
NSU TITLE IX/SEXUAL MISCONDUCT POLICY & PROCEDURES

The Title IX website (<https://www.nova.edu/title-ix>) has the current version of these policies and procedures. The online version supersedes any other version.

POLICIES &
PROCEDURES LAST REVISED DECEMBER 2025) –
REFER TO [HTTPS://WWW.NOVA.EDU/TITLE-IX](https://www.nova.edu/title-ix)
FOR CURRENT POLICIES AND PROCEDURES

NSU Title IX/Sexual Misconduct Policy & Procedures

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NSU TITLE IX/SEXUAL MISCONDUCT POLICY

Introduction

Nova Southeastern University (“NSU”), in compliance with the spirit of various federal and state laws (e.g., Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) and the Violence Against Women Act of 1994 (“VAWA”)), is committed to fostering a safe, healthy, and effective educational environment free from discrimination and harassment. The following policy and accompanying procedures are designed to ensure NSU is compliant with Title IX of the Education Amendments of 1972 (20 U.S.C. 1681) and its implementing regulations (34 C.F.R. 106) which prohibit sex discrimination and sexual harassment in all NSU education programs and activities, including admission and employment. Title IX states:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.

Any questions about Title IX or its application to NSU may be directed to the Title IX Coordinator, the Assistant Secretary of Education of the United States of America, or both. NSU’s Title IX Coordinator is :

Name: Laura Bennett
Title: Title IX Coordinator and Managing Director of Title IX Compliance
& Institutional Response to Sexual Misconduct
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Website & Online Incident Reporting Form: <http://nova.edu/title-ix>

This policy describes sexual harassment prohibited by Title IX as well as other forms of sexual misconduct prohibited by NSU, and applies to both committed or attempted acts, as well as facilitation of others’ engagement in misconduct. If a report of sexual misconduct appears subject to Title IX (both in the nature of the allegation and the context in which it occurred), the *Title IX Sexual Harassment Resolution Procedures* apply. For any report of sexual misconduct that falls outside of the federally mandated definitions of sexual harassment under Title IX, NSU reserves the right to consider the matter as another form of sexual or other misconduct subject to policies and procedures such as those outlined in the NSU Student Code of Conduct, NSU Employee and Faculty Policy Manuals, NSU University School Student/Parent Handbook and any other applicable policies and procedures within academic colleges and departments. When engaging with NSU, visitors, applicants for admission or employment, volunteers, preceptors, families of students, and others are expected to align their behavior with the standards outlined in this policy, although the response to reports involving these individuals will vary depending on the relationship between the individual and NSU.

This version of the Title IX/Sexual Misconduct Policy and procedures takes effect for incidents reported to have occurred on or after August 14, 2020. Any changes to the policy and/or procedures will be reflected on the Title IX website at <http://nova.edu/title-ix>. Any misconduct reported to have occurred prior to August 14, 2020, will be subject to the [policy and procedures](#) in effect at the time of incident. Some content in this policy was incorporated with permission from the ATIXA 2020 One Policy, Two Procedures (1P2P) Model ©2025 ATIXA.

Sexual Harassment Prohibited by Title IX

The following types of sexual misconduct (referred to as “Title IX Sexual Harassment”) are prohibited under Title IX and this policy:

1. **Quid Pro Quo Harassment by an Employee:** An employee of NSU conditions the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct (e.g. “If you do this sexual activity for me, I will give you a good grade”).
2. **Denial of Access:** Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive¹ that it effectively denies a person equal access to the NSU education program or activity.
3. **Title IX Sex Offense:** Conduct on the basis of sex including:
 - a. **Non-consensual sexual penetration:** penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person or by a sex-related object, without consent of the victim including when a victim is incapable of giving consent due to age or incapacitation.
 - b. **Non-consensual sexual contact:** the intentional touching of a victim’s clothed or unclothed body part(s) and/or forcing a victim to touch a respondent’s clothed or unclothed body part(s), for the purpose of sexual degradation, sexual gratification, or sexual humiliation, without consent of the victim including when a victim is incapable of giving consent due to age or incapacitation.
 - c. **Non-forcible sexual offenses:**
 - i. *Statutory rape:* sexual intercourse with a person under the age of consent².
 - ii. *Incest:* sexual intercourse between persons who are directly related (i.e. blood relatives).
 - d. **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 the relationship is determined by the reporting party’s statement with consideration of the length of relationship, type of relationship, and frequency of interaction between the persons in the relationship.
 - e. **Domestic violence:** felony or misdemeanor level crime of sex-based violence or the threat of violence committed—
 - i. By a current or former spouse or intimate partner of the victim;
 - ii. By a person with whom the victim shares a child in common;
 - iii. By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; or
 - iv. 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.
 - f. **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.
 - i. “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; follow, monitors, observes, surveils, threats, or communicates to or

¹ For allegations of workplace harassment towards an employee, or harassment of a residential complainant in an NSU owned residence, see the definition of sexual and gender-based harassment under Other Sexual Misconduct.

² The age of consent is 18 in Florida, 16 in Puerto Rico, and 17 in Colorado.

about a person, or interferes with a person's property.

- ii. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the individual the stalking is directed towards.
- iii. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Retaliation Prohibited by Title IX

No person nor NSU may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, provided information, assisted, participated or refused to participate in any manner in a Title IX investigation or proceeding. Complaints alleging retaliation under Title IX may be filed with the Title IX Coordinator and are resolved according to NSU's grievance procedures for complaints of discrimination.

Jurisdiction: When & Where Title IX Applies to Sexual Harassment

When all of the following circumstances are met, the *Title IX Sexual Harassment Resolution Procedures* will be applied:

1. A formal complaint has been filed by an affected individual/student (or parent on behalf of a student under 18) indicating they have experienced one or more forms of Title IX Sexual Harassment and requesting that NSU investigate the incident. The Title IX Coordinator may also file a formal complaint if warranted.
2. At the time of filing the formal complaint, the complainant must have been participating in or attempting to participate in an NSU education program or activity³.
3. NSU must have had substantial control over the alleged perpetrator (i.e. respondent) and the context where the sexual harassment occurred.
4. The sexual harassment must have occurred towards a person in the United States.

Other Prohibited Sexual Misconduct

In addition to the above forms of sexual harassment designated under Title IX, there are additional behaviors that are prohibited at NSU in order to promote a safe, healthy, and effective learning environment for all students. These forms of sexual misconduct are *outside* the scope of Title IX (including any Title IX jurisdictional requirements or limitations) and thus may be referred for response through the procedures in the [Discrimination Grievance Procedures](#), the Student Code of Conduct, NSU Employee and Faculty Policy Manuals, NSU University School Student/Parent Handbook or other such applicable NSU procedure(s):

Non-Title IX Sex Offense is conduct reported to constitute a *type* of Title IX Sexual Harassment but does not meet the jurisdictional requirements (i.e. *where* and *when*) under Title IX. Examples include but are not limited to:

- A sexual assault by one student of another while on an NSU sponsored study abroad trip,
- Dating violence or stalking by one student of another occurring a few blocks from NSU and affecting a student's ability to feel safe on campus,
- Sexual harassment by a faculty member reported by student who has already graduated.

³ For the purposes of the *Title IX Sexual Harassment Resolution Procedures*, "education program or activity" includes locations, events, or circumstances over which NSU exercised substantial control over both the respondent and the context in which the sexual harassment was reported to occur. This includes any building owned or controlled by a student organization officially recognized by NSU.

Sexual or Gender-Based Harassment, is unwelcome conduct on the basis of sex, gender, or sexual orientation, that is so severe, pervasive, or objectively offensive that unreasonably interferes with, limits, or denies an individual's educational or employment access, benefits, or opportunities. . Such harassment can be verbal, non-verbal, electronic, and/or physical. It may be motivated by sexual interest or intent, hostility towards, or a desire to make the target feel unwelcome. Examples include but are not limited to:

- Aggressive or intimidating acts towards person(s) because of their sex, sexual orientation, or gender
- Verbal communications such as jokes or innuendo about sexual topics; repeated phone calls or propositions after a person has expressed disinterest; or vulgar sex-based or related language;
- Obscene and/or physically intimidating gestures; whistling, leering, ogling, making suggestive or insulting sounds, obscene gestures; display of pornographic and/or obscene materials, sex-based graffiti.
- Sexual cyber-harassment, which is publishing or sharing a sexually explicit image of a person without their consent and contrary to the depicted person's reasonable expectation that it would remain private, if the image contains or conveys personal information of the depicted person, or if a person viewing it would reasonably know that it relates to the depicted person.⁴
- Slurs, insults, or name-calling demeaning specific individuals because of their sex, gender, or orientation.

Sexual exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's consent. Examples of behavior that could rise to the level of sexual exploitation include but are not limited to:

- Voyeurism (including digital voyeurism) - observing an individual's intimate areas in a place where the person would have a reasonable expectation of privacy, (e.g., undressing, using the bathroom, or engaging in sexual acts) without consent of the person being observed.
- Recording images, video, or audio recording of another person in a sexual act, or in any other sexually related activity or position when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent)
- Creating, threatening to distribute, or distributing (sharing or displaying for others to see) authentic or digitally manipulated, falsified, or faked non-consensual intimate imagery (NCII)⁵
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Sharing sexual images or content with another person without their consent in an attempt to cause arousal, offense, or sexual feelings
- Knowingly engaging in sexual activity with and/or transmitting a disease or infection to someone by means of sexual contact without their knowledge or consent

⁴ Definition from Florida Statutes, §784.019.

⁵ Non-consensual intimate imagery (NCII) includes sexually explicit, nude, or intimate videos, photos, or audio recordings of an individual(s) created or distributed without consent, including digitally forged content with sexually related actions or behaviors that never happened, or placing identifiable individuals in pornographic, nude, or sexual situations without their consent. Definition adapted from Florida Statutes § 836.13 & ATIXA model policy.

- Coercing someone into sending intimate photos of him/her/themselves
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)

A **hostile environment** created by unwelcome sexual conduct that is sufficiently serious to deny or limit a person's ability to participate in or benefit from an NSU education program or activity. While Title IX prohibits unwelcome sexual conduct that *effectively denies* a student access to an education program or activity, NSU may also respond to those behaviors of a sexual nature which limit, adversely affect, otherwise disrupt a person's ability to participate in an educational activity or program, regardless of the location where the conduct occurs.

Sex-based discrimination is different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, on the person's actual or perceived sex, which excludes a person from participation, denies a person the benefits of, or otherwise adversely affects a term or condition of participation in a program or activity. All of the other above prohibited behaviors are forms of sex-based discrimination, and discrimination also may occur in the form of disparate treatment which is the intentional differential treatment of a person(s) on the basis of sex.

Standards of Analysis

In determining whether behaviors were consensual, welcome or unwelcome, denied access to an NSU program or otherwise created a hostile environment, NSU evaluates the behaviors (both in *Title IX Sexual Harassment Resolution Procedures* and in the other applicable NSU procedures) in accordance with the following definitions and standards:

Consent: Consent is informed, voluntary, and mutual agreement to engage in a sexual activity. Giving consent means that a person understands a specific behavior that someone wants to do with them and they voluntarily give that person permission to engage in that behavior. In addition:

- Consent must be sought by the initiator of each act, as consent for one act (such as kissing) cannot be assumed to be consent for another act (e.g., fondling or intercourse).
- Consent can be withdrawn at any time, as long as the withdrawal is reasonably and clearly communicated.
- Consent must be voluntary. There is no consent when force, coercion, intimidation, threats, and/or duress - whether expressed or implied - is used. Force is the use of physical violence, physical imposition, and/or threats to gain sexual access. Coercion is the unreasonable pressure sexual activity, and is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.
- While consent may be given by words or actions, the absence of resistance and/or silence alone does not indicate consent. Further, resistance is a clear demonstration of non-consent.
- Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent.
- If a person is mentally or physically incapacitated so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent. This includes being unable to make rational, reasonable decisions due to alcohol or drug consumption that reaches the level of incapacitation, being asleep or unconscious, or being under the legal age to give consent. An objective, reasonable person standard is used to evaluate whether an initiator knew, or should have known, if a victim was incapacitated.

Hostile Environment: In assessing whether a hostile environment has been created, and/or the extent to which a person was denied access to an educational program or activity, due to sex-based discrimination, the following factors are considered:

- Subjective and objective consideration of the conduct in question – not just that the conduct was unwelcome to the receiver but that a reasonable person in the receiver’s position would have perceived the conduct as undesirable or offensive,
- Severity, type, frequency, and duration of the conduct,
- Identity, number, and relationships of persons involved,
- Location of the conduct and the context in which it occurred, and
- Degree to which the conduct affected one or more student’s education.

Motivation for Sexual Contact: In evaluating whether sexual contact was for the purpose of sexual degradation, gratification, or humiliation, the following factors will be considered: the context, ages and relationship of the parties, and nature of the contact. The following are examples of when contact with body parts may not have sexual motivation:

- Proven to be inadvertent and/or involves a respondent who is pre-sexual or cannot developmentally understand sexual contact,
- Occurs in the context of a life-saving or other emergency, or
- For a legitimate medical, coaching, or academic instructional reason for which consent should have been sought and obtained.

Unwelcome Conduct: Conduct is considered unwelcome if the person did not request or invite it and considered the conduct to be undesirable or offensive. In addition, unwelcome conduct:

- May occur through a variety of forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating.
- Does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- May involve persons of the same or different sexes or gender identities.
- May have occurred even if an individual participated in the conduct (such as following coercion) or failed to report/complain about the conduct.
- May have occurred, even if a person welcomed similar conduct previously or welcomed a portion of the conduct but not all of it.

Violence: For the purposes of this policy, violence (e.g., dating violence or domestic violence) includes situations where a respondent intentionally or recklessly causes a victim serious physical, emotional, or psychological harm. This includes threats to seriously harm the complainant or those they care about which cause serious emotional or physical harm. In addition,

- Intent is evidenced when a reasonable person would be more likely to act with the purpose of causing serious harm rather than for any other reason.
- Recklessness is evidenced by a disregard of obvious risk to the safety of the complainant.
- Legitimate use of violence for self-defense is not considered a violation.
- Consensual use of violence, such as in kink relationships, is not considered a violation, unless a respondent engages in violence beyond the agreed upon terms.
- Threats to harm oneself are not considered violence under this definition but may be considered as part of pattern of emotional or psychological harm. They may also be addressed under other NSU policies and procedures.

Title IX Sexual Harassment Resolution Procedures Overview

The following procedures apply to reports of misconduct which appear to constitute Title IX Sexual Harassment. For all other concerns, NSU reserves the right to employ other procedures such as those in the [Discrimination Grievance Procedures](#), Student Code of Conduct, Employee or Faculty Policy Manuals, or other applicable NSU publication. While this is a broad overview of the resolution process, additional information about how procedures are implemented is available at www.nova.edu/title-ix. In addition, parties will receive written notice of details specific to their cases, such as specific deadlines, designation of investigator(s) and/or decision-maker, hearing agendas, and other such details.

Terminology

- **“Advisor”** is a person designated by a complainant or respondent to be present with them during any proceeding, interview, or meeting occurring as part of the *Title IX Sexual Harassment Resolution Procedures*. During a hearing, the advisor conducts cross-examination on behalf of their party, otherwise advisors serve as non-participatory support persons for their party. NSU will provide an advisor to conduct cross examination at a hearing if a party does not have one.
- **“Complainant”** refers to an individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment. While a parent/guardian may initiate a formal complaint on behalf of a student under age 18, or the Title IX Coordinator may sign a complaint, these individuals do not become a complainant under this process.
- **“Formal Complaint”** is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment under Title IX by a respondent and requesting that NSU investigate the reported information.
- **“Parties”** refers to the complainant(s) and respondent(s) and does not include witnesses or others.
- **“Proceedings”** refers to any meeting, investigation interview, or hearing pertaining to a non-criminal resolution of a formal Title IX complaint. It does not include communications or meetings between officials and parties concerning academic modifications or supportive measures.
- **“Remedies”** refers to actions taken to restore equal access to education for an individual who has experienced discrimination based on sex.
- **“Respondent”** refers to an individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment
- **“Standard of Evidence”** used to determine if Title IX Sexual Harassment occurred is the *preponderance of the evidence*, or “>50%”. A respondent is not considered responsible for committing a violation until a determination regarding responsibility is made at the conclusion of this process.
- **“Supportive Measures”** are non-disciplinary, non-punitive, individualized services and adjustments available to the affected student, regardless of whether a formal complaint is filed. These measures are designed to ensure equal educational access, protect safety, and/or deter sexual harassment without unreasonably burdening others.

General Procedural Notes

- Investigations and resolution proceedings are designed to be equitable to the parties involved, adequately thorough for an administrative campus process, and appropriately prompt to promote students’ participation in their educational programs. To these ends, NSU reserves the right to impose reasonable deadlines and extend timeframes.

- Parties can anticipate that formal complaints that proceed through all steps (i.e. hearing and appeals) are estimated to be resolved within 120 days, although the timeline may vary depending on the complexity of the situation or other factors.
- When circumstances warrant a temporary delay to a deadline associated with a case, NSU will inform the parties of the reason for the delay and the anticipated extension. Some examples of good cause to temporarily delay include unavailability of a party or other participant in the process, scheduling conflicts, and concurrent law enforcement activity.
- Unless otherwise specified, any reference to “days” in these procedures refers to business days, (i.e. Monday – Friday excluding weekends and public holidays).
- Communications regarding the *Title IX Sexual Harassment Resolution Procedures* will generally be by email to the individual’s NSU email address, although circumstances sometimes require delivery of information in person or by other means.
- While each party may have an advisor of their choice accompany them to any proceeding, NSU reserves the right to limit and/or set rules for participation by advisors. Advisors who do not comply with those rules may be removed from participation in the proceeding(s).
- NSU reserves the right to use designees for any named official in the *Title IX Sexual Harassment Resolution Procedures* when appropriate, including contracting external parties to conduct any part of the process. In addition, throughout the proceedings, those NSU officials involved in the process may consult with the Title IX Coordinator, NSU legal counsel, or any other relevant official as permitted under federal law (including FERPA) and University policy.

Reporting/Disclosure of Incidents

Any person may report sexual harassment online, in-person, by mail, by telephone, or by email at any time to the Title IX Coordinator. NSU employees⁶ who observe, receive a disclosure of, or otherwise learn about potential violations of this policy are required to inform the Title IX Coordinator, regardless of when or where the incident occurred. An employee operating under their legally protected confidential privilege (e.g., a counselor providing therapy to a client, a medical provider giving care to a patient, etc.) at the time, should provide the individual with the contact information for the Title IX Coordinator and how to file a complaint. Incidents involving immediate threats and/or potential child abuse or neglect are also subject to applicable mandatory reporting laws and may need to be reported to appropriate law enforcement personnel or other officials.

When NSU employees become aware of potential sexual harassment under Title IX, they may provide immediate response when necessary and appropriate to the situation and the scope of their role. Employees are prohibited from imposing disciplinary or punitive action for Title IX allegations in lieu of or outside of the Title IX Sexual Harassment Resolution Procedures but may address or respond to behaviors which may be violations of other standards, policies, or codes of conduct.

Initial Title IX Response to Reports of Potential Title IX Sexual Harassment

Following resolution of any immediate situational, safety, or other concerns, and usually by the end of the next business day after the incident is reported, the Title IX Coordinator and/or designee will contact the affected individual(s) to offer and discuss 1) supportive measures 2) the option for filing a formal complaint under Title IX and 3) any relevant rights and options under the Clery Act/Violence Against Women Act for those incidents which may also constitute a sex crime.

⁶ All NSU employees, other than those who learn about potential sexual misconduct violations from a victim while operating under the scope of legally protected privileged relationship of counselor/client or doctor/patient privilege to that victim, are required to report observations, disclosures, or reported sexual misconduct to the Title IX Coordinator.

During this initial response time, the Title IX Coordinator may also need to gather additional information about the reported incident(s) to determine whether or not the *Title IX Sexual Harassment Resolution Procedures* apply.

Supportive Measures are offered, when appropriate, to those NSU students, employees, or others accessing NSU who may be impacted by sexual misconduct. Examples include counseling, extension of class deadlines, modifications to class schedule(s), no-contact orders, etc. If the incident may also constitute a crime of sexual violence, the Title IX Coordinator will provide information about rights and options for reporting to law enforcement. Information about supportive measures is only shared with those officials responsible for implementing them.

Employees who receive requests to implement supportive measures, modifications, or remedies from the Title IX Coordinator or designee are expected to comply with those requests, so long as the request does not result in a fundamental alteration of the educational program or activity, or an undue hardship to NSU. If an employee perceives that the request will fundamentally alter the educational program, the employee should contact the Title IX Coordinator to discuss this concern. The request may be adjusted, and/or the employee may be asked to put the fundamental alteration in writing to the Title IX Coordinator.

A **Formal Complaint** is a document filed by a complainant (i.e. the person who reportedly experienced sexual harassment) which 1) describes the sexual harassment committed by another person or group of people (i.e. respondent(s)) and 2) requests that NSU investigate the incident under these procedures. A formal complaint may be filed by a parent/guardian on behalf of their minor student, and a formal complaint may also be initiated by the Title IX Coordinator. As incidents may be initially reported to NSU through a variety of means (email, postal mail, telephone, online reporting form, etc.), part of the initial response by the Title IX Coordinator will be to confirm that the complainant is requesting an investigation in accordance with the *Title IX Sexual Harassment Resolution Procedures*.

Emergency Removal of a student⁷ respondent from an NSU educational program or activity may occur when there may be a threat arising from the report of Title IX Sexual Harassment. To issue an emergency removal of a student, NSU must:

1. Conduct an individualized safety and risk analysis
2. Determine that there is an immediate threat to the physical health or safety of any individual, and
3. Provide a removed student with written notice and an opportunity to challenge the decision after the removal.

Notice of Allegations of Title IX Sexual Harassment & Initiation of Investigation

Once a complainant has filed a formal complaint, and the Title IX Coordinator has determined that the nature and context of the reported incident(s) meet the standards of Title IX Sexual Harassment, the Title IX Coordinator will provide written notice to the parties which includes information about the reported incident (including any known identities of the parties involved, the nature of the incident(s) and when/where it occurred) as well as a description of the investigation and resolution procedures.

- Should additional reports of Title IX Sexual Harassment arise during an investigation, written notice will be provided to the relevant parties.
- NSU reserves the right to consolidate formal complaints into one investigation when the reported conduct appears to arise from the same circumstances, such as when there is a complaint against a group of respondents or there are multiple complainants reporting

⁷ NSU will follow its usual procedures for employee respondents, including application of any administrative leave procedures when appropriate.

harassment by the same respondent(s).

Dismissal of a Formal Complaint of Title IX Sexual Harassment

While NSU is required to investigate formal complaints of Title IX Sexual Harassment, there are also conditions under which a case **must** be dismissed under the *Title IX Sexual Harassment Resolution Procedures*:

- If, presuming everything reported is true, the behavior does not meet one of the definitions of Title IX Sexual Harassment or
- If the behavior occurred outside of the jurisdiction of Title IX (e.g. it did not occur towards a person accessing an NSU program or activity in the United States).

NSU **may** also dismiss a case under the *Title IX Sexual Harassment Resolution Procedures* when:

- The complainant provides written notice to withdraw the complaint,
- The respondent is no longer enrolled or employed at NSU⁸, or
- Circumstances prevent NSU from gathering enough information to reach a determination about what occurred.

A party may appeal a dismissal of a complaint in accordance with the bases for appeal in the *Title IX Resolution Procedures*.

REFERRAL OUTSIDE OF TITLE IX SEXUAL HARASSMENT RESOLUTION PROCEDURES: Following any dismissal under the Title IX Sexual Harassment Resolution Procedures, NSU reserves the right to initiate any applicable procedure (e.g. Student Code of Conduct, Discrimination Grievance Procedures, NSU Employee or Faculty Policy Manual, NSU University School Student-Parent Handbook, etc.) for any aspect of the reported conduct that may constitute a violation of Other Prohibited Sexual Misconduct and/or any other NSU policy. When a report of sexual assault, stalking, dating violence, and/or domestic violence is referred outside of the Title IX Sexual Harassment Resolution Procedures, the Title IX Coordinator will communicate in that referral that rights afforded under the Clery Act/VAWA must be upheld, such as the right to have an advisor present and the assurance that investigation or resolution will be conducted by individuals who have received specialized annual training.

Investigation of Title IX Sexual Harassment

The Title IX Coordinator will assign an investigator(s) to conduct the investigation. The investigation process provides the parties with the following opportunities:

- written notice and reasonable opportunity to prepare in advance of any meeting or interview,
- to describe their experiences/perspectives, offer witnesses, and to share any information relevant to the allegation(s) under investigation, and
- to review and respond to any and all evidence directly related to the reported conduct, including the allowance of at least ten calendar days to review and respond to all evidence prior to the completion of the investigation report.

Informal Resolution of Title Sexual Harassment

⁸ If an individual is permitted to withdraw as a student or resign as an employee prior to the resolution of a complaint of Title IX Sexual Harassment, NSU reserves the right to restrict or prohibit access to NSU facilities, programs and/or activities, including prohibition on future enrollment and/or employment. NSU also reserves the right to place a notation on transcript, and/or in student or employee records reflecting any restrictions on enrollment or employment.

The informal resolution process is a voluntary process which allows the parties to reach mutual agreement of how to resolve a formal complaint of sexual misconduct against a student respondent, in lieu of a formal adjudication. The Title IX Coordinator or designee may facilitate this process, which requires:

- All involved parties (i.e., complainant(s), respondent(s), and NSU) provide written consent to the informal resolution process,
- The parties are provided with written notice of the reported conduct, the requirements of an informal resolution process, any consequences from participating, and any records that will be maintained,
- An informal resolution agreement is signed by all parties prior to a determination of responsibility, and
- The informal resolution does not require waiver of the right to the investigation or resolution as outlined in these *Title IX Sexual Harassment Resolution Procedures*.

Adjudication/Decision-Making

Hearing Procedures (for NSU Students and Employees)

Unless dismissed or resolved informally, formal complaints of Title IX Sexual Harassment involving an NSU student or employee respondent will proceed to a hearing (in-person or virtual, as determined by NSU) conducted by a trained decision-maker(s), who is free from bias or conflicts of interest. Basic elements of the hearing process include the opportunity to review the investigation report in advance of the hearing, the opportunity for the parties' respective advisors to ask questions of any other parties and witnesses during the hearing, and access to all evidence during the hearing. Procedural details will be provided in writing to the parties in advance of any hearing.

Administrative Adjudication of NSU University School Cases

Upon conclusion of the investigation process, a trained decision-maker who is free from bias or conflicts of interest will be assigned to adjudicate the case. This is a paper-based review, not an in-person hearing or proceeding. During this time, the parties will have a final opportunity to pose questions to be asked of the other party(s) and witnesses, before the decision-maker makes a determination about the case.

Decision: Findings & Sanctions

The decision-maker(s) will determine whether, based on a preponderance of the evidence (i.e. whether it is more likely than not), the respondent is responsible or not responsible for committing the underlying conduct that is the basis of the allegation(s). In making this determination, the decision-maker(s) will consider all available information in the case, including any live hearing testimony, the investigation summary and any appendices, and any other relevant evidence submitted or obtained during the investigation. If the respondent is found responsible for committing a violation, the decision-maker(s) will also determine the appropriate sanction(s) and may consider any relevant prior substantiated conduct or findings of responsibility and disciplinary/corrective action in doing so.

Possible Sanctions

Sanctions which may be applied under these procedures to members of the NSU community are described below, in addition to any educational activities developed based on the specifics of the case. If an appeal is received, any sanctions will be temporarily on hold until the final determination is made.

NSU Students: The sanctions are described in the Student Code of Conduct: Expulsion, Suspension, Temporary Suspension, Final Disciplinary Probation, Disciplinary Probation, Disciplinary Warning, Verbal Warning, Fines, Restitution, Restriction or Revocation of Privileges, Termination or Change of Residence Hall Agreement/Accommodation, Counseling Intervention, Parental Notification, and Other Appropriate Action.

NSU Employees: The sanctions are described in the NSU Employee and Faculty Policy Manuals: Verbal Warning, Written Warning, Suspension, with or without pay, Extension of orientation, Performance improvement plan, Final Written Warning, Involuntary termination/dismissal for cause, non-renewal, or demotion.

NSU University School students: The sanctions are described in the Student-Parent Handbook: verbal reprimand/conference, withdrawal of privileges, detention or internal suspension, external suspension, provisional suspension, suspension with nonrenewal of contract, restitution, and expulsion/dismissal.

Notice of Outcomes Regarding Title IX Sexual Harassment

After the conclusion of the hearing or adjudication, the decision-maker will provide the parties with simultaneous written notice of the outcome(s) including:

- what was found to have occurred,
- a determination of responsible/not responsible for each relevant aspect of the policy,
- rationale for any determinations,
- any sanctions for the respondent,
- whether remedies should be provided to the complainant, and
- any applicable grounds for appeal and appeal procedures.

Appeals of Determinations of Responsibility and/or Dismissal of Title IX Sexual Harassment

A party (complainant or respondent) may appeal a determination of responsibility and/or the dismissal of all or part of a complaint of Title IX Sexual Harassment based on any of the following:

- Procedural irregularity that affected the outcome,
- New evidence that was not reasonably available at the time the decision was made that could affect the outcome, or
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome.

A written appeal must be submitted as described in the outcome letter from the decision-maker. Appeals are generally due within a few days of the issuance of the outcomes, and generally will be responded to within a week. When an appeal has been received, any other party in the case will be notified, and the opportunity for parties to provide information to be considered by the appellate decision-maker may be extended by a day. Appeals are a paper-review process and the written decision(s) of the appellate officer is the final determination of resolution of the complaint. The parties will be notified simultaneously, in writing, of the outcome of the appeal and any changes to the outcome(s).

Records & Privacy of Information

NSU will retain records of Title IX Sexual Harassment proceedings as required by law and in accordance with University policies. Records related to resolution of reports of Title IX Sexual Harassment are maintained for at least seven years in compliance with Title IX and the Clery Act. NSU will maintain privacy of information in compliance with FERPA and any other applicable federal or state law or University policy and will disclose information in accordance with those procedures. NSU may disclose information about a respondent's allegations and/or findings to a school in which the respondent enrolls or seeks to enroll. When enrollment or employment is prohibited due to a Title IX allegation, dismissal, and/or finding, NSU will also notate that on transcripts and in student and employee records. When emergency removal or other restrictions are necessary, a hold may be placed on the Respondent's account when necessary to enforce the restriction.

Training

In compliance with the 2020 Title IX Regulations, NSU must provide information about and access to training materials used to train those involved in the Title IX Sexual Harassment Resolution Procedures (e.g., Title IX Coordinators, investigators, decision-makers, and any person who facilitates informal resolution process). Please be advised that the materials reflect the mandatory reporting requirement effect August 14, 2020, and do not reflect all training received previously or training the individuals may receive for other aspects of their professional roles outside of required knowledge and skills for conducting Title IX Sexual Harassment Resolution Procedures. The Title IX regulations require that individuals receive training about:

- The definition of sexual harassment
- The scope of NSU's education program or activity
- How to conduct an investigation and grievance process, including hearings, appeals, and informal resolution procedures
- How to serve impartially, including by avoiding any prejudgment of the facts at issue, conflicts of interest, and bias
- Decision-makers must also receive training on any technology to be used at a live hearing and on issues of relevance and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant
- Investigators must also receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence

In addition, those individuals involved in the resolution proceedings related to sex crimes of sexual assault, dating violence, domestic violence, and stalking, must also receive annual training on issues related to these crimes and how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability.

To ensure that employees are aware of their responsibilities under Title IX, all employees are required to complete Title IX training within their first 30 days of employment, and then annual Title IX training as assigned by NSU. In addition, those employees whose job responsibilities include specific aspects of NSU's Title IX Compliance may be required to complete additional training by the Title IX Coordinator.