

# NEBRASKA INDIAN COMMUNITY COLLEGE

2023

## ANNUAL SECURITY REPORT

INCLUDES CRIME STATISTICS FOR CALENDAR YEARS 2020, 2021, AND 2022

The Annual Security Report can be accessed on the Nebraska Indian Community College website:  
[www.thenicc.edu](http://www.thenicc.edu)

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## 1.0 INTRODUCTION

### 1.1 Overview of the Clery Act

Choosing a postsecondary institution is a major decision for students and their families. Deciding where to work and build a career is also a big decision and one that needs to be made based on an assessment of a number of factors. Campus safety and security is an important factor in determining whether or not to join a campus community. Access to safety and security information is also important for current students and employees at our college.

In response to concerns regarding campus safety and security at colleges and universities, Congress enacted the Crime Awareness and Campus Security Act of 1990, which amended the Higher Education Act of 1965. The 1998 amendments to this Act renamed it the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, in memory of Jeanne Clery. This federal law has largely become known across the United States as the “*Clery Act*.” In 2008, the Higher Education Opportunity Act was enacted, amending the *Clery Act* and adding fire safety reporting requirements for institutions with on-campus student housing.

All public and private postsecondary institutions that participate in Title IV student financial assistance programs must comply with the *Clery Act* and institutionalize its mandates. Among the various requirements, colleges and universities are required to prepare, publish, and distribute an annual report that discloses campus crime statistics, provides fire statistics for on-campus student housing, and includes statements of safety and security, as well as fire-related policies and procedures. The notice of availability must be distributed to all current students and employees and made available to prospective students and employees.

In line with Clery Act mandates, members of our college community have embraced a culture of reporting safety concerns. NICC is committed to meeting the technical compliance requirements of the Clery Act, and also incorporating the spirit of the *Clery Act*: knowledge is power.

This report, known as the Annual Security Report, contains specific Clery Act crime, arrest, and disciplinary referral statistics from the most recent three calendar years, as well as information about safety policies and practices intended to promote awareness about security and safety.

This report is coordinated, prepared, and updated by the Dean of Student Services Department and various campus partners. The 2023 Annual Report may be directly accessed by visiting <https://www.thenicc.edu/about/campus-security-report.php>. Copies of this Annual Security Report may be obtained from the Dean of Student Services at the main campus, Director of Human Services at the Santee site and the Chief Information Officer at the South Sioux City site during normal business hours (generally Monday through Friday, 8:00 a.m. to 5:00 p.m.). The office of the Dean of Student Services is located in the main building on the Macy Campus., 1111 HWY 75, Macy, NE 68039.

### 1.2 Nondiscrimination & Affirmative Action Policy Regarding Academic and Staff Employment

It is our policy not to engage in discrimination against or harassment of any person employed or seeking employment with the College on the basis of race, color, national origin, religion, sex, gender, gender expression, gender identity, gender transition status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services, including protected veterans. This policy applies to all employment practices, including recruitment, selection, promotion, transfer, merit increase, salary, training and development, demotion, and separation. This policy is intended to be consistent with the provisions of applicable state and federal laws and College policies.

College policy also prohibits retaliation against any employees or person seeking employment for bringing a complaint of discrimination or harassment pursuant to this policy. This policy also prohibits retaliation against a person who assists someone with a complaint of discrimination or harassment. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment.

### 1.3 Nondiscrimination Policy Statement For College Publications Regarding Student-Related Matters

The College, in accordance with applicable Federal and State law and College policy, does not discriminate on the basis of race, color, national origin, religion, sex, gender identity, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services. The College also prohibits sexual harassment. This nondiscrimination policy covers admission, access, and treatment in college programs and activities.

## 2.0 PREPATION OF THE ANNUAL SECURITY REPORT

### 2.1 Purpose of the Annual Security Report

Under the Clery Act, the college has immediate, ongoing, and annual reporting requirements. The Annual Security Report (ASR) is updated and published each year. This ASR contains safety and security related policy statements and procedures as well as crime statistics for the most recent three calendar years. The college distributes the Annual Security Report to all current students, staff, and faculty by October 1 of each year. NICC also informs prospective students, staff, and faculty about the availability of these reports.

### 2.2 ANNUAL SECURITY REPORT NOTIFICATION AND DISTRIBUTION

The ASR is distributed in compliance with the requirements of the Clery Act. Specifically, NICC distributes an individual notice about the report to all currently enrolled students and all current employees by October 1 of each year. The notice generally includes a statement of the report's availability, a brief description of the information contained within the report, a direct link to the report, and information regarding where paper copies may be obtained upon request. The report is also made available to prospective students and employees upon request. The ASR may be directly accessed by visiting [www.thenicc.edu](http://www.thenicc.edu).



### 3.0 CAMPUS SECURITY DEPARTMENT AND OTHER AGENCIES

#### 3.1 Campus Security Department and Other Agencies

Safety is a shared vision at Nebraska Indian Community College, by collaborating with our community and sharing campus safety and security information, we aim to increase awareness and stimulate participation in this shared responsibility for maintaining a safe campus environment. We value strong partnerships with our community and other campus departments and together make our campus a safe place for all.

Each semester, new and returning students are offered information regarding campus security procedures through the NICC Student Handbook and New Student Orientation presentations, which specifically cover security procedures and practices for students and staff. The Student Handbook provides a list of resources which includes, but not limited to, local hospitals, Health Services, Guidance Counselor, Rape Crisis Center and phone numbers for the Director of Security, and Tribal Police.

Gatherings are held to familiarize faculty, staff, and students with the Dean of Student Services and Staff, their contact information, crime reporting protocol, safety training, policies, procedures, services which include key services and policy violation incident support. In addition, the Emergency Communication System is reviewed, and the Emergency Management Team is introduced.

#### 3.2 Jurisdiction, Enforcement Authority, and Arrest Authority

Nebraska Indian Community College desires to maintain a secure and accessible campus for students, employees, contractors, visitors, and guests. The Dean of Students Services serves the college as the manager of safety for staff, students, and community members. The Institution does not employ any on-campus security or contract with any security companies. When an incident occurs the Dean of Student Services or assigned staff will contact the appropriate local law enforcement authority which are listed below in 3.3.

### 3.3 Working Relationships with Local Law Enforcement

#### **Relationships with Local Law Enforcement Agencies and Emergency Response Agencies**

NICC’s campus falls under the jurisdiction of several police agencies. NICC and its Site Coordinators work closely with all local tribal police, county, state, and federal police agencies, and have a direct working relationship with the following law enforcement agencies at the following educational sites:

##### Macy, NE

- Omaha Nation Police Department: 402-837-5906
- Thurston County Sherriff’s Office: 402-385-3018 911 designated
- Walthill Police Department: 402-846-5685
- Winnebago Tribal Police Department: 402-878-2245

##### Santee, NE

- Santee Police Department: 402-857-2527
- Knox County Sherriff’s Office: 402-288-4261 911 designated
- Niobrara Police Department: 402-857-2772
- Yankton (SD) City Police Department: 605-668-5210

##### South Sioux City, NE

- South Sioux City (NE) Police Department: 402-494-7512 911 designated
- Dakota County Sherriff’s Office: 402-987-2188

Currently, the College has no Memorandum of Understandings (MOU’s) with any of the above law enforcement agencies. All offenses such as sexual offenses, murder, aggravated assault, robbery, and auto theft are report to NICC Site Coordinator who then contact the appropriate local law enforcement who are utilized to resolve these various crimes.

The College has cooperative working relationships with the surrounding law enforcement and emergency response agencies to share information and resources and works closely with these agencies to respond to crime or other emergency situations. This collaboration leads to functional assessment for the needs of either Emergency Notifications or Timely Warnings. In addition, the College collaborates with local, state, and federal agencies, as necessary.

### 3.4 Crimes Involving Student Organizations at Off Campus locations.

NICC does not routinely provide law enforcement services to off-campus residences of student organizations (currently the College has no off-campus student organization). Criminal activity at off-campus locations would normally be reported to the local law enforcement jurisdiction. While NICC relies on its close working relationships with local law enforcement agencies to receive information about incidents involving our students and student organization, NICC does not have a formal agreement with local law enforcement to monitor criminal activity in these off-campus locations.

If NICC learns of criminal activity involving students or student organizations, it will coordinate with the appropriate external law enforcement agency to forward information about the situation to the Dean of Student Services, Title IX, and campus support resources, as appropriate.

The College requires all recognized student organizations to abide by federal, state, and local laws, and College regulations. The College may become involved in the off-campus conduct of recognized student organizations when such conduct is determined to interfere with the College's mission or adversely affect members of the community (as defined in the NICC's Student Conduct Policy at <https://www.thenicc.edu/about/campus-security-report.php>).

## 4.0 REPORTING CRIMINAL ACTIVITY AND EMERGENCIES

### 4.1 Accurate and Prompt Reporting of Criminal Activity

In order to make the College campus as safe and secure as possible, all students, staff, faculty, other community members, and visitors are strongly encouraged to immediately report all

criminal activity and all suspicious person(s), and/or suspicious activities, to the appropriate Site Coordinator or appropriate police agency (depending on location of crime). The College encourages accurate and prompt reporting of all crimes to Police. The college will assist a victim by helping to make a police report or when the victim is unable to make a police report without assistance.

Report Crimes in progress and emergencies by dialing 911. Calls to 911 from campus will connect the caller to the designated law enforcement agency. For non-emergencies, call the one of the following Site Coordinators:

- Dean of Student Services at the Macy site (402) 241-5908.
- Chief Information Officer at the South Sioux City site (402) 241-5981.
- Human Resource Director at the Santee site (402-241-5943.

Reports can also be made in person at any of the above educational sites. If you must ask yourself if you should contact the police, make the call!

NICC has primary jurisdiction and responsibility for investigating crimes and providing protection services to the College campus community. The immediate and accurate reporting of all criminal activity assists NICC in assessing Clery crimes for a potential Timely Warning and for inclusion in the annual Clery crime statistics disclosure.

All crimes that occur off or away from campus should be reported to the local law enforcement agency with jurisdiction where that crime has occurred.

If you are unsure of which agency you need to speak to, you may call any law enforcement agency and they will assist you with either providing information to assist you or providing the contact information for the agency that has jurisdiction where the incident took place.

All reported crimes may become a matter of public record. Dean of Student Services reports may be forwarded to various departments, including but not limited to the Title IX Office.

NICC's Student Services Division will investigate a report when it is deemed appropriate. Additional information obtained during an investigation may be forwarded to other offices at the college when deemed necessary and determined on a case-by-case basis. If assistance is needed from local law enforcement agencies, the Dean of Student Services will contact the appropriate agencies for assistance. If a sexual assault, dating violence, domestic violence, or stalking should occur, administrative staff initially on scene will offer a victim/survivor written information on rights, options, and resources, regardless of whether the crime occurred on or off campus.

The Clery Act prohibits retaliation against a person who makes a Clery Act report. Retaliation includes, but is not limited to, threats, intimidation, coercion, reprisals, and/or harmful (adverse) actions related to employment or education. Any member of the College Community who participates in retaliation may be subject to disciplinary action, including dismissal, according to the College disciplinary procedures.

### 4.2 Reporting Emergencies

Police, fire, and medical emergencies on campus can be reported by dialing 911 from any telephone on campus. Typically, 911 calls made from GPS enabled cell phones will be routed to a local law enforcement agency that has jurisdiction in the area where the 911 call is being made from.

For all non-campus emergencies, calls for emergency service should be directed to the local law enforcement agency that has jurisdiction in the area where the emergency is occurring or has occurred.

### 4.3 Reporting Non-Emergencies

Non-emergency incidents on campus can be reported to NICC by dialing (402) 241-5908. All suspected on-campus crimes, regardless of their nature, should immediately be reported, as accurately as possible, to NICC.

### 4.4 Voluntary Confidential Reporting Options

In certain instances, a crime victim may be reluctant to file an official report, fearing the criminal process and/or loss of confidentiality. In such circumstances, the College still encourages crime victims to make a confidential report to NICC by calling Morningstar Counseling at 402-327-9711.

Confidential reports are important because they provide valuable information to help maintain a more accurate record of crimes occurring on campus and help determine where there is a pattern of crime. Voluntary confidential reports of Clery Act crimes also assist with the potential issuance of Timely Warnings to the campus community to warn of serious or continuing threats, when deemed necessary by NICC. Additionally, crime reports filed in this manner are classified and disclosed in the annual crime statistics reporting without revealing any identifying information of the victim.

At the request of a victim of Sexual Violence, NICC will not disclose a victim's identifying information except to the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority, probation officers of county probation departments, or other person or public agencies where authorized or required by law. The purpose of a confidential report is to comply with a crime victim's desire to keep the matter confidential while taking steps to ensure their safety and the safety of others.

For more information about the multiple ways that a victim's/survivor's personally identifying information is protected from disclosure, see **Protecting Victim Confidentiality**.

### 4.5 Campus Security Authorities

Director but recognizes that some crime victims may be more inclined to report the incident to a staff member. The College encourages the reporting of all criminal activity directly to the Campus Security member on campus than directly to the police or Campus Security. For this reason, the Clery

Act requires all institutions to collect crime reports from a variety of individuals and organizations who the *Clery Act* refers to as **Campus Security Authorities (CSAs)**.

The *Clery Act* specifically includes four groups of individuals and organizations that are designated as CSAs:

- (1) a campus policy department or a campus security department of an institution;
- (2) any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department;
- (3) any individual or organization to which students and employees are directed by the institution to report criminal offenses, and
- (4) an official of the institution who has significant responsibility for student and campus activities. An “official” is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.

The College has designated the following departments and positions as primary CSAs and are listed under “important phone numbers” on page 17.

Many other staff members and departments on campus are also CSAs. Campus officials with significant responsibility for student and campus activities are CSAs. The list of important phone numbers are the offices that students are encouraged to make crime reports to. These CSAs are used to make an assessment about issuing a Timely Warning and inclusion in the annual crime statistics reporting.

In addition to gathering Clery Act crime statistics information from police reports generated by NICC, Clery Act crime statistics data are gathered from all personnel identified as CSAs. CSAs are instructed that reports of Clery Act crimes must be made immediately, or as soon as possible, to the Dean of Student Services.

## 4.6 Important Telephone Numbers

Title	Name	Email Address	Telephone Number
Director of Student Services,	Dawne Price	<a href="mailto:Dprice@thenicc.edu">Dprice@thenicc.edu</a>	(402) 241-5908
President	Michael Oltrogge	<a href="mailto:MOltrogge@thenicc.edu">MOltrogge@thenicc.edu</a>	(402) 241-5928
Director of Human Services	Anthony Warrior	<a href="mailto:SanAWarrior@thenicc.edu">SanAWarrior@thenicc.edu</a>	(402) 241-5943
Chief Information Officer	Justin Kocian	<a href="mailto:JKocian@thenicc.edu">JKocian@thenicc.edu</a>	(402) 241-5981
Registrar	Troy Munhofen	<a href="mailto:TMunhofen@thenicc.edu">TMunhofen@thenicc.edu</a>	(402) 241-5922
Academic Dean	Kristine Sudbeck	<a href="mailto:kSudbeck@thenicc.edu">kSudbeck@thenicc.edu</a>	(402) 241-5900
Business Office Director	Shona Campbell	<a href="mailto:SCampbell@thenicc.edu">SCampbell@thenicc.edu</a>	(402) 241-5470
Dean of Enrollment	Chrissy Leshar	<a href="mailto:clesher@thenicc.edu">clesher@thenicc.edu</a>	

## 4.7 Professional Counselors

The College encourages college professional counselors to inform any victim they are counseling about the voluntary confidential reporting procedures for Clery Act purposes, if and when they deem it appropriate. With their client's permission or request, professional counselors can make a CSA report or an online crime report to NICC without including identifying information in the report.



- **Confidential Reporting:** NICC offers confidential counseling resources through Morningstar Counseling who are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication”. Morningstar employees may talk to a victim in confidence, and generally only report to NICC that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger a College investigation into an incident against the complainant’s wishes.
- **Non-Confidential Reporting:** NICC Employees are required to report all the details of an incident (including the identities of both the complainant and respondent) to the Title IX Coordinator. A report to NICC employees (called responsible employees) constitutes a report to NICC and places NICC on notice to take appropriate steps to address the situation.

#### 4.8 Daily Crime Log

The institution does not employ any on-campus security or contract with any security companies. Institutions with no security department are not required to maintain a daily crime log.

#### 5.0 MISSING STUDENT POLICY

##### 5.1 No Missing Student Policy.

Since Nebraska Indian Community College has no On Campus Student Housing, a Missing Student Policy is not required by the Clery Act regulations.

#### 6.0 CRIME PREVENTION AND SECURITY AWARENESS PROGRAMS

The prevention of crime is a top priority for NICC. All members of the NICC community are encouraged to take responsibility for their own safety and security, and when possible and safe to do so, assist others with their safety and security needs. While the Dean of Student Services

may offer guidance and assistance regarding safety and security on campus, each individual must take primary responsibility for their own safety and security.

The Dean of Student Services supports proactive crime prevention strategies, working closely with community members and other departments on campus to help create and maintain a safe environment at NICC. For students, crime prevention and security awareness programs begin with freshman orientation presentations. Throughout the year, NICC gives various presentations and workshops regarding personal safety, self-defense, office safety/workplace violence, bicycle security, active shooter response, and crime prevention.

NICC's effort to educate the campus community about incidents of crime, the importance of reporting crime, and the prevention of crime is performed on a continuous and ongoing basis throughout each year. From the time a student attends freshman orientation, up to their graduation, students are presented with and offered a number of different safety and security programs and campaigns designed to create a safer campus.

#### 6.1 Campus Safety and Security Education, Programming, and Other Events

Crime prevention is the anticipation, recognition, and appraisal of a crime risk and the initiation of action to remove or reduce it. NICC provides support and services to, and collaborates with, campus community members to make NICC a safer place to work and learn.

Campus security procedures are discussed during new student orientation, when students learn about crime on campus and in surrounding neighborhoods. In addition to ongoing opportunities to attend crime prevention and safety awareness programming, NICC offers crime prevention presentations when requested by various community groups, including students and employees of the College. During these presentations, the following information is typically provided: crime prevention tips; statistics on crime at NICC; Emergency Notification and Timely Warning policies and procedures; and information regarding campus security procedures and practices, including encouraging participants to be responsible for their own security and for the security of others on campus.

## Crime Prevention Programs

NICC offers the following crime prevention programs to the college community:

**Hostile Intruder Training for Students, Staff, and Faculty:** NICC offers hostile intruder training (formerly active shooter training) for students, staff, and faculty. The first half of the training focuses on strategies to prevent hostile intruder situations from happening and the second half focuses on what to do if it does happen. Best practice in these situations are followed with time for questions and answers. The participants then return to their individual workspace where they are visited by an officer who assesses their workspace from a security perspective, including evacuation routes and sheltering-in-place location suggestions. By the end of the meeting, the department and staff members have a personalized plan of action on how to react to a variety of threatening situations. This training is offered on request on an ongoing basis.

**Safety Talks:** NICC works with the students and staff on crime prevention and safety awareness strategies. Topics covered include domestic violence awareness, drug and alcohol safety, bike security, Hostile Intruder Prevention, and more...

**Tribal Safety Officer Forum:** This program is a semester meeting for all NICC students, staff, and faculty to participate in a discussion with the Tribal police. The forum is held in an informal setting designed to elicit an open dialogue about topics suggested by the attendees. The topics range from questions regarding crime to discussions of crime prevention and personal safety, allowing the public to interact with law enforcement in a more casual setting.

**Classroom Lectures:** NICC is often invited to guest lectures at the College and other local schools on topics including but not limited to Campus Safety, and Community Policing.

**Lighting and Safety Walk:** All members of the campus community are invited to join NICC on this annual walk-through campus to identify light issues and other safety concerns. Community members help identify the need for new lighting installation or lighting repairs, as well as

landscaping issues that create blind spots. NICC partners with Facilities Management and campus administration to address every reported concern.

## **Security Awareness Programs**

NICC offer the following security awareness programs to the NICC community:

**Incoming Student Talks:** NICC provides incoming freshman and transfer students with an overview of campus safety, information about crime in the local area, and risk reduction strategies. Talks are offered throughout the fall term.

**Safety Information and Videos:** NICC has safety videos and brochures for students, staff, and faculty on topics such as self-defense and personal safety, active shooter situations, and burglary and theft prevention. These materials are available on the NICC webpage and Student Canvas orientation.

In addition to the regular and ongoing crime prevention and safety awareness programming above, NICC provides consultation and crime prevention assessments to staff/academic departments and student groups upon request. NICC can assist in developing department-specific emergency plans for evacuations, bomb threats, and criminal incidents, or can provide crime-prevention and physical-security systems recommendations for the planning process of new buildings and landscape design.

NICC offers training and lectures customized for any group or department. For more information about crime prevention, or to schedule a presentation regarding crime prevention, safety awareness, sexual violence and sexual harassment, or Hostile Intruders (active shooters), please contact the NICC Dean of Student Services Office (DSS).

NICC community members are reminded that crime can happen anywhere, at any time to anyone, and that the college campus is not a crime-free zone. Students, staff, and faculty must take their own personal safety very seriously.

### 6.2 Responsibilities of the NICC Community

A safe and secure environment is essential to carrying out the mission of the college. Preventing harm depends on NICC community members identifying and communicating hazardous conditions and behaviors of concern. Safety is a collaborative effort! Additionally, early identification of safety and security concerns allows for effective planning, mitigation, response, and recovery.

Members of the NICC community must assume responsibility for their own safety and the security of their personal property. The following precautions provide guidance:

- Report all crimes and suspicious activities to DSS or your local Site Coordinator immediately.
- If you see or smell any evidence of fire, smoke, gas, or other hazardous conditions, call 911 immediately. Even fires that have been extinguished should be reported.
- Be aware of your surroundings. If possible, do not walk alone during late-night hours. Walk in groups whenever you can – there is always safety in numbers. Stay in well-lit areas as much as possible.
- Never take personal safety for granted. Trust your instincts. If something or someone makes you feel uneasy, avoid the person or leave.
- Let a family member or friend know your destination and your estimated time of arrival or return. That way police can be notified as quickly as possible if there is a problem.
- Carry only small amounts of cash. Never leave valuables (wallets, purses, books, phones, etc.) unattended or in plain sight.
- Carry your keys at all times and do not lend them to anyone.
- Always lock the door to your residence, whether or not you are inside. Be certain that your door is locked when you go to sleep and keep windows closed and locked when you are not at home.
- Report any safety-related problems and maintenance concerns immediately to the appropriate authority.

- Inventory your personal property and insure it appropriately with personal insurance coverage. Engrave serial numbers or owner's recognized numbers, such as a driver's license number, on items of value.
- Lock up bicycles and motorcycles. Lock car doors and close windows when leaving your car.
- In the event of a fire alarm sounding, follow all building evacuation procedures.
- In the event of a crime, save any evidence. Do not remove any evidence until officers are able to respond and investigate.
- Do not hesitate to approach administrative officers with suggestions, questions, or concerns. Get to know them! If we build a collective sense of stewardship for each other and the NICC community, together we can make a difference.

## 7.0 EMERGENCY MANAGEMENT

NICC's Emergency Operations Plan (EOP) establishes policies, procedures, and an organizational structure for the mitigation, preparedness, response, and recovery for emergency events impacting the NICC campus. In addition to the EOP, each department has a Building Emergency Action Plan (BEAP). NICC building departments are responsible for developing building emergency plans, policies, procedures, contingency plans, and continuity of operations plans for their staff and areas of responsibility.

College conducts emergency response exercises each year, including tabletop exercises, field exercises, and tests of NICC emergency communication systems. These tests are designed to evaluate department emergency plans and capabilities of the institution and educate the campus community on the systems they may encounter.

### 7.1 Emergency Management Response and Evacuation Procedures

#### **College Campus Evacuation Guidelines**

An evacuation is defined as the emptying of an occupied area and the transference of its occupants to a safe location. Should it become necessary to evacuate a building, an area, or the entire campus, NICC has procedures in place. In the event of an emergency or dangerous situation, the Campus Security personnel will direct students, staff, faculty, and guests to evacuate a building, several buildings, a portion of the campus, or the entire campus. The campus community will be asked to follow building and campus evacuation protocols and to obey directions from NICC and on-scene emergency responders.

Certain events, like hazardous materials release, may require the NICC community and the general public to shelter-in-place to prevent exposure to harmful elements.

### Campus-wide evacuations:

In a major emergency, the decision to implement evacuation procedures generally rests with the members of the college Administration. In situations requiring immediate action, public safety responders (i.e., Policy and Fire) can also order an evacuation. When evaluating possible evacuation options, consideration will be given to the specific threat that exists (e.g., bomb, fire, storm, earthquake, explosion, hazardous materials incident), its context (e.g., time of day), and the recommendation of public safety officials. After a major disaster, many people may choose to leave campus to check on their family members and homes. Ideally, individuals should first check in with their Departmental Safety Representative, so that they are not assumed to be trapped or missing, and they can be informed about emergency information.

A critical element of any evacuation is transportation. The use of transportation alternatives at NICC must be taken into account when planning the steps necessary to evacuate all campus occupants, whether they arrived by public transit, single occupants auto, carpool, vanpool, or bicycle.

The procedures for a campus-wide evacuation will vary depending on the nature of the event. The Campus Coordinator personnel will take the lead in coordinating and conducting the evacuation, depending on the nature of the event. In all cases when the decision has been

made to evacuate, the campus will likely be evacuated in stages, beginning with the areas that are in the immediate vicinity of the threat. Other areas may then be evacuated, depending on the nature of the threat.

This graduated evacuation is preferable to a total, immediate evacuation as it triages the populations most in danger, minimizes the likelihood of gridlock and congestion, and provides for ingress of emergency vehicles and personnel. In all cases, evacuees would be directed away from the vicinity of the threat.

Localized events, such as a single building fire or chemical release evacuation of the immediate area. Fire or Police personnel in this case would direct the evacuation. During an evacuation, Police personnel will direct traffic at major intersections to maintain a smooth flow of vehicles.

### Building Evacuations:

Emergency procedures and state law require that everyone exit a building when a fire alarm is activated. Evacuation procedures should be followed according to your department's plan. Building Safety Representatives (BSRs) will try to make sure that all members of their department/unit (and any related students or visitors) are proceeding to the Emergency Assembly Point for their building. The BSR, without re-entering the building, will then assure as best they can that the building is secured and that all personnel are accounted for.

When evacuating a building, the following steps should be observed:

- Proceed toward the nearest safe exit.
- Do not use elevators for evacuation because they may be damaged and unreliable.
- After exiting the building go directly to your building Emergency Assembly Point. If that area is no longer safe, determine the safest place away from imminent danger.
- Wait for instructions from emergency personnel.
- DO NOT return to your building until notified by emergency personnel.



### Evacuation of persons with impaired mobility:

When an elevator is not available or safe for use during an emergency the following procedures have been developed for those unable to use the stairs in multi-story buildings:

- Designated personnel should escort individuals with impaired mobility to a refuge such as an enclosed stairwell landing that leads to an exterior exit at the ground level.
- Someone should remain with the individual while another person notifies arriving emergency personnel of the location of the person who needs assistance.
- The instructions of emergency responders should be as followed, and no attempt should be made to move the individual to another building level unless there is imminent danger in the refuge.
- Individuals who are alone and unable to utilize the stairs should call 911 and report the location of their planned refuge.
- Anyone unable to reach a stairwell (for instance due to smoke), should close all doors into there are, call 911, and wait for emergency personnel to arrive.

### Roles and Responsibilities

Responsibilities for emergency planning and response reside at all levels. The success of this effort is dependent upon good management planning and upon all employees becoming familiar with the information that applies to them prior to an actual emergency.

Every college employee can potentially play a role in the Incident Command System (ICS). Perhaps the most critical aspect of the ICS is communication; accurate reports from the scene of an incident are essential to providing adequate emergency services. Similarly, the campus community must receive up-to-date instructions concerning disaster response procedures and news of the evolving incidents. Command posts, staffed by Incident Commanders at the scene of each major situation, will provide a standardized process for site incident command of emergency operations in the field. Command posts will also

provide a location to meet and coordinate with arriving resources and will establish and maintain communications with the EOC.

#### Role of students:

All students should familiarize themselves with the emergency procedures and evacuation routes in buildings they live in or use frequently. Students must be prepared to assess situations quickly but thoroughly and use common sense in determining a course of action. They should evacuate to assembly areas in an orderly manner when an alarm sounds or when directed to do so by emergency personnel.

#### Role of faculty and staff:

All members of the faculty and staff should read and understand their Building Emergency Action Plans and familiarize themselves with their emergency procedures and evacuation routes. Employees must be prepared to assess situations quickly but thoroughly and use commonsense in determining a course of action. They should follow Emergency Plan procedures to report a fire or other emergencies that require immediate attention, establish contact with their Building Safety Representative, and evacuate the building to pre-designated areas in an orderly manner. Faculty members are seen as leaders by students and should be prepared to direct their students to assembly areas in the event of an emergency.

#### Role of Building Safety Representatives:

Building Safety Representatives (BSRs), designated by the Department Head, are responsible for coordinating the department's emergency planning activities and for implementation of a Building Emergency Action Plan. In the event of an emergency, the BSR is responsible for assisting with the safe evacuation of their department and assessing injuries and damage to department personnel and property. They also serve as the primary contact to the campus Emergency Operations Center (EOC). The BSR collects and reports

information on the department's status and also receives information and direction from the EOC. They disseminate information back to their department, providing directions and information on available resources.

### **Persons with Access or Functional Needs**

As part of the campus Emergency Preparedness Program, we encourage members of the campus community with access and functional needs to evaluate their individual situation and determine the level of assistance they may require during an emergency. A person with one or more of the following concerns is encouraged to follow the recommendations of the Emergency Assistance Program:

- Limitations that interfere with walking or using stairs;
- Reduced stamina, fatigue, or tire easily;
- Emotional, cognitive, thinking, or learning difficulties;
- Vision or hearing loss;
- Temporary limitations (surgery, accidents, pregnancy); or
- Use of technology or medications that could interfere with response time.

The Emergency Response Program for Access and Functional Needs provides an opportunity for faculty, staff, and students to create an emergency response action plan, identify a support team for special evacuation situations.

If you access and/or functional needs that could impact your ability to promptly respond and evacuate a building or facility during an emergency, please review planning and resource information in the Emergency Operation Plan.

## 7.2 Emergency Procedures

Emergencies can occur without warning at any time. Being prepared to manage unexpected emergency events is an individual as well as an organizational responsibility. The following are emergency procedures:

### **Bomb Threats**

Bomb Threats usually come by telephone and generally are made by individuals who want to create an atmosphere of general anxiety or panic. All bomb threats should be taken seriously.

By telephone:

- Take the caller seriously but remain calm.
- Ask a lot of questions.
- Take notes on everything said and on your observations about background noise, voice characteristics, etc.
- If possible, get someone to call Police while you continue talking to the caller.
- Call Police at 911 immediately after the call.
- Notify your supervisor/department head.
- Dean of Student Services and or your local Site Coordinator will determine if evacuation is necessary. If you do evacuate, move to your building Emergency Assembly Point.
- Do not re-enter the area until instructed to do so.

### **Chemical Incident**

**Exposure to personnel:**

- If it is safe to do so, remove contaminated victim(s) from area.
- Call 911 for immediate medical attention or if chemical release threatens others. In extreme circumstances, activate the fire alarm and evacuate the building.
- Remove contaminated clothing and use emergency eyewash/shower.

- Administer first aid as appropriate.
- Notify Fire Department at 911.

### Contamination of equipment/facilities:

- If a spill/release is an immediate threat to anyone's health, call 911.
- Restrict access to avoid exposure or spread of contamination.
- Do cleanup only if you feel it is safe to do so, you are familiar with the material, and you are properly trained and equipped. Some lab buildings have communal spill cleanup supply closets.

### Release to the environment (air, water, soil):

- If safe to do so, stop the release. Notify Fire Department at 911.

### Civil Disturbance or Demonstration

- Most campus demonstrations will be peaceful, and business should continue as usual.
- Avoid provoking or obstructing the demonstrators.
- Avoid the area of disturbance.
- If a class or lecture is disrupted, the offending person(s) should be requested to leave. If they refuse, call Police at 911.
- Continue with your normal routine. Stay away from doors or windows if the disturbance is outside.

### Crime-in Progress/Violence

- Do not put yourself at risk.
- Do not interfere with persons committing the crime or creating the disturbance.

- If you are the victim of, are involved in, or witness any on-campus violation of the law such as assault, robbery, theft, or overt sexual behavior, call Police at 911 immediately with the following information:
  - Nature of incident;
  - Location of incident;
  - Description of person(s) involved;
  - Location of person(s) involved;
  - Your name, location, department, and phone number;
  - If personal safety allows, try to get a good description of the criminal. Note height, weight, sex, color, approximate age, clothing, method and direction of travel, and name (if known);
  - Remain where you are until a Police Officer arrives.

### Earthquake

#### Before:

- Attach all bookcases, cabinets, compressed gas cylinders and other furnishings to a wall or to the floor.
- Store all heavy items below head level.
- Restrain chemicals on open shelves with seismic retaining strips.

#### Outside:

- Get to an open area away from trees, buildings, and power lines.

#### Vehicle:

- Pull to the side of the road away from underpasses, bridges, and buildings.
- Remain in the vehicle until the shaking stops. Do not leave the vehicle if a power line has fallen on or near it.

**Inside:**

- Stay away from windows and get under a desk or table.
- Duck, cover and hold.
- In a hallway, sit against the wall and protect your head with your arms.
- In an auditorium, duck between the rows of seats and protect your head.
- Wait inside until the shaking stops, then evacuate the building and go to your building Emergency Assembly Point.
- Do not use elevators for evacuation.
- Designated personnel should assist individuals with mobility disabilities to a safe location, e.g., an enclosed stairwell landing with a ground level exit to the exterior or, if obstructed, an office space with a door.
- Report to your Building Safety Representative (BSR). The BSR will complete a department status report and transmit it to the campus Emergency Operations Center (EOC).
- Do not re-enter the building until authorized to do so by emergency response personnel.

**Exposure to infectious Materials**

If you are exposed to blood or other potentially infectious materials:

- Immediately wash area(s) with soap and water and use an emergency eyewash or shower for 15 minutes.
- Obtain medical help.
- Notify your supervisor.
- Notify the Fire Department.
- Document the incident by filling out an Incident Report Form.

## Fire

- Know the location of fire extinguishers in your area and know how to use them. Fire extinguisher training is available for departments by request at (701) 854-8010.
- For a minor fire that appears to be controllable, activate the building fire alarm system at the nearest manual fire alarm pull box. Immediately call 911, then use the appropriate fire extinguisher to control the flames. Get help if necessary.
- For a larger fire that is not easily controllable, close all doors to confine the fire and reduce oxygen. Activate the building fire alarm system at the nearest manual fire alarm pull box, then immediately call 911. Give all information requested (your name, exact location, size and progress of the fire, etc.).
- Notify your supervisor or instructor, then evacuate the building by quickly walking to the nearest exit, alerting people as you go, and assisting those with disabilities, as necessary. Do not use elevators for evacuation.
- Once outside, move to a clear area at least 50 feet away from the affected building. Keep the walkways and vehicle access clear for emergency vehicles. Utilize the designated building Emergency Assembly Point if it is free of smoke and wait for instructions.
- DO NO RETURN TO THE AFFECTED BUILDING UNTIL TOLD IT IS SAFE BY A FIRE OFFICIAL.
- Report all fires, regardless of size to NICC at (402) 241-5908. Report any fire extinguisher that has been discharged, has lost pressure, or is out-of-date to DSS at (402) 241-5908.

## Hostile Intruder

- If you are directly involved in a hostile intruder situation, focus on your own survival, be alert, try to figure out what is happening, and decide your best course of action. Can you safely escape? If you can, GET OUT. Trust your instincts and leave quickly.



- If escape is not immediately possible, your second option is to HIDE OUT. If possible, take actions to KEEP OUT the assailant. Find a room that locks, barricade the door, and be silent. Another option is to TAKE COVER. Get behind something, or several things, which would help stop or deflect a bullet.
- If you cannot get out, hide out, or take cover, and if you determine that you are in direct peril, then you need to take steps to protect yourself. If there is a group of you, make a plan, spread out, and act as a team.
- When it is safe to do so, call 911 and tell the Police who you are, where you are calling from, and what the problem/danger is. Give a brief description of the suspect(s) and, if known, their last direction of travel or place last seen.
- When the Police arrive, remain calm, show them your hands, and follow their directions. For specific Hostile Intruder training, please contact the Dean of Student Services at (402) 241-5908.
- If you have a concern about someone on campus whose behavior is potentially violent, contact a member of the Threat Management Team.

## Medical Emergency

### All personnel:

- Call 911 if the condition requires immediate medical attention.
- If poisoning is suspected, contact the Poison Control Center at 1-800-222-1222.

### Staff and faculty work-related injuries:

- It is important that all work-related injuries be reported immediately. During regular business hours, contact Workers' Compensation to report injuries and to obtain an authorization for initial medical treatment. If a work-related injury occurs outside of the normal work hours, contact the Workers' Compensation office within one business day.
- If an employee is hospitalized for 24 hours or more (other than for observation) or has an injury that results in a partial or full loss of limb (amputation) or loss of life, contact

Campus Services at (402) 241-5908 immediately. The campus must report these injuries to OSHA within 8 hours of the event.

#### Student injuries:

- Students (not staff/faculty) can be seen at Dean of Student Services at (402) 241-5908 or your local Site Coordinator. If the victim needs to be transported to a hospital emergency room, there is a charge.

#### Power Outages in Labs

##### Prepare for a power outage:

- Be sure the contact information on your lab door placard is up to date. Ideally, contacts should be knowledgeable about all of the lab's sensitive operations.
- Put essential equipment on emergency power circuits, if available.
- Hazardous processes that operate unattended should be programmed to shut down safely during a power failure and not restart automatically when power returns.
- Identify an emergency source of dry ice for items that must be kept cold. Do not use dry ice in small enclosed and occupied areas because hazardous concentrations of CO<sub>2</sub> can accumulate. Unopened refrigerators/freezers will maintain temperature for several hours.

##### During power outage:

- Shut down experiments that involve hazardous materials or equipment that automatically restart when power is available.
- Make sure that experiments are stable. Cap all chemical containers that are safe to cap, then close fume hood sashes.
- Check equipment on emergency power. In some cases, it may take 20 to 30 seconds for the emergency power to activate after a power failure.

- Disconnect unattended equipment and turn off unnecessary equipment.
- When power returns, reset/restart/check equipment. Check the airflow of your fume hood. Often, hoods will not automatically restart.

## Severe Weather

### If at work:

- Monitor media reports.
- Check campus email for pertinent messages.
- Check NICC home page at [www.thenicc.edu](http://www.thenicc.edu).
- Determine if roads are safe before leaving.

### If at home:

- Assess conditions prior to leaving home.
- Monitor media reports.
- Check NICC home page at [www.thenicc.edu](http://www.thenicc.edu).
- Do not take risks in order to return to campus.
- Contact your department for information.

## Shelter-In-Place

Shelter-in-place means to seek immediate shelter inside a building. This action may be taken during a release of hazardous materials to the outside air, or in other emergency. For shelter-in-place due to violence in progress.

If you are ever advised to shelter-in-place:

- Isolate yourself as much as possible from the external environment.
- Shut all doors and windows.
- Seal cracks around doors and windows as best as possible.

- Notify Police of your status at 911.
- Monitor all available communications.

### **Suspicious Package/Mail**

If you receive or discover a suspicious package, letter, or object, do not touch, tamper with, or move it.

- Report it immediately to Police at 911.

Characteristics of suspicious letters/packages:

- Origin – Postmark does not match the city of the return address, name of sender is unusual or un-know, or no return address is provided.
- Postage – Excessive or inadequate postage.
- Balance – The letter is lopsided; unusually thick; has an unusual amount of tape; has an irregular shape, soft spots, or bulges; or the letter or package seems heavy for its size.
- Contents – Stiffness or springiness of contents; protruding wires or components; oily outer wrapping or envelope; feels like it contains powdery substance; is buzzing, ticking, or makes a sloshing sound.
- Smell – Particularly almond or other suspicious odors.
- Writing – Handwriting of sender is not familiar or indicates a foreign style not normally received by recipient or cut-and-paste or rub-on-block letters are used. Common words, names, or titles are misspelled, or special instructions like “fragile,” “confidential,” or “do not delay” are present.

## Utility Failure

### Gas:

- If you smell gas, and if personal safety allows, turn off the source and evacuate the immediate area.
- The human nose is extremely sensitive to the odorant placed into natural gas, so it is detectable far below any fire/explosion levels. Therefore, for low-level smells, immediately contact 911.
- If gas odor is strong, evacuate the building using the fire alarm pull station and call 911. Evacuate to your building Emergency Assembly Point.
- Do not turn on/off any electrical equipment or light switches.

### Electrical outage:

- Unplug sensitive equipment if not connected to a surge protector.
- Disconnect hazardous equipment according to your local plan.
- Check elevators for trapped individuals and call 911.
- Stay away from the downed power lines.
- Emergency exit lighting may only stay on for a short time.
- During an extended power outage, you may have to leave the building and go to your building Emergency Assembly Point.
- In order to maximize the emergency generator, run time and efficiency, please turn off power to non-essential areas (departmental kitchen, copier room, etc.) and equipment (coffee machines, etc.).

### Plumbing/Flooding:

- If personal safety allows, shut off electrical equipment and evacuation area. Do not enter area where live electrical circuits are in contact with water.
- Do not drink water from any campus systems after an earthquake or a flood.

- Report plumbing breaks to the DSS at (402) 241-5908.

#### Heating and ventilation:

- Report air conditioning or heating problems to the DSS at (402) 241-5908.

### 7.3 Methods of Emergency Communications

In the event of a large-scale emergency, urgent crisis, or other dangerous situation on the NICC campus, the following communication methods can be used to deliver emergency messages to the campus community, gather information, and direct emergency responders. Each of these communication methods is assessed on a semester basis.

- **Emer list-serve and Email list-serv:** These are campus e-mail distribution lists for all staff, faculty, and students at NICC. They can be used to broadcast information and instructions relevant to the threat or emergency situation.
- **College Campus Website:** The main campus website [www.thenicc.edu](http://www.thenicc.edu) can be used to quickly provide information and updates during a critical incident on the NICC campus.
- **Knock and Talk notification to classrooms.**
- **Printed copies of the notice posted at locations on campus.**
- **Phone**
- **Fire warning sirens**
- **Local media**
- **NICC social media**

### 7.4 Testing Emergency Response and Evacuation Procedures

NICC tests its emergency response and evacuation procedures on an annual basis, in compliance with the Clery Act. A “test” for Clery Act purposes includes regularly scheduled drills, exercises, and appropriate follow-through activities designed for assessment and

evaluation of emergency plans and capabilities. A test may be announced or unannounced. Activations to real-time incidents are not considered part of the testing process. NICC Health and Safety Committee drafts and sends out a college community-wide email, in compliance with the Clery Act regulations for addressing emergency response and evacuation on a campus-wide scale. The campus-wide email contains a link to NICC's emergency response and evacuation procedures.

NICC Health and Safety Committee designs at least one scheduled exercise (i.e., test involving coordination of efforts) and drill (i.e., activity that tests procedural operation) each year to test emergency response and evacuation on a campus-wide scale (i.e., all campus buildings, not necessarily all at once). The test is designed to address NICC's plan for evacuating all of the buildings on campus and reviewing the plans for the evacuation of each building. This test is announced to the campus community each year in conjunction with publication to the college campus community of emergency response and evacuation procedures. The test contains follow-through activities managed by the NICC Health and Safety Committee Chairman in the form of an After-Action Report and gathering feedback from participants. Furthermore, this test is designed for assessment of emergency plans and capabilities at NICC with defined and measurable goals. The test is designed such that once it is completed and an assessment has been done, the Health and Safety Committee Program, in conjunction with other campus partners, can determine whether the test met its goals.

NICC's Health and Safety Committee, in conjunction with other campus partners, performs various other tests, including drills and exercises, throughout each calendar year. The Fire Department conducts fire drills for the dining halls, administrative buildings, and academic buildings annually.

Each test is documented and kept in Health and Safety Committee records, with the following information documented; (a) a description of the test, (b) the date the test was held, (c) the time the test started and ended, and whether the test was announced or unannounced.

## 8.0 EMERGENCY NOTIFICATIONS

The Clery Act requires all colleges and universities to have an Emergency Notification policy and procedures in place in accordance with Clery Act emergency notification criteria.

Emergency Notifications must be issued to the campus community (or segments of the campus community) upon confirmation of a significant emergency or dangerous situation occurring on campus, involving an immediate threat to the health and safety of students and employees. As described below, the Dean of Student Services (NICC) has developed a comprehensive emergency notification policy that sets forth college guidelines in issuing an Emergency Notification.

### 8.1 Student Information System

All students, staff, and faculty are encouraged to sign-up to receive Emergency Notifications by email. Emergency Notification messages are typically sent by email, and text. Emails are sent to all NICC email addresses (i.e., students and employees).

### 8.2 Emergency Notifications Policy and Procedures

NICC Dean of Student Services/Maintenance personnel are available during business hours. Please call 911 in an emergency. All members of the campus community are encouraged to notify NICC of any significant emergency or dangerous situation that may involve an immediate or ongoing threat to the health and safety of students and/or employees on campus. Emergencies should be reported by dialing 911 as soon as possible. If the situation is determined to pose a threat to the community, NICC **will, without delay**, and considering the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgement of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.



When an Emergency Notification is issued to the NICC campus community, notification will be made in accordance with provisions set for in the Clery Act and associated federal regulations, guidance handbook, and industry best practices. NICC has primary authority and responsibility for issuing Emergency Notifications and will do so in accordance with the NICC policy in effect at the time of each notification made. Each determination to issue an Emergency Notification will be based on the best professional judgement of Site Coordinator or the on-duty personnel at NICC, as set forth in departmental policy.

In the case of a prolonged emergency, the confirmation process, content, segments to be notified, method of communication, and initiation of the system may be delegated, by authorized individuals, to other entities such as the Office of the President, to help coordinate broader college communications and response.

### 8.3 Decision to Issue an Emergency Notification

It is the primary responsibility of the Dean of Student Services Department to make an Emergency Notification issuance decision for the college community. Those responsible include but are not limited to the Dean of Student Services, the Site Coordinator and/or their designated staff on duty. As Emergency Notification message will be issued to the college campus community immediately upon confirmation of a significant emergency or dangerous situation occurring on campus that involves an immediate threat to the health or safety of students or employees. "Confirmation" means that an official(s) has verified that a legitimate emergency or dangerous situation exists. This does not mean that all the pertinent details are known or even available at the time that an emergency or dangerous situation is confirmed.

An "immediate threat" means an imminent or impending threat.

The types of incidents that may present an immediate threat to the college community may include, but are not limited to, emergency or dangerous situations involving an : in-progress serious or violent crime; earthquake; active shooter; hostage/barricade situation; riot/civil unrest; bomb threat; suspicious package with confirmation of a device; tornado; fire/explosion; homicide

or suspicious death; structural damage to a college owned or controlled facility; biological threat; significant flooding; gas leak; hazardous materials spill (e.g., chemical, biological, nuclear); armed intruder; and/or illness outbreak. Other types of emergencies or dangerous situations will be analyzed on a case-by-case basis.

When significant emergency or dangerous situation that involves criminal activity or public safety has been reported to NICC, the Site Coordinator on duty has primary responsibility to confirm that a reported emergency or dangerous situation is legitimate and poses an immediate threat to the health of safety of students and employees on the college campus. In addition to the Site Coordinator on duty, the President may also confirm that a significant emergency or dangerous situation exists.

The Site Coordinator on duty may make the determination to issue an Emergency Notification as soon as feasibly possible, upon confirmation of a significant emergency or dangerous situation, as set forth in this policy.

Confirming significant emergencies or dangerous situations not directly related to criminal activity or public safety situations may involve input and consultation from additional college departments and personnel, as well as other local, state, and federal agencies. Significant emergencies or dangerous situations involving a disease or illness outbreak at NICC may be confirmed by members of the college, College Campus Emergency Manager, and the County Public Health Department. Significant emergencies or dangerous situations involving weather at NICC may be confirmed by the College Site Coordinator, the Thurston County Office of Emergency Management, the Knox County Office of Emergency Management, Dakota County Office of Emergency Management sources from the National Oceanic and Atmospheric Administration (NOAA), and/or the National Weather Service (NWS). Significant emergencies or dangerous situations involving hazardous materials at NICC may be confirmed by the College Facilities Management, the College Site Coordinator on duty, and/or personnel from the local Police Department.

#### 8.4 Issuing Emergency Notifications

Once the decision has been made to issue an Emergency Notification, the Dean of Student Services and/or the Site Coordinator may draft the Emergency Notification and initiate sending out the message. In the event of an extreme circumstance/emergency situation, if any of the above mentioned is unable to draft and initiate sending out the Emergency Notification, it becomes the responsibility of the on-duty site coordinator to draft and issue the Emergency Notification.

While the Clery Act allows for flexibility in alerting only the segment of the campus population that is determined to be at risk, NICC Emergency Notification sent via email-alerts, by default, notify the entire college community by email.

In certain cases, when only a segment of the population is at risk, an Emergency Notification may be sent to the impacted segment of the population rather than the entire campus community. Personnel with Emergency Notification decision-making authority are responsible before determining which segment of the population will be notified of the emergency situation. NICC will continue to monitor and assess the situation to determine if additional segments of the community should be issued the Emergency Notification. These decisions are made on a case-by-case basis.

The following items may be included in the message, if available:

- (a) Title: "Emergency Notification,"
- (b) type of emergency or dangerous situation that poses an immediate threat to the NICC community,
- (c) time and location of the incident,
- (d) guidance on specific action to take (e.g., shelter-in-place, evacuate), and

(e) suspect description information, only if relevant and necessary.

In accordance with federal law, no name of or personally identifying information about the crime victim is allowed. Depending on the situation, other information may be included in the Emergency Notification message. To streamline the process and avoid delays, NICC has developed standardized script templates, based on various types of emergencies or dangerous situations, to serve as a reference guide for on-duty NICC staff to issue Emergency Notifications to the campus community via the NICC Alert system. Additionally updates for each Emergency Notification will be issued when, and if, new information becomes available, until an Emergency Notification closure message is issued. An Emergency Notification closure message will be issued when the emergency or dangerous situation no longer poses an immediate threat, is under control, and/or the guidance provided in the Emergency Notification is no longer required.

Emergency Notifications will typically be disseminated by email and text, using the email-alert system. Specifically, the system sends an email message to all campus email addresses as well as a cell phone text message to all students, staff, and faculty who have opted-in to receive such text messages. In certain circumstances, as determined by the Emergency Notification issuer, notifications may be sent by email, text, and voice mail, using the Email-Alert system. Additional methods of emergency communication may also be used, as determined on a case-by-case basis by the NICC Management Team. Other methods and systems include: a public speaker address system, NICC website ([www.thenicc.edu](http://www.thenicc.edu)), campus voicemail, E-list (an emergency list of campus emails), NICC app, emails from the Office of the President, and radio stations. In certain cases, information may be disseminated to the larger community by posting on the NICC webpage and NICC app, issuing a public information release, or using alternative distribution methods, determined on a case-by-case basis.

## 9.0 TIMELY WARNINGS

In order to help safeguard the NICC community, to increase crime awareness, and to meet the Clery Act Timely Warning requirements, an NICC campus community Timely Warning will be issued for a Clery Act-reportable crime that means the standard for issuance set forth below.

For the purposes of this section, a “Clery Act-reportable crime” is a Clery Act crime that occurred in Clery Act geography and was reported to the Dean of Student Services. Issuance of a Timely Warning is not required based on the same circumstances, factors, and criteria as an Emergency Notification. If NICC implements the procedures for an Emergency Notification, it may not issue a Timely Warning for the same incident/situation. This decision will be made by the NICC Management Team on a case-by-case basis.

### 9.1 Timely Warnings Policy and Procedures

All members of the campus community are encouraged to notify NICC of an Clery Act crime, which includes homicide/non-negligent manslaughter, manslaughter by negligence, sex offenses (rape, fondling, incest, and statutory rape), robbery, aggravated assault, burglary, motor vehicle theft, hate crimes, dating violence, domestic violence, and stalking. Crimes can be reported to NICC by dialing (402) 241-5908.

The Dean of Student Services(DSS) has the primary responsibility for issuing Timely Warnings on behalf of the NICC campus. DSS will notify students and employees about certain crimes in a manner that is timely, withholds the names of victims as confidential, and aids in the prevention of similar crimes. Although the Clery Act does not define the word “timely,” because the intent of a warning regarding a criminal incident(s) is to allow people to take precautions for their personal safety, a Timely Warning for a Clery Act-reportable crime that rises to the level of requiring the issuance of a Timely Warning should be issued as soon as pertinent information about the crime is available. Therefore, even if not all of the facts surrounding a criminal incident(s) are available, NICC may issue a Timely Warning for a Clery Act-reportable crime that meets the criteria set forth below.

### 9.2 Decision to Issue a Timely Warning

A Timely Warning will typically be issued for any Clery Act-reportable crime where such is reported to NICC or to a Campus Security Authority (who in turn reports such crime in a timely manner to NICC) and the crime is considered by NICC to represent a serious or continuing

threat to students and employees at the time of the report. The decision to issue a Timely Warning is made on a case-by-case basis, depending on the facts surrounding a Clery Act-reportable crime, and taking into account factors such as: the nature of the crime, the continuing danger to the campus community, the possible risk of compromising law enforcement efforts, whether a suspect has been apprehended and/or arrested, whether there has been a pattern or series of similar crime(s), and the potential risk of others becoming a victim of similar crimes. The decision-making authority to issue a Timely Warning is granted to NICC's Dean of Student Services and/or local Site Coordinators.

The decision to issue a Timely Warning, and when to issue it, also takes into consideration the following circumstances. If NICC or other law enforcement agency apprehends the suspect(s) of a Clery Act-reportable crime and the serious or ongoing threat to students and employees of the college community has been mitigated by the apprehension or arrest of such suspect(s), or if it is otherwise determined by a member of the NICC with Timely Warning decision-making authority that a serious or on-going threat does not exist, a Timely Warning may not be issued. If NICC were not notified of the Clery Act-reportable crime in a manner that would allow NICC to issue a "timely" warning for the college community, A Timely Warning may not be issued. This determination will be made on a case-by-case basis for each Clery Act-reportable crime. A general guideline for making this determination will take into consideration that a report of a Clery Act-reportable crime filed more than 10 days after the date of the alleged incident may not allow NICC to issue a "timely" warning to the college community. However, this 10-day general guideline does not prevent a Timely Warning from being issued if other Timely Warning decision-making factors warrant issuing a Timely Warning. This decision will be made on a case-by-case basis by a member of the Dean of Student Services and/or Site Coordinators with Timely Warning decision-making authority. If it is determined by the Dean of Student Services, that issuing a Timely Warning will jeopardize a criminal investigation, certain information may be withheld from the Timely Warning, or the issuance of a Timely Warning will be delayed until the criminal investigation is no longer likely to be jeopardized from the release of that information. Consideration will be given to notifying a crime victim(s) before a Timely Warning is issued to the campus community.

Under the Clery Act, the issuance of a Timely Warning is not required for Clery Act crimes that are reported to a pastoral counselor or professional counselor who is practicing within the scope of his/her license, or such person who is otherwise determined to be exempt from reporting under the Clery Act.

### 9.3 Issuing Timely Warnings

During normal business hours (generally Monday – Friday, 8:00 a.m. – 4:30 p.m.), any member of NICC who receives a report of a Clery Act crime that occurred on NICC campus Clery Act geography must bring said crime to the attention of one of the designated individuals who has Timely Warning decision-making authority (listed above in Section 9.2) as soon as feasibly possible. After normal business hours, on weekends, and during holidays, any member of the Site Coordinators who receives a report of a Clery Act crime that occurred on NICC campus Clery Act geography must bring said crime to the attention of the Dean of Student Services on duty. The person must provide notification of the reported Clery Act crime as soon as feasibly possible. If the Dean of Student Services is unavailable or cannot be reached after normal business hours, the following Dean of Student Services personnel must be contacted (in order) as soon as feasibly possible: the local On-Site Coordinator or the President of the College.

Once a decision has been made to issue a Timely Warning, the On-Call member of the DSS team will draft and initiate issuing the message. If these individuals are unavailable, another member of the NICC Management Team will draft the Timely Warning.

The following items may be included in a Timely Warning, if available, unless issuing any of this information would risk compromising law enforcement efforts:

- (1) description of the incident (type of crime, date occurred, and general location,
- (2) physical description of the suspect, if relevant and deemed necessary,
- (3) possible connections to previously reported incidents,

(4) information about the victim if relevant (limited to college affiliation, if injuries were sustained, and gender; no crime victim name or individually identifying information for or about the crime victim is allowed per federal law),

(5) information and tips that will promote safety and potentially aid in the prevention of similar crimes (i.e., crime prevention and safety tips),

(6) date and time the Timely Warning was issued, and

(7) NICC contact information.

Timely Warnings will typically be sent by email, using the Email-Alert system. In certain circumstances, as determined by the Timely Warning issuer, notifications may be sent by both email and text, using the Email-Alert system. Individuals who have access to the Email-Alert system for issuing Timely Warnings include Chief Information Officer and DSS personnel.

Additional methods of distributing Timely Warnings may include; (1) physical postings in impacted areas, (2) physical postings in general/common areas of campus buildings, and (3) electronic postings on the NICC webpage at [www.thenicc.edu](http://www.thenicc.edu) and the NICC App. It is the general policy of NICC to post Timely Warnings on the NICC webpage during the calendar year in which the Timely Warning is issued. Past Timely Warnings will be archived on the NICC webpage in the calendar year in which they were reported, unless otherwise determined by members of the NICC Management Team.

## 10.0 SEXUAL VIOLENCE PREVENTION AND RESPONSE

NICC is committed to creating and maintaining a community dedicated to the advancement, application, and transmission of knowledge and creative endeavors through academic excellence, where all individuals who participate in college programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation. Every member of the college community should be aware that NICC prohibits acts of sexual assault, relationship violence, and stalking that violate law and/or NICC policy.



For purposes of this Annual Security & Fire Safety Report, the term “Sexual Violence” includes incidents of sexual assault, relationship violence, and stalking of a sexual nature. The term “Prohibited Conduct” includes sexual harassment, sexual violence, and other conduct prohibited by the *NICC Sexual Violence and Sexual Harassment Policy (SVSH)*. The terms “Respondent” and “Complainant” are used in this document when referring to reports made to the Title IX Office and administrative proceedings. The terms “Suspect” and “Victim” are used in this document when referring to reports made to police and criminal proceedings.

In compliance with state and federal laws, NICC has adopted policies and procedures to prevent and respond to incidents of Sexual Violence involving members of our community. NICC will respond promptly and effectively to reports of Sexual Violence and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates this policy. Additionally, NICC provides educational programs dedicated to preventing Sexual Violence.

On an annual basis, NICC distributes written notification to students and employees that reaffirms NICC’s commitment to the *NICC SVSH Policy*. In this written notice, the President (or their designee) provides a link to NICC Title IX Office’s [SanAWarrior@thenicc.edu](mailto:SanAWarrior@thenicc.edu) which includes a list of contact information for campus and community support resources. Information about campus and community resources is also included in documentation distributed to all impacted individuals, and to attendees of training sessions provided by the Title IX Office.

The *NICC SVSH Policy* and Response Procedures are available online at <https://www.thenicc.edu/about/campus-security-report.php>. Additionally, documents with information about impacted parties’ rights, options, and resources as well as information about education/training, risk reduction, and reporting options are available at [SanAWarrior@thenicc.edu](mailto:SanAWarrior@thenicc.edu).

Note that on August 14, 2020, the U.S. Department of Education (DOE) issued new regulations that require colleges to follow a specific grievance process (DOE Grievance Process) in response to conduct covered by the regulations. The *NICC SVSH Policy* is more expansive than the DOE regulations, so colleges will only apply the DOE Grievance Process when required, in

response to DOE-Covered Conduct. See *NICC SVSH Policy* for information about what is considered DOE-Covered Conduct and when NICC will implement a DOE Grievance Process.

NICC's Title IX Officer is responsible for NICC's compliance with Title IX and NICC's investigations of Sexual Violence. Contact information for the Title IX Office: (402) 878-2380 ext. 103, [SanAWarrior@thenicc.edu](mailto:SanAWarrior@thenicc.edu).

## 10.1 Definitions of VAWA Crimes and Other Prohibited Conduct

The following are Violence Against Women Act (VAWA) crime definitions per the Clery Act and *NICC SVSH Policy*, as well as additional definitions of Prohibited Conduct per the *NICC SVSH Policy*.

### **Definitions per the Clery Act**

A felony or misdemeanor crime 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 in which the crime of violence occurred, 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 in which the crime of violence occurred.

### **Dating violence:**

Violence committed by a person who 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 the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- For the purposes of this definition –
  - Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - Dating violence does not include acts covered under the definition of domestic violence.

### Stalking:

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to –

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.
- For the purposes of this definition –
  - *Course of Conduct* means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by an action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
  - *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
  - *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

### Sexual assault:

An offense that meets the definition of Rape, Fondling, Incest, or Statutory Rape as used in the FBI's Uniform Crime Reporting program (UCR). Per the National Incident-Based Reporting

System User Manual from the FBI UCR Program, a sex offense is any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.

- Rape: 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. This definition of Rape now includes “Sodomy” and “Sexual Assault with an Object” crime definitions.
- 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 his/her age or because of his/her temporary or permanent mental incapacity.
- Incest: Sexual Intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

### **Definitions per the NICC SVSH Policy**

#### **Relationship violence:**

- Relationship violence is:
  - Physical violence toward the Complainant or a person who has a close relationship with the Complainant (such as a current or former spouse or intimate partner, a child or other relative), or
  - Intentional or reckless physical or non-physical conduct toward the Complainant or someone who has a close relationship with the Complainant (such as a current or former spouse or intimate partner, a child, or other relative) that would make a reasonable person in the Complainant’s position fear physical violence toward themselves or toward the person with whom they have the close relationship, that is by a person who is or has been in a spousal, romantic, or intimate relationship

with the Complainant, or who shares a child with the Complainant, and that is part of a pattern of abusive behavior by the person toward the Complainant.

- Physical violence is physical conduct that intentionally or recklessly threatens the health and safety of the recipient of the behavior, including assault.
- Patterns of abusive behavior may consist of or include non-physical tactics (such as threats, isolation, property destruction, abuse of pets, economic control, displaying weapons, degradation, or exploitation of a power imbalance).
- The nature of the relationship between the Complainant and Respondent is determined by the length and type of relationship, and the frequency of interaction between them. Relationship violence includes both “dating violence” and “domestic violence.”
- Conduct by a party in defense of self or another is not Relationship Violence under the *NICC SVSH Policy*. If either party asserts that they acted in defense of self or another, the Title IX Officer will use all available, relevant evidence to evaluate the assertion, including reasonableness of the defensive actions and which party is the predominant aggressor.

#### Sexual assault:

- Sexual Assault – Penetration: Without the consent of the Complainant, penetration, no matter how slight, of:
  - The Complainant’s mouth by penis or other genitalia; or
  - The Complainant’s vagina or anus by any body part or object.
- Sexual Assault – Contact: Without the consent of the Complainant, intentionally:
  - Touching the Complainant’s intimate body part (genitals, anus, groin, breast, or buttocks);
  - Making the Complainant touch another or themselves on any intimate body part; or
  - Touching the Complainant with one’s intimate body part whether the intimate body part is clothed or unclothed.

**Note:** This definition encompasses a broad spectrum of conduct, not all of which is sexual violence. So, the Title IX Officer must sometimes determine whether an allegation should be charged as sexual violence or sexual harassment.

Conduct that meets the definition of both Sexual Assault – Contact and Sexual Assault-Penetration will be charged as Sexual Assault – Penetration.

**Note:** *Sexual Assault – Penetration and Sexual Assault – Contact* is aggravated when they include the following:

- Overcoming the will of the Complainant by: force (the use of physical force or inducing reasonable fear of immediate or future body injury); violence (the use of physical force to cause harm or injury); menace (a threat, statement, or act shoring intent to injure); duress (a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause reasonable person of ordinary sensitivity, taking into account all circumstances including age an relationship (including a power imbalance), to do or submit to something that would not otherwise do); or deliberately causing the Complainant to be incapacitated (for example, through drugs or alcohol);
- Deliberately taking advantage of the Complainant’s incapacitation (including incapacitation that results from voluntary use of drugs or alcohol); or
- Recording, photographing, transmitting, or distributing intimate or sexual images of the Complainant without the Complainant’s prior knowledge and consent.

#### Stalking of a sexual nature:

Repeated conduct directed at a Complainant (e.g., following, monitoring, observing, surveilling, threatening, communicating or interfering with property), of a sexual, romantic, or other sex-based nature or motivation, which would cause a reasonable person to fear for their safety, or the safety of others, or to suffer substantial emotional distress. Stalking that is not sex-based is addressed by other NICC policies including but not limited to the Student Conduct Code.

Other prohibited behavior:

- Invasions of Sexual Privacy
  - Without a person's consent, watching or enabling others to watch that person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy;
  - Without a person's consent, making or attempting to make photographs (including videos) or audio recordings, or posting, transmitting, or distributing such recorded material depicting that person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy; or
  - Using depictions of nudity or sexual activity to extort something of value from a person.
  - Sexual intercourse with a person under the age of 18.
  - Exposing one's genitals in a public place for the purpose of sexual gratification.
  - Failing to comply with the terms of a no-contact order, a suspension of any length, or any order of exclusion issued under the *NICC SVSH Policy* or other NICC policy.
  - Engaging in Retaliation. Retaliation is an adverse action against a person based on their report or other disclosure of alleged Prohibited Conduct to an NICC employee, or their participation in, refusal to participate in, or assistance with the investigation, reporting, remedial, or disciplinary processes provided for in the *NICC SVSH Policy*. An adverse action is conduct that would discourage a reasonable person from reporting Prohibited Conduct or participating in a process provided for in the *NICC SVSH Policy*, such as threats, intimidation, harassment, discrimination, and coercion. Good faith actions lawfully pursued in response to a report of Prohibited Conduct (such as gathering evidence) are not, without more, retaliation.

Consent:

Consent is *affirmation, conscious, voluntary, and revocable*. Consent to sexual activity requires of each person an affirmation, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person to ensure they have the affirmative consent of the other to engage in sexual activity. Lack of protest, lack of resistance, or silence do not, alone, constitute consent. Affirmative consent must be ongoing and can be revoked at any time during sexual activity. The existence of a dating responsibility or past sexual relations between the Complainant and Respondent will never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent to prior conduct).

The Respondent's belief that the Complainant consented shall not provide a valid excuse unless the belief was actual and reasonable. In making this determination, the fact finder will consider all of the facts and circumstances the Respondent knew, or reasonably should have known, at the time. In particular, the Respondent's belief is not a valid defense where:

- The Respondent's belief arose from the Respondent's own intoxication or recklessness;
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or
- The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:
  - Asleep or unconscious;
  - Unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; or
  - Unable to communicate due to a mental or physical condition.

**Note:** Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking, using drugs, or taking medication.

(This definition of Consent is used to determine if the NICC SVSH Policy has been violated).



## 10.2 EDUCATIONAL PROGRAMS AND CAMPAIGNS TO PROMOTE THE AWARENESS AND PREVENTION OF SEXUAL VIOLENCE

NICC is committed to the prevention of Sexual Violence (sexual assault, relationship violence, and stalking) through regular and ongoing education and awareness programs. All NICC students and employees are provided with programming, initiatives, strategies, and campaigns intended to create awareness and prevent and end Sexual Violence, and to train individuals on how to best respond to disclosures. These programs are designed for the NICC community, and many ongoing training modules are tailored for specific audiences in high-risk groups and student leadership groups. These programs are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and utilize evidence-based and research-informed approaches to prevention education.

Incoming students and new employees receive primary prevention and awareness education as part of their transition to campus. Returning students and current employees receive ongoing training and related programs throughout the year. NICC's education and prevention programs reflect comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end sexual assault, relationship violence, and stalking. These programs are also designed to consider environmental risk and protective factors as they affect individuals, relationships, institutions, communities, and society.

NICC's Academic Dean and Title IX Offices are primarily responsible for the implementation of Sexual Violence educational programs and campaigns. Title IX often collaborate with other departments (e.g., Orientation Programs, Alcohol and Drug Program, Student Health, and Dean of Student Services) to provide training for students and employees.

### **Sexual Violence Prevention and Response Education**

Primary prevention education focuses on preventing violence before it begins by providing key messages to the entire campus community. Secondary prevention education focuses on preventing violence before it occurs and focuses efforts toward "high-risk" communities that

experience higher rates of Sexual Violence. Tertiary prevention focuses on providing survivor resources and advocacy. Ongoing prevention and awareness campaigns include programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to ad skills for addressing Sexual Violence.

These campaigns use a range of strategies to reach and educate audiences throughout NICC about Sexual Violence and how it can be prevented. Concepts covered in these initiatives include defining sexual assault, relationship violence, and stalking; developing an understanding of communicating consent; building bystander intervention and risk reduction skills; and identifying and challenging social norms that normalize violence.

Bystander intervention consists of safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is risk of an occurrence of Sexual Violence. It includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

Risk reduction consists of options designed to decrease perpetration and bystander inaction and increase empowerment for victims in an effort to promote safety and help individuals and communities address conditions that facilitate violence. Although risk reduction is an element of educational programming and environmental strategies at NICC, NICC focuses on educating campus community members about the role each person plays in creating culture change and preventing violence, rather than focusing on risk reduction strategies that can be taken by potential victims/survivors.

College staff and faculty are provided with education and training focused on increasing their understanding of Sexual Violence, reporting responsibilities, trauma, campus resources, and how to respond to disclosures of prohibited behavior, as well as information regarding NICC's investigative and disciplinary procedures for reports of Sexual Violence. Specifically, staff and faculty are taught trauma-informed ways to support someone who discloses to them, connect a survivor with confidential advocacy services, and fulfill their mandatory reporting obligations.

## College Curriculum

The college curriculum is tailored to each audience, educates our community about Sexual Violence, how to prevent it, the role of intervention, and available resources. Primary and ongoing education for students and employees includes the following information:

- A clear statement that NICC identifies sexual assault, relationship violence, and stalking as Prohibited Conduct, as those terms are defined by the Clery Act.
- Definitions of sexual assault, relationship violence, and stalking, as defined in the local jurisdiction and in the *NICC SVSH Policy*, as well as examples of behaviors that constitute such offenses.
- Definition of consent in reference to sexual activity, as that term is defined in the local jurisdiction and in the *NICC SVSH Policy*.
- Social norms, including the attitudes and beliefs that normalizes violence.
- Safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is risk of Sexual Violence against a person other than the bystander.
- Information on risk reduction so that students and employees may recognize signs of abusive behavior and understand how to avoid potential attacks.
- How to respond to Sexual Violence using methods that acknowledge the impact of violence and trauma on survivor's lives.
- Information about the procedures utilized when prohibited behavior is reported and the subsequent investigatory and disciplinary proceedings involved.
- Local resources, including confidential support for survivors of Sexual Violence and appropriate services for those accused of Sexual Violence.
- Rights and options for reporting Sexual Violence.

## Primary Educational Programs and Campaigns

Sexual Violence awareness and prevention training is mandatory for all incoming students (freshmen and transfer students), and new employees.

NICC utilizes varied teaching methods that include research-informed and evidence-based curricula with multiple learning opportunities. This ensures that students and employees have several exposures to the training content in order to improve educational outcomes. The methods include written materials, online compliance training, videos, peer education, and in-person education and training sessions.

#### Primary education for students:

All incoming undergraduate students receive mandatory prevention education. New freshmen and transfer students are required to attend an informative presentation led by a counselor staff member at every registration. This presentation includes extensive information about Sexual Violence, including *NICC SVSH Policy* definitions, identification, prevention, response; confidential advocacy services; reporting options; and by-stander intervention techniques.

#### Primary education for employees:

All incoming non-supervisory staff employees and non-supervisory academic appointees are required to complete the NICC Sexual Violence and Sexual Harassment Prevention Training for Staff course, training for non-supervisory staff, within the first six weeks of hire. This course provides participants with definitions of behavior outlines in the *NICC SVSH Policy*, information on reporting requirements, and links to College resources.

All incoming faculty and supervisory staff are required to complete Sexual Violence and Sexual Harassment Prevention Training for Supervisors and Faculty course within 90 days of hire. This training fulfills NICC requirements and provides participants with definitions of behaviors outlined in the *NICC SVSH Policy*, information on reporting requirements, and links to College resources.

### Ongoing Educational Programs and Campaigns

Ongoing prevention and awareness programming that expands on the primary education new students and employees receive is offered throughout the academic year, and NICC provides active notification about these programs.

### Ongoing education for students:

NICC provides multiple opportunities for continuing students to participate in ongoing prevention and awareness education through the academic year. Ongoing prevention education is designed to ensure students expand their understanding of the NICC Curriculum's Core Content Areas.

Ongoing education relies on awareness campaigns to remind students of the training and educational opportunities available to them. NICC advertises a quarterly calendar of programs via social media, and the college's website.

NICC hosts multiple virtual awareness campaigns throughout the year, including events during Domestic Violence Awareness Month, Stalking Awareness Month, and Sexual Assault Awareness Month (SAAM), as well as tabling events throughout the year.

NICC also raises awareness about Sexual Violence, and available resources, through online and printed materials posted and distributed throughout the year. The information in these guides include important definitions, summaries of NICC policies and response procedures for DOE-covered conduct and conduct and prohibited under the *NICC SVSH Policy*, complainant reporting options, information on advocacy for complainants and services for respondents, instructions on how to respond to disclosures, information on accommodations, rights of impacted parties, campus and community resources, and an overview of supportive and other measures.

NICC offers the following ongoing educational programs and training opportunities for students throughout the year.

**Title IX 101:** This workshop is designed to provide students with information on how to support a friend, peer, or classmate who is impacted by Sexual Violence, and connect them with confidential services. The workshop was created based on research showing that survivors often feel more comfortable disclosing their experiences to friends, who in turn, then play a critical role in connecting survivors to resources. This workshop provides students with the tools to identify Sexual Violence, support a friend, and connect them to counseling services. These programs are all achieved with student staff through outreach and tabling efforts for specific communities.

### **Preventing Violence through Bystander Intervention:**

The goal of this workshop is to provide participation with the knowledge to recognize potential signs of Sexual Violence and skills to intervene as bystanders. This workshop addresses common barriers that bystanders often face and provides tools to intervene in a variety of ways.

Components of NICC's Bystander Intervention Program include student bystander training, bystander intervention overview workshops, promotional campaigns, and educational programs.

**Title IX Overview:** This training provides participants with an overview of the scope of Title IX and the role of NICC's Title IX Office. It identifies Prohibited Conduct under the *NICC SVSH Policy* and reviews the Title IX response options and investigation and adjudication procedures. This training also provides participants with information on reporting responsibilities and campus and community resources.

### **Ongoing education for employees:**

Online compliance training opportunities for employees are provided using interactive modules via Vector Solutions. Various NICC departments, such as Title IX, also provide supplemental training and prevention education sessions to employees upon request. These sessions include training on specific topics, presentations at workshops, participation in panel discussions, and

involvement in Questions and Answers (Q&A) sessions. In addition, Title IX provides training accommodation to employees who request exemptions to the mandatory online courses.

NICC offers the following supplemental training options for employees in order to complement the campus's mandatory Sexual Violence and Sexual Harassment Prevention Training program.

**Hearing Officer Training:** This training is designed specifically for hearing officers involved in the Title IX process. It provides hearing officers with information about Prohibited Conduct under the *NICC SVSH Policy*; procedures set forth in the Student Investigation and Adjudication Frameworks; the relevance of trauma in the context of Sexual Violence, including the neurobiology of trauma, its impacts on reporting, and its influence on the hearing process; how to understand and address implicit bias; and the hearing process, including the rules of conduct, the rights and expectations of the parties, the hearing officer's charge, a breakdown of the stages of the hearing process, and a review of the standard of deliberation.

**Title IX Overview:** This training provides participants with an overview of the scope of the Title IX and the role of the NICC Title IX Office. It identifies Prohibited Conduct un the *NICC SVSH Policy* and reviews Title IX response options and investigation and adjudication procedures. This training also provides participants with information on reporting responsibilities and campus and community resources.

- In collaboration with the Clery Act Compliance Office (Dean of Student Services), Title IX offers a variation of this training called Title IX Overview and Clery CSA Reporting, in which Title IX presents content from the Title IX Overview training immediately before the Clery Act Compliance Coordinator provides information about CSA reporting requirements.
- In collaboration with the Clery Act Compliance Office, Title IX offers a version of this training called Title IX and Clery Overviews. This training provides participants with an overview of Title IX and the Clery Act. The Title IX portion of the training provides participants with the content from the Title IX Overview, and the Clery portion explores the Clery Act's history, goals, and requirements; reviews how information is shared;

describes the campus Email-Alert system and the daily crime log; defines Clery crimes; explains how to make a Clery report and what to report on; and provides resource information.

**Title IX Reporting Responsibilities:** This training provides in-depth information regarding Title IX scope and services, Responsible Employee reporting obligations, confidential advocacy services, and Title IX response processes. It includes what to do when receiving a disclosure of sexual harassment, Sexual Violence, and/or other prohibited behavior; the impacts of receiving a disclosure; when and how to make a report to Title IX; and what happens after a report is made.

- In collaboration with the Dean of Student Services, Title IX offers a variation of this training called Reporting Responsibilities, in which Title IX provides the content from the Title IX Reporting Responsibilities training immediately before the Clery Act Compliance/Safety Officer facilitates a training on the Clery Act and CSA reporting requirements.
- Title IX facilitates a variation of this training called Title IX Reporting Responsibilities & Trauma-Informed Response. In addition to covering the same material provided in the Title IX Reporting Responsibilities training, this training also includes a section on in-depth overview of their services, how they advocate for individuals impacted by trauma, and the overarching issue of Sexual Violence at NICC. The session discusses the influential role NICC staff members have, how trauma impacts survivors, how to respond to survivors with compassion, and how to connect with a confidential advocate.

**Title IX & SVSH Policy Overview:** This training provides an overview of Title IX and the *NICC SVSH Policy*. It includes a review of Title IX scope, services, and compliance training; a summary of the *NICC SVSH Policy* and the definitions of Prohibited Conduct under the Policy; information related to Responsible Employee designation and how to make a report to Title IX; a summary of the procedures for responding to reports of Prohibited Conduct; resource information; and an exploration of what happens after a report is made to Title IX.



### 10.3 IMMEDIATE ASSISTANCE AND PROCEDURES TO FOLLOW FOR VICTIMS OF SEXUAL VIOLENCE

The following are procedures victims of Sexual Violence are encouraged to follow.

#### **Safety**

Victims of Sexual Violence are strongly encouraged to immediately contact the Dean of Student Services and/or the Site Coordinator to address their immediate safety needs. The DSS is located in the Macy Campus. Available during business hours of 8:00 a.m. – 4:30 p.m. Call (402) 241-5908. If this is an emergency and after hours call 911 to contact the local law enforcement agency.

#### **Confidential Support Services**

The Morningstar Counseling Office offers confidential assistance: (402-417-3884). Counseling office will address immediate needs by providing assistance in obtaining a sexual assault forensic exam and/or reporting to law enforcement. In addition, you may access the following off campus services:

- **Winnebago Domestic Violence Program**  
PO Box 687  
Winnebago, NE 68071  
Phone: 844-823-6240
- **Morningstar Counseling**  
Belinda Hinojos, PhD  
Phone: 402-417-3884  
Email: [dr.hinojos@morningstar-counseling.com](mailto:dr.hinojos@morningstar-counseling.com)
- **Nebraska Coalition to End Sexual and Domestic Violence**  
Phone: 402-476-6256  
<https://www.nebraskacoalition.org>
- **Ponca Tribe Domestic Violence Program**  
Andrea Rodriguez, Director  
Phone: 712-258-0500

<https://www.poncatribene.org/services/domestic-violence>

- **Council on Sexual Assault for Woodbury County**  
**Lisa M. Greely**  
**Phone: 712-635-5244**

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, professional credentials, or official designation, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

The Employee Assistance Program is available to help free of charge and may be consulted on an emergency basis during normal business hours.

### **Preserve Evidence**

Even if a victim is not sure about pursuing an investigation or sanctions against the alleged suspect, they are encouraged to preserve evidence. It is important to preserve physical evidence because it can assist in criminal prosecution or in obtaining a protection order. Victims of sexual assault are encouraged to save anything that might contain the suspect's DNA. Efforts to do this include limiting the use of the restroom, and not bathing or showering, changing clothes, combing hair, cleaning up the crime scene, moving anything the suspect might have touched (until the evidence has been collected).

Evidence of a sexual assault is most effectively collected via a sexual assault forensic exam. Victims of Sexual Violence (sexual assault, relationship violence, and stalking) can also preserve evidence by saving text messages, instant messages, voice mail and call logs, social networking pages, photographs, and other documents that could be useful to Police investigators.

### **Sexual Assault Response Team Exams**

A Sexual Assault Response Team (SART) is a multi-disciplinary team comprised of individuals from multiple county agencies. The purpose of a SART is to provide a collaborative response to

individuals who have been sexually assaulted or sexually abused. Services offered through the SART include forensic medical exams, forensic interviews, emotional support, advocacy, counseling referrals, prophylaxis for sexually transmitted infections and pregnancy, and other support services for the individual and their family members.

A SART exam is a forensic medical exam conducted by a forensic nurse examiner. Due to potential evidence degradation over time, it is recommended that victims obtain a SART exam as soon as possible. SART exams are free and do not require health insurance. State and local funds cover the cost of an exam. Victims have the right to be accompanied to their medical exam by a sexual assault advocate and another support person of their choosing. It is important to note that any health center or physician treating the victim of a violent crime is obligated by law to report the crime to the Police.

Referrals for a SART exam are made by law enforcement personnel or a sexual assault advocate. An exam can be authorized without law enforcement involvement, but Police still play a role in booking evidence. A SART exam initiated by an advocate only, in which the examinee's personally identifiable information is not shared with Police, is referred to as a "Restricted Forensic Medical Exam." A victim may arrange to have a SART exam through the following avenues:

**Police Report:** When a Police report is made, the law enforcement agency can authorize a SART exam. NICC or a law enforcement agency personnel will then transport the victim to the exam location.

**No Police Report:** A Police investigation is not required to obtain an exam. If a victim does not wish to file a report with law enforcement, but wants to have physical evidence collected, the victim may receive a SART exam by contacting NICC who will then transport the victim to the exam location. The exam will help preserve any existing evidence in case the victim decides at a later date to file a Police report for investigation.

## Medical Attention

Health providers can examine and treat physical injuries and provide pregnancy tests and testing for sexually transmitted diseases. NICC's Student Health does not conduct sexual assault forensic exams but does provide medical care for all registered students who have not waived their Student Health insurance coverage. Employees, and students who have waived Student Health insurance, may obtain medical attention through their medical provider. It is important to note that any health center or physician treating the victim of a violent crime is obligated by law to report the crime to the Police. NICC will protect the privacy of individuals involved in a report of Sexual Violence to the extent possible under law and NICC policy.

### 10.4 Reporting Options

Confidential campus and community resources are available to anyone impacted by Sexual Violence. Confidential resources provide a private space for an impacted party to discuss the incident and learn about reporting options, the NICC conduct process, and legal processes, without instigating an investigation or action by NICC or law enforcement. Confidential resources are not Responsible Employees and need not report information they receive while acting in their confidential capacity to the Title IX Office. Confidential resources are the Morningstar Counseling Services and serve as the designated Title IX Advocacy (Note that confidential resources are only exempt from reporting to the Title IX Office; they may have other mandatory reporting obligations under the Clery Act Campus Security Authority (CSA), and other policies or laws that require reporting to campus or local law enforcement, or Child Protective Services.)

Any member of the NICC community may report conduct by a student that may constitute Sexual Violence to any supervisor, manager, the Title IX Office, and/or the Title IX Officer. Supervisors, managers, and other designated "Responsible Employees" must promptly forward such reports to the Title IX Officer or other staff member in the Title IX Office charged with reviewing and investigating Sexual Violence.

Reporting one's personal experience with Sexual Violence to a Responsible Employee, Title IX, the Title IX Officer, or law enforcement is the decision of the impacted party. If an act of Sexual Violence is reported to a non-confidential party at NICC who is designated as a Responsible Employee, that employee must notify Title IX, which will make a determination as to whether or not a form college investigation may be necessary to address the concerns reported. (NICC will strive to honor the stated wishes of the complainant concerning whether to move forward with an investigation and take into consideration any safety concerns for the involved individuals. There may be circumstances, however, in which NICC may need to move forward against the complainant's wishes, or in which NICC may determine that an investigation will not occur despite the complainant's wish to pursue an investigation.)

NICC encourages early reporting of incidents to either law enforcement or Title IX. While there is no time limit on the reporting of incidents to NICC, NICC encourages early reporting as timeliness increases the likelihood of substantiating claims and adjudicating charges. In addition, early reporting also increases the likelihood that NICC will be able to exercise jurisdiction over respondents who might have otherwise graduated or since left campus due to the passage of time.

Even if a clear decision has not been made by the impacted party as to whom to report or whether to report at all, it is still important for the impacted party to preserve evidence that might be used in future investigations or for obtaining a protection order. This includes limiting the use of the restroom, and not bathing or showering, changing clothes, combing hair, cleaning up the crime scene, or moving anything the suspect might have touched (until the evidence had been collected). Evidence is most effectively collected via a sexual assault forensic exam.

Additional efforts may also include writing down details about the incident(s), saving any communications (electronic, voice, text, or otherwise) from involved parties, and capturing a copy of any relevant online information (social media posts or messages).

Parties impacted by Sexual Violence may pursue any of the following reporting options:

## 1. **Make No Report**

Although NICC encourages the timely reporting of all crimes, individuals impacted by Sexual Violence are not required to report to Police, Title IX, or any other campus office.

Understanding that reporting is an intensely personal process, NICC respects the right of the impacted party to decide whether to report. (Seeking support through counseling does not trigger a report to law enforcement or NICC; a report to Local Law Enforcement Agencies will not be made unless the individual impacted by Sexual Violence chooses to do so.)

## 2. **Report to Law Enforcement and Request Prosecution**

Impacted parties have the right to report incidents of Sexual Violence to law enforcement. If the incident happened on NICC property, a report may be made to the Dean of Student Services (NICC). If the incident happened off campus, a report may be made to the corresponding local law enforcement agency or NICC. (Any policy agency can receive a report and will assist the victim and make sure the appropriate agency becomes involved.)

NICC provides a timely response for all reports of Sexual Violence. In addition to emergency response, NICC conducts trauma-informed investigations of Sexual Violence. The preservation of evidence is essential to the successful investigation and prosecution of Sexual Violence. NICC personnel have been specifically trained in the proper handling, identification, collection and preservation of such evidence. NICC can assist victims by arranging for a forensic exam in order to provide admissible evidence when the person reporting the act of Sexual Violence desires prosecution through the criminal justice system. If the impacted party was under the influence of alcohol or drugs, this may be relevant to the case and should be disclosed to the Police.

Victims of Sexual Violence may request that the Police not release personally identifiable information such as name, address, phone numbers, and date of birth, in publicly available record keeping. This will ensure a degree of confidentiality but does not guarantee complete anonymity. Per the Violence Against Women Act of 1994, the Dean of Student Services will

not release personally identifiable information in alerts that are issued to the campus community, nor information released to the media.

Although it is never too late to file a Police report, it is highly recommended to report Sexual Violence as soon as possible in order to allow for the collection of evidence. When a report is made to NICC, an investigating officer trained in Sexual Violence cases will be dispatched to the scene and will explain the Police procedures. If it is determined that a SART exam is advisable, the Police will assist with transportation and contacting the Sexual Assault Nurse Examiner, who will conduct the exam. The officer will inform the victim that they have the right to have a support person present during the investigative interview. Detectives will assist with the investigation and proper evidence collection.

At the conclusion of the Police investigation, the case may be forwarded to the Thurston District Attorney's (DA's) office for review. The DA's office makes the final decision whether to criminally prosecute the suspect. If the DA's office does not move forward with the complaint, the victim may request that a Victim Advocate from the Victim-Witness Assistance Program accompany them to the DA's office for a meeting to discuss the decision.

NICC encourages the NICC community, including students, to immediately contact them by dialing (402) 241-5908 to report Sexual Violence.

### **File a Criminal Report with Law Enforcement without Requesting Prosecution**

In some cases, reports to law enforcement may be made for documentation purposes only. Ultimately, the decision to prosecute will be made by the District Attorney, although the cooperation of the victim is considered necessary.

### **3. File a Complaint with the NICC Title IX Office**

NICC encourages all complainants to report acts of Sexual Violence to Title IX as soon as possible after it occurred, regardless of whether it occurred on or off campus, in order for appropriate and timely action to be taken. Complainants may request an NICC investigation

from Title IX, whether or not a report has been filed with the Police. Title IX is the NICC office responsible for conducting neutral, administrative (i.e., non-criminal) investigations of all reports of Sexual Violence to determine if the *NICC SVSH Policy* has been violated.

Title IX investigators meet with complainants to discuss their rights, options, and any supportive measure appropriate. If a complainant wishes to make a report to Title IX, Title IX investigators will conduct an initial assessment to determine the most appropriate response. The complainant's desired response and outcome will be considered. If an investigation occurs, Title IX will produce an Investigative Report based on the preponderance of the evidence standard, and for that report to the appropriate campus official(s) for adjudication.

A note about student amnesty: Student complainants and witnesses who participate in an investigation of Sexual Violence will not be subject to disciplinary sanction for a violation of the NICC student conduct policy at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

Any complainant who reports Sexual Violence, regardless of whether the offense occurred on or off campus, will be provided with a written explanation of their rights, options, and responses. The NICC Title IX *Rights, Options, and Resources for Impacted Parties* guide, provided to all complainants and respondents, includes information about reporting, safety, accommodations, resources, and the NICC response procedures for violations of policy, as well as the rights and responsibilities of complainants and respondents. It also includes contact information for counseling, health assistance, mental health assistance, victim advocacy, legal assistance, visa and immigration assistance, student financial aid assistance, and other services available both on campus and in the community, as well as contact information for offices that can provide assistance with supportive, remedial, and other protective measures, and information about how to request these measures.



The Title IX Officer, in coordination with the Case Management Team, will make an immediate assessment concerning the health and safety of the complainant (and other affected parties) and the campus community, and implement supportive measures or safety measures deemed immediately necessary.

Many campus offices can assist complainants with obtaining supportive measures; they include the Academic Dean, Dean of Student Services, Human Resources, Title IX, and others. Supportive measures include No-Contact Orders; safety escorts; and changes to academic, living, transportation, and working situations. Complainants with questions or concerns about their ability to obtain requested support, remedial, or other protective measures should contact Title IX.

Title IX is available Monday through Friday, 8:00 a.m. to 4:30 p.m.: (402) 241-5943, [SanAWarrior@thenicc.edu](mailto:SanAWarrior@thenicc.edu).

#### **4. Report to Both Law Enforcement and Title IX**

Due to privacy laws and jurisdictional issues, law enforcement is not always able to share reports of Sexual Violence with NICC. Therefore, if the victim has reported to law enforcement and also desires NICC to review the case for investigation and possible adjudication, they must also report their complaint to Title IX. The two fact-finding investigations will be coordinated to the best of the Title IX investigator's abilities. At the request of law enforcement, the NICC investigation may be delayed as needed to meet any specific needs of the criminal investigation. Such a delay may be cause for extending the NICC timelines to complete the process. Delays will be communicated to all parties and documented by the Title IX investigator.

#### **5. Make an Anonymous Report**

Reports can be made without names included. Without any identifying information, however, NICC may be unable to respond fully to the reported incident. In most cases, it is unlikely

that an anonymous report to Title IX would lead to an investigation or disciplinary action against the alleged respondent.

## 10.5 Supportive, Remedial, and Other Protective Measures

Regardless of whether a party impacted by Sexual Violence pursues an investigation with Police or Title IX, upon request, NICC, Title IX, and personnel will help impacted parties obtain supportive and remedial measures. Supportive measures are services, accommodations, or other measures implemented to restore or preserve a party's access to an NICC program or activity or deter Prohibited Conduct. Remedial measures are services, accommodations, and other measures put in place as a result of a completed Title IX resolution process.

Parties with questions or concerns about their ability to obtain requested supportive measures should contact Title IX at (402) 241-5943. Title IX will grant, facilitate, and ensure the enforcement of reasonable supportive measures if the complainant requests them and if they are reasonably available, regardless of whether the complainant chooses to report the crime to NICC or other law enforcement agency.

Title IX will tailor supportive measures to the circumstances of each case, minimize burdens on the parties, and avoid depriving the parties of educational and employment opportunities as much as practicable. In matters involving DOE-Covered Conduct, the Title IX Officer will ensure supportive measures are non-disciplinary and non-punitive, and that they do not unreasonably burden a party.

Title IX will maintain as confidential any supportive measures provided to the parties, to the extent such confidentiality does not impair Title IX's ability to provide the measures. In some cases, Title IX may need to disclose some information about an impacted party to a third party to provide necessary accommodations.

### **Supportive Measures for Students**

Parties may contact Title IX (402) 241-5943 to request academic assistance, such as accommodation for missed classes or exams, or help with rearranging course schedules.

Supportive measures for students include NICC-issued No-Contact Orders. Student complainants may request a No-Contact Order from the Dean of Student Services if the respondent is an NICC student. This may be coordinated through the Academic Dean's Office. The Academic Dean will meet with the involved parties separately when issuing a No-Contact Order. A No-Contact Order may be requested whether or not a report has been made to law enforcement or Title IX. The Academic Dean, however, is required to share the information with Title IX. Persons in need of assistance with obtaining, enforcing, or getting information about No-Contact Orders may contact the Academic Dean (402) 241-5900.

### **Supportive Measures for Employees, Including Student Employees**

To enhance the safety and wellness of an impacted party, accommodation to alter an individual's schedule, to change a work location, or to access leave balances to cover absences that relate to matters covered by the *NICC SVSH Policy* may be requested. These reports should be made to the individual's direct supervisor and may be coordinated through Title IX, regardless of whether or not a formal report is made to Title IX or law enforcement.

### **Other Protective Measures**

Non-college (NICC) protective measures, including Emergency Protective Orders and Civil Protection Orders, are available to complainants concerned about their safety. For more information about obtaining and enforcing these protective measures, contact the Academic Dean Office (402) 241-5900 or Title IX (402) 241-5943. NICC will comply with any orders that are obtained.

#### **Emergency Protective Order:**

Impacted parties may request an Emergency Protective Order from the Academic Dean, or any law enforcement agency, if there is an immediate threat to their safety and a Police report is

being taken. Before the expiration of the Emergency Protective Order, or in all other situations in which a protective order is needed, a Temporary Restraining Order should be requested.

#### Civil protection order:

Impacted parties may request a civil harassment restraining order if they are being harassed, stalked, abused, or threatened by someone they have not dated and do NOT have a close relationship with (anyone not included in the list under domestic violence protections).

#### Resources:

Persons in need of assistance with obtaining, enforcing, or getting information about protective orders may contact any of the following organizations:

- Thurston County Sheriff Office  
106 5<sup>th</sup> Street, Pender, NE 68047 Phone: (402) 385-3018
- Knox County Sheriff's Office:  
206 Main, Center, NE 68724 Phone: (402) 288-4261
- South Sioux City (NE) Police Department:  
City Hall, 1615 1<sup>st</sup> Ave., South Sioux City, NE 68776 Phone: 402-494-7512

#### 10.6 Protecting Victim Confidentiality

NICC recognizes the sensitive nature of incidents of Sexual Violence (sexual assault, relationship violence, and stalking of a sexual nature). NICC is committed to protecting the privacy of any individual who reports experiencing Sexual Violence. Different officials and personnel are able to offer varying levels of privacy protection to complainants. Personally identifiable information about the complainant will be considered confidential and only shared with persons who have a specific need-to-know (i.e., those who are investigating/adjudicating the report or those involved in providing support services to the complainant, including accommodations).

**Reports made to confidential resources:** Confidential resources may receive information from complainants without revealing any identifying information about them to anyone else at NICC, including Title IX. Except under certain circumstances (such as risk of imminent harm to the complainant or others), complainants can seek assistance and support from Morningstar Counselors without triggering a Title IX or law enforcement investigation.

**Reports made to a Responsible Employee:** Any NICC employee (staff or faculty) who is not a Confidential Resource and who receives, in the course of employment, information that a student has suffered Sexual Violence must promptly notify Title IX. This includes all student employees when disclosure is made to them in their capacities as employees.

**Reports made to Title IX:** Title IX makes every reasonable effort to protect the privacy of all individuals throughout all phases of the complaint resolution process. While Title IX cannot guarantee absolute confidentiality, disclosure of facts to parties and witnesses is limited to what is reasonably necessary to conduct a fair and thorough investigation or to deliver resources or support services to the parties. Also, any Title IX Investigative Report is redacted to protect personally identifiable and confidential information.

**Reports made to law enforcement:** A victim who reports to NICC may request confidentiality. As a “Confidential Victim,” the victim’s name and other personally identifiable information will not appear in public records. If a victim consents NICC will share the victim’s information with Title IX so that the victim can be provided with information regarding their rights, options, and available resources.

**Case Management Team (CMT):** NICC’s Case Management Team is responsible for maintaining consistent coordination of all reported Sexual Violence cases, ensuring all cases are addressed promptly and equitably, coordinating supportive measures, and ensuring the campus’s response is trauma informed. This team, comprised of the Title IX Officer or designee and representatives from NICC, Academic Dean, Dean of Student Services, Human Resources, Academic Personnel, and Site Coordinators, upholds the privacy of the involved cases.

**Supportive and Remedial Measures:** NICC will maintain as confidential any supportive or remedial measures provided to parties, to the extent such confidentiality does not impair NICC's ability to provide the measures. In some cases, NICC may need to disclose some information about the impacted party to a third party to provide necessary accommodations. Title IX is responsible for determining what information about a party should be disclosed and will make this decision based on the need to properly provide the impacted party with supportive or remedial measures.

**Adjudication:** Disclosures by the Director of Students Services, the respondent's Supervisor or Department Chair, the Academic, or other decision-makers are limited to what is reasonably necessary to conduct the fair and compliant adjudication of cases or to deliver resources or support services to the parties. Any disclosures will be made consistent with NICC policy and state and federal law.

**Timely Warnings:** If a Timely Warning is issued on the basis of a report of Sexual Violence, the name of the complainant/victim and other personally identifiable information about the complainant/victim will be withheld. Limited information about the complainant/victim, such as affiliation with NICC, injuries sustained, and/or gender, may be revealed if relevant to preventing similar crimes.

**Clery Act and Other Public Records:** Publicly available record-keeping for purposes of *Clery Act* reporting and disclosures will be made without including personally identifying information about the complainant/victim. NICC does not publish the name of crime victims as part of its *Clery Act*-mandated reporting (including annual crime statistics that are disclosed in compliance with the *Clery Act*), nor does it include personally identifiable information regarding victims in the Daily Crime Log. In addition, NICC policy regarding access to public records may require disclosure of certain information concerning the report of Sexual Violence. In such cases, every effort is made to redact or limit the record as appropriate to protect the privacy of all parties and witnesses. NICC has various policies and procedures to ensure that personally identifiable information about a victim is not included in publicly available record-keeping.

**Student Behavioral Intervention Team (SBIT) and Threat Management Team (TMT):**

Sexual Violence cases that require a threat management assessment may come to the attention of SBIT or TMT at the recommendations of the CMT. These teams collaborate with CMT to provide a coordinated NICC response to potential threats. These multi-disciplinary teams of campus professionals uphold the privacy of the involved parties, to the extent possible.

**Litigation Review Committee:** NICC's Risk Management Department reviews Sexual Violence cases connected to litigation against NICC. Members of the Review Committee maintain confidentiality on all matters of the case, to the extent possible.

### 10.7 NICC Response Overview

NICC prohibits acts of Sexual Violence (sexual assault, relationship violence, and stalking of a sexual nature) that violate law and/or NICC policy. This section provides an overview of the administrative procedures NICC uses to respond to reports of Sexual Violence. While the Title IX Officer has general responsibility for oversight of the reporting and response process, other offices will be involved and consulted, as necessary.

Any person may make a report, including anonymously, of Sexual Violence to Title IX; to any Responsible Employee; or to another appropriate office, such as the Academic Dean Office, Student Services, or Human Resources.

The report shall be sent to Title IX. If the person to whom a report normally would be made is the respondent, reports may be made to another Responsible Employee or Title IX directly. Reports made to Title IX can be made over the phone (402-878-5943) and should contain all pertinent information known to the reporter, including names, date, location, and allegations.

Once Title IX receives a report of alleged Sexual Violence, they will determine if the issues presented meet the criteria of Prohibited Conduct as defined by the *NICC SVSH Policy*, and if so, determine the most appropriate process to address the issues presented.

## Jurisdiction

The *NICC SVSH Policy* covers Prohibited Conduct committed by NICC students, employees, and third parties (such as Board Members, contactors, vendors, visitors, guests, patients, and volunteers), and acts of Prohibited Conduct committed against student, employees, and third parties, when the conduct occurs; 1. On NICC property; 2. Interconnection with NICC employment or in the context of a NICC program or activity; or 3. Off NICC property and outside the context of a NICC program or activity, but has continuing adverse effects on (or creates a hostile environment for students, employees, or third parties while on) NICC property or in any NICC program or activity. Any person who experiences Sexual Violence within the jurisdiction stated above may file a complaint with Title IX for review if they would like the incident to be investigated by NICC. Every case is considered individually and a determination of whether it is appropriate to pursue a Title IX response process is made on a case-by-case basis.

In determining whether to exercise jurisdiction for conduct that occurs off campus or outside the context of NICC, Title IX may consider the seriousness of the alleged misconduct: the risk of future harm involved; whether a crime has been reported to the criminal authorities; the ability of NICC to gather information, including the statements of witnesses; and/or whether the off-campus conduct is part of a series of actions that occurred both on and off campus.

All reports of sexual misconduct by non-student members of the campus community are received and reviewed by Title IX. Faculty and lecturers are under the jurisdiction of the VP of Teaching and Learning for adjudication/resolutions purposes. Staff members are under the jurisdiction of the respondent's department and Staff Human Resources for adjudication/resolution purposes.

If the respondent is both a student and an employee, Title IX will determine which process to use, depending on the specific facts reported, including the respondent's role/status during the alleged conduct, seriousness of the violative conduct alleged, and the desired options for remedies, if warranted. If the respondent is not an NICC student but is an NICC student at a different campus, the Title IX Officer will forward the report to the Title IX Officer at the



respondent's home campus. If the respondent is an NICC employee and not an NICC student, Title IX will follow the appropriate Response Procedures that correspond to the respondent's employment status.

When a non-student, non-affiliate assaults or stalks a student on or off campus, the NICC's role may be limited to a Police response and providing counseling and support services to the victim. Advocates may provide confidential support to and assist victims with filing a restraining order and all other avenues available through the criminal or civil justice system. Reports may still be made to Title IX for review and possible investigation or recommended remedies. On occasion, Title IX may initiate an investigation to support further safety remedies.

The following is information about NICC's jurisdiction over specific locations/groups.

#### [NICC registered campus organizations:](#)

Allegations involving members of any registered campus organization may be reported to Title IX for review. NICC reserves the right to sanction registered campus organizations (including, but not limited to club teams and off campus travel like field trips) should the complaint be substantiated.

#### [Other off-campus or non-campus locations:](#)

Allegations involving NICC students may be reported to Title IX for investigation and possible adjudication by NICC regardless of location.

### **Response Processes**

NICC procedures provide those proceedings will include a prompt, fair, and impartial process from the initial investigation to the final result. All disciplinary proceedings will be completed within reasonably prompt timeframes, as designated by NICC policy and guidelines, and allow

for good cause extension of timeframes with written notice to both the complainant and respondent of the delay and the reason for it.

All proceedings are conducted by officials who receive annual training on issues related to Sexual Violence and how to conduct investigations and hearing processes that protect the safety of complainants, promote accountability, and promote impartial investigations and adjudications. Title IX investigators are additionally trained in the application of investigative best practices, and legal and procedural updates. Hearing officials are additionally trained on the fundamentals of due process in administrative hearings. Proceedings are conducted by officials who have no conflicts of interest or biases for or against a complainant or respondent.

Proceedings means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. Proceedings do not include communications and meetings between officials and parties concerning supportive, remedial, or other protective measures provided to a party.

At all stages of a response process, the complainant and respondent have the right to an advisor and/or a support person of their choosing. The advisor and/or the support person may be any person (including in advocate, attorney, friend, or parent) who is not otherwise a party or a witness. The advisor's primary role is to provide guidance through the process. The support person's primary role is to provide emotional support. The advisor and/or the support person may not speak on behalf of a party or otherwise disrupt any meetings or proceedings in any manner. (The only exception is when a party's advisor is reading the party's questions in a DOE Grievance Process hearing.) NICC, reserves the right to exclude an advisor and/or support person who does not abide by applicable rules of conduct.

The standard of proof for fact-finding and determining whether a policy violation occurred is a **preponderance of the evidence**, as defined by the *NICC SVSH Policy*. A respondent will not be found responsible for a violation of the *NICC SVSH Policy* unless the evidence establishes that it is more likely than not that they violated the *NICC SVSH Policy*.

NICC will simultaneously notify both parties, in writing, of the result of the disciplinary proceedings, the procedures for the parties to appeal the result, any changes to the result, and when such result becomes final. Result means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution, including sanctions imposed by the institution. The notification includes the rationale for the result and the sanctions.

#### 10.8 Responding to Reports of Sexual Violence-Student Respondents

The following is an outline of NICC's procedures for responding to student violations of the *NICC SVSH Policy*.

##### **Initial Assessment of a Report / Immediate Health and Safety**

As soon as practicable after receiving a report, Title IX will make an initial assessment, including a limited factual inquiry when appropriate, to determine how to proceed. Title IX will first assess the report to determine whether the alleged conduct is DOE-Covered Conduct and, if so, whether to begin a DOE Grievance Process. The criteria for determining if Sexual Violence is DOE-Covered Conduct include the date of the conduct, the location of the complainant at the time of conduct (within the United States), the location of the conduct (in an NICC program or activity), and whether the conduct meets the criteria for DOE Sex-Based Misconduct.

If the alleged conduct is not DOE-Covered Conduct, Title IX will next determine whether the report on its face alleges an act of Prohibited Conduct, and if so, whether the conduct is covered by the *NICC SVSH Policy*. Title IX further assess which policy version to use, based on the date of the conduct, and which Response Procedures to use, based on the respondent's identity and relationship to NICC (i.e., student, staff, non-faculty academic personnel, faculty, Board of Trustees).

##### Initial Review and Inquiry

Upon receipt of a report of Sexual Violence, Title IX will make outreach to the complainant to offer the services of the Title IX Office and provide them with a written explanation of their rights, options, and resources. The *Rights, Options, and Resources for Impacted Parties* guide is included in this email outreach. The party is not required to respond to the Title IX Office's outreach and their participation in the process is voluntary.

The Rights, Options, and Resources for Impacted Parties guide includes the following information:

- How and to whom to report alleged violations.
- Options for notifying law enforcement and campus authorities; the right to be assisted by campus authorities in notifying law enforcement if the complainant so chooses; and the right to decline to notify such authorities.
- The rights of complainants regarding orders of protection, No-Contact Orders, restraining orders, or similar orders issued by criminal or civil courts, as well as NICC's responsibilities to comply with such orders.
- The importance of preserving evidence that may assist in proving that a criminal offense occurred or in obtaining a protection order.
- Counseling, health assistance, mental health assistance, victim advocacy, legal assistance, visa and immigration assistance, financial aid assistance and other services available within both NICC and the community (including information regarding confidential resources).
- Options for, and available assistance to, a change to academic, living, transportation, and working situations, if the complainant requests and if such options are reasonably available regardless of whether the complainant chooses to report the alleged conduct to law enforcement.
- Applicable procedures for institutional disciplinary action.

Upon completion of an intake interview with the complainant, Title IX will determine the most appropriate response and any supportive measures. Title IX will identify the policy (or policies)

applicable to the report based on the date of the incident and reported behavior and will assess whether the alleged conduct is DOE-Covered Conduct, other Prohibited Conduct, or a combination of the two, per the *NICC SVSH Policy*.

NICC will strive to honor the stated wishes of the complainant concerning whether to move forward with an investigation and take into consideration any safety concerns for the involved individuals. There may be circumstances, however, in which NICC may need to move forward against the complainant's wishes, or in which NICC may determine that an investigation will not occur despite the complainant's wish to pursue an investigation. In such cases, the Title IX Officer, or their designee, will make this determination after completing an initial inquiry into the facts.

If the complainant declines to respond to Title IX's outreach. Title IX will determine how best to respond to the matter based on the available information. Title IX will advise the complainant in writing via email of the final response decision with rationale for that determination, and proceed accordingly thereafter, unless the complainant has stated in writing they do not want to receive information from Title IX.

During the initial assessment, the Title IX Officer may consult with other offices, as necessary. This may include Academic Dean's Office for complaints involving faculty and other academic appointees, Student Service's Offices for complaints involving students, and/or Human Resources or Employee & Labor Relations Offices for complaints involving staff.

### Consideration of Safety Measures

In addition to supportive measures discussed in the *NICC SVSH Policy*, Title IX may take other measures per other NICC policies to address safety concerns.

The Title IX Officer, in coordination with the Case Management Team, and in consultation with the complainant, when possible, will make an immediate assessment of the health and safety of

the complainant and the campus community, and determine and oversee safety measures that are immediately necessary.

In determining safety measures, Title IX will tailor the measures to the circumstances of each case, reevaluate the effectiveness and need for the measures as circumstances change, minimize burdens on the parties, and avoid depriving the parties of educational and employment opportunities as much as practicable.

## **Resolution and Investigation Processes**

Reports of Sexual Violence that are not closed after Title IX's initial assessment may be addressed through Alternative Resolution, a Formal Investigation, a DOE Grievance Process, or Other Inquiry.

### [Alternative Resolution](#)

After an initial assessment of the alleged facts, the Title IX Officer may – if the complainant and respondent agree in writing – begin an Alternative Resolution process. Alternative Resolution is not available when the complainant is a student, and the respondent is an employee. In other cases, the Title IX Officer will, if appropriate, begin the process in consultation with other offices depending on whether the complainant and respondent are faculty, other academic appointees, staff, student employees, or students.

Alternative Resolution may include, among other responses:

- Separating the parties;
- Providing for safety;
- Referring the parties to counseling;
- Mediation (except in cases of Sexual Violence);
- Referral for disciplinary action;
- An agreement between the parties; and

- Conducting a follow-up review to ensure that the resolution has been carried out effectively.

Alternative Resolution may be especially useful when: an investigation is not likely to lead to a resolution; both parties prefer an informal process; or a case involves less serious allegations. The Title IX Officer has discretion to determine whether the complaint is appropriate for Alternative Resolution, to determine the type of resolution to pursue, and to stop the process at any time before its conclusion and move to a Formal Investigation or a DOE Grievance Process.

Participation in Alternative Resolution is voluntary; both parties must agree to participate. If Alternative Resolution is selected, the Title IX Officer will provide timely written notice to both parties of the allegations, and that: the Title IX Officer has begun to process, the process is voluntary and will terminate upon either party's request, termination may result in a Formal Investigation or DOE Grievance Process, they may be accompanied by an advisor throughout the process, the Title IX Officer will notify both parties of the process's outcome, and the process is private but not confidential (i.e., records from and information shared during the process may be considered in any subsequent resolution process.)

Alternative Resolution will be completed promptly, typically within 30 to 60 business days of notifying the parties in writing of starting the process. However, the Title IX Officer may extend past 60 days for good cause. The Title IX Officer will notify the parties in writing of the reason for any extension and the projected new timeline. The actual time required will depend on the specific circumstances, including the complexity of the allegations and the nature of the alleged conduct.

Once the parties have agreed to the terms of an Alternative Resolution, NICC will not conduct a Formal Investigation or DOE Grievance Process unless the Title IX Officer determines that the respondent failed to satisfy the terms of the Alternative Resolution, or that the Alternative Resolution was unsuccessful in stopping the Prohibited conduct or preventing its recurrence.

### [Formal Investigation or DOE Grievance Process](#)

Title IX will initiate a Formal Investigation of non-DOE Covered Conduct when a matter is not closed after an initial assessment, and an investigation is determined to be the most appropriate response. Title IX will initiate a DOE Grievance Process when it is determined necessary per the *NICC SVSH Policy*. When NICC opens an investigation of allegations of DOE-Covered Conduct and other Prohibited Conduct that arise out of the same facts or circumstances, it will address all allegations together through the DOE Grievance Process.

All administrative investigations of Sexual Violence are conducted by Title IX, unless otherwise designated by the Title IX Officer.

The following are applications to Formal Investigations and DOE Grievance Processes.

**Note of Charges:** Upon initiation of an investigation, Title IX will send written notice of the investigation and charges simultaneously to the complainant and student respondent.

- **Initiation of Investigation by the College:** If the complainant does not want an investigation, the Title IX Officer will seriously consider this preference. However, the Title IX Officer may determine an investigation is necessary to mitigate a risk to the campus community. If the Title IX Officer begins an investigation despite the complainant's request, the Title IX Officer will provide the complainant with all information required by the *NICC SVSH Policy* unless the complainant states in writing that they do not want it.
- **Additional Charges:** If a Title IX investigator discovers new facts that could form the basis for additional policy violations or sanctions, Title IX will contemporaneously provide the parties with an amended Notice of Charges, which will include both the original and new allegations and charges. If the additional charges identified during a Formal Investigation include DOE-Covered Conduct, then the Title IX Officer will notify the parties that the case will proceed as a DOE Grievance Process.
- **Supportive and Other Measures:** Throughout the investigation and resolution processes, NICC will offer and provide support services for complainants for student



respondents through the Respondent Services Coordinator. NICC will also consider and take measures as appropriate to ensure the safety, well-being, and equal access to NICC programs and activities of its students. These measures include, but are not limited to, the following; No-Contact Orders, housing accommodations, academic support and accommodations, and counseling. Title IX will maintain as confidential any supportive measures provided to parties, to the extent such confidentiality does not impair Title IX's ability to provide the measures. In some cases, Title IX may need to disclose some information about a party to a third party to provide necessary accommodations.

- **Complainant/Respondent Participation:** Neither the complainant nor the respondent is required to participate in the resolution process. NICC will not draw any adverse inferences from a complainant's or respondent's decision not to participate or to remain silent during the process. An investigator, decision-maker, hearing body, or appeal body may draw adverse inferences when a student selectively participates in the process, such as choosing to answer some but not all questions posed.
- **Timeframe:** The investigation shall be completed promptly, typically within 60-90 business days of its initiation, which is when the Charges Notice is sent to the complainant and respondent. However, the Title IX Officer may extend the timeframe past 90 days for a good cause. The Title IX investigator will notify the parties in writing of the reason for any extension and the projected timeline. The actual time required depends on the specific circumstances, including the complexity of the matter and the severity and extent of the alleged conduct.
- **Coordination with Police:** When a law enforcement agency is conducting its own investigation, the Title IX investigator will coordinate their fact-finding efforts with the law enforcement investigation, and upon requires of the law enforcement agency, the investigation may be delayed meeting the needs of a criminal investigation. Any such delays shall be reviewed by the Title IX Officer, communicated to the parties in writing, and documented.
- **Investigation Process:** The Title IX Officer will oversee NICC investigation and will designate an investigator to conduct a fair, thorough, and impartial investigation. While the parties have the right to identify evidence and witnesses, NICC bears the burden of

proof and of gathering evidence sufficient to reach a determination regarding responsibility.

During the investigation, the complainant and respondent will be provided an equal opportunity to meet with the investigator, submit evidence, identify witnesses who may have relevant information, and propose questions for the investigator to ask the other party and witnesses.

- The investigator will meet separately with the complainant, respondent, and witnesses, and will gather other available and relevant evidence.
- Before the investigator concludes the investigation and finalizes a written report, both the complainant and the respondent will have an equal opportunity to review and respond to the evidence. This is true regardless of whether a party has participated in the investigation.
- The investigator will prepare a written report that includes the factual allegations and alleged policy violations, statements of the parties and witnesses, a summary of the evidence the investigator considered, findings of fact, credibility determinations when appropriate, an analysis of whether a policy violation has occurred, and a preliminary determination regarding whether there are any policy violations.

**Issuance of Notice and Report:** Upon completion of an investigation, Title IX will provide the complainant and the respondent with written notice of the factual findings and preliminary determinations, and the Investigative Report. The report may be redacted to protect privacy. Title IX will provide the Academic Dean with the written notice and an unredacted copy of the Investigative Report. If the findings of fact in Formal Investigation indication that DOE-Covered Conduct occurred, then the Title IX Officer will notify the parties that the case will proceed as a DOE Grievance Process.

### Other Inquiry

When a report is not closed after initial assessment yet is not appropriate for Alternative Resolution, a Formal Investigation, or a DOE Grievance Process because there is no individual

identifiable respondent over whom Title IX has jurisdiction, Title IX will conduct an inquiry to try to determine what occurred and take prompt steps reasonably calculated to stop any substantiated conduct, prevent its recurrence, and, as appropriate, remedy its effects.

The extent of the inquiry and responsive steps will depend on the specific circumstances. This includes, for example:

- The nature and location of the alleged conduct,
- NICC's relationship to the complainant, and
- NICC's relationship to and level of control over the organization or person alleged to have engaged in the conduct.

The Title IX Officer will complete the inquiry promptly (typically within 60 days, unless extended for good cause), and notify the complainant of the outcome.

#### 10.9 Adjudication and Sanctioning – Student Respondents

The following is an outline of NICC's adjudication process and sanctioning for student respondents.

##### **Proposed Sanction**

In cases where the investigator preliminarily determines a policy violation occurred, either party may schedule a meeting with or submit a written statement to the Academic Deanto provide input on sanctions. The Academic Dean will review the report, the evidence deemed relevant by the investigator as documented in the report, the preliminary determinations, the respondent's prior conduct record, any comment on sanctions from the parties (received either in person or in writing), and any other relevant information, and will determine a proposed sanction.

The Academic Dean will propose a sanction in all cases where there is a preliminary determination that the policy was violated. The Academic Dean will notify the parties of the proposed sanction and supporting rationale within 15 business days of the notice of investigative findings and preliminary determination.

### Opportunity to Contest/Accept the Preliminary Determination

Depending on whether a Formal Investigation or DOE Grievance Process was conducted, the parties will have an opportunity to contest or accept the investigator's preliminary determinations as to whether or not the policy was violated. Parties may contest/accept the preliminary determination within 20 business days of the notice of investigative findings and preliminary determination.

Depending on whether the parties contest/accept the preliminary determination, the Dean of Student Services will determine whether the matter will proceed to a hearing.

### Hearing to Determine Policy Violation(s)

For cases that proceed to a hearing, NICC will conduct a fact-finding hearing before a single hearing officer (not the Title IX Officer). The hearing is to determine whether a violation of the *NICC SVSH Policy* (and any non-*SVSH Policy* violations charged in conjunction with them) occurred. NICC's role in the hearing is neutral. NICC will consider the relevant evidence available, including relevant evidence presented by the parties, in order to make factual findings and determine whether a policy violation occurred.

### Hearing Procedures

The hearing will be conducted in a respectful manner that promotes fairness and accurate fact-finding, and that complies with the applicable rules of conduct. The parties and witnesses will address only the hearing officer, and not each other. Only the hearing officer (and in a DOE Grievance Process, the advisor or Reader) may question witnesses and parties. Courtroom

rules of evidence and procedure will not apply. The hearing officer will generally consider (rely on) all evidence they determine to be relevant and reliable. The hearing officer will decide whether a violation of the *NICC SVSH Policy* (or related non-*SVSH Policy* violation) occurred based on a preponderance of the evidence standard.

### Sanction and Notice of Determination

If the hearing officer decides that any policy violation has occurred, they will send their determination and findings to the Academic Dean within 10 business days of the hearing. Based on the hearing officer's findings and determination, and other information relevant to sanctioning, the Office of the Academic Dean will determine an appropriate sanction. Within 15 business days of the hearing, the hearing coordinator will send simultaneous written notice to the complainant and respondent setting forth the hearing officer's determination on whether the *NICC SVSH Policy* (and/or other student conduct policies) have been violated, and if so, the Academic Dean's determination of any sanctions to be imposed.

### Appeal Process

The complainant and respondent have an equal opportunity to appeal against the policy violation determination(s) and any sanction(s). NICC administers the appeal process but is not a party and does not advocate for or against any appeal.

Within 10 business days of receiving the appeal, the appeal officer will send their written decision to the complainant and respondent. Unless the hearing officer remands the matter to the hearing officer, the matter is closed at this point, with no further right to appeal. If the appeal officer remands the matter to the hearing officer, they will issue their decision within 10 business days of receiving the hearing officer's additional factual findings; this decision will be final.

## Student Sanctions

The following describes NICC's principles, factors to consider in assigning sanctions, sanctioning options, and minimum sanctions for certain conduct when the respondent is a student.

### Principles

The administration of student discipline will be consistent with the **Student Conduct Code**.

- When a student is found responsible for violating the *NICC SVSH Policy* or other student conduct policies, NICC will assign sanctions that are proportionate and appropriate to the violation, taking into consideration the context and seriousness of the violation. NICC is also committed to providing appropriate remedial measures to the complainant, as described in the *NICC SVSH Policy*.
- When a student is found not responsible for violating the *NICC SVSH Policy* and other student conduct policies, NICC is committed to taking reasonable efforts to assist any student who has been disadvantaged with respect to employment or academic status as a result of the unsubstantiated allegations.
- Sanctions are designed to hold a student accountable for violating NICC standards of conduct and to promote personal growth and development. Sanctions also serve the purpose of stopping the Prohibited Conduct under the *NICC SVSH Policy* and preventing its recurrence.
- NICC recognizes that acts of Sexual Violence, Sexual Harassment, and other forms of Prohibited Conduct are contrary to the goals of providing an educational environment that is safe and equal for all students.

### Factors Considered in Determining Sanctions

In all cases, when determining the appropriate and proportionate sanction, the following factors will be considered when applicable;

- **Seriousness of violation:** Location and extent of touching; duration of conduct; single or repeated acts; multiple policy violations in connection with the incident; verbal or physical intimidation; use of authority to abuse trust or confidence; presence of weapons; use of force or violence; physical injury; menace; duress; deliberately causing or taking advantage of a person's incapacitation; and recording, photographing, transmitting, viewing, or distributing intimate or sexual images without consent.
- **Intent or motivation behind violation:** No intent to cause harm; passive role in violation; pressured or inducted by others to participate in violation; planned or predatory conduct; hate or bias based on the complainant's membership or perceived membership in a protected group as defined in *NICC SVSH Policy*.
- **Whether the conduct was aggravated,** as defined in the *NICC SVSH Policy*.
- **Response following violation:** Voluntarily acknowledged wrongdoing at early state of the process; failure to follow No-Contact Order; attempt to influence witnesses; obstructed or disrupted the process.
- **Disciplinary history:** Unrelated prior violations; related prior violations. A respondent's disciplinary history is cumulative. Past violations and sanctions will be considered and may increase any sanctions assigned.
- **Impact on others:** Input from the complainant; protection or safety of the complainant or the community.

## Sanctions Options

NICC sanctions for students are:

- **Dismissal from NICC:** Termination of student status for an indefinite period. Readmission to NICC shall require the specific approval of the President. Readmission after dismissal may be granted only under exceptional circumstances.
- **Suspension from NICC:** Termination of student status for a specified period of time with reinstatement thereafter certain, provided that the student has complied with all conditions imposed as part of the suspension and provided that the student is otherwise

qualified for reinstatement. Violation of the conditions of Suspension or of NICC policies or campus regulations during the period of Suspension may be cause for further disciplinary action, normally in the form of Dismissal.

- **Exclusion from Areas of the Campus and/or from Official NICC Functions:** Exclusion of a student as part of a disciplinary sanction from specified areas of the campus or other NICC-owned, -operated, or -leased facilities, or other facilities located on NICC property, or from official NICC functions, when there is reasonable cause for NICC to believe that the student's presence there will lead to physical abuse, threats of violence, or conduct that threatens the health or safety of any person on NICC property or at official NICC functions, or other disruptive activity incompatible with the orderly operation of the campus.
- **Loss of Privileges and/or Exclusion from Activities:** Exclusion from participation in designated privileges and activities for a specified period of time. Violation of any conditions in the written Notice of Loss of Privileges and Exclusion from Activities, or violation of NICC policies or campus regulations during the period of the sanction may be cause for further disciplinary action, normally in the form of Probation, Suspension, or Dismissal.
- **Restitution:** A requirement for restitution in the form of reimbursement may be imposed for expenses incurred by NICC or other parties resulting from a violation of these policies. Such reimbursement may take the form of monetary payment or appropriate service to repair or otherwise compensate for damages. Restitution may be imposed on any student who alone, through group or concerted activities, participates in causing the damages or costs.
- **Probation:** A status imposed for a specified period of time during which a student must demonstrate conduct that conforms to NICC standards of conduct. Conditions restricting the student's privileges or eligibility for activities may be imposed. Misconduct during the probationary period or violation of any conditions of the probation may result in further disciplinary action, normally in the form of Suspension or Dismissal.
- **Service Project:** Community service or an educational class or project beneficial to the individual and campus or community.



### **Other actions as set for in NICC policy and campus regulations.**

Note that for DOE Grievance Processes, sanctions may impose greater burdens on a respondent found responsible for *NICC SVSH Policy* violations; this is in NICC supportive measure, which may not be disciplinary or punitive and may not unreasonably burden a party.

When, as a result of violations of the *NICC SVSH Policy* and/or Student Conduct Code, a student is suspended or dismissal. Thereafter, notations of Suspension or Dismissal reflected on a student's transcript may be removed as set forth in campus regulations. Discipline records are normally purged after five years (seven years if the violation was also a reportable Clery Act crime) from the sanctioning imposition date; however, the Dean of Student Services may decide to keep a file active for a longer period of time in cases of sexual assault, relationship violence, or stalking of a sexual nature, and must make a note of the rationale for keeping a file active beyond its expiration date.

### **Minimum Sanctions for Certain Conduct**

Sanctions will be assigned as follows:

- Sexual Assault – Penetration or Sexual Assault – Contact that is aggravated as defined in the *NICC SVSH Policy* will result in a minimum sanction of suspension for two calendar years.
- Sexual Assault – Penetration, Relationship Violence, or Stalking of a Sexual Nature will result in a minimum sanction of suspension for two calendar years unless there are exceptional circumstances.
- Sexual Assault – Contact will result in a minimum sanction of suspension for one calendar year unless there are exceptional circumstances.

## 10.10 Responding to Reports of Sexual Violence – **Employee Respondents**

### **Initial Assessment**

Upon receipt of a report of or information about alleged Sexual Violence, Title IX will make an initial assessment in accordance with the *NICC SVSH Policy*, which shall include making an immediate assessment concerning the health and safety of the complainant and the campus community, and a determination of whether the alleged conduct is DOE-Covered Conduct, other Prohibited Conduct, or a combination.

The criteria for determining if Sexual Violence is DOE-Covered Conduct include the date of the conduct (on or after 9/1/22), the location of the complainant at the time of conduct (within the United States), the location of the conduct (in an NICC program or activity) and whether the conduct meets the criteria for DOE.

If the alleged conduct is not DOE-Covered Conduct, Title IX will next determine whether the report on its face alleges an act of Prohibited Conduct, and if so, whether the conduct is covered by the *NICC SVSH Policy*. Title IX further assesses which policy version to use, based on the date of the conduct, and which Response Procedures to use, based on the respondent's identity and relationship to NICC (i.e., student, staff, non-faculty academic personnel, faculty, Board of Trustees).

### **Supportive and Other Measures**

NICC will also consider and implement supportive and other measures as appropriate to protect the safety of the parties or the NICC community; to restore or preserve a party's access to an NICC program or activity; or to deter Prohibited Conduct, in accordance with the *NICC SVSH Policy*.

In addition to supportive measures discussed in the *NICC SVSH Policy*, Title IX may take other measures per other NICC policies to address safety concerns. Title IX, in consultation with the

Employee Case Management Team, will determine if any other interim measures are warranted or required to protect the involved individuals and the campus community.

Investigatory leave of a respondent may be imposed. Investigatory leave of a non-faculty academic respondent may be imposed. Involuntary leave of a faculty respondent may be imposed.

### Written Rights & Options

Title IX will ensure that the complainant, if their identity is known, is provided a written explanation of rights and available options as outlined in the *NICC SVSH Policy*, including:

- How and to whom to report alleged violations;
- Options for reporting to and/or notifying law enforcement and campus authorities;
- Information regarding confidential resources;
- The rights of complainants regarding orders of protection, restraining orders, or similar lawful orders issued by criminal or civil courts;
- The importance of preserving evidence that may assist in proving that a criminal offense occurred or in obtaining a protection order;
- Counseling, health assistance, mental health assistance, victim advocacy, legal assistance, visa and immigration assistance, and other services available both within the institution and the community;
- Options for, and available assistance to, a change to academic, living, transportation, and working situations, if the complainant requests and if such options are reasonably available – regardless of whether the complainant chooses to report the crime to law enforcement; and
- The range of possible outcomes for the report, including supportive and remedial measures and disciplinary actions, the procedures leading to such outcomes, and their right to make a DOE Formal Complaint.

## Investigating and Resolving Reports of Prohibited Conduct

Provided NICC has sufficient information to respond, and in accordance with the *NICC SVSH Policy*, NICC may resolve reports of alleged Prohibited Conduct by employee respondents through Alternative Resolution, a Formal Investigation, a DOE Grievance Process. Other inquiry, or a separate employee grievance or complaint process. Each of these is described below.

### Alternative Resolution

After an initial assessment of the alleged facts, if the complainant and respondent agree in writing, the Title IX Officer may initiate an Alternative Resolution process. Alternative Resolution is not available when the complainant is a student, and the respondent is an employee. The Title IX Officer will, if appropriate, begin the process in consultation with other offices, depending on whether the complainant and respondent is faculty, other academic appointees, staff, student employees, or students.

Alternative Resolution may include, among other responses:

- Separating the parties;
- Providing for safety;
- Referring the parties to counseling;
- Mediation (except in cases of Sexual Violence);
- Referral for disciplinary action;
- An agreement between the parties; and conducting a follow-up review to ensure that the resolution has been carried out effectively.

Alternative Resolution may be especially useful when: an investigation is not likely to lead to a resolution; both parties prefer an informal process; or a case involves less serious allegations. The Title IX Officer has discretion to determine whether the complaint is appropriate for

Alternative Resolution, to determine the type of resolution to pursue, and to stop the process at any time before its conclusion and move to a Formal Investigation or a DOE Grievance Process.

Participation in Alternative Resolution is voluntary; both parties must agree to participate. If Alternative Resolution is selected, the Title IX Officer will provide timely written notice to both parties of the allegations, and that the Title IX Officer has begun the process. The process is voluntary and will terminate upon either party's request; termination may result in a Formal Investigation or DOE Grievance Process; they may be accompanied by an advisor throughout the process. The Title IX Officer will notify both parties of the process's outcome, and the process is private but not confidential (i.e., records from and information shared during the process may be considered in any subsequent resolution process).

Alternative Resolution will be completed promptly, typically within 30 to 60 business days of notifying the parties in writing of starting the process. However, the Title IX Officer may extend past 60 days for good cause. The Title IX Officer will notify the parties in writing of the reason for any extension and the projected new timeline. The actual time required will depend on the specific circumstances, including the complexity of the allegations and the nature of the alleged conduct.

Once the parties have agreed to the terms of an Alternative Resolution, NICC will not conduct a Formal Investigation or DOE Grievance Process unless the Title IX Officer determines that the respondent failed to satisfy the terms of the Alternative Resolution, or that the Alternative Resolution was unsuccessful in stopping the Prohibited Conduct or preventing its recurrence.

### Formal Investigation or DOE Grievance Process

In cases where Alternative Resolution is inappropriate or unsuccessful, Title IX may conduct an investigation, per the Formal Investigation or DOE Grievance Process provisions in the *NICC SVSH Policy*. When NICC opens an investigations of allegations of DOE-Covered Conduct and other Prohibited Conduct that arise out of the same facts or circumstances, it will address all allegations together through the DOE Grievance Process.

The following are applicable to Formal Investigations and DOE Grievance Processes.

- **Notification:** Title IX will notify the appropriate administrative authorities when a Formal Investigation or DOE Grievance Process is commenced. Title IX will be sensitive in its communication to protect the neutrality of the administrative authorities, as well as the privacy of the complainant and respondent. Thereafter, Title IX will ensure that the appropriate administrative authorities are regularly updated regarding the status of the Formal Investigation or DOE Grievance Process.
- **Notice of Charges:** When a Formal Investigation or DOE Grievance Process will be conducted, Title IX will simultaneously send written notice of the charges to the complainant and the respondent.
- **Investigative Process:** The Title IX Officer will designate an investigator to conduct a fair, thorough, and impartial investigation. While the parties have the right to identify evidence and witnesses, NICC bears the burden of proof and of gathering evidence sufficient to reach a determination regarding responsibility.

**-Overview:** During the investigation, the complainant and respondent will be provided an equal opportunity to meet with the investigator, submit information, and identify witnesses who may have relevant information. The investigator will meet separately with the complainant, the respondent, and any third-party witnesses who may have relevant information, and will gather other available and relevant information. The investigator may follow up with the complainant or respondent as needed to clarify any inconsistencies or new information gathered during the course of the investigation. Disclosure of facts to people interviewed will be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation may be asked to maintain confidentiality when essential to protect the integrity of the investigation. The complainant and the respondent may have an advisor present when personally interviewed and at any related meeting. Other witnesses may have a representative present at the discretion of the investigator or as required by NICC policy or their collective bargaining agreement.

**-Coordination with Law Enforcement:** When a law enforcement agency is conducting its own investigation into the alleged conduct, the Title IX investigator will make every effort to coordinate their fact-finding efforts with the law enforcement investigation. At the request of law enforcement, the investigation may be delayed meeting specific needs of a criminal investigation.

**-Evidence Review:** Before the investigator concludes the investigation and finalizes a written report, both complainant and respondent will have an equal opportunity to review and respond in writing to the evidence that the investigator has deemed directly related, including evidence that weighs against finding a policy violation(s) and evidence on which the investigator does not intend to rely, whether obtained from a party or another source. This is true regardless of whether a party has participated in the investigation. This review will also include a summary of directly related statements made by the parties and any witnesses. The Title IX Officer will ensure that this review occurs in a manner designed to protect the privacy of both parties. The Title IX Officer will designate a reasonable time for this review and response by the parties that, absent good cause found by the Title IX Officer, of at least 10 business days.

#### **Investigative Report and Determination or Preliminary Determination:**

Following the conclusion of the investigation, the Title IX investigator will prepare a written report. The written Investigative Report will include a statement of the allegations and issues, the statements of the parties and witnesses, and a summary of the evidence the investigator considered.

The Investigative Report will include findings of fact and a preliminary determination (in a DOE Grievance Process) or a determination (in a Formal Investigation) regarding whether, applying the preponderance of the evidence standard, there is sufficient evidence to conclude that the respondent violated the *NICC SVSH Policy*.

If the findings of fact in a Formal Investigation indicate that DOE-Covered Conduct occurred, then Title IX will make a preliminary determination and notify the parties that the case will

proceed as a DOE Grievance Process. If, instead, the investigator preliminarily determines that conduct charged as DOE-Covered Conduct in a DOE Grievance Process does not meet that definition, the Investigative Report will include analysis and preliminary determinations of both whether the respondent engaged in DOE-Covered Conduct and other Prohibited Conduct.

- **Notice of Investigative Outcome:** Upon completion of the Investigative Report, the Title IX Officer or designee will send to the complainant and the respondent a written notice of investigation outcome regarding the investigator's preliminary determination or determination (whichever applies) of whether there was a violation of the *NICC SVSH Policy*. The notice of investigative outcome will generally be accompanied by a copy of the Investigative Report, which may be redacted as necessary to protect privacy rights. The Title IX Officer or designee will also send the notice of investigation outcome and accompanying Investigative Report to the appropriate administrative authority.
- **Timeframe for Completion of Investigation; Extension for Good Cause:** The notice of investigation outcome and accompanying Investigative Report will be issued promptly, typically within sixty (60) to ninety (90) business days of initiation of the Formal Investigation or DOE Grievance Process, unless extended by the Title IX Officer for good cause, with written notice to the complainant and the respondent of the reason for the extension and the projected new timeline.

### Other Inquiry

When a report is not closed after initial assessment yet is not appropriate for Alternative Resolution, a Formal Investigation, or a DOE Grievance Process because there is no individual identifiable respondent over whom Title IX has jurisdiction, Title IX will conduct an inquiry to try to determine what occurred and take prompt steps reasonably calculated to stop any substantiated conduct, prevent its recurrence, and, as appropriate, remedy its effects.

The extent of the inquiry and responsive steps will depend on the specific circumstances. This includes, for example:



- The nature and location of the alleged conduct,
- NICC's relationship to the complainant, and
- NICC's relationship to and level of control over the organization or person alleged to have engaged in the conduct.

The Title IX Officer will complete the inquiry promptly (typically within 60 days, unless extended for good cause), and notify the complainant of the outcome.

### Employee Grievance/Complaint Procedures

Instead of, or in addition to, reporting to the Title IX Officer or other Responsible Employee, an employee and/or the institution may file a grievance or complaint. That grievance must meet all of the requirements, including time limits for filing, under the applicable complaint resolution or grievance procedure. Any such grievance or complaint will be forwarded to the Title IX Officer for processing, and the grievance or complaint may be reactivated under the applicable grievance or complaint procedure.

#### 10.11 Adjudication and Sanctioning – Employee Respondents

##### Assessment and Consultation

At the conclusion of a Formal Investigation, the appropriate administrative authority will decide what action to take in response to the findings of the Investigative Report. The appropriate administrative authority may determine that additional investigation is required to determine whether violations of other policies occurred but will not reinvestigate allegations of Prohibited Conduct investigated by Title IX.

At the conclusion of a DOE Grievance Process investigation, the parties have the opportunity to accept or not accept the preliminary determination. When the preliminary determination is that the respondent engaged in DOE-Covered Conduct, or both DOE-Covered Conduct and other Prohibited Conduct, the appropriate administrative authority will propose a resolution, in

consultation with the appropriate office, as described below, and the parties will decide whether to accept the preliminary determination and the proposed resolution.

The appropriate administrative authority may consult with Title IX, Staff Human Resources, the Dean of Academics Office, or any other appropriate entities at any time during the decision-making process.

### Opportunity to Respond

The complainant and the respondent will have an opportunity to respond to the notice of investigation outcome and accompanying Investigative Report through an in-person meeting and/or a written statement submitted to the appropriate administrative authority. The parties will have five (5) business days after Title IX sends the Investigative Report to respond. The purpose of this response is not to challenge the factual findings in the Investigative Report or present new evidence, but to provide the complainant and the respondent with an opportunity to express their perspectives and address what outcome they wish to see.

### Decision Proposal and Submission for Approval for Staff and Faculty Academic Personnel

In the event that an investigation determination (in a Formal Investigation) or preliminary determines (in a DOE Grievance Process) that a staff or faculty academic personnel respondent is responsible for violating the *NICC SVSH Policy*, the respondent's supervisor or other appropriate administrative authority will propose a decision regarding how to resolve the matter. The proposal must be submitted to the President's designee for review and approval.

In the event the President's designee does not approve the proposed decision, they will send it back to the supervisor or other appropriate administrative authority for reconsideration and submission of a revised proposed decision. In the event the President's designee approves the proposed decision, they will inform the supervisor or other appropriate administrative authority who will take steps to implement (in a Formal Investigation) or inform Title IX and Staff Human Resources or the Academic Dean (in a DOE Grievance Process), the approved decision.

This proposal and approval process will occur in all cases where the investigation has determined or preliminarily determined the respondent violated the *NICC SVSH Policy*. Staff Human Resources or the VP of Teaching and Learning Office will be consulted throughout the process. Additionally, the President's designee will consult with NICC Title IX Officer on the appropriateness of the proposed discipline before approving or disapproving it.

### **DOE Grievance Process – Hearing and Appeal**

The DOE Grievance Process may include a fact-finding hearing and appeal option of the hearing officer's finding.

After the assessment and consultation described above, the appropriate administrative authority will inform Staff Human Resources or the Academic Dean, and Title IX Officer, of the proposed decision and its rationale. The Staff Human Resources, Academic Dean, or the Title IX Officer (whichever the campus designates) will notify the parties. The parties will receive this notice within 15 business days of the notice of investigative findings and preliminary determination.

Unless both parties accept the preliminary determination and proposed resolution, there will be a fact-finding hearing to determine whether the *NICC SVSH Policy* was violated.

### **Opportunity to Accept the Preliminary Determination**

Either party may accept the preliminary determination and proposed resolution within 20 business days of the notice of investigative findings and preliminary determination. Unless both parties accept the preliminary determination and proposed resolution within this time period, then the matter will proceed to a hearing to determine if a policy violation occurred. If both parties provide written acknowledgement that they accept the preliminary determination and proposed resolution during the 20 business days, then the preliminary determination regarding policy violation(s) becomes final, and the appropriate administrative authority will impose the proposed resolution, including a discipline or corrective measures.

## Hearing Procedures

Unless both parties accept the preliminary determination and proposed resolution, there will be a fact-finding hearing before a single hearing officer (not the Title IX Officer) to determine whether the *NICC SVSH Policy* was violated. NICC's role in the hearing is neutral. NICC will consider the relevant evidence available, including relevant evidence presented by the parties, in order to make factual findings and determine whether a policy violation occurred.

## Notice of Determination

Within 15 business days of the hearing, the complainant and respondent will be sent written notice setting forth the hearing officer's determination on whether the *NICC SVSH Policy* has been violated.

## Appeal Process

The complainant and respondent have an equal opportunity to submit an appeal against the policy violation determination(s) and any sanction(s). NICC administers the appeal process but is not a party and does not advocate for or against any appeal.

An appeal must be submitted within 10 business days following issuance of the notice of the hearing officer's determination. The appeal must identify the ground(s) for appeal and contain specific arguments supporting each ground for appeal. The Title IX Officer will notify the other party of the basis for the appeal and that the other party can submit a written statement in response to the appeal within 3 business days and supporting documentation from the other party as appropriate.

Within 10 business days of receiving the appeal, the appeal officer will send their written decision to the complainant and respondent. Unless the hearing officer remands the matter to the hearing officer, the matter is closed at this point, with no further right to appeal. If the appeal

officer remands the matter to the hearing officer, they will issue their decision within 10 business days of receiving the hearing officer's additional factual findings; this decision will be final.

### [Additional Assessment and Consultation for Staff](#)

Once any appeal is final or the period for submitting an appeal has lapsed, the Title IX Officer will send the final findings and determination to the respondent's supervisor or appropriate administrative authority, with a summary explanation of any difference between the investigator's preliminary determination and the final determination and findings.

The respondent's supervisor or appropriate administrative authority has the authority and responsibility to propose and implement any responsive action. They may determine that additional investigation is required to determine whether violations of other policies occurred but will not reconsider the findings and determinations regarding *NICC SVSH Policy* violations made through the hearing and any appeal. If the hearing results in a finding that a respondent is responsible for violating the *NICC SVSH Policy*, then the respondent's supervisor or other appropriate administrative authority will, if they did not already do so, consult with the Title IX Officer.

The respondent's supervisor or other appropriate administrative authority will propose a decision regarding how to resolve the matter. The proposal must be submitted to the President's designee for review and approval. In the event the Present's designee does not approve the proposed decision, they will send it back to the supervisor or other appropriate administrative authority for reconsideration and submission of a revised proposed decision. In the event the President's designee approves the proposal decision, they will inform the supervisor or other appropriate administrative authority who will take steps to implement the approved decision.

Staff Human Resources or the Academic Dean will be consulted throughout the process. Additionally, the President's designee will consult with the campus Title IX Officer on the appropriateness of the proposed decision before approving or disapproving it.

## Corrective or Other Actions for Personnel

The below provisions apply when an employee respondent is found in violation of the *NICC SVSH Policy* following a Formal Investigation or following a hearing and any appeal in a DOE Grievance Process.

### Decision Approval and Implementation for Personnel Policy for Employees

Following approval by the President's designee (in a Formal Investigation) or final adjudication (in a DOE Grievance Process), the respondent's supervisor will implement the approved decision.

**No Further Action:** The supervisor may propose remedial actions that do not amount to corrective action or termination. The proposed action will be reviewed by the President's designee for approval.

**Action Not Requiring Notice of Intent:** The supervisor may propose remedial actions that do not amount to corrective action or termination. The proposed actions will be reviewed by the President's designee for approval.

**Notice of Intent:** The supervisor may propose to issue a notice of intent to institute corrective action or notice of intent to terminate. The proposed terms of the notice of intent will be reviewed by the President's designee for approval. In the event it is approved, the decision will be implemented by the supervisor and the notice of intent will be issued. Following the provision of a notice of intent, corrective action will be taken and/or actions to terminate will be taken.

### Timeframe for Implementation of Decision; Extension for Good Cause

The supervisor or other appropriate administrative authority should implement their approved decision promptly, typically within forty (40) business days of receipt of the notice of

investigation outcome and accompanying Investigative Report. If the matter has not been otherwise resolved within forty (40) business days, a notice of intent will be issued. Extensions to this timeline may be granted by the President's designee for good cause with written notice to the complainant and the respondent stating the reason for the extension and the projected new timeline.

### Process Following Action Taken

In the event that a respondent submits a complaint, or an employee appointee respondent submits a grievance, the President's designee will ensure that both the complainant and the respondent receive updates regarding the status of the complaint or grievance. The complainant may follow processes appropriate to their own personnel or student policies.

### Decision on Sanctions for Employees

The steps outlined below apply when a respondent is found in violation of the *NICC SVSH Policy* following a Formal Investigation or following a hearing and any appeal in a DOE Grievance Process.

### Decision by President or President's Designee

Following consultation with the Title IX Officer, the Present's designee will decide what action to take to resolve the matter.

The President must initiate related disciplinary action by delivering notice of proposed action to the respondent no later than three years after the President is deemed to have known about the alleged violation. For an allegation of sexual violence or sexual harassment, the President is deemed to know about an alleged violation of the Code of Conduct when the allegation is first reported to any academic administrator at the level of department chair or above, or the campus Title IX Office.

**No Formal Discipline:** The President or President’s designee may determine to resolve the matter without taking any formal disciplinary action.

**Early Resolution:** The President or President’s designee can enter into an early resolution with the respondent. An early resolution can be achieved at any time prior to the final imposition of discipline.

#### Timeframe for Decision: Extension for Good Cause

The President or President’s designee should implement their decision promptly, typically within forty (40) business days of receipt of the notice of investigation outcome and accompanying Investigative Report. A charge will not be held in abeyance or suspended while an early resolution is being pursued or finalized. Extensions to this timeline may be granted by the President for good cause with written notice to the complainant and respondent stating the reason for the extension and the projected new timeline.

#### Process Following the Provision of a Written Notice of Intent

Should the respondent submit a grievance or otherwise challenging an administrative decision, the President’s designee will ensure that both the complainant and respondent receive regular updates regarding the status of the grievance. When a faculty member receives notice of termination before the expiration of their appointment, they may select a grievance mechanism.

#### Disciplinary Procedures from Staff and Faculty Policies

The following are NICC’s disciplinary procedures pursuant to relevant faculty and staff policies:

The types of discipline/sanctions that may be imposed on an employee are as follows, in order of increasing severity:



- **Reduction in Salary:** Reduction to lower salary without change in rank or step. The authority to reduce the salary of any employee member rests with the President. This authority may not be redelegated. The amount and duration of the reduced salary shall be specified.
- **Suspension:** Suspension of an employee without pay for some stated period of time from the continuance of the appointment on its normal terms. Unless otherwise noted, the terms of a suspension will include loss of normal privileges such as access to NICC property, participation in departmental governance, voting rights, administration of grants, supervision of student workers, and use of NICC administrative staff, and may include loss of other campus privileges such as parking and library privileges. The degree and duration of the suspension shall be specified. Authority for the suspension of an employee rests with the President and may not be re-delegated. Suspension as a disciplinary action is to be distinguished from involuntary leave, which is precautionary action.
- **Dismissal from the Employ of NICC:** The President has authority to dismiss an employee member of employment. This authority may not be redelegated. A President is authorized to initiate involuntary leave with pay prior to the initiation of a disciplinary action if it is found that there is a strong risk that the respondent employee's continued assignment to regular duties or presence on campus will cause immediate and serious harm to the NICC community or impede the investigation of their wrongdoing, or in situations where the employee's conduct represents a serious crime or felony that is the subject of investigation by a law enforcement agency. When such action is necessary, it must be possible to impose the involuntary leave swiftly, without resorting to normal disciplinary procedures. In rare and egregious cases, a President may be authorized by special action of The Board of Trustees to suspend and pay of an employee on involuntary leave pending a disciplinary action. This is in addition to the President's power to suspend the pay of an employee who is absent without authorization and fails to perform their duties for an extended period of time, pending the resolution of the employee's employment status with NICC. Thereafter, the employee may grieve the decision to place them on involuntary leave pursuant to applicable grievance procedures.

The Human Resource Division shall handle such grievances on an expedited basis and may recommend reinstatement of pay and back pay in cases where pay status was suspended. Within five (5) working days after the imposition of involuntary leave, the President must explain to the employee in writing the reasons for the involuntary leave and initiate disciplinary procedures by bringing charges against the employee on leave.

### 10.12 Comprehensive List of Resources

NICC is committed to creating a safe and secure campus environment. Below is a comprehensive list of resources on campus, in the greater community, nationally for complainants/victims, students, employees, or anyone with questions or concerns about Sexual Violence.

#### Campus Confidential Resources

Resources	Contact Information	Types of Resources
Morningstar Counseling	Provides students with a broad range of mental health services, including individuals, couples, and family counseling. Provides professional consultation to faculty, staff, and families.  (402) 417-3884  <a href="mailto:Dr.hinojos@morningstar-counseling.com">Dr.hinojos@morningstar-counseling.com</a>	Mental health counseling

Other Campus Resources (non-confidential)

Resource	Description	Contact Information	Types of Resources
Office of Student Services	The Office of Student Services handles student conduct issues and enforces No-Contact Orders.	(402) 241-5908	No-Contact Orders
Office of Admissions	The Office of Admissions handles student admissions and collection of student emergency contacts		Student financial aid consultation
Human Resources	Human Resources provides information and resources related to ASAP, benefits, career management, compensation, disability, labor relations, training, and more.	(402) 241-5943	Employment-related consultation

Community/National Resources

Resources	Description	Contact Information	Types of Resources
Winnebago Domestic Violence Program	Provides emergency shelter, support groups 24-hour crisis line, and transitional housing. WDVP staff respond with law enforcement personnel on domestic violence 911 calls and provide victims with support,	Phone number: 844-823-6240	Victim advocacy Confidential counseling

Resources	Description	Contact Information	Types of Resources
	advocacy, and access to safe and confidential shelter.		Counseling referrals  Legal referrals  Housing resources
Santee Domestic Violence	Counseling, housing, and other individual/family support services	402-857-2316	Counseling  Housing
Domestic Violence & Prevention Program	Provides safety services to individuals who have witnessed or a part of Domestic Violence, Stalking, Elder Abuse, Family Violence, Human Trafficking, Dating Violence, Sexual Assault, and victims of crime.	402-922-3190	24-hour emergency line, advocacy, supportive services, DV shelter, community outreach.
Federal Student Aid in Office of U.S. Department of Education.	Federal Student Aid, a part of the U.S. Department of Education, is the largest provider of student financial aid in the nation.	1-800-433-3243  studentaid.ed.gov	Student financial aid resources

### 11.0 HEOA VICTIM NOTIFICATION

Per the Higher Education Opportunity Act (HEOA), NICC will, upon request, disclose to the alleged victim of a crime of violence or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by NICC, against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime

or offense the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

## 12.0 REGISTERED SEX OFFENDER INFORMATION

### 12.1 Sex Offenders Registered in Nebraska

This section describes where law enforcement agency information concerning registered sex offenders may be obtained by the NICC community. The State of Nebraska requires sex offenders to register with the local (city or county) law enforcement agency in the jurisdiction in which they reside. Local law enforcement agencies then provide this information to the State. Information on registered sex offenders is available at the website <https://sor.nebraska.gov>.

The Adam Walsh Child Protection and Safety Act of 2006 (AWCPSA) is a federal law that provides for the tracking of convicted sex offenders. The Sex Offender Registration and Notification Act which is Title I of the AWCPSA requires that registered sex offenders register and keep their registration current in each jurisdiction in which they reside, work, or go to school. This database can be searched by a sex offender's specific name and includes zip code and city/county listings as well as detailed personal profile information on each registrant.

The federal Campus Sex Crimes Prevention Act, enacted October 28, 2000, requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a state concerning registered sex offenders may be obtained. It requires sex offenders already registered in a state to provide notice, as required under state law, of each institution of higher education in that state at which person is employed, carries a vocation, volunteers services or is a student.

Offenders must register in Nebraska if they have pled guilty to or have been convicted of certain criminal offenses. A person must also register if that person has pled guilty or "nola contendere"

to, or been found guilty of, an offense in another court in the United States, a tribal court or court of another country, which is equivalent to those offenses. When required to register, the offender receives registration forms and instructions from the “originating agency.” The originating agency is the agency that informs the offender of the need to register as a “sex offender” or “offender against children.”

The registration forms contain instructions directing the offender to register in person with the law enforcement agency in the city or county where the offender will reside. The offender signs the acknowledgement portion of the registration form. The originating agency then sends copies of the registration form the offender has signed to the Bureau of Criminal Investigation (BCI). BCI enters the information into the registration database and forwards copies of the signed acknowledgement to the law enforcement agency at which the individual is expected to register. BCI maintains a master database of all persons in the state and monitors that database for any violations of the registration statues by offenders. Again, this list can be accessed at <https://sor.nebraska.gov>.

## 12.2 College-specific Registered Sex Offender Information

Nebraska Indian Community College does not allow convicted sex offenders on campus.

To increase the safety and welfare of the students, faculty, and staff of the Nebraska Indian Community College, no convicted or registered sex offenders will be allowed to enroll in any NICC courses or allowed on any NICC property or at any NICC sponsored event.

If a Registered Sex Offender is identified, Dean of Student Services is to be notified so the situation can be dealt with immediately. For more information about current state requirements, please go to: <https://sor.nebraska.gov>.

## 13.0 CAMPUS FACILITIES ACCESS AND SECURITY

### 13.1 Security of an Access to Campus Facilities – Academic and Other Buildings

During normal business hours, NICC buildings and facilities (excluding certain housing facilities and administrative buildings) are open to the public. During non-business hours, access to most campus buildings and facilities is limited and may require proper identification. NICC buildings and facilities are secured according to schedules developed by the department responsible for the building or facility. Some buildings and facilities at NICC have hours that vary throughout the year. Emergency situations may require changes or alterations to posted building and facility schedules.

Access to academic and other buildings is controlled by key or electronic key-card access, and each building has varied levels of access control. Site Coordinators respond to alarms and conduct routine patrols to monitor security at campus buildings and other facilities. Lost keys or keycards should be reported to a department supervisor immediately for re-keying of areas or cancelling the keycards, as necessary.

In order to ensure that only authorized individuals have access to NICC buildings and facilities, it is essential that students, staff, and faculty work together to keep doors of all buildings and other facilities closed and locked after hours. Do not leave doors propped open or unlocked after hours. Do not open the door for individuals you do not know. If your campus keys or keycards are lost or stolen, report this information immediately to the issuing party/department and/or NICC at (402) 241-5981.

Buildings, facilities, and other areas on campus that are reported or determined to be problematic in certain ways may have security surveys and assessments conducted, including lighting, landscaping, access control, alarm monitoring, security camera coverage and other assessments. Members of NICC, College Facilities Management, and others may contact security assessments for new construction, remodeling projects, and other areas on an ongoing basis or when requested.

### 13.2 Security Considerations in Maintenance of Campus Facilities

NICC uses a multidisciplinary approach to deter criminal behavior and to promote a safer campus community. Crime Prevention Through Environmental Design (CPTED) is a key strategy relied upon to reduce behaviors that precede criminal activities. In accordance with this strategy, facilities and landscaping are maintained in a manner that minimizes hazardous conditions. Additionally, Safety officers regularly patrol the main campus and off-site facilities, and report malfunctioning lights, security deficiencies, and other unsafe physical conditions to Facilities Management for correction.

NICC sponsors and conducts an annual Campus Lighting and Safety Walk. This annual event includes campus directors and members from various campus organizations. The Walk is designated to identify any and all hazards that could affect campus safety, such as the need for lighting repairs or additional lighting.

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Members of the NICC community are encouraged to report equipment problems or unsafe conditions to NICC or Facilities Management by contacting (402) 241-5908. The Facilities Management staff is immediately available during normal business hours and available “on-call” after hours, weekends, and holidays.

### 14.0 ILLEGAL WEAPONS

NICC is committed to maintaining a safe and secure environment that supports the academic mission of NICC. Individuals are prohibited from possessing various weapons, including firearms; explosives; instruments that expel metal projectiles, such as a bb or pellet; specified knives; and/or any item that may be construed as such, on the premises of NICC or any building under its control.



NICC policy prohibit the possession or control of any firearms, deadly weapons, explosive devices, nunchakus, metal knuckles, billy clubs, saps, or any other deadly weapons or prohibited knives, while in any NICC property or facility, except as required in the lawful course of business. Anyone found in violation of NICC’s policies will be subject to the disciplinary policies and procedures applicable to students, staff, and faculty, and/or criminal prosecution by the appropriate jurisdiction.

A weapon is anything that could be used to hurt another person. Weapons include a gun, knife, hands, fists, feet, and any available object that could be used to hurt another. Moreover, the possession of an undetectable firearm, cane gun, wallet gun, zip gun, belt buckle knife, blackjack, or other “generally prohibited weapon” is prohibited.

Individuals are encouraged to report weapons violations to NICC immediately by dialing (402) 241-5908. It is important to provide a description and location of the individual carrying a weapon. NICC has and will continue to investigate any threat to the safety of NICC in order to protect all members of the college community and their guests.

NICC policy also prohibits individuals from use, possession, sale, or manufacture of any dangerous weapons on NICC properties or at official NICC functions, except as expressly permitted by law. Anyone found in violation of NICC’s policies shall be subject to the disciplinary policies and procedures applicable to students and employees, and/or criminal prosecution by the appropriate jurisdiction.

### 15.0 SUBSTANCE USE POLICY, LAWS, AND SANCTIONS

In accordance with the Drug-Free Schools and Communities Act (DFSCA) of 1989, the *College Substance Abuse Policy and Implementing Guidelines* include NICC’s policy on substance use standards of conduct; potential legal sanctions and penalties for unlawful possession, use, or distribution of drugs or alcohol; potential sanctions for campus drug and alcohol policy violations; health risks associated with drug and alcohol abuse; and resources available to students and employees.

NICC actively distributes information about the campus substance use policy and its availability to members of the campus community by sending emails to students and employees throughout the year. Additionally, NICC conducts a biennial review of the effectiveness of the campus substance abuse prevention program.

The following is a summary of NICC's policy on substance use, disciplinary sanctions for policy violations, educational programs offered by NICC, and on and off-campus substance use treatment resources.

### 15.1 College Substance Use Policy and Standards of Conduct

NICC strives to maintain a community and workplace free from the illegal use, possession, or distribution of alcohol and other drugs. Manufacture, sale, distribution, dispensation, possession, or use of alcohol and controlled substances by students or employees on NICC property, at official NICC functions, or on NICC business is prohibited except as permitted by law, NICC policy, and campus regulations.

To promote an environment of academic excellence and to comply with the requirements of the Drug-Free Schools and Community Act and the Drug Free Workplace Act, academic and staff employees and students:

- Shall not use illegal substances and shall not use legal substances in a manner that impairs scholarly activities, job performance, or student life.
- Shall not use illegal or legal substances in a manner that violates applicable criminal or civil laws in the workplace, on NICC premises, at NICC activities or while conducting NICC business.
- Are prohibited from the unlawful manufacture, distribution, dispensation, possession, or use of alcohol and/or a controlled substance in the workplace, on NICC premises, at NICC activities, or while conducting NICC business.

### 15.2 Nebraska State Alcohol and Drug Laws and Sanctions

The state classification of offenses and the sanctions for violating specific alcohol or drug statutes are as follows.

## Alcohol

1. No one under the age of 21 may sell or dispense or have in his or her possession or physical control an alcohol liquor in any tavern or in any other place including public streets, alleys, roads, highways, or inside any vehicle. This is a Class III misdemeanor. *Sec. 53-180.02*
2. No person may sell, give away, dispose of, exchange, or deliver, or permit the sale, gift, or procuring of any alcoholic liquors, to or for any person under the age of 21. This is a Class I misdemeanor. *Sec. 53-180*
  - a. Any person who knowingly and intentionally violates section 53-180 is guilty of a Class IIIA felony and will serve a mandatory minimum of at least thirty days' imprisonment if serious bodily injury or death to any person resulted and was proximately caused by a minor's (a) consumption of the alcoholic liquor provided or (b) impaired condition which, in whole or in part, can be attributed to the alcoholic liquor provided. *Sec. 53-180.05(2)*
3. No one under the age of 21 may obtain, or attempt to obtain, alcoholic liquor by misrepresentation of age, or by any other method, in any place where alcoholic liquor is sold. This is a Class III misdemeanor. *Sec. 53-180.01*
  - a. It is unlawful for any person to (a) display or have in their possession a fictitious or altered operator's license or state identification card, (b) lend their own operator's license or state identification care, or (c) to display or represent as one's own, any operator's license or state identification not issued to them. This is a Class III misdemeanor. *Sec. 60-491(1-3)*
  - b. Any person who knowingly manufactures, creates, or alters any form of identification for the purpose of sale or delivery of such form of identification to a person under the age of 21 is guilty of a Class I misdemeanor. *Sec 53-180.05 (6)*

## Controlled Substance

1. It is unlawful for any person to knowingly or intentionally: (a) To manufacture, distribute, deliver, dispense, or possess with intent to manufacture, distribute, deliver, or dispense a controlled substance; or (b) to create, distribute, or possess with intent to distribute a counterfeit controlled substance. *Sec 28-416(1)*
2. Any person who violates paragraph (1) of this section with respect to (a) cocaine, (b) base cocaine (crack), (c) heroin, or (d) amphetamine or with respect to methamphetamine, in a quantity of: *Sec. 28-416(7-10)*
  - a. 140 grams or more is guilty of a Class 1B felony;
  - b. 28 grams – 140 grams is guilty of a Class 1C felony;
  - c. 10 grams – 28 grams is guilty of a Class 1D felony;
  - d. Any detectable amount – 10 grams is guilty of a Class II felony;
  - e. Simple possession (personal use) is guilty of a Class IV felony.
3. Any person who knowingly or intentionally possesses marijuana or its derivatives in the quantity of: *Sec 28-416(3)(11-13)*
  - a. Any amount of hashish oil or concentrated cannabis oil is guilty of a Class IV felony:
  - b. Marijuana more than 1 pound is guilty of a Class IV felony;
  - c. Marijuana more than 1 ounce, but not more than 1 pound is guilty of a Class III misdemeanor;
  - d. Marijuana 1 ounce or less is guilty of:
    - i. For the first offense, an infraction, receive a citation, be fined \$300, or may be assigned to a drug abuse course.
    - ii. For the second offense, a Class IV misdemeanor, receive a citation, and be fined \$400 and may be imprisoned not to exceed 5 days.
    - iii. For the third offense, a Class IIIA misdemeanor, receive a citation, be fined \$500, and be imprisoned not to exceed 7 days.

4. Any person who uses, or possesses with the intent to use, drug paraphernalia to introduce a controlled substance into the human body is guilty of an infraction. *Sec. 28-441*
5. Any person who is 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 person duly authorized by law to treat sick and injured human beings, is guilty of a Class III misdemeanor. *Sec. 28-417*
6. It is a Class IV felony to knowingly or intentionally: (a) acquire or attempt to acquire a controlled substance by theft, misrepresentation, fraud, forgery, deception, or subterfuge; (b) possess a false or forged prescription for a controlled substance; or (c) communicate information to a practitioner in an effort to unlawfully procure a controlled substance or a prescription for a controlled substance. *Sec. 28-418*

### **Good Samaritan of Nebraska Drug or Alcohol Overdose Law**

Drug and alcohol overdose exception from criminal liability applies to any person who makes a request for emergency medical assistance and complies with the following requirements in the instance of a drug or alcohol overdose. A person will not be in violation of possession of a controlled substance or possession of alcohol by a minor if this person: (a) Made a good faith request for emergency medical assistance in response to the overdose of themselves or another, (b) as soon as the overdose was apparent, and (c) the evidence of possession was obtained as a result of this request. When assistance is requested for another person, the requesting person must remain at the scene until medical assistance arrives and cooperate with medical and/or law enforcement personnel. *Sec 53-180.05(4) and Sec. 28-472*

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

<b>Drug</b>	<b>Quantity</b>	<b>Penalty for "simple" possession</b>	<b>Penalty for manufacture, distribution, delivery, dispensation, or possession with intent to manufacture, distribute, deliver or dispense</b>
Anabolic Steroids <sup>1</sup> Schedule III(d)	Any detectable amount	Up to 2 years imprisonment and 12 months post-release supervision (with 9month 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 9month 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 up to 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 5 years imprisonment or \$10,000 fine or both. Class IV felony.	

<sup>1</sup> "Anabolic steroid shall mean 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." Neb. Rev. Stat. § 28-401 (31) (Reissue 2016). <sup>2</sup> "Hashish or concentrated cannabis shall 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." Neb. Rev. Stat. § 28-401(27) (Reissue 2016). <sup>3</sup> "Marijuana" is defined at Neb. Rev. Stat. § 28-401(13) (Reissue 2016).

<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) (Reissue 2016).

Last reviewed 09/2017

**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 10 grams	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 10 grams	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 10 grams	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 4 years imprisonment and 9-24 months post-release supervision or \$25,000 fine or both. Class III felony.

<sup>1</sup> Outlined in Neb. Rev. Stat. § 28-416 (Reissue 2016).

<sup>2</sup> All references are to the controlled substances schedules enumerated in Neb. Rev. Stat. § 28-405 (Reissue 2016).

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<b>Drug<sup>3</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>
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>4</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>3</sup> Outlined in Neb. Rev. Stat. § 28-416 (Reissue 2016).

<sup>4</sup> "Exceptionally Hazardous Drug" is defined in the Uniform Controlled Substances Act, Neb. Rev. Stat. § 28-401 (28) (Reissue 2016).



Federal trafficking penalties are provided under the Drug Enforcement Administration.

## FEDERAL TRAFFICKING PENALTIES

DRUG/SCHEDULE	QUANTITY	PENALTIES	QUANTITY	PENALTIES
Cocaine (Schedule II)	500–4999 grams mixture	<b>First Offense:</b> Not less than 5 yrs., and not more than 40 yrs. If death or serious injury, not less than 20 or more than life. Fine of not more than \$5 million if an individual, \$25 million if not an individual.  <b>Second Offense:</b> Not less than 10 yrs., and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual.	5 kgs or more mixture	<b>First Offense:</b> Not less than 10 yrs., and not more than life. If death or serious injury, not less than 20 or more than life. Fine of not more than \$10 million if an individual, \$50 million if not an individual.  <b>Second Offense:</b> Not less than 15 yrs., and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.  <b>2 or More Prior Offenses:</b> Not less than 25 years. Fine of not more than \$20 million if an individual, \$75 million if not an individual.
Cocaine Base (Schedule II)	28–279 grams mixture		280 grams or more mixture	
Fentanyl (Schedule II)	40–399 grams mixture		400 grams or more mixture	
Fentanyl Analogue (Schedule I)	10–99 grams mixture		100 grams or more mixture	
Heroin (Schedule I)	100–999 grams mixture		1 kg or more mixture	
LSD (Schedule I)	1–9 grams mixture		10 grams or more mixture	
Methamphetamine (Schedule II)	5–49 grams pure or 50–499 grams mixture		50 grams or more pure or 500 grams or more mixture	
PCP (Schedule II)	10–99 grams pure or 100–999 grams mixture		100 gm or more pure or 1 kg or more mixture	
<b>PENALTIES</b>				
Other Schedule I & II drugs (and any drug product containing Gamma Hydroxybutyric Acid)	Any amount	<b>First Offense:</b> Not more than 20 yrs. If death or serious injury, not less than 20 yrs., or more than life. Fine \$1 million if an individual, \$5 million if not an individual.  <b>Second Offense:</b> Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual.		
Flunitrazepam (Schedule IV)	1 gram			
Other Schedule III drugs	Any amount	<b>First Offense:</b> Not more than 10 years. If death or serious injury, not more than 15 yrs. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual.  <b>Second Offense:</b> Not more than 20 yrs. If death or serious injury, not more than 30 yrs. Fine not more than \$1 million if an individual, \$5 million if not an individual.		
All other Schedule IV drugs	Any amount	<b>First Offense:</b> Not more than 5 yrs. Fine not more than \$250,000 if an individual, \$1 million if not an individual.  <b>Second Offense:</b> Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.		
Flunitrazepam (Schedule IV)	Other than 1 gram or more			
All Schedule V drugs	Any amount	<b>First Offense:</b> Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual.  <b>Second Offense:</b> Not more than 4 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.		

## FEDERAL TRAFFICKING PENALTIES—MARIJUANA

DRUG	QUANTITY	1st OFFENSE	2nd OFFENSE *
Marijuana (Schedule I)	1,000 kg or more marijuana mixture; or 1,000 or more marijuana plants	Not less than 10 yrs. or more than life. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine, not more than life. Fine not more than \$10 million if an individual, \$50 million if other than an individual.	Not less than 15 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.
Marijuana (Schedule I)	100 kg to 999 kg marijuana mixture; or 100 to 999 marijuana plants	Not less than 5 yrs. or more than 40 yrs. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine, not more than life. Fine not more than \$5 million if an individual, \$25 million if other than an individual.	Not less than 10 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$8 million if an individual, \$50 million if other than an individual.
Marijuana (Schedule I)	More than 10 kgs hashish; 50 to 99 kg marijuana mixture  More than 1 kg of hashish oil; 50 to 99 marijuana plants	Not less than 20 yrs. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine \$1 million if an individual, \$5 million if other than an individual.	Not less than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if other than an individual.
Marijuana (Schedule I)	Less than 50 kg marijuana (except 50 or more marijuana plants regardless of weight);  1 to 49 marijuana plants;	Not more than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual	Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual
Hashish (Schedule I)	10 kg or less	Not more than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual.	Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual
Hashish Oil (Schedule I)	1 kg or less	Not more than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual.	Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual

\*The minimum sentence for a violation after two or more prior convictions for a felony drug offense have become final is not less than 25 years imprisonment and a fine up to \$20 million if an individual and \$75 million if other than an individual.

The violation of any offense may lead to disciplinary action by NICC, as well as criminal prosecution. Disciplinary and appeal procedures for employees is found in the NICC Personnel Policy Manual. Federal Statutes are available as printed in the August 16, 1990, Federal Register as part of the final regulations for the Drug-Free Schools and Communities Act 1990.

Nebraska law prohibits furnishing and selling alcoholic beverages to underage persons (younger than 21) or obviously intoxicated individuals. Underage persons may not buy alcoholic beverages or possess them on campus, in public, or in places open to public view. The penalties for violations of these laws may include substantial fines and jail. Alcohol may not be sold without a license or permit. State law also prohibits driving a motor vehicle under the influence (a blood alcohol level of .08 percent or higher creates a presumption of intoxication, but a driver can be charged even with lower blood alcohol levels); drinking or possessing an open container of alcohol while driving; and operating a bicycle while intoxicated. Drunken driving penalties include jail or prison, fines of \$500 or more, driver license suspension or revocation, and required drug/alcohol treatment programs.

Sale or possession for sale of controlled substances, such as cocaine, methamphetamines, heroin, Ecstasy, GHB, Ketamine, LSD, PCP, marijuana, and “designer drugs,” is a felony. Sentences are enhanced for previously convicted felons, for distribution within 1,000 feet of a school or NICC or within 100 feet of a recreational facility, and for distribution to a pregnant woman or to someone under 18 by someone over 18. Property used in drug transactions can be seized.

In addition to above laws the two chartered Tribes of NICC are as follows:

Santee Tribal Code Provision (The Santee Dakota Nation of Nebraska has adopted the criminal laws of the State of Nebraska) Nebraska (NE uses the federal schedule for classifying drugs)

Neb. Stat. 28-416. Except as authorized by the Uniform Controlled Substances Act (21 U.S.C. Chapter 13), it shall be unlawful for any person knowingly or intentionally: (a) To manufacture, distribute, deliver, dispense, or possess with intent to manufacture, distribute, deliver, or

dispense a controlled substance; or (b) to create, distribute or possess with intent to distribute a counterfeit controlled substance. Anybody who violates the section above with respect to a controlled substance classified in Schedule I, II or III (except for cocaine, heroin and amphetamine) is guilty of a Class II felony. The penalty for a Class II Felony is between 1 and 50 years imprisonment. Anybody who violates the section above with respect to a controlled substance classified in Schedules IV or V is guilty of a Class IIIA felony. The penalty for a Class IIIA felony is up to 5 years imprisonment or a fine of up to \$10,000 or both. Anybody who violates the section above with respect to cocaine or any mixture or substance containing a detectable amount of cocaine a quantity of: (a) 140 grams or more shall be guilty of a Class IB felony punishable from 20 year to life imprisonment. (b) At least 28 grams but less than 140 grams shall be guilty of a Class IC felony which is punishable between 5 to 50 years imprisonment. (c) At least 10 but less than 28 grams shall be guilty of a Class ID felony which is punishable between 3 to 30 years imprisonment. Anybody who violates the section above with respect to base cocaine (crack) or any mixture or substance containing a detectable amount of base cocaine in a quantity of: (a) 140 grams or more shall be guilty of a Class IB felony punishable from 20 year to life imprisonment. (b) At least 28 grams but less than 140 grams shall be guilty of a Class IC felony which is punishable between 5 to 50 years imprisonment. (c) At least 10 but less than 28 grams shall be guilty of a Class ID felony which is punishable between 3 to 30 years imprisonment. Anybody who violates the section above with respect to heroin or any mixture or substance containing a detectable amount of heroin in a quantity of: (a) 140 grams or more shall be guilty of a Class IB felony punishable from 20 years to life imprisonment. (b) At least 28 grams but less than 140 grams shall be guilty of a Class IC felony which is punishable between 5 to 50 years imprisonment. (c) At least 10 but less than 28 grams shall be guilty of a Class ID felony which is punishable between 3 to 30 years imprisonment. Anybody who violates the section above with respect to amphetamine, its salts, optical isomers, and salts of its isomers or with respect to methamphetamine, its salts, optical isomers, and salts of its isomers, in a quantity of: (a) 140 grams or more shall be guilty of a Class IB felony punishable from 20 years to life imprisonment. (b) At least 28 grams but less than 140 grams shall be guilty of a Class IC felony which is punishable between 5 to 50 years imprisonment. (c)

At least 10 but less than 28 grams shall be guilty of a Class ID felony which is punishable between 3 to 30 years imprisonment.

Marijuana Any person knowingly or intentionally possessing marijuana weighing more than one ounce but not more than one pound shall be guilty of a Class III misdemeanor which is punishable by up to three months in jail or a fine up to \$500 or both. Any person knowingly or intentionally possessing marijuana weighing more than one pound shall be guilty of a Class IV felony punishable by up to 5 years in prison or a fine of up to \$10,000 or both. Any person knowingly or intentionally possessing marijuana weighing one ounce or less or any substance containing a quantifiable amount of the substances, chemicals, or compounds of Schedule I shall: (a) For the first offense, be guilty of an infraction, receive a citation, be fined three hundred dollars, and be assigned to attend a course if the judge determines that attending such course is in the best interest of the individual defendant. (b) For the second offense, be guilty of a Class IV misdemeanor, receive a citation, and be fined \$400 dollars and may be imprisoned not to exceed five days. (c) For the third and all subsequent offenses, be guilty of a Class IIIA misdemeanor, receive a citation, be fined five hundred dollars, and be imprisoned not to exceed seven days.

#### Omaha Tribal Code Provision Possession

SECTION 5-3-6 41 Unlawful Manufacture or Delivery of a Controlled Substance is a Class A offense. Unlawful Possession of a Controlled Substance is a Class A Offense. Class A offenses may be sentenced as follows: a term of imprisonment not to exceed one (1) year and a fine not to exceed \$5,000. SECTION 5-4-124 Possession of Marijuana can be a Class A, B, or C offense and is dependent of the amount possessed. Class A possession under this section is subject to a fine of not less than \$1500 or a term of imprisonment not to exceed 12 months, or both. Class B possession under this section is subject to a fine of not less than \$500 or a term of imprisonment not to exceed 90 days, or both. Class C possession under this section is subject to a fine of not less than \$300.

### 15.3 College Policy on and Enforcement of Possession, Use, and Sale of Illegal Drugs

The NICC campus has been designated Drug-Free. The possession, sale, manufacture, and distribution of any controlled substance is illegal under both state and federal laws. The Academic strictly enforce these laws. Violators of these laws are subject to NICC disciplinary action (for affiliated members of the institution), criminal prosecution, fine, and imprisonment. Academic and staff personnel violating these policies may be subject to corrective action, including dismissal, under applicable NICC policies and labor contracts, and may be referred for criminal prosecution and/or required to participate in an Employee Assistance Program or appropriate treatment program.

### 15.4 College Policy on and Enforcement of Possession, Use and Sale of Alcoholic Beverages

The possession, use, and sale of alcohol on the NICC campus is governed by the *College Substance Abuse Policy*, federal law, Nebraska state law, and local county ordinances. Laws regarding the possession, use, sale, consumption, and furnishings of alcohol are controlled by the Nebraska law. The enforcement of alcohol laws on the NICC campus is the primary responsibility of NICC. The possession of alcohol by anyone under 21 years of age in a public place or a place open to the public is illegal. NICC strictly enforces these laws. Violators are subject to NICC disciplinary action (if affiliated with the institution), criminal prosecution, fine, and imprisonment. It is unlawful to sell, furnish, or provide alcohol to a person under the age of 21.

It is also a violation of the *College Substance Abuse Policy* for anyone to consume or possess alcohol in any public/private area of the campus without prior NICC approval. Students violating these policies are subject to disciplinary action, including suspension or dismissal from NICC, and may be referred for criminal prosecution and/or required to participate in appropriate treatment programs. Organizations or groups violating alcohol/substance policies or laws may be subject to sanctions by NICC.

## 15.5 Drug and Alcohol Abuse Education Programs and Support Resources

NICC students and employees with substance abuse concerns (including alcohol) create a health and safety risk for themselves and for others. Substance use can also result in a wide range of serious emotional and behavioral problems. NICC makes available to students and employees a variety of alcohol and substance use programs. These programs are designed to discourage the use of illegal substances and to educate students and others as to the merits of legal and responsible alcohol consumption.

NICC's Alcohol & Drug Program (ADP) provides counseling and referral services to students who suffer from a substance abuse concern. Group and individual counseling sessions are available to students at no cost for voluntary attendance and a program fee for required attendance (i.e., referral for disciplinary sanction). All information regarding any contact or counseling is confidential and will be treated in accordance with NICC policies and state and federal laws. A student's decisions to seek assistance will not be used in connection with any academic determination or as a basis for disciplinary action. ADP strives to create a safe, healthy, and learning-conductive environment through the promotion of healthy choices concerning the use of alcohol, tobacco, and other drugs. The program emphasizes the elimination of harmful use, high-risk behavior, and related violence, and also offers services for students in recovery and allies who support them.

ADP uses a comprehensive research-based approach to substance use prevention. NICC's efforts to reduce high-risk drinking and drug use among students include strategies such as education, prevention and early intervention. ADP works in partnership with undergraduate students, many campus departments, and community agencies to promote a healthy and safe campus and community. Using science and evaluation-based prevention models, the Alcohol and Other Drug Work Group makes recommendations for all programs, policy, and enforcement issues related to alcohol and other drugs. This comprehensive effort works to reduce high-risk drinking by:

Educating students about responsible alcohol and substance use.

Providing early intervention and confidential counseling for all students.

Altering the environment to limit access to alcohol by underage students and provide alcohol-free social options.

Ensuring compliance with substance use policies and laws, as well as consequences for policy violation.

NICC offers all students free and confidential counseling for substance use and other addictive behaviors, gambling, device management, and screen use. Support, information, education and referrals are provided in a non-judgmental environment. For appointments and additional information, call the Morningstar Counselor's office at (402) 417-3884.

#### 15.6 Health Risks:

##### **Associated with the Use/Abuse of Alcohol:**

Malnutrition; lowered resistance to disease; irreversible brain or nervous system damage; gastrointestinal irritation; damage to the liver; heart and pancreas; addiction/alcoholism; coma; death from overdose; injury or accident; fetal alcohol syndrome.

##### **Associated with the Use/Abuse of Controlled Substances:**

Damage to heart, lungs, brain and nerve cells; lung cancer; memory disorders; interference with psychological maturation; temporary loss of fertility in both men and women; psychological dependence; bronchitis; infections, colds and other viruses; stroke, liver problems, seizures; heart and respiratory failure; psychosis, convulsions; sexual dysfunction.

For users who share/use unsterile needles: Tetanus; hepatitis; tuberculosis; HIV/Aids.



For pregnant women: Miscarriage; stillbirths; premature labor or delivery; hemorrhaging.

For cocaine babies: irritability; unresponsiveness; stroke; malformed kidneys and genitals; seizures; SIDS.

In compliance with the Drug-Free Schools and Community Act of 1989, NICC offers various drug and alcohol use prevention, education, and intervention programs. These services are made available to students and staff. Below is a list and brief description of the programs that are offered to students through-out the year.

## Campus Programs

Intervention/Prevention Strategy	Brief Description
Alcohol and Drug Individual Counseling	One-on-one counseling sessions (Morningstar Counseling) using brief motivational and cognitive-behavioral techniques for use of substances including alcohol, marijuana, prescription drugs, and other illicit substances. The goal of the counseling is to educate students about the effects of illicit drug use, to promote self-evaluation of drug-use habits, and to facilitate the acquisition of effective coping strategies to make informed decisions and reduce the risk and harm associated with substance use.
Self-Assessment	NICC houses the Alcoholics Anonymous Self-Assessment pamphlets at each of our campuses for anyone to take. They are in open areas that would be easy for a student or employee to access them.
Campus and Community Educational Programming	A wide variety of large-and small-scale educational events and programs including guest speakers, class learning, and videos to relay educational information, provide skill training, and refer students to resources on and off campus.
Student Orientation	The second component of NICC’s “New Student Requirement” programs requires attendance at Student Orientation, attention is brought to mental health and addiction resources during this orientation. The orientation is designed to introduce new students to specific resources while attending NICC.

NICC makes available various drug and alcohol use prevention, education, and intervention services for staff and faculty through NICC's Academic staff Assistance Program (ASAP). ASAP provides support to employees and eligible family members in initiating and accessing the appropriate level of care for substance abuse or dependence. These ASAP services are provided on a short-term basis and employees are referred to the community for more intensive levels of care as indicated. This service is available at no cost to employees and their family members, and information about participation is confidential, except where legally mandated.

Additional resources available to students and employees in the Community and online include the following:

### Community Resources

#### Hospital Chemical Dependency Services

Twelve Clans Hospital (402) 878-2231

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Carl T. Curtis Health Center (402) 837-5381

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Santee Wellness Center (402) 857-2300

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#### Winnebago Tribe Behavioral Health

Behavioral Health 225 Bluff St., Winnebago, NE 68071  
Phone: 402-878-2911

[http://www.winnebagoohhs.com/services/behavioral\\_health.html](http://www.winnebagoohhs.com/services/behavioral_health.html)

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## Winnebago Tribe Behavioral Health

### Omaha Suicide Prevention Resource Center

Mental Health

312 Main St., Macy, NE 86039

Phone: 404-846-5280

<http://www.sprc.org/grantees/omaha-tribe-nebraska>

### Chee Ponca Tribe Health/Wellness

Substance Abuse

249 Spruce Ave., Niobrara, NE 68760

Phone: 402-857-3341

<http://www.poncatribene.org/>

## LIMPH

Mental Health

System of Care Indian Center, Niobrara, NE

Phone: 402-857-2508 x304

[www.societyofcare.org](http://www.societyofcare.org)

## H.E.A.R.T. Santee Clinic

Santee Clinic

110 South Visiting Eagle St., Niobrara, NE

Phone: 402-857-2508

[Rez.sez.cl@gmail.com](mailto:Rez.sez.cl@gmail.com)

### Online/National Resources

## “In the Rooms” Global Recovery Community

Free 12-step speaker videos and audio files, video meetings, chat opportunities, and message boards.

[www.intherooms.com](http://www.intherooms.com)

## XA Speakers

Listen to speakers from a variety of 12-step programs.

[xa-speakers.org](http://xa-speakers.org)

## Young People in Recovery

Blogs, social network videos of young people in recovery, and opportunities to get involved in the movement.

[Youngpeopleinrecovery.org](http://Youngpeopleinrecovery.org)

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National Institute on Drug Abuse (NIDA)

[www.drugabuse.gov](http://www.drugabuse.gov)

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National Institute on Alcohol Abuse & Alcoholism (NIAAA)

[www.niaaa.nih.gov](http://www.niaaa.nih.gov)

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Substance Abuse and Mental Health Services Administration (SAMHSA)

[www.samhsa.gov](http://www.samhsa.gov)

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## 16.0 CLERY ACT CRIMES STATISTICS

### 16.1 Clery Act Crime Statistics, Sources, and Unfounded Crime Reports

Pursuant to Clery Act requirements, the Dean of Student Services is charged with the responsibility to collect, classify, and report crime statistics to the U.S. Department of Education as well as current and prospective students and employees. Clery crimes are reported to the

Department of Education via a web-based online reporting tool and to the campus community in the Annual Security Report (ASR) by October 1 of each year.

This section of the ASR contains Clery crime statistics data that have been compiled from the 2020, 2021, and 2022 calendar years. Crime statistic data under the Clery Act are disclosed based on where a crime occurs, the types of crimes that were reported, and the year in which the crimes were reported.

Some crimes are not directly reported to the policy or to the Dean of Student Services (CSSO). As such, by collecting crime statistics data through other established channels, NICC is able to obtain a more accurate picture of crimes occurring on NICC property, campus-adjacent public property, and other campus-affiliated properties. Clery crime statistic data are collected from non-law enforcement campus personnel identified as Campus Security Authorities (CSAs) as well as outside law enforcement agencies who have jurisdiction over certain campus-affiliated locations classified as “non-campus buildings and property.” Clery Act crime statistic data have been compiled from NICC (DSS) records, CSA reports, and other law enforcement agencies with jurisdiction over NICC Clery reporting geography.

A crime is deemed to have been “reported” for Clery Act purposes when a witness, victim, third party, or offender (regardless of that person’s affiliation with NICC) brings such allegation of crime to the attention of law enforcement or a CSA. In turn, the crimes, and regardless of whether a finding of guilty or responsibility has been assigned or any case has been forwarded/assigned to the District Attorney’s office.

### **Clery Act Crimes**

Clery reportable crime statistic data include the number of each of the following crimes that occurred on or within NICC Clery Act Geography that have been reported to DSS or other CSAs:

**Primary Crimes:** (1) Murder and non-negligent man-slaughter (criminal homicide); (2) Manslaughter by Negligence (criminal homicide); (3) Rape; (4) Fondling; (5) Incest; (6) Statutory Rape; (7) Robbery; (8) Aggravated Assault; (9) Burglary; (10) Motor Vehicle Theft; and (11) Arson.

**Hate Crimes:** Any of the above-mentioned offenses under “Primary Crimes” in addition to any incidents of Larceny-Theft, Simple Assault, Intimidation, or Destruction/Damage/Vandalism of Property that were motivated by one of the categories of bias. Categories of bias are race, gender, religion, sexual orientation, ethnicity, disability, national origin, and gender identity.

**Violence Against Women Act (VAWA) Offenses:** Any incidents of Domestic Violence, Dating Violence, and Stalking. (Note that sexual assault is also a VAWA Offense but is included in the Criminal Offenses category for Clery Act reporting purposes.)

**Arrests and Referrals for Disciplinary Action:** (1) Arrests for liquor law violations, drug law violations, and weapons law violations; and/or (2) Persons affiliated with NICC who are referred for campus disciplinary action for liquor law violations, drug law violations, and weapons law violations.

### **Unfounded Crime Reports**

NICC is required to include in the Department of Education’s web-based survey and the ASR statistics the total number of crimes reports that were “unfounded” and subsequently withheld from crime statistics during each of the three most recent calendar years. A Clery crime reported to NICC may not be withheld or subsequently removed from the Clery crime statistics database on a decision by a court, coroner, jury, prosecutor, or other similar non-campus official. However, a reported crime may be withheld or subsequently removed from the crime statistics if sworn or commissioned law enforcement personnel have fully investigated the reported crime and based on the results of a full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore unfounded.

It is important to note that the recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution, or the failure to make an arrest does not unfound a crime report. For Clery Act purposes, the determination to unfound a crime can be made only when the totality of available information specifically indicates that the report was false or baseless.

16.2 Clery Act Criminal Offense Statistics Reporting Tables

Clery Act Crime Statistics

Offense	Year	On-Campus	Non-Campus	Public Property	Total
Murder/Non-Negligent Manslaughter	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Manslaughter by Negligence	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Rape	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Fondling	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
	2022	0	0	0	0

Offense	Year	On-Campus	Non-Campus	Public Property	Total
Incest	2021	0	0	0	0
	2020	0	0	0	0
Statutory Rape	2022	0	0	0	0
	2021	0	0	0	0
Robbery	2020	0	0	0	0
	2022	0	0	0	0
	2021	0	0	0	0
Aggravated Assault	2020	0	0	0	0
	2022	0	0	0	0
	2021	0	0	0	0
Burglary	2020	0	0	0	0
	2022	0	0	0	0
	2021	0	0	0	0
Arson	2020	0	0	0	0
	2022	0	0	0	0
	2021	0	0	0	0
Motor Vehicle Theft	2020	1	0	0	1
	2022	0	0	0	0
	2021	0	0	0	0
Domestic Violence	2020	0	0	0	0
	2022	0	0	0	0
	2021	0	0	0	0
Dating Violence	2020	0	0	0	0
	2022	0	0	0	0
	2021	0	0	0	0
Stalking	2020	0	0	0	0
	2022	0	0	0	0
	2021	0	0	0	0

#### Clery Act Arrests and Disciplinary Referrals

Offense	Year	On-Campus	Non-Campus	Public Property	Total
Liquor Law Violations Arrests	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0



Offense	Year	On-Campus	Non-Campus	Public Property	Total
Liquor Law Violations	2022	0	0	0	0
Referred for Disciplinary Action	2021	0	0	0	0
	2020	0	0	0	0
	2022	0	0	0	0
Drug Law Violations Arrests	2021	0	0	0	0
	2020	0	0	0	0
	2022	0	0	0	0
Drug Law Violations Referred for Disciplinary Action	2021	0	0	0	0
	2020	0	0	0	0
	2022	0	0	0	0
Weapons Law Violations Arrests	2021	0	0	0	0
	2020	0	0	0	0
	2022	0	0	0	0
Weapons Law Violations Referred for Disciplinary Action	2021	0	0	0	0
	2020	0	0	0	0
	2022	0	0	0	0

### Clery Act Hate Crime Reporting

#### Clery Act Hate Crime Reporting

2022	There were no Hate Crimes reported in 2022.
2021	There were no Hate Crimes reported in 2021.
2020	There were no Hate Crimes reported in 2020.

### Clery Act Unfounded Crime Reporting

#### Clery Act Unfounded Crime Reporting

2022	No Unfounded Clery crime reports.
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## Clery Act Unfounded Crime Reporting

2021	No unfounded Clery crime reports.
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2020	No unfounded Clery crime reports.
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### 16.3 Clery Act Geography

The Clery Act mandates the collection, classification, and reporting of crime reports for alleged crimes that occurred on College-affiliated property. Buildings and property that are considered “College-affiliated” are broken down into categories known as “Clery Act geography.” The following are descriptions of Clery Act geographic locations. Please reference the **Clery Act Geography Maps** in the Appendix for additional detail on College Clery Act geography.

**On-Campus:** (i) any building or property owned or controlled by NICC within the same reasonably contiguous geographic area are used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and (ii) any building or property that is within or reasonably contiguous to the area identified in (i) of this definition, that is owned by NICC but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

**On-Campus Student Housing Facilities (subset of the On-Campus category):** any student housing facility that is owned or controlled by NICC or located on property that is owned or controlled by NICC and is within the reasonably contiguous geographic area that makes up the campus.

**Public Property:** all public property, including thoroughfares, streets, sidewalks, and parking facilities, which is within the campus or immediately adjacent to and accessible from campus.

**Non-Campus Building and Property:** (i) any building or property owned or controlled by a student organization that is officially recognized by the institution, or (ii) any building or property owned or controlled by NICC is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution. Non-campus locations fall within the jurisdiction, protection, and reporting responsibility of different law enforcement agencies ( in different cities, counties, states, and/or countries), depending on where the buildings and property are located. On an annual basis, the Dean of Student Services makes a good faith effort to identify all geographic locations that fit within the non-campus Clery geographic definition and request Clery crime statistic data from all outside law enforcement agencies that have jurisdiction over those non-campus locations.

#### 16.4 Clery Act Crime Definitions

The Clery Act applies the crime definitions from the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting (UCR) Program when classifying and counting Clery crimes. The **definitions for murder/non-negligent manslaughter, manslaughter by negligence, rape, robbery**, aggravated assault, burglary, motor vehicle theft, arson, weapons law violations, drug law violations, and liquor law violations are from the "Summary Reporting System (SRS) User Manual" of the UCR Program. The definitions of fondling, incest, statutory rape is from the "National Incident-Based Reporting System (NIBRS) Data Collections Guidelines" of the UCR Program. The definitions of hate crimes are from the "Hate Crime Data Collection Guidelines and Training Manual" of the UCR Program. The definitions of dating violence, domestic violence, and stalking (for purposes of Clery Act crime statistics reporting) are from the Violence Against Women Act of 1994 Code of Federal Regulations 668.46(a). It should be noted that Clery crime definitions used for compiling Clery crime statistics are different than state crime definitions that may be used by law enforcement authorities and prosecutorial agencies as well as College administrative policy definitions for certain crimes.

The Clery crime definitions and counting rules are as follows:

**Murder/Non-Negligent Manslaughter:** The willful (non-negligent) killing of one human being by another. Any death caused by injuries received in a fight, argument, quarrel, or the commission of a crime is counted as a murder/non-negligent manslaughter. One offense per victim is counted.

**Manslaughter by Negligence:** The killing of another person through gross negligence. Any death caused by the gross negligence of another is counted as Manslaughter by Negligence. One offense per victim is counted.

**Sexual Assault (Sex Offenses):** Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Attempted sexual assaults of the following types are counted as statistics of crime. This definition includes male and female victims.

- **Rape:** 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, victim, or perpetrator. This definition of Rape now includes “Sodomy” and “Sexual Assault with and Object” crime definitions. One offense per victim is counted.
- **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 his/her age or because of his/her temporary or permanent incapacity. One offense per victim is counted.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. One offense per victim is counted.
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent. One offense per victim is counted.

**Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear. In any instance of Robbery, one offense for each distinct operation (i.e.,

incident) is counted, including attempts. The number of victims robbed, the number of those present at the robbery, and the number of offenders is not counted.

**Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury (includes attempts and whether or not an injury has occurred). This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. One offense per victim is counted. If a number of persons are involved in a dispute or disturbance, and the aggressors cannot be distinguished from the victims, the number of persons assaulted are counted as the number of offenses. Assaults or attempts to kill or murder, poisoning (including the use of date rape drugs), assault with a dangerous or deadly weapon, maiming, mayhem, assault with explosives, and assault with disease are counted as aggravated assaults.

**Burglary:** The unlawful entry of a structure to commit a felony or a theft (this definition excludes burglary/thefts from vehicles). An incident must meet three conditions to be classified as a burglary; (1) there must be evidence of unlawful entry (trespass). Both “forcible entry” and “unlawful entry – no force” are counted. This means that the person did not have the right to be in the structure at the time the incident occurred; (2) the unlawful entry must occur within a structure (a structure is defined as having four walls, a roof, and a door); and (3) the structure was unlawfully entered to commit a felony or theft. One offense per each distinct operation is counted. Burglaries in individual student rooms are considered separate offenses. For burglaries in suites, each bedroom and the common area in a student housing suite is considered a separate dwelling. The burglary of an academic structure is counted as one offense, regardless of the number of interior rooms entered or items stolen if the rooms were all burglarized during the same time frame.

**Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle. This applies to any self-propelled vehicle that runs on land surface and not on rails (includes all joy-riding incidents and attempts). One offense for each stolen vehicle is counted.

**Arson:** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc. ( includes attempts). Only one offense for each distinct incident of Arson is counted. All of the evidence for any fire not known to be accidental (such as a cooking fire) must be considered by the institutional official designated to make such determinations. At NICC, the local Fire Marshall in town is designated as the official to make such determination.

**Domestic Violence:** A felony or misdemeanor crime of violence committed by: (a) a current or former spouse or intimate partner of the victim, (b) a person with whom the victim shares in child in common, (c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, (d) 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 (e) 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 the reporting party's statement and with consideration for: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse, or the threat of such abuse. Dating Violence does not include acts covered under the definition of domestic violence.

**Stalking:** Engaging in a course of conduct (two or more acts) directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

*Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method device, or means,

follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

*Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.

*Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Hate Crime:** A hate crime is a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. Bias is a preformed negative opinion or attitude toward a group of persons based on their perceived identity. Although there are many categories of bias, under the Clery Act, only the following eight categories are reported; race, gender, gender identity, religion, sexual orientation, ethnicity, national origin, or disability. Before an incident can be classified as a Hate Crime, sufficient objective facts must be present to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias.

Hate Crimes include any of the Part I crimes: Murder, Manslaughter, Sex Offenses (Rape, Fondling, Incest, Statutory Rape), Robbery, Aggravated Assault, Burglary, Motor Vehicle Theft, and Arson, plus the Additional Crimes listed below. Hate crimes are not reported for Dating Violence, Domestic Violence, Stalking, or Arrests/Disciplinary Referrals for Liquor, Drug, and Weapons law violations.

**Additional Crimes that only apply to Clery statistics IF there is a finding of a hate crime bias based on investigation:**

**Larceny-Theft:** The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Examples include pocket picking, purse snatching, shoplifting, theft from buildings, and theft from motor vehicles.

**Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

**Intimidation:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct but without displaying a weapon or subjecting the victim to actual physical attack.

**Destruction/Damage/Vandalism of Property:** To destroy willfully or maliciously, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

**Liquor Law Violations:** The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness.

**Drug Law Violations:** The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those related to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana, synthetic narcotics-manufactured narcotics that can cause true addition (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine). All drugs, without exception, which are illegal under local or state law where the institution is located is considered a drug law violation. All illegally obtained prescription drugs are considered drug law violations as well.



**Weapons Law Violations:** The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons. This classification encompasses weapons offenses that are regularly in nature.

## 17.0 DEFINITIONS AND LEGAL STATUTES

### 17.1 Other Clery Act Defined Terms

The following are additional terms defined by Clery Act regulations.

**Awareness Programs:** Community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote, safety, and reduce perpetration.

**Business day:** Monday through Friday, excluding any day when the institution is closed.

**Bystander Intervention:** Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

**Campus:** (i) 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 manner related to, the institution's educational purposes, including residence halls; and (ii) Any building or property that is within or reasonably contiguous to the area identified in paragraph (i) of this definition, that is owned by the institution but controlled by another

person, is frequently used by students, and supports institutional purposes (such as food or other retail vendor).

**Campus Security Authority (CSA):** This term encompasses the following four groups of people: (i) A campus police department or a campus security department of an institution; (ii) Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department under paragraph (i) of this definition, such as an individual who is responsible for monitoring entrance into institutional property; (iii) Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses; (iv) An official of an institution who has significant responsibility for students and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. If such an official is a pastoral or professional counselor as defined below, the official is not considered a CSA when acting as a pastor or professional counselor.

**Clery Act Geography:** (i) For the purpose of collecting statistics on Clery Act crimes for submission to the Department of Education and inclusion in this report and for the issuance of Timely Warnings, Clery Act geography includes: (A) buildings and property that are part of the college campus; (B) the college's non-campus buildings and property; and (C) public property within or immediately adjacent to and accessible from the campus. (ii) For the purposes of the Daily Crime Log, Clery Act geography includes, in addition to the locations in paragraph (i) of this definition, areas within NICC's patrol judgement.

**Federal Bureau of Investigation's ("FBI") Uniform Crime Reporting ("UCR") Program:** Nationwide, cooperative statistical effort in which city, college, county, state, tribal, and federal law enforcement agencies voluntarily report data on crimes brought to their attention. The UCR program also serves as the basis for the definitions of crimes in the Clery Act and the requirements for classifying Clery Act crimes.

**Hierarchy Rule:** A requirement in the FBI's UCR program that, for purposes of reporting crimes in that system, when more than one criminal offense was committed during a single incident, only the most serious offense be counted.

**Non-Campus Building or Property:** (i) Any building or property owned or controlled by a student organization that is officially recognized by the institution; or (ii) 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, is frequently used by students and is not within the same reasonably contiguous geographic area of the institution.

**Ongoing Prevention and Awareness Campaigns:** Programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution.

**Pastoral Counselor:** A person who is associated with a religious order or denomination, 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.

**Primary Prevention Programs:** Programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexually assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

**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 the counselor's license or certification.

**Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault, and**

**Stalking:** (i) Comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that: (A) Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and (B) Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels. (ii) Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at current students and employees.

**Public Property:** All public property, including thorough-fares, streets, sidewalks, and parking facilities, which is with-in the campus, or immediately adjacent to and accessible from the campus.

**Referred for Campus Disciplinary Action:** The referral of any person to any campus official who initiates a disciplinary action of which a record is kept, and which may result in the imposition of a sanction.

**Retaliation:** Retaliation includes threats intimidation, reprisals, and/or adverse employment or educational actions against a person based on their report of Sexual Violence or participation in the investigation, report, remedial, or disciplinary processes. In addition to the College's prohibition against retaliation, the Clery Act also prohibits retaliation. An institution, or an officer, employee, or agent of an institution, may not retaliate, intimidate, threaten, coerce, or otherwise, discriminate against any individual for exercising their or responsibilities under the Clery Act.

**Risk Reduction:** 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.

**Test:** Regularly scheduled drills, exercises, and appropriate follow through activities, designed for assessment and evaluation of emergency plans and capabilities.

## 17.2 Definitions of VAWA Crimes

The following are definitions of Violence Against Women Act (VAWA) and offenses and VAWA-related terms:

### Consent

- An informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean consent. Affirmative Consent must be voluntary, and given without coercion, force, threats, or intimidation.
- The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of Affirmative Consent. A request for someone to use a condom or birth control does not, in and of itself, constitute Affirmative Consent.
- Affirmative Consent can be withdrawn or revoked. Consent to one form of sexual activity (or one sexual act) does not consent to other forms of sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion. There must always be mutual and affirmative consent to engage in sexual activity. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once consent is withdrawn or revoked, the sexual activity must stop immediately.

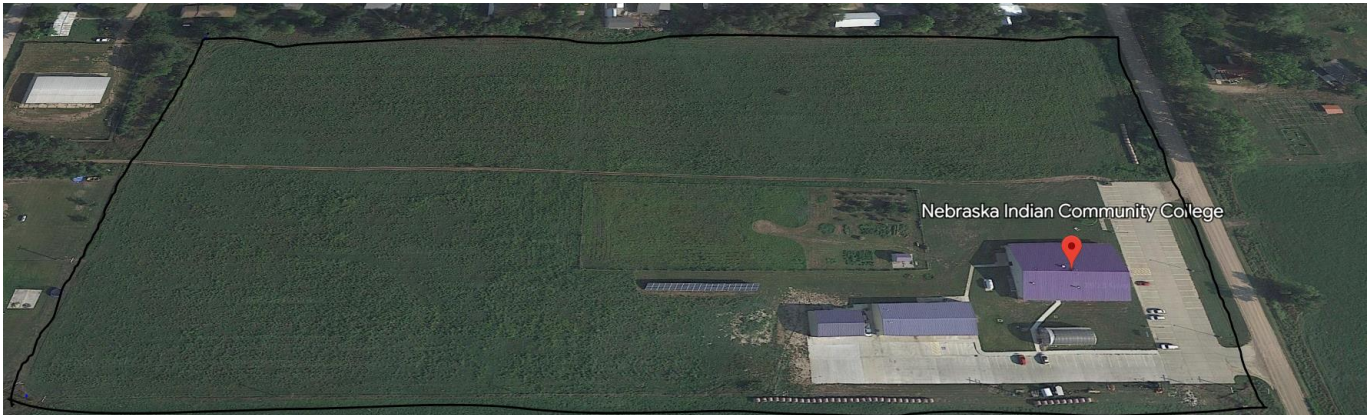
- Affirmative Consent cannot be given by a person who is incapacitated. A person is unable to consent when asleep, unconscious or is incapacitated due to the influence of drugs, alcohol, or medication so that the person could not understand the fact, nature or extent of the sexual activity. A person is incapacitated if they lack the physical and/or mental ability to make informed, rational decisions.
- Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making ability, awareness of consequences, and ability to make informed judgements. A person's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.
- A person with a medical disability may also lack capacity to give consent.
- Sexual activity with a minor (a person under 18 years old) is not consensual, because a minor is considered incapable of giving consent due to age.
- It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances:
  - The person was asleep or unconscious;
  - The person was incapacitated due to the influence of drugs, alcohol or medication, so that the person could not understand the fact, nature or extent of the sexual activity;
  - The person was unable to communicate due to a mental or physical condition.
- It shall not be a valid excuse that the respondent believed that the person consented to the sexual activity under either of the following circumstances:
  - The respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the respondent;
  - The respondent did not take reasonable steps, in the circumstances knows to the respondent at the time, to ascertain whether the person affirmatively consented.

## APPENDIX – CAMPUS MAP

### Macy Campus



### Santee Campus



South Sioux City Campus

