation Plans and Placards	Voice Over Fire Alarm System
Antelope	XX		XX	XX	XX	XX	XX
CTE	XX		XX	XX	XX	XX	XX
CTW	XX		XX	XX	XX	XX	XX
Plambeck Early Childhood Education Center	XX		XX	XX	XX	XX	XX
Mantor	XX		XX	XX	XX	XX	XX
Men's	XX		XX	XX	XX	XX	XX
Nester North	XX		XX	XX	XX	XX	XX
Nester South	XX		XX	XX	XX	XX	XX
Randall	XX		XX	XX	XX	XX	XX
URN	XX		XX	XX	XX	XX	
URS	XX		XX	XX	XX	XX	
Village Flats	XX		XX	XX	XX	XX	XX

**Health and Safety Inspections:** Periodic health and safety inspections are conducted by the Residence Life Staff. The intent of these inspections is for preventative and corrective action. Students are given a 24-hour notice prior to the inspections. If their room does not meet minimal health and safety standards, they will be given 24-hours to correct the problem. Items found that may be illegal or in violation of Residence Hall policy will be confiscated and the student conduct process will be initiated.

**Fire Evacuation Drills and Training Programs:** Residence halls conduct bi-annual fire/evacuation drills. These drills are conducted both announced and unannounced. At this time, the building evacuation plans are reviewed, updated and sent out each year. Residence Life staff and custodial staff that work in these buildings are trained on fire procedures and fire extinguisher training. There is no additional mandatory training for students or employees.

**Fire Log:** Institutions must keep a fire log that states the nature of any fires, the date, time and general location of each fire in on-campus student housing facilities. The University of Nebraska at Kearney complies with this rule by including all fire-related incidents in the daily crime and fire log. To view these logs, go to the UNK Police Department office at 2501 19<sup>th</sup> Avenue Monday through Friday 8:00 a.m. to 5:00 p.m.

#### **Fire Policies for On-Campus Student Housing Facilities:**

1. **Emergency Situations:** In case of life-threatening emergencies, call 911. If possible, also contact a Residence Life staff member on duty and UNKPD at (308) 865-8911. For non-life-threatening emergency situations please contact the Office of Residence Life and UNKPD.
2. **Fire Safety:** State law, as well as residence hall policy, requires that all students leave their room and/or public areas when a fire alarm is sounded. Failure to evacuate during an alarm will subject the student to University disciplinary action and/or civil action. Smoke detectors are provided for your safety in each room/apartment and should not be tampered with or disconnected. Residents and guests should not falsely activate the fire alarm or tamper with the alarm equipment (heat detectors, pull stations, fire extinguisher, exit/emergency lights, and sprinkler heads or smoke detectors) and is a federal, state and local violation of the law. Equipment that needs repair or is malfunctioning should be reported to Facilities Management immediately at (308) 865-1800 or to hall staff. Exits or exit access shall not be obstructed at any time in any manner with furniture, storage, displays, vending machines, etc. Fire doors on stairwells, unless arranged to close automatically in the event of fire, shall be maintained in the closed position at all times. Exit signs shall be properly illuminated at all times. Such signs shall not be obstructed or blocked from view at any time. Exits and exit access doors shall not be locked at any time unless equipped with panic hardware or other approved means to permit emergency egress by building occupants.
3. If it is evident that a fire has occurred, report to UNKPD at (308) 865-8911 and Facilities Management immediately at (308) 865-1800.

4. **Fire Evacuation:** According to the State Fire Marshal, the residence halls at UNK meet, and in many cases exceed, the state fire and life safety codes. Halls are equipped with safety equipment including smoke detectors and sprinklers in each room. For your safety, we advise that you familiarize yourself with the fire evacuation routes in your hall and follow posted procedures for evacuation in the event of a fire alarm. Please calmly make the quickest and safest exit out of the building. The following is a list of gathering points in case of a fire:
  - Antelope Hall - South of flag poles by MSB & COPE
  - Nester North - South main entrance to Antelope
  - Nester South - South main entrance to Antelope
  - Centennial Tower East – Parking lot #1 corner of 9th Ave & 29th St
  - Centennial Tower West – Parking lot #4 north of NS Union
  - Mantor Hall – Between Men’s Hall and the football field
  - Men’s Hall – Parking lot between Otto & MSB
  - Randall Hall – Parking lot #11 far west of Randall
  - URN – Parking lot #14, by HSC & COE, west end
  - URS – Parking lot #14, BY HSC & COE, east end
5. **Cooking:** Cooking is prohibited in resident rooms. Cooking may only be done in hall kitchens or in the individual kitchenettes in the Antelope/Nester complex.
6. **Appliances:** Only items with enclosed heating or lighting elements are permitted. Both the appliance and any cord used in connection with it must have a UL (Underwriters Laboratories) approved label. Residents may use coffee makers within their rooms. Other appliances such as, toasters, toaster ovens, George Foreman-style grills, electric skillet and infrared ovens may be operated in residence hall kitchens only. Microwave ovens, standalone freezers and window mounted air conditioning units are not allowed to be brought to campus. Residents that reside in Antelope/Nester are permitted to have and use toasters, toaster ovens, George Foreman-style grills, electric skillet, electric grills, and infrared ovens in the kitchen area. These items are not permitted for use in sleeping rooms.
7. **Extension Cords and Surge Protectors:** Extension cords and surge protectors may be used in the residence halls. Extension cords and surge protectors must be Underwriters Laboratory (UL) approved and contain a 3-prong grounded plug. Extension cords and surge protectors cannot exceed 12-feet in length and should not be strung together with other extension cords.
8. **Tobacco:** The use of all forms of tobacco and vaping products is prohibited on University of Nebraska at Kearney property with the exception of parking lots. The prohibition extends to vehicles and venues owned, operated, leased, occupied or controlled by the University. “Tobacco products” Includes all forms of tobacco, inclusive of but not limited to, cigarettes, cigars, pipes, water pipes (hookah), electronic cigarettes and similar devices, and smokeless tobacco products.
9. **Candles and Incense Candles:** (including lit and unlit decorative candles) and incense are not permitted in the residence halls. No-flame candle plates are not permitted. Wax warmers with enclosed miniature light bulbs are permitted.

<b>Location</b>	<b>Year</b>	<b>Number of Fires</b>	<b>Cause of Fire</b>	<b>Number of injuries</b>	<b>Number of Deaths</b>	<b>Value of Property Damage</b>
<b>Antelope</b>	2020	0	N/A	N/A	N/A	N/A
1013 West 26th Street, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A
<b>CTE</b>	2020	0	N/A	N/A	N/A	N/A
1002 West 29th Street, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A
<b>CTW</b>	2020	0	N/A	N/A	N/A	N/A
1014 West 29th Street, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A
<b>Conrad</b>	2020	0	N/A	N/A	N/A	N/A
2615 11th Ave, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A
<b>Mantor</b>	2020	0	N/A	N/A	N/A	N/A
1203 West 26th Street, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A
<b>Martin</b>	2020	0	N/A	N/A	N/A	N/A
904 West 27th Street, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A
<b>Men's</b>	2020	0	N/A	N/A	N/A	N/A
1103 West 26th Street, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A
<b>Nester North</b>	2020	0	N/A	N/A	N/A	N/A
905 West 26th Street, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A
<b>Nester South</b>	2020	0	N/A	N/A	N/A	N/A
904 West 26th Street, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A
<b>Randall</b>	2020	0	N/A	N/A	N/A	N/A
1207 West 26th Street, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A

<b>Location</b>	<b>Year</b>	<b>Number of Fires</b>	<b>Cause of Fire</b>	<b>Number of injuries</b>	<b>Number of Deaths</b>	<b>Value of Property Damage</b>
<b>URN</b>	2020	0	N/A	N/A	N/A	N/A
1601 University Drive, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A
<b>URS</b>	2020	0	N/A	N/A	N/A	N/A
1700 University Drive, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A
<b>Village Flats</b>	2020	0	N/A	0	0	N/A
2201 University Drive, Kearney, NE	2019	0	N/A	N/A	N/A	N/A
	2018	0	N/A	N/A	N/A	N/A

## **Definitions of terms used within this report**

### **Cause of fire –**

The factor or factors that give rise to a fire. The causal factor may be, but is not limited to, the result of an intentional or unintentional action, mechanical failure, or act of nature.

### **Fire –**

Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner.

### **Fire Drill –**

A supervised practice of a mandatory evacuation of a building for a fire.

### **Fire-related injury –**

Any instance in which a person is injured as a result of a fire, including an injury sustained from a natural or accidental cause, while involved in fire control, attempting rescue, or escaping from the dangers of the fire. The term “person” may include students, employees, visitors, firefighters or any other individuals.

### **Fire-related death –**

Any instance in which a person -

1. is killed as a result of a fire, including death resulting from a natural or accidental cause while involved in fire control, attempting rescue, or escaping from the dangers of a fire; or
2. dies within one year of injuries sustained as a result of the fire.

### **Value of property damage –**

The estimated value of the loss of the structure and contents, in terms of the cost of replacement in like kind and quantity. This estimate should include contents damaged by fire, and related damages caused by smoke, water, and overhaul; however, it does not include indirect loss, such as business interruption.

## Glossary

The term “**Administrative Resolution**” is at least one conference between the Conduct Officer and the Respondent and the Complainant to determine whether a student has violated the Code and to impose sanction(s), if warranted.

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.

“**Clery Act Geography**” 34 CFR 668.46(a)

1. **Campus** – Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes. This includes residence halls and any building or property that is within or reasonably contiguous and owned by the institution but controlled by another person, is frequently used by students and supports the institutional purposes (such as food or retail vendors).

The Department does not apply any specific or measurable distance definition to “reasonably contiguous geographic area.” Many institutions employ an approach that any property included on a campus map or designated by signage as a campus facility is considered to be included in the definition of “reasonably contiguous geography area.” If an additional location, branch campus, school within the institution, or an administrative location is not within a reasonably contiguous area, such location would be considered a separate campus for reporting purposes.

2. **Non-campus building or property** – Any building or property owned or controlled by a student organization that is officially recognized by the institution or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution’s educational purposes. It is frequently used by students and is not within the same reasonably contiguous geographic area of the institution.

Institutions have asked questions about what is meant by the term “officially recognized.” Regulations do not define this term; therefore, institutions should determine how they identify recognized organizations. Some institutions, for example, limit the list of officially recognized organizations to those that receive financial support from the institution.

Examples of non-campus buildings or property that satisfy the first part of the definition include, but are not limited to, officially recognized fraternity and sorority-owned chapter houses, institution-owned campus bookstores that are located off-campus, apartment buildings that are owned and controlled by the university, or campus-owned event facilities that support activities that include students who work in or utilize the facility.

To satisfy the second part of the definition, the property must: 1) be owned or controlled by the institution (e.g., leased by the institution); 2) be used in direct support or in relation to the institution's educational purposes; 3) be frequently used by students; and 4) not within a reasonably contiguous geographic area of the institution. Examples of this type of property would include, but not be limited to, institution-owned, off-campus apartment units that are rented to students, ancillary research or athletic facilities utilized by students and faculty, and event facilities located off-campus and utilized for campus activities.

3. **Public Property** – All public property, including thoroughfares, streets, sidewalks or parking facilities that is within the campus or immediately adjacent to and accessible from the campus.

In order for this definition to apply, the property in question must satisfy all three conditions: 1) public (e.g., publicly-owned); 2) within or adjacent to campus; and 3) accessible from campus. This definition excludes any private property, and may in some cases exclude areas such as property divided by a fence or wall, or property with clearly posted signs indicating that it is not part of the campus or that trespassing is prohibited. Private property where students have established regular usage – whether legal, illegal, open, or inconspicuous – that is not otherwise campus or non-campus property, is not public property for Clery reporting purposes. The Department applies no specific measurable distance definition into adjacent public property. When the campus is adjacent to a public park, that does not otherwise meet the definition of a public property, some institutions have employed the practice of clearly designating campus boundaries through posted signage, such as warnings that individuals are entering a “non-campus area” or through “no trespassing” signs, where applicable.

The term “**Code**” means the UNK Student Code of Conduct.

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.

The term “**Report**” means a written or verbal statement by a person to a University official regarding allegations of sexual misconduct.

**Additional definitions are on pages 71-79 and 116-124.**