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II. PROHIBITED CONDUCT

This Sexual Misconduct Policy prohibits forms of sex discrimination as defined in Title IX regulations² and guidance issued by the U.S. Department of Education. Sex discrimination or Sexual Misconduct falling outside the scope of this policy may be addressed under the Student Code of Conduct (for cases where a student is the Respondent) or the Exempt and Non-Exempt Employee Handbook (in cases where an employee is the Respondent).

Prohibited Conduct under this Policy includes the following:

A. Jurisdiction

Title IX Sexual Harassment includes all of the forms of conduct on the basis of sex, including sexual orientation and gender identity or expression, meeting the following requirements and the definitions of Prohibited Conduct in Section II(B):

Jurisdiction – Title IX applies only when the alleged sexual misconduct:

- Occurs within the United States; and
- meaning
 - locations, events, or circumstances over which the University exercises substantial control over both the respondent and the context in which the Title IX Sexual Harassment occurs, and
 - any building owned or controlled by a student organization that is officially recognized by the University; and
 - at the time of filing a formal complaint, a complainant is participating in or attempting to participate in the education program or activity at the University.

B. Definition of Prohibited Conduct

This Policy prohibits Sexual Harassment, which is defined to include the following:

- **Quid Pro Quo Sexual Harassment:** An employee of the University conditioning the prov

- **Sexual Assault:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes and/or genders. This includes the following:
 - **Rape:** The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - **Sodomy:** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - **Sexual Assault with an Object** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - **Fondling:** The touching of the private body parts of another pJTJETQq0.0000091A95 BT/0clu

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individual may manifest signs of incapacitation differently, typical signs include, but are not limited to, slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, outrageous or unusual behavior, and/or

in order to assess the report, provide supportive measures, and to take steps to eliminate conduct that violates this Policy, prevent its recurrence, and remedy its effects.

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the CRP cannot be made to disclose the identity of individuals who seek their services or information provided to them by a person receiving services to anyone (including University officials, Title IX or law enforcement) without the written consent of the law.

The CRP may act as an advisor and/or support person during meetings, interviews, hearings and o for individuals who are involved as a party in the formal complaint process.

Notice: Providing information to the CRP concerning issues of Sexual Misconduct does not place the University on notice of such conduct.

B. On-

B. Preserving Evidence of Sexual Misconduct

If you have been subjected to sexual misconduct the decision to seek treatment, to report an incident and/or to choose to pursue criminal or other legal action is always yours. Pursuing law enforcement or medical assistance does not obligate you to make a complaint or take any further action, but the decision to seek medical help and gather evidence will help to preserve your options to pursue criminal or other actions if you decide to do so in the future. The University will assist you in getting to a safe place, to access medical assistance, and, if you choose, to contact law enforcement or to seek a protective order.

If you have been subjected to Sexual Misconduct you are encouraged to take steps to preserve evidence of the incident, as doing so may be necessary to prove that a crime occurred, or to obtain a protection order from the court. After an incident occurs, you should try to refrain from bathing, showering, brushing teeth, drinking, eating, douching or changing clothes until the evidence can be collected. If you change clothes, place each garment in a separate paper (not plastic) bag. If the incident involves any written or electronic communications (e.g. pictures/videos, texts, social media posts, etc.), care should be taken to preserve copies and not delete the original communication.

C. Reporting to the University

The University strongly encourages anyone who has experienced, has knowledge of, or has witnessed Sexual Misconduct to make a report to the University. Making a report to the University does not require participation in any subsequent University proceedings, nor is a complaint required in order for an individual to receive support or remedial measures.

Note: All of the following, including employees of the identified offices and departments, are employees required to immediately report all information (received directly or indirectly) about incidents of Sexual Misconduct involving a Community Member to the Title IX Officer. They must also report information as required under the Clery Act.

Reports of sexual misconduct can be made to the University through the online reporting form available here <https://wne.guardianconduct.com> or by contacting any of the following:

The University Title IX Officer and Deputy Title IX Officers

Reports and formal complaints can be submitted to the Title IX Officer and Deputies

<p>Sarah Butterick Title IX Officer 413-782-1216, sarah.butterick@wne.edu Rivers Memorial, Office 109</p>	<p>Lori Mayhew-Wood Deputy Title IX Officer 413-796-2230 lori.mayhew@wne.edu Alumni Healthful Living Center, Room 110</p>
<p>Michelle Clark Deputy Title IX Officer 413-782-2078 michelle.clark@wne.edu</p>	<p>Amy Burton Deputy Title IX Officer 413-796-2010 amy.burton@wne.edu Center for the Sciences and Pharmacy 209</p>

Mike Vallee
Deputy Title IX Officer
413-782-

purposes.

Employees who have **not** been designated as Confidential Employees cannot make anonymous reports concerning information (obtained directly or indirectly) about incidents of Sexual Misconduct involving a Community Member. All employees who have **not** been designated as Confidential Employees must report all such information to the Title IX Officer.

E. Protective Orders

Any Community Member who obtains a protective order from a court or another off-campus entity with the legal authority to issue such orders, must provide a copy of the Department of Public Safety and the Title IX Officer. This will ensure that the University is aware of the Order and the requisite restrictions, and will enable the University to implement supportive and/or other measures as may be needed in connection with the Order.

F. Classroom Discussions and Public Awareness Events

Classroom discussions and assignments as well as public awareness events other public forums in which incidents of Sexual Misconduct are disclosed shall not be considered to place the University on notice of an incident of Sexual Misconduct for purposes of triggering its obligation to investigate any particular incident(s).

G. Clery Act Reporting

Pursuant to the Clery Act, the University includes statistics about certain offenses in its daily crime log and annual security report and provides those statistics to the United States Department of Education, but does so in a manner that does not include any personally identifying information about persons involved in an incident. If a report of Sexual Misconduct discloses a serious and continuing threat to the University community, where timely notice must be given to protect the health or safety of the community, the University is required to issue a timely notification to the community under the Clery Act. The timely warning will not provide any personally identifying information about the victim.

H. Immunity for Conduct Violations

The University considers the reporting and resolution of Sexual Misconduct violations to be of paramount importance. Accordingly, individuals who in good faith make a report of sexual misconduct or who, in good faith, provide information to the University as a witness in connection with the investigation and resolution of a report or formal complaint of alleged Sexual Misconduct will not be subject to disciplinary sanctions for violations of student conduct policies related to the underlying incident of alleged sexual misconduct unless the conduct violations were egregious.

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measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint, grievance procedure, and the process for resolving formal complaints including informal resolution, if available and deemed appropriate by the Title IX Officer.

Supportive measure may impose restrictions on a party however, supportive measures will not be applied so as to impose an unreasonable burden. The University may provide supportive measures to the complainant or respondent, as appropriate and reasonably available, and will do so without fee or charge, regardless of whether the complainant seeks formal disciplinary action.

Once supportive measures are approved, the parties and/or affected individuals will be notified in writing of the supportive measures. The University will keep supportive measures provided to a party confidential to the extent practicable.

For information and assistance in arranging supportive measures, individuals may contact the Title IX Officer or Deputy Title IX Officer.

<p>Sarah Butterick Title IX Officer 413-782-1216, sarah.butterick@wne.edu Rivers Memorial, Office 109</p>	<p>Lori Mayhew-Wood Deputy Title IX Officer 413-796-2230 lori.mayhew@wne.edu Alumni Healthful Living Center, Room 110</p>
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and their right to contact law enforcement, or to decline to contact law enforcement, and/or to seek a protective order.

- Inform complainant of the prohibition of retaliation against individuals who make a report or formal complaint, or who participate in the grievance and resolution procedures under this Policy.
- Assess the nature and circumstances of the report and determine if the reported conduct demonstrates a threat to the health or safety of the University community that may warrant issuance of a timely warning or entry of the report in the daily crime log.
- Make a determination as to whether the conduct reported would, if substantiated, constitute conduct prohibited under this Policy.
- If the Title IX Officer/Deputy Title IX Officer determines that the conduct reported would, if substantiated, constitute conduct prohibited under this Policy, the complaint may move forward. If not, the complaint will be dismissed. If applicable, the complaint may be referred for action under other applicable University policies.
- If a formal complaint has not been made, the Title IX Officer/Deputy Title IX Officer will discuss the process for making a formal complaint with the complainant and the procedures and actions available under this Policy to resolve the complaint.
- The Title IX Officer/Deputy Title IX Officer will discuss any concerns or resolution
retaliation, privacy and confidentiality with respect to such procedures.
- The Title IX Officer/Deputy Title IX Officer preferred resolution for the complaint.
- If the Complainant does not file a formal complaint or chooses not to go forward with a formal complaint, the Title IX Officer may review the matter to determine whether to file a formal complaint and proceed with the sexual misconduct grievance procedures without the participation of the Complainant.

D. Informal Resolution Process

Subject to the consent of the parties and the approval of the Title IX Officer, the University may permit a formal complaint to be resolved through informal resolution. Informal resolution is available for cases under this Policy except those involving allegations that an employee has subjected a student to conduct prohibited under this Policy.

The informal resolution process is a voluntary, mediation-based process designed to provide parties with an option to reach an agreement to resolve the complaint through

party may bring a report and then subsequently file a formal complaint.

Formal Complaint: Is a document filed by a Complainant (meaning a document or digital signature, or otherwise indicates that the Complainant is the individual filing the formal complaint) alleging that a respondent(s) has engaged in conduct prohibited under the allegation. *A formal complaint cannot be made anonymously.*

document alleging that a respondent(s) has engaged in conduct prohibited under the such cases, the Title IX Officer is not a complainant or a party to the action.

In order to protect the safety of the campus community, the Title IX Officer may review reports of alleged violations of this Policy even when a formal complaint has not been filed or has been withdrawn, to determine if an investigation may be warranted. In such cases, the Title IX Officer may decide to file a formal complaint and proceed with an investigation even if a complainant has requested that the University take no action on the matter.

In making a determination to file a formal complaint, the Title IX Officer will consider safety concerns, the interests of others involved, and the interests of the University community.

Presumption of Good Faith Reporting: The University presumes that reports of prohibited conduct are made in good faith. A finding that the alleged behavior does not constitute a violation of this Policy or that there is insufficient evidence to establish that the alleged conduct occurred as reported does not mean that the report was made in bad faith.

Presumption of Non-Responsibility: The respondent is presumed to be not responsible for the alleged conduct unless and until a determination regarding responsibility is made at the conclusion of the grievance process.

Notices and Communications: Unless the Title IX Officer gives written direction otherwise, all notices and other communications made by the University in connection with these procedures shall be deemed to have been delivered to a participant

University issued email account.

Time Period: The University will endeavor to complete the investigation and adjudication of formal complaints within one hundred (100) business days from the date grievance process, including the investigation, the hearing, and any related appeals, apply equally to both parties.

There may be circumstances that require the extension of timeframes for good cause. The

Title IX Officer may extend timeframes to ensure the integrity and completeness of the investigation or adjudication, comply with a request by external law enforcement, accommodate the absence of a party, advisor, or witness, or for other legitimate reasons,

Investigators, the Title IX Officer and Deputy Title IX Officer(s), Hearing Officers, and other employees involved in the grievance process will maintain the privacy of both parties to the extent possible. While osten

Neither an advisor or a support person may speak or make statements for the individual they are advising in any Proceeding, although they may ask for brief breaks during meetings, interviews, or hearings to consult privately with the individual they are present to advise/support. The Advisor will conduct cross-examination of the opposing party during the adjudicatory hearing. If a party does not have an advisor for a scheduled adjudicatory hearing, they must notify the Title IX Officer and the University will assign an advisor to them for the hearing.

Past History □ □

conduct forming the basis of the Complaint, will not be solicited or considered as part of the investigation and resolution process. However, where Consent is at issue and the parties have previously engaged in consensual sexual relations, the prior consensual sexual history between them including the manner and nature of communications between them, may be relevant to the assessment of issues concerning Consent, to explain the presence of a physical injury, or to help resolve other questions relevant to the conduct alleged in the complaint. As previously stated in this Policy, the mere fact that the parties had engaged in a current or previous consensual sexual relationship, by itself, is not sufficient to establish Consent to subsequent sexual activity, and there must be Consent for all sexual activity.

Information about prior sexual conduct of either party may also be permitted to prove that someone other than the Respondent committed the alleged Sexual Misconduct.

Information concerning incidents of similar conduct or acts of violence on the part of the Respondent prior or subsequent to the conduct raised in the Complaint, whether or not the subject of another Complaint or finding of responsibility, may be deemed relevant to the assessment of responsibility for conduct alleged in a complaint, if suc0.00nmnsiblyto advise/support.

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such privilege has waived the privilege.

Case File

After investigator(s) have completed any witness interviews and gathering of evidence, the investigator(s) will prepare a case file. The case file will include all collected evidence that is directly related to the allegations raised in the formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and including any inculpatory or exculpatory evidence, whether obtained from a party or other source as part of the investigation.

The case file may include, as applicable, transcripts or summaries of party and witness interviews and other collected documents and evidence. The investigator(s) will provide the case file (or, when deemed appropriate, a written summary of relevant information contained in the case file), redacted of personally identifiable information in accordance with applicable law, to each party and their adviser in electronic form or hard copy. In all cases, any information relied on in adjudicating the matter will be provided to the parties and their advisers. The investigator(s) will also provide an updated Notice of the Allegations, as appropriate.

Within ten (10) calendar days of receiving the case file (or written summary, as applicable), each party may respond in writing, which may include a request that the investigators collect additional evidence. If the investigator(s) believe that further information is needed following receipt of any responses from the parties, the

must be submitted at least five (5) business days prior to the start of the hearing. The response may consist of a written statement not to exceed five (5) double spaced pages.

conducted in person or by video conference or any other means of communications by which all individuals participating are able to see and hear each other.

Presentation of the Case

A typical hearing may include brief opening remarks by the Chief Hearing Officer; questions posed by the Hearing Officer or Hearing Panel to one or both of the parties; questions posed by the Hearing Officer or Hearing Panel to any relevant witnesses; and ask relevant cross-examination questions of the other par Gr4ggnt

- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether a Policy violation occurred), any disciplinary sanctions imposed by the Sanction Officer if there has been a finding of responsibility;
- whether any remedies designed to restore or preserve equal access to the be implemented; and
- relevant appeal information for the parties.

Disciplinary sanctions and remedies will be determined in accordance with the procedures listed below, and the information will be provided to the Chief Hearing Officer for inclusion in the written determination.

The parties and their advisors will simultaneously be provided with written notice of the determination (or, when deemed appropriate, a written summary of the written determination) of the hearing and disciplinary sanctions, if applicable, no later than seven (7) business days after the final determination is made.

I. Disciplinary Sanctions and Remedies

If a party is found to have violated this Policy, before finalizing the written determination, the Chief Hearing Officer will confer with the appropriate University

determination or dismissal. The Appeal Officer may deem a late submission reasonable only under extenuating circumstances, and may decide in their sole discretion what constitutes valid extenuating circumstances.

The appeal shall consist of a written statement not to exceed 1,500 words, outlining the basis for appeal and the relevant information to substantiate the appeal. The non-
 written statement
and may submit a written response, not to exceed not to exceed 1,500 words, to the Title IX Officer, or their designee, of the University within five (5) business days of receipt of
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provided to the appealing party. No further appeal submissions from the parties shall be permitted. Upon request by the party and for good cause shown, the Appeal Officer may permit a party to exceed the 1,500 word threshold.

An appeal is limited in scope. The purpose of an appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of University rules has occurred. In deciding an appeal, the Appeal Officer may consider the case file and any responses, investigative report and any responses, the hearing record, the written determination, and any written appeal(s) or statements by the parties. The Appeal Officer also may consider any other materials the University deems relevant and that have been shared with the parties.

The parties and their advisors will simultaneously be provided (via electronic format) with the written decision describing the result of the appeal and the rationale for the result.

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APPENDIX A

Definitions

The following are provided to give further definition to some of the terms referenced in the Sexual Misconduct Policy. Any questions concerning the definition, meaning or application of any term of the Sexual Misconduct Policy should be directed to the Title IX Officer.

Clery Act. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime implementing regulations in the U.S. Code of Federal Regulations at 34 CFR 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.

Confidential. Refers to information that is restricted from being shared with parties or University administrators. In general, information that is considered as part of the grievance process cannot be kept confidential.

Complainant. Refers to the individual(s) who is alleged to be the victim of Sexual

Day. business day, unless otherwise specified.

FERPA. codified at 20 U.S.C. § 1232g, with implementing regulations at 34 CFR Part 99. FERPA protects the privacy of student education records. FERPA grants to parents or eligible students the right to access, inspect, and review education records, the right to challenge the content of education records, and the right to consent to the disclosure of education records.

Formal Complaint. Refers to a document filed by a Complainant (meaning a document digital signature, or otherwise indicates that the Complainant is the individual filing the formal complaint) alleging that a respondent(s) has engaged in conduct prohibited under
 signing a document alleging that a respondent(s) has engaged in conduct prohibited under complainant or a party to the action.

A formal complaint may be filed with the Title IX Officer in person, by mail, or by electronic mail, by using the contact information provided in this Policy, and by any additional method identified in this Policy.

Investigator.
investigate a Complaint.

Official with Authority. President, Vice Presidents, Deans, Title IX Officer, and Deputy Title IX Officers identified in the University Misconduct Policy.

Party or parties. Refer to the complainant(s) and the respondent(s).

Personally Identifiable Information. Personally Identifiable Information includes, but is not limited to:

- a person's name;
- the name of a person's parent(s) or other family members;
- the address of a person or a person's family;
- a personal identifier, such as a person's social security number, student/employee number, or biometric record;
- other indirect identifiers, such as a person's date of birth, place of birth, or mother's maiden name;
- other information that, alone or in combination, is linked or linkable to a specific person and that would allow a reasonable person in the University community, who does not have personal knowledge of the relevant circumstances, to identify the Student with reasonable certainty; or
- Information requested by a person whom the University reasonably believes knows the identity of the person to whom the information relates.

Reasonable Person. Means a reasonable person under similar circumstances and with similar identities to the alleged victim.

Report. A report refers to information brought to the attention of an Official with

APPENDIX B

On-Campus Resources

The following represent some of the resources and services available to Students and Employees.

involving a Community Member to the Title IX Officer. They must also report information as required under the Clery Act.

Title IX Officer and Deputy Title IX Officer

Contact information for the Title IX Officer and Deputy is included above.

WNEU Department of Public Safety

1215 Wilbraham Road, Springfield MA

413-265-2278

Public Safety Officers are available 24 hours a day, seven days a week.

Division of Student Affairs

Office staff are available during business hours (8:30 a.m. to 4:30 p.m., Monday through Friday).

Human Resources

Human Resources staff are available during business hours (8:30 a.m. to 4:30 p.m., Monday through Friday).

Resident Directors and Resident Assistants

An RA or Residential Life staff member can provide immediate support and referrals for further care.

APPENDIX C

Off-Campus Resources

A. Community Resources

Rape Crisis Center:

Hampden County

YWCA of Western Mass.

1 Clough Street

Springfield, MA 01118

Additional sites in Westfield, Huntington

Hotline: (800) 796-8711

Office: (413) 732-3121

TTY: (413) 733-7100

Medical Facilities

Immediate medical care can be obtained at local hospitals. Several area hospitals have SANE (Sexual Assault Nurse Examiner) nurses on staff who have been trained to work with victims of sexual assault through the medical process. This examination is a

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right to ask for a SANE nurse to perform the examination. Hospitals in the Springfield area with sexual assault nurse examiners are:

Baystate Medical Center 759 Chestnut Street Springfield, MA 01199 (413) 794-0000	Mercy Medical Center 271 Carew Street Springfield, MA 01104 (413) 748-0000
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Law Enforcement:

Springfield Police Department

130 Pearl Street, Springfield, MA 01105

Non-Emergency: (413) 787-6300

Community Police Liaison: (413) 787-6359

Emergency: 911

Hampden County District Attorney's Office

50 State Street

Springfield, MA 01109

(413) 747-1000

National Domestic Violence Hotline

800-799-7233 (24 hour)

Healing Abuse Working for Change (HAWC)

800-547-1649 (24/7)

Crisis Text Line for People of Color

Text STEVE to 741741

The Trevor Project (LGBTQ Suicide Hotline)

866-488-7386

Trans Lifeline

877-565-8860