Title IX Policy

Policy Number	300.55.02	**Custodian**	Human Resources
Approved Date	1/25/2022		
Effective Date	8/15/2024	**Review Date**	Jan. 2022
References: Higher Education Opportunity Act, Code of Conduct, Clery Act, Title IX of Education Amendments, Violence Against Women Act (VAWA)			

1. **Purpose**

   To address all incidents of a policy violation reported to the Title IX Coordinator in compliance with the Higher Education Opportunity Act, the Clery Act, and Title IX of the Education Act of 1972, as amended.

   To condemn discrimination in its educational programs and activities based on sex or gender, sexual orientation, gender identity or expression, sex-based harassment, sexual assault, domestic violence, dating violence, and stalking.

2. **Persons Affected**

   2.1. Staff
   2.2. Students

3. **Policy**

   This policy is to ensure the following:

   3.1. All prospective and current students and employees adhere to college policies and procedures regarding sex-based discrimination, sex-based harassment, and sexual assault.

   3.2. Comprehensive information is provided regarding the reporting of a policy violation and avenues to seek immediate assistance.

   3.3. There is a positive educational environment for all staff and students on and off campus through academic programs, services, activities, policies and procedures, and employment aimed at protecting against sex-based discrimination.

4. **Definitions**

   4.1. Title IX. A federal civil rights law passed as part of the Education Act of 1972 and amendments and applies to any institution receiving federal financial assistance from the Department of Education.

- This law protects people from sex-based discrimination, sex-based harassment, and sexual assault in all employment, education programs and activities including locations, events, or circumstances in which WETCC exercises substantial control over both the respondent and the context in which the sex-based harassment occurred.
- WETCC may address sex-based harassment affecting its students or employees that falls outside Title IX's jurisdiction in any manner WETCC chooses, including providing supportive measures or pursuing discipline.
- Title IX states that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

4.2. Advisor. A person who has agreed to assist a complainant or respondent during the Title IX process. The advisor may be a person of the student's choosing, including a WETCC faculty or staff member, a friend, or an attorney.

4.3. Complainant. An individual who is alleged to be a victim of conduct that could constitute se-based discrimination. While parents and guardians do not become respondents, the legal rights of parents and guardians to act on behalf of parties (including filing formal complaints) are recognized. At the time of a formal complaint, the complainant must be a staff member, student, or applying to become a staff member or student.

4.4. Confidential Reporting. The action of anonymously reporting an incident of sex-based discrimination to any staff member. All violations of this policy should be reported, no matter the severity. This ensures that reports are timely so that WETCC is aware of possible threats to the campus community.

4.5. Consent. The act of willingly agreeing to engage in sexual contact or conduct. Individuals who consent to sex must be able to understand what they are doing. Under this policy, "No" always means "No," and the absence of "No" may not mean "Yes".

4.6. Formal Complaint. A document that is signed by a complainant and filed with the Title IX Coordinator in person, by mail, by electronic mail, or signed by the Title IX Coordinator alleging a violation of this policy against a respondent and requesting that WETCC investigate the allegation of the violation.
- The complaint states the date, time, place, name(s) of the person(s) involved (e.g. the accused, witnesses) and sufficient detail to make a determination regarding basic elements of the formal complaint process.
- When filing a formal complaint, a complainant must be employed with, participate in, or attempt to participate in the education program or activity of WETCC with which the formal complaint is filed.

4.7. Gender Discrimination. Discrimination or harassment based upon one's gender (sex) or unfair treatment, attitudes, or behaviors towards an individual based upon their gender

(sex), including but not limited to gender identity discrimination as covered by Title VII.

- Sexism, sexist attitudes, and sex stereotyping;
- Unproportionate programs or activities offered to all genders in relation to the College's enrollment;
- Gender-based bullying;
- Derogatory or sexist remarks.

4.8. Mandatory Reporting. All WETCC employees are responsible for taking all appropriate action to prevent a violation of this policy, correct it when it occurs, and promptly report it to the Title IX Coordinator. Failure to do so may result in disciplinary action up to and including termination. All WETCC employees are considered mandated reporters with a duty to report any incident to the Title IX Coordinator.

4.9. Rape Shield Protection. This is a part of the Violence Against Women Act of 1994 that was created to exclude questions and evidence of the victim's past sexual history from discussion during the hearing. The past sexual behavior, history, and reputation of the victim with persons other than the respondent shall be presumed irrelevant.

4.10. Reporting of Student Instances. Students shall report any instance of violation of this policy to the Title IX Coordinator. The report can be made in person, by phone, mail, or email using the contact information listed for the Title IX Coordinator or by any other means that results in the coordinator receiving the report. The report can be made any time, even during non-business hours.

4.11. Reporting to the Police. WETCC strongly encourages anyone to report sexual assault and any other criminal offenses to the police.

4.12. Respondent. An individual who has been reported to be the perpetrator of conduct that could constitute a violation of this policy. While parents and guardians do not become respondents, the legal rights of parents and guardians to act on behalf of parties (including filing formal complaints) are recognized. At the time of a formal complaint, the respondent must be a staff member, student, or applying to become a staff member or student.

4.13. Retaliation. A strike back in response to another's action or accusation or a form of revenge or reaction. A recipient may not retaliate against any person for opposing an unlawful educational practice or policy, or because a person made charges, testified, or participated in any complaint action under Title IX.

4.14. Sex-based Discrimination. Conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their employment, education, or institutional benefits on account of sex or gender (including sexual orientation, gender identity, and gender expression discrimination). It may include acts of verbal, nonverbal, or physical aggression,

intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

4.15. Sex-based Harassment. Any of the three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect:
- Any instance of quid pro quo harassment by an employee or faculty member;
- Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access to WETCC's education program or activity;
- Any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

4.16. Quid Pro Quo Harassment. When an individual is in a position of authority over the complainant and may include:
- Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature, and
- Indicate, explicitly or implicitly, that failure to submit to or the rejection of such conduct will result in adverse educational or employment action or where participation in an educational program or institutional activity or benefit is conditioned upon the complainant's submission to such activity.
- Examples of Quid Pro Quo Harassment:
    - An instructor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student agrees to the request.
    - The instructor probes for explicit details of a sexual nature, and demands that students respond to him or her, though they are uncomfortable and hesitant.
- Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access.

4.17. Sexual Assault. Rape (oral, anal, or vaginal), fondling, incest, or statutory rape.

4.18. Dating Violence. Violence between individuals in which the party is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the following factors:
- Length of the relationship;
- Type of relationship;
- Frequency of interaction between the persons involved in the relationship.

4.19. Domestic Violence. Violence committed by a current or former spouse or partner of the victim including:
- A person with whom the victim shares a child in common;
- A person who is cohabitating with or has cohabitated with the victim;

- A person similarly situated to a spouse of the victim under Minnesota and/or White Earth Reservation domestic or family violence laws;
- Any other person against an adult or youth victim who is protected from that person's acts under Minnesota and/or White Earth Reservation domestic or family violence laws.

4.20. Stalking. To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

4.21. Supportive Measures. Individualized services reasonably available that are non-punitive, nondisciplinary, and not unreasonably burdensome to the alleged respondent while designed to ensure equal educational access, protect the safety, or deter sex-based discrimination.

4.22. Third Parties. Not students, staff, or faculty of WETCC, for example, a vendor.

4.23. Title IX Coordinator. Designated as the human resources manager. The Title IX Coordinator is responsible to coordinate compliance under Title IX of the Education Amendments which prohibit sex-based discrimination in educational programs and activities. WETCC's Title IX Coordinator is:

- Title IX Coordinator Human Resources 2250 College Road Mahnomen, MN 56557 218-935-0417 ext. 332, Complaint@wetcc.edu

4.24. Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity.

5. Procedures

5.1. WETCC must respond when a policy violation occurs in WETCC's education program or activity, against a person in the United States. Education program or activity includes locations, events, or circumstances over which WETCC exercised substantial control over both the respondent and the context in which the discrimination or harassment occurred, and includes any buildings owned or controlled by a student organization. Title IX applies to all WETCC's education programs and activities, whether such programs or activities occur on-campus or off campus, including online instruction that is subject to the recipient's disciplinary authority.

5.2. Any person may report a policy violation (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute a violation of the policy), in person, by mail, by telephone, or by e-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. Such a report may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address listed for the Title IX Coordinator.

5.3. Individuals are responsible for promptly reporting any knowledge or information concerning a policy violation to the WETCC Title IX Coordinator identified in this policy, whether committed on-campus or off-campus where WETCC has control over the respondent or the context of the violation of policy.

Title IX Coordinator and Deputy Officers

5.4. The Title IX Coordinator has primary responsibility for overseeing the process of coordinating WETCC's compliance efforts, receiving complaints, investigations, hearings, sanctions, appeals, and education and training associated with this policy. To file a complaint or submit questions concerning actions governed by this policy contact the Title IX Coordinator, located in the WETCC Human Resources, 2250 College Road, Mahnomen, MN 56557, phone: 218-936-8388, or email: complaint@wetcc.edu.

- Deputy Title IX Officers have the secondary responsibility and assist in the duties of the Title IX Coordinator. Deputy Title IX Officers include the Academic Dean, located in the WETCC Administration Building, 2250 College Road, Mahnomen, MN 56557, phone: 218-936-8323 and the Dean of Student Services, located in the WETCC Administration Building, 2250 College Road, Mahnomen, MN 56557, phone: 218-936- 8328.
- Title IX Investigators may include but not be limited to WETCC security officers and staff. The primary responsibility of the investigator is to collect statements and any evidence directly related to any allegations of a Title IX policy violation as directed by the Title IX Coordinator. The Title IX Coordinator will ensure investigators are free from conflicts of interest and receive appropriate Title IX and trauma informed training.
- Title IX Hearing Officer may include a WETCC administrator or external individuals. The primary responsibility of the hearing officer will be to ensure both parties receive due process in the event allegations of a Title IX policy violation are directed to a hearing by the Title IX Coordinator. The Title IX Coordinator will ensure Hearing Officers are free from conflicts of interest and receive appropriate Title IX and trauma informed training.
- Title IX Hearing Members may include WETCC faculty or staff members or external individuals. The primary responsibility of hearing members is to listen to both sides of the complaint. Each hearing member will evaluate the information being provided by both parties to decide whether or not a Title IX policy violation took place and what appropriate sanctions will be imposed. The Title IX Coordinator will ensure hearing members are free from conflicts of interest and receive appropriate Title IX and trauma informed training.

5.5. Compliance with this policy does not constitute a violation of the Family Educational Rights and Privacy Act (FERPA).

5.6. Students, Staff, and Visitors who are subject to or who witness unwelcome conduct of a sexual nature are required to report the incident(s) to the Title IX Coordinator.

5.7. Employees who witness or receive reports of unwelcome conduct of a sexual nature are required to report the incident(s) or reports received to the Title IX Coordinator.

Reporting

5.8. WETCC Staff and Faculty are required to promptly contact the Title IX Coordinator when, in the course of performing their employment duties, they learn about any form of prohibited conducted directed at students, staff, or faculty that may have:

- Occurred on WETCC property;
- Occurred during college employment or education program or activity;
- Been directed at or committed by a current student at the time they were a student;
- Been directed at or committed by college staff or faculty members at the time they were a college staff or faculty member;
- Been directed at or committed by a third party at the time they were engaged in any WETCC activity or program or were otherwise interacting with WETCC, including, but not limited to, as volunteers, contractors, vendors, visitors, or guests.

5.9. Staff and faculty are not required to solicit additional information about the situation, or the individuals involved. However, to the extent known to them, WETCC employees who learn about prohibited conduct must report the following information to the Title IX Coordinator:

- Names of the complainant(s), respondent(s), and possible witnesses;
- Date, time, and location of the alleged prohibited conduct; and
- Other relevant details about the alleged prohibited conduct that WETCC would need to determine what occurred to address the situation.

5.10. After receiving a report or notice of an incident, the Title IX Coordinator will promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive 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.

5.11. A complainant's wishes as to whether the complaint is investigated are respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation is the best course of action in the light of the known circumstances.

5.12. Periodic written updates on the status of the investigation will be provided to both parties. If WETCC determines that a violation of the policy occurred, WETCC will continue to take steps to protect the complainant and ensure his or her safety, as necessary.

5.13. WETCC will provide resources to the complainant such as victim advocacy, academic support, counseling, disability services, health and mental health services, and assistance in reporting a crime to local law enforcement.

Accommodations and Protective Measures

5.14. WETCC will provide accommodations designed to promote all parties' safety, well-being, continued access to employment and educational programs and activities to the extent these accommodations are reasonably available and requested. These accommodations may be temporary or permanent. These accommodations may be implemented because an individual has requested them, the Title IX Coordinator has recommended them, or a local department has identified a need for them.

5.15. As appropriate, WETCC takes protective measures designed to protect the parties and other individuals from future harm. Accommodations and protective measures are available regardless of whether a complainant makes a written formal report to the Title IX Coordinator. Possible accommodations include:

- Academic modifications
- Support and counseling;
- Issue a no-contact directive that prohibits complainants and respondents from contacting one another while the parties are on campus, are at campus activities, or are at campus buildings;
- Increase monitoring or supervision at locations or activities;
- Work schedule or location modifications, and/or;
- Assistance in making a report to law enforcement.

Informal Complaint

5.16. An informal complaint is provided to the Title IX Coordinator by either a complainant or a third party. Upon receipt of an informal complaint of prohibited conduct, the Title IX Coordinator will contact the complainant or alleged victim to provide resources for personal support and information about the investigation process.

Written Notice of Complaint (Formal Complaint)

5.17. At the time of filing a formal complaint, a complainant must be working at WETCC or participating in or attempting to participate in the education program or activity of WETCC. The complainant must provide written notice of alleged policy violation, the person who allegedly violated the policy, and the date, time, and place of the incident.

5.18. Upon receipt of a formal complaint, the Title IX Coordinator will provide written notice to both parties (complainants and respondents) of the allegations. The written notice includes:

- Notice of the Title IX process, including any informal resolution process;
- Notice of the allegations, including sufficient detail (i.e., names of known parties, the conduct alleged to be sex-based discrimination, and the date and location of the conduct, if known) to allow the respondent to prepare a response;
- A statement that the respondent is presumed not responsible for the conduct and that responsibility will be determined after the Title IX process;
- Notice of the parties' right to have an advisor (who may be, but is not required to be, an attorney) and to inspect and review evidence, and;

- Notice that knowingly making false statements or providing false information in the grievance process is a violation of the code of conduct and subject to disciplinary action.

Addressing a Complaint

5.19. After receiving a formal or informal complaint of prohibited conduct, the Title IX Coordinator will assess the report to determine how to respond to the report, including whether to respond to the report through an informal problem-solving process or a formal investigation process.

5.20. The Title IX Coordinator may consider, among other factors:

- The nature and severity of the reported conduct;
- Whether the conduct has been previously addressed with the respondent;
- Academic freedom and free speech protections;
- The actual and potential impact of the conduct;
- The potential impact of using investigative or problem solving approaches to address the report;
- The preferences of the complainant, and;
- Whether the respondent is an employee, student, or third party.

Informal Problem Solving

5.21. The Title IX Coordinator, in its discretion, may choose to offer and facilitate informal resolution options as long as both parties give voluntary, informed, written consent to attempt informal resolution.

5.22. Any person who facilitates an informal resolution must be well trained. The informal problem-solving process is not an option when an employee is accused of sexually harassing a student.

5.23. Forms of informal problem solving may include:

- Conducting an initial inquiry to gather additional information about the report;
- Providing education or coaching to the respondent or complainant;
- Providing resources or recommendations to the respondent, a supervisor, or human resources representative;
- Providing relevant information to the individuals involved
- Making changes to an employee's workflow or work location
- Making changes to a student's classroom
- Establishing a plan for monitoring future misconduct. In an informal problem-solving process, the Title IX Coordinator does not determine whether the respondent has violated a policy.
- Provide resources to help resolve the conflict and make recommendations for responsive action, including actions aimed at preventing conflict or misconduct from occurring, or;
- Mediation or restorative justice.

5.24. Informal problem solving is not available when the complaint alleges a WETCC employee sexually harassed a student.

5.25. Because the outcomes of voluntary resolution conversations are mutually developed and agreed upon by parties involved, an appeal of the process and its result is not permitted.

5.26. The complainant or the respondent may terminate the informal process at any time before the entry of a voluntary resolution and proceed with the Title IX hearing.

5.27. If the parties are unable to agree on a voluntary resolution, the matter will be referred to the Title IX Coordinator for a Title IX Hearing. No offers to resolve the conflict that was made or discussed during the informal voluntary resolution process may be introduced during the Title IX Hearing.

Investigation

5.28. The Title IX Coordinator will decide to begin a formal investigation of a policy violation incident which may lead to institutional action. The coordinator will be available to explain to both parties the process and to notify in writing of the receipt of a complaint and the actions WETCC will take. The burden of gathering evidence and burden of proof must remain on WETCC, not on the parties.

5.29. An investigation will be conducted by a WETCC Title IX official. This investigation will include:

- Meeting personally with the complainant, (unless extraordinary circumstances prevent a personal meeting);
- Meeting personally with the respondent, (unless extraordinary circumstances prevent a personal meeting);
- The presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made;
- Collecting any physical evidence;
- Meeting personally with any witnesses, (unless extraordinary circumstances prevent a personal meeting with one or more witnesses), and;
- Review any documentary evidence.

5.30. The investigation of complaints will be adequate, reliable, and impartial.

5.31. The investigation process can take up to 60 days. When investigating a complaint and throughout the complaint process, WETCC must:

- Ensure that the burden of proof and of gathering evidence rests on WETCC rather than the parties;
- Provide an equal opportunity for the parties to present witnesses and evidence;
- Not restrict either party's ability to discuss the allegations or gather and present evidence;
- Provide the parties with the same opportunities to have others present during interviews or related proceedings, including an advisor;

- Provide, to a party who is invited or expected to attend, written notice of the date, time, participants, purpose, and location of any investigative interview, hearing, or other meetings with enough time to allow the party to prepare and participate,
- Provide both parties and their advisors an equal opportunity to review all evidence directly related to the allegations in the formal complaint at least 10 days before the completion of the final investigation, and;
- Prepare a written investigation report that fairly summarizes the relevant evidence and provide the report to both parties and their advisors for review and written response at least 10 days before a hearing or determination of responsibility.

5.32. WETCC's Title IX Coordinator will determine if a Title IX hearing is necessary. If WETCC will proceed with a hearing, the complainant and respondent will be notified in writing of the hearing date.

Mandatory or Permissive Dismissal

5.33. Mandatory dismissal must occur when determined in the course of the investigation that allegation in a formal complaint:
- Did not occur in WETCC's program or activity;
- Did not constitute a policy violation as defined;
- Did not occur against a person within the United States. Such dismissal is only for Title IX purposes and does not preclude WETCC from addressing the conduct in any manner WETCC deems appropriate. Both parties must receive written notice of a mandatory dismissal and reasons.

5.34. Permissive dismissal may occur at any time. WETCC may dismiss a formal complaint or allegations therein if the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein, if the respondent is no longer enrolled as a student or employed by WETCC, or if specific circumstances prevent WETCC from gathering sufficient evidence to reach a determination.

5.35. WETCC must give the parties written notice of dismissal, (mandatory or permissive) and the reasons for the dismissal. WETCC may consolidate formal complaints where the allegations arise out of the same facts. WETCC cannot access or use a party's medical, psychological, and similar treatment records unless WETCC obtains the party's voluntary, written consent to do so.

5.36. WETCC may decide to address allegations of misconduct under the Student Code of Conduct if a complaint is dismissed.

Title IX Hearing

5.37. The Title IX Coordinator will determine if a hearing is necessary.

5.38. If it is determined that WETCC will proceed with a hearing, the complainant and the respondent will be notified in writing of the hearing date, the alleged policy violation

and issued a notice to appear at the hearing. The written notice will be mailed to the local address on file.

5.39. The Title IX hearing officer may include a WETCC administrator or external legal counsel. The primary responsibility of the hearing officer will be to ensure both parties receive due process.

5.40. The hearing members shall include at least one trauma trained individual in sex-based discrimination and three members of faculty or staff or other trained individuals as hearing members.

5.41. The selection of the hearing members will be made by the Title IX Coordinator. Criteria for hearing members will include:

- Have received all appropriate training;
- Not a current instructor of either party involved;
- Not a current supervisor or immediate coworker;
- Have no previous substantive or direct knowledge of the incident, and;
- Have no other perceived conflict of interest as determined by an interview process with the Title IX Coordinator.

5.42. Description of the duties of the Title IX hearing members will include but are not limited to the following:

- Read and understand the Title IX Policy and Procedures, which includes the hearing process.
- Read and understand all the information of the Title IX case provided by the Title IX Coordinator before the hearing as part of a hearing packet.
- Read and understand the procedures of the Title IX hearing provided by the coordinator before the hearing as part of a hearing packet.
- Have a clear understanding of the incident in question before going into deliberations for a decision.
- Decide the outcome (majority vote) and sanctions if needed based on the information presented, hearing notes, and the WETCC Title IX Policy.
- Provide copies of notes, if made, to the hearing officer. The hearing officer will inform the parties of the decision at the hearing and send a letter as described in this policy.

5.43. Complainant's Rights:

- Be given a written explanation of the allegations and the hearing process;
- Have access to evidentiary material at least 10 days in advance of the hearing;
- Be allowed to submit written relevant questions that they want to be asked;
- Be allowed to answer written relevant questions;
- Be present during the entire hearing;
- Be accompanied by an advisor during the hearing;

    - The complainant must provide WETCC with the name and contact information for their advisor as soon as practical but at least three (3) days before the hearing.
- Be given a timely hearing;
- Comply with rape shield protection to exclude irrelevant questions and evidence of the victim's past sexual behavior unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent;
- Receive written notification of the outcome of the hearing including any sanctions; remedies/accommodations for the complainant; additional remedies for the WETCC community;
- Receive written notification of any external counseling services that may be available
- Receive written notification of options for changing academic or work site situations if reasonable, and;
- Receive written notification of an avenue for appeal.

5.44. Respondent's Rights:

- Be given written notice of the allegations and the hearing process;
- Have access to evidentiary material at least 10 days in advance of the hearing;
- Be allowed to submit written relevant questions that they want to be asked;
- Be allowed to answer written relevant questions;
- Be present during the entire hearing;
- Have no violation presumed until found responsible;
- Be given a timely hearing;
- Be accompanied by an advisor during the hearing. Respondents must provide WETCC with the name and contact information for their advisor as soon as practical but at least three (3) days before the hearing;
- Receive written notification of the outcome of the hearing including any sanctions, remedies/accommodations for the complainant; additional remedies for the WETCC community;
- Receive written notification of any external counseling services that may be available
- Receive written notification of options for changing academic, living, transportation, and worksite situations, if reasonable, and;
- Receive written notification of an avenue for appeal.

5.45. Both the complainant and respondent are permitted to be present during the hearing (except during deliberations of the panel).

5.46. The complainant and respondent are both permitted to make statements, present witnesses, and present evidence during the hearing which has been previously collected and approved during the investigation process.

5.47. Neither the complainant nor respondent are allowed to cross-examine the other party directly.

5.48. Witnesses and evidence must be directly related to the incident. The standard of proof used in WETCC Title IX Hearings is the preponderance of the evidence, which means the determination to be made, is whether it is more likely than not a violation occurred. This is significantly different than proof beyond a reasonable doubt, which is required for criminal prosecution.

5.49. Live in-person hearings are preferred, but videoconference hearings may be conducted if the hearing officer determines that the health, safety, and welfare of all participants are better served by the alternate hearing mode or party requests separate rooms. The hearing must be recorded.

Outcome

5.50. If it is determined under the preponderance of evidence standard (more likely than not to have occurred) that the respondent is not responsible for a sex-based discrimination policy violation the complaint will be dismissed.

5.51. If it is determined under the preponderance of evidence standard (more likely than not to have occurred) that the respondent is responsible for a violation of this policy, the hearing members will impose sanctions on the respondent.

5.52. Both parties will be notified simultaneously by the hearing officer of the hearing outcome. Both parties will be notified in writing by certified mail or other agreed upon form of notice within five business days, the notice will include how to file a notice of appeal.

Appeal Procedures

5.53. An appeal is not a new hearing but is a review of the record of the original hearing. It serves as a procedural safeguard for the individuals. WETCC must offer both parties an option to appeal. The burden of proof shifts from WETCC to the person(s) initiating the appeal.

5.54. Appeals must be submitted in writing to the president within ten (10) WETCC working days of the hearing.

5.55. Failure to file an appeal within the prescribed time constitutes a waiver of any right to an appeal.

5.56. The appeal must cite at least one of the following criteria as the reason for the appeal and include supporting argument(s):

- The original hearing was not conducted in conformity with prescribed procedures and substantial prejudice to the complainant or the respondent resulted.
- The evidence presented at the previous hearing was not “sufficient” to justify a decision against the party.

- New evidence which could have substantially affected the outcome of the hearing has been discovered since the hearing. The evidence must not have been available at the time of the original hearing. Failure to present available information is not grounds for an appeal.
- The sanction is not appropriate for the violation. This provision is intended to be utilized when a determined sanction is inherently inconsistent with WETCC procedures or precedent. Simple dissatisfaction with a sanction is not grounds for overturning a sanction under this provision.

5.57. The president will review the record of the original hearing, including documentary evidence.

5.58. It is the president's discretion to convert any sanction imposed to a lesser sanction, to rescind any previous sanction, or to return a recommended sanction to the original hearing committee for review/or reconsideration.

5.59. If there is new evidence (unavailable at the time of the hearing through no fault of the parties) that is believed to substantially affect the outcome, or evidence presented at the previous hearing(s) was "insufficient" to justify a decision against the individual(s) or a finding that a substantial procedural error resulting in prejudice occurred, the matter may be remanded to either a rehearing of the entire matter or reconsideration of specific issues.

5.60. If remanded to the original hearing committee, either or both complainant and respondent may appeal the committee's decision to the president and the procedures set out above shall control the appeal.

5.61. The final decision will be communicated in writing by the president to all parties. The decision will be communicated within ten (10) WETCC working days upon receipt of the notice of appeal.

5.62. The decision of the president on appeal shall be final.

<u>WETCC Officers and Designees</u>

5.63. The designation of an individual responsible for prescribed actions shall automatically include the official's designee in instances where an official is unable, unavailable, or has concluded that the official may have a conflict of interest that causes the official to recuse from involvement in the matter.

5.64. The official's designee shall have the same authority as the official in matters involving this policy.

<u>Recordkeeping Protocol</u>

5.65. WETCC Title IX Coordinator will maintain a secured file system of all Title IX cases, reports, and complaints by academic year.

5.66. The cases will include all information related to the individual case, which includes but is not limited to the initial complaint, letters sent to all parties, immediate assistance, investigation notes, mediation agreement if applicable, a notice of a hearing, committee selection, hearing notes, hearing decision, written notice of the outcome, and any recordings made of the hearing or in the course of the investigation.

5.67. The Title IX Coordinator will maintain the case records for an indefinite period of time from the date of WETCC's final action or decision (whether through a report of the investigation, mediation, hearing, or appeal).

5.68. The confidential reporting of the number of incidents and types will be sent to WETCC Security Officer for the preparation of the Annual Crimes Report.

Training

5.69. WETCC will conduct ongoing prevention, awareness, and training programs for employees and students.

5.70. WETCC will also provide training for all employees or external individuals responsible for implementing this policy on handling reports of prohibited conduct and confidentiality requirements.

5.71. WETCC requires all students and employees to take educational training courses on an annual basis and sign acknowledgment forms that they have completed annual training on Title IX.

Assistance Following an Incident of Sexual Assault

5.72. Victims of sexual assault should get to a place of safety and call the police at 9-1-1.

5.73. Victims will obtain necessary medical treatment; time is a critical factor for evidence collection and preservation.

5.74. An assault should be reported directly to a law enforcement officer, and college officials will aid in facilitating this process.

5.75. WETCC is available to facilitate access to support services. Several service organizations are located locally and WETCC staff will assist any interested person in contacting these agencies.

5.76. A list of agencies can be located on the www.wetcc.edu website under the Drug and Alcohol Abuse Prevention Program (DAAPP).

Retaliation

5.77. The Federal civil rights laws, including Title IX, make it unlawful to retaliate against an individual to interfere with any right or privilege secured by those laws.

5.78. Complaints of retaliation will follow the same process of investigation, hearing, and appeal.

5.79. If it is determined under the preponderance of evidentiary standard (more likely than not to have occurred) that an individual is responsible for retaliation, sanctions in accordance with the WETCC Code of Conduct policy will apply.

Free Speech and Academic Freedom

5.80. Staff, faculty, and students of WETCC enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution.

5.81. This policy is intended to protect from sex-based discrimination and is not designed to regulate protected speech.

5.82. No provision of this policy shall be interpreted to prohibit conduct that is legitimately related to course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums.

5.83. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws.

Availability of other Complaint Procedures

5.84. In addition to seeking criminal charges through local law enforcement, students, or staff of WETCC may also file complaints with the following entities regardless of whether they choose to file a complaint under this procedure:

- Office for Civil Rights 400 Maryland Avenue, SW Washington, D.C. 20202-1100 Customer Service Hotline: (800) 421-3481 Email: OCR@ed.gov
- Office of Civil Rights: Kansas City Field Office: OCR.KansasCity@ed.gov, (816) 268-0550; Washington D.C.: OCR@ed.gov 1-800-421-3481
- Equal Employment Opportunity Commission: Oklahoma City Field Office: 1-800-669-4000; Washington D.C.: 1-800-669-4000, Eeoc.gov/contact/
- To file a USDA program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at: http://www.ascr.usda.gov/complaint_filing_cust.html and available at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:
    - MAIL: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights,1400 Independence Avenue, SW Washington, D.C. 20250-9410.
    - FAX: (202) 690-7442; or E-MAIL: program.intake@usda.gov

Revision History

Rev. Date	Rev. No.	Revision

8/15/2024	2.	Housekeeping; New Format; Custodian Change
8/1/2020	1.	Original