

NORTHWOOD TECHNICAL COLLEGE



ADMINISTRATIVE POLICY: G-113 & J-121

TITLE: **Unlawful Discrimination/Harassment/Sexual Harassment/ Sexual Misconduct/Sexual Violence Complaints**

CROSS-REFERENCE(S):

G-111 (Administrative Policy – Disability Accommodation)
G-111A (Administrative Procedure - Disability Accommodation)
G-112 & J-120 (Administrative Policy – Non Discrimination/Non Harassment Compliance)
G-113A & J-121A & J-220A (Administrative Procedure – Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaints)
G-113B (Administrative Procedure – Title IX Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaints Grievance Procedure)
G-114 & J-114 (Administrative Policy – Sexual Violence Elimination Commitment)
G-115 (Administrative Policy – Timely Warning Notice and Immediate Notification)
G-115A (Administrative Procedure – Timely Warning Notice and Immediate Notification)
J-220 (Administrative Policy – Student Relations)
Title VI and VII of the Civil Rights Act of 1964
Title IX of the Education Amendments Act of 1972, as amended
Section 504 and Section 508 of the Rehabilitation Act of 1973
Title II of The Americans with Disabilities Act of 1990, as amended
The Americans with Disabilities Act Amendments Act of 2008
Wisconsin Fair Employment Law, Section 111.31-39
1993 Wisconsin Act 427, effective May 7, 1994
Equal Pay Act of 1963, as amended
Age Discrimination in Employment Act
Higher Education Act of 1965, §485(f) (20 U.S.C. § 1092(f))
Clery Act, as amended, Sexual Violence Elimination Act (SaVE Act) as authorized by Violence Against Women Reauthorization Act Report an Incident/Misconduct at <https://www.northwoodtech.edu/about/safety-and-security/file-a-report/file-an-incident-misconduct-report>)

Northwood Technical College (Northwood Tech) (College) prohibits and will not tolerate unlawful discrimination, harassment or sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, stalking, and/or unwelcome conduct determined to deny a person equal access to the College's educational programs or activities by or against any student, employee, student/employee applicant, vendor/customer, anyone associated with Northwood Tech or other members of the public.

To Make a Claim of Unlawful Discrimination, Harassment, or Sexual Harassment/Sexual Misconduct/Sexual Violence/Unwelcome Conduct:

Any student, employee, or student/employee applicant who believes that they have been unlawfully discriminated against or harassed or sexually harassed or a victim of sexual misconduct/sexual violence including domestic violence, dating violence, stalking, and/or unwelcome conduct determined to deny a person equal access to the College's educational programs or activities in violation of College policy is urged to report the incident to the Associate Vice President, Talent & Culture 1900 College Drive, Rice Lake WI 54868, 715.645.7042, amanda.gohde@NorthwoodTech.edu. Employees and students may also report complaints to any member of the College Leadership Team or to law enforcement as appropriate. If any member of the College Leadership Team is alleged to have engaged in unlawful discrimination/harassment/retaliation, the complaint must be filed directly with the President. If the President is alleged to have engaged in unlawful discrimination/harassment/retaliation, the complaint must be filed directly with the Board Chair.

The following definitions apply to Administrative Procedure G-113A, G-113B, J-121A, & J-220A, which explains the process by which the College handles complaints of unlawful discrimination, harassment or sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, stalking, and/or unwelcome conduct determined to deny a person equal access to the College's educational programs or activities that fall under the jurisdiction of Title IX of the Higher Education Act.

Definitions

1. Student means a person who has gained admission and is participating or attempting to participate in a College education program or activity.

2. Admission means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by the College.
3. Unlawful discrimination shall mean a difference in treatment in any employment related action, service, program, course, or facility of Northwood Tech on the basis of race, color, ancestry, religion, sex, service in the uniformed services, veteran status, national origin, age, disability, sexual orientation, marital or family status, pregnancy, pregnancy-related conditions or status in any group protected by federal, state or local law in employment, admissions or its programs, services or activities. Unlawful discrimination may be in the form of harassment such as:
 - a. Unsolicited and repeated derogatory epithets, derogatory statements or gestures made to a person because of their protected status.
 - b. Any attempt to penalize or punish a person because of their protected status.
4. Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:
 - A College employee conditioning the provision of an aid, benefit, or service offered by the College on an individual's participation in unwelcome sexual conduct;
 - 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 College's education programs or activities; or
 - Sexual assault, dating violence, domestic violence, or stalking.

Sexual Harassment could include, but is not limited to, unwelcome sexual advances, unwelcome/inappropriate physical contact that may be sexual or non-sexual in nature, unwelcome request for sexual favors, requests to take/taking photos/posting photos that are unwelcome/inappropriate based on the circumstances and other verbal or physical conduct of a sexual nature (including, but not limited to, deliberate or repeated unsolicited gestures or comments, or the deliberate or repeated display of offensive, sexually graphic materials, not necessary for educational purposes), when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's status as a student or employee;
 - b. Submission to or rejection of such conduct by an individual is used as a basis for enrollment, rating, or grading of a student or any employment related action for an employee;
 - c. Such conduct has the purpose or effect of substantially interfering with an individual's academic or work progress, or creating an intimidating, hostile, or offensive academic or working environment.
5. Sexual misconduct/sexual violence is also sexual harassment and, as such, is prohibited. Sexual misconduct/sexual violence could include sexual acts against a person's will or where a person is incapable of giving consent. The term "sexual assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
 6. "Domestic violence" includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person with whom the individual shares a child, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.
 7. "Dating violence" means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.
 8. "Stalking" means a pattern of repeated and unwanted attention, harassment, contact, or other action directed at a specific person that could cause a reasonable person to feel fear or suffer substantial emotional stress.

9. "Consent" means as, "the equal approval, given freely, willingly and knowingly of each participant to

desired sexual involvement. Consent is an affirmative, conscious decision — indicated clearly by words or actions — to engage in mutually accepted sexual contact. A person compelled to engage in sexual contact by force, threat of force, or coercion has not consented to contact."

Consent is positive cooperation involving an act of free will, absent of coercion, intimidation, force or the threat of force. A person cannot give consent if they are unable to understand what is going on.

Lack of consent is a critical factor in determining whether Sexual Harassment has occurred. As defined above, consent is a mutual, voluntary, and informed agreement to participate in specific sexual acts with another person that is not achieved through unreasonable manipulation or coercion—or any kind of physical force or weapon—and requires having cognitive ability to agree to participate. Consent requires an outward demonstration, through mutually understandable words, conduct or action, indicating that an individual has freely chosen to engage in specific sexual acts. A verbal "no" constitutes lack of consent, even if it sounds insincere or indecisive.

Impairment or incapacitation due to alcohol and/or drug use, permanent/ temporary psychological or physical disability, and being below the age of consent in the applicable jurisdiction are factors that detract from or make consent impossible.

Silence or an absence of resistance does not imply consent, and consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Even in the context of an ongoing relationship, consent must be sought and freely given for each specific sexual act. Consent may be withdrawn at any time. When consent is withdrawn, sexual activity must immediately stop.

Consent for sexual contact cannot legally be given if an individual is under the age of 18, is incapacitated due to alcohol or other drugs, is unconscious or asleep, or has limited mental capacity. **Consent is a clear yes, not the absence of no.**

There must always be active consent among involved persons. Consent to one event or action does not imply consent to another. If limits are made clear and consent is not given, pressuring someone into changing their mind is not consent.

- Consent is based on choice.
- Consent is active, not passive. Silence and passivity do not equal consent.
- Consent is possible only when there is equal power.
- Giving in because of fear is not consent.
- Giving in or going along with someone to gain approval or to avoid being hurt is not consent.
- Consent means two (or more) people deciding together to do the same thing, at the same time, in the same way, with each other.

10. "Formal Complaint" means a written document which is either (i) filed by a complainant with the Title IX Coordinator in person, by mail, or by electronic mail; or (ii) signed by the Title IX Coordinator which alleges Sexual Harassment against a respondent and requests that the College investigate the allegations. A complaint will not be considered a Formal Complaint if the complainant is not participating in or attempting to participate in a College education program or activity at the time the complaint is filed. Unless signed by the Title IX Coordinator, a Formal Complaint may be submitted in paper or by electronic submission, but must contain indicia of the person who is filing the complaint (either a signature, digital signature, or another mark which indicates that the complainant is filing the complaint).
11. "Supportive Measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent, which are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter Sexual Harassment. Supportive Measures may include, but are not limited to, 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 Associate Vice President, Talent & Culture 1900 College Drive, Rice Lake WI 54868, 715.645.7042, amanda.gohde@NorthwoodTech.edu has been designated to oversee compliance with federal and state statutory and regulatory requirements related to equal employment and equal educational opportunities including Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments Act of 1972, as amended, Section 504 and Section 508 of the Rehabilitation Act of 1973, Title II of The Americans with Disabilities Act of 1990, as amended, and The Americans with Disabilities Act Amendments Act of 2008, Clery Act, as amended, Sexual Violence Elimination Act (SaVE Act) as authorized by Violence Against Women Reauthorization Act, Higher Education Act of 1965, §485(f) (20 U.S.C. § 1092(f)) and the guidance supplied by Department of Education, Office of Civil Rights and to handle inquiries, investigations and resolve complaints regarding the College's equal opportunity and non-discrimination/non-harassment policies for students, employees and student/employee applicants. Employees and students may also report complaints to any member of the College Leadership Team or to law enforcement as appropriate. If any member of the College Leadership Team is alleged to have engaged in unlawful discrimination/harassment/retaliation, the complaint must be filed directly with the President. If the President is alleged to have engaged in unlawful discrimination/harassment/retaliation, the complaint must be filed directly with the Board Chair. All allegations/complaints will be investigated promptly according to College procedures and both the complainant and accused will be afforded equitable rights during the investigative process.

All complaints or reports of alleged acts or charges of unlawful discrimination/harassment/sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, stalking, and/or similar unwelcome conduct determined to deny a person equal access to the College's educational programs or activities reported to the College will be handled in compliance with applicable law and under developed procedures that include, but may not be limited to, taking immediate action to eliminate the unlawful action, preventing its recurrence, addressing its effects, publishing a notice of non-discrimination/non-harassment/non-retaliation, adopting and publishing complaint procedures and ensuring College employees are trained to respond to issues/complaints promptly and equitably. Prompt and remedial action will be taken, if necessary, to ensure appropriate behavior in the academic/work environment.

Conduct or actions that arise out of a personal or social relationship that are not intended to have an unlawful discriminatory effect may or may not be viewed as a violation of this policy. Northwood Tech will determine whether such conduct constitutes a violation of this policy based on a review of the facts and circumstances of each situation.

For more information on types of unlawful discrimination/harassment/sexual harassment/sexual misconduct/sexual violence examples, rights, responsibilities, and the complaint procedure, please contact the College's Associate Vice President, Talent & Culture/Equal Opportunity/Affirmative Action Officer and Title IX Coordinator. The applicable Administrative Procedures are G-113A, G-113B, J-121A, & J-220A.

Reference: This policy requires **Board approval** per Wisconsin Technical College System Methods of Administration requirements and the regulations promulgated by the authority of Title VI and VII of the Civil Rights Act of 1964
Title IX of the Education Amendments of 1972, as amended
Section 504 of the Rehabilitation Act of 1973
Title II of The Americans with Disabilities Act of 1990, as amended
The Americans with Disabilities Act Amendments Act of 2008
Higher Education Act of 1965, § 485(f) (20 U.S.C. § 1092(f))
Clery Act, as amended, Sexual Violence Elimination Act (SaVE Act) as authorized by Violence Against Women Reauthorization Act

Questions regarding this policy should be directed to Talent & Culture.

Policy Adopted: April 19, 1982

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PRESIDENT
NORTHWOOD TECHNICAL COLLEGE