

Sexual Misconduct Policy & Procedures
Nova Southeastern University

ARCHIVED INFORMATION

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POLICY OVERVIEW

The university, 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, and other similar state and federal statutes or regulations, including the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act and the Violence Against Women Act of 1994), is committed to adopting a policy and fostering an environment where no individual may threaten the health, safety, and welfare of a member of the university community, including any person on university property or at a university-sponsored or -supervised activity, through the commission of an act of sexual misconduct.

This policy and the accompanying implementing procedures are subject to change. The information contained here on the Title IX website is the most up-to-date and controlling version and overrides any previously published version in print or online.

If you have experienced sexual violence, you have several rights and options available to you. You can contact the Title IX Coordinator for more information.

For the purposes of communicating this policy and procedure, the word “victim” is used to refer to a person who has experienced sexual violence or related criminal or other misconduct. A person who has experienced sexual violence has the right to define themselves as a victim, survivor, or other identifier that best describes their experience. Once a victim reports an act of sexual violence or sexual misconduct, he/she/they are referred to as a reporting party in this policy. In addition, since this NSU policy addresses a spectrum of behaviors prohibited by the university—ranging from unwanted verbal comments to violent acts—the umbrella term of “sexual misconduct” is used. Use of this term is not intended to diminish a victim’s experience; rather, it is to ensure that the university community has common language to promote mutual understanding, implementation, and enforcement of this campus policy.

Given the importance of preventing and responding appropriately to sexual misconduct, NSU has dedicated two full-time professionals to coordinate these efforts. They are:

Laura Bennett, Title IX Coordinator

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Email: laura.bennett@nova.edu

Desmond Daniels, Title IX Investigator/Deputy Title IX Coordinator

Tel: (954) 262-7863

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NSU is committed to providing access to Title IX-related resources, both to students and employees. As a result, the Title IX Coordinator and her deputy operate out of the following offices:

NSU Main Campus
Rosenthal Building, Room 113
3301 College Avenue
Fort Lauderdale, Florida 33314-7796

East Campus
Office of Human Resources, Room 238
3100 SW 9th Avenue
Fort Lauderdale, Florida 33315-3025

Incidents may be reported online using the secure reporting form found at nova.edu/title-ix. All incident reports are reviewed by the Title IX Coordinator no later than the next business day.

POLICY COVERAGE

The purpose and scope of this Title IX/Sexual Misconduct policy is to define clearly the university's position on and prohibition against any acts of sexual misconduct. Individuals and/or entities may be subject to the procedures outlined on the Title IX website for attempting or completing acts, threatening to commit acts, and/or facilitating others' engagement in them.

This policy applies to all students, employees, visitors, and any others affecting the campus community, regardless of actual or perceived sex, gender, gender identity, gender expression, or sexual orientation when misconduct is reported to have occurred:

- A. On campus; or
- B. Off campus, if:
 - 1. In connection with a university or university-recognized program or activity; or
 - 2. In a manner that may pose an obvious and serious threat of harm to, or that may have the effect of creating a hostile educational environment for, any member(s) of the university community.

This includes, but may not be limited to, the NSU Fort Lauderdale/Davie Campus and all other campuses, residence halls, and academic buildings; NSU University School; any NSU-recognized program; any clinical or other learning site; and online educational courses sponsored by NSU.

UNIVERSITY DEFINITIONS

Definitions are provided to ensure that all members of the university community have a shared understanding of the kinds of behaviors that may constitute violations of the policy. It is important to note that the university policy includes the prohibition of behaviors that may also constitute violations of the state and federal law. While it is not the role of the university to determine whether a crime occurred or a was violated, the university still has obligations under Title IX to address those behaviors that may constitute a violation of the policy.

The university encourages students, faculty and staff, and others in the university community to review such terms so as to educate themselves on what constitutes sexual misconduct and how we, as a community, can eliminate such acts from happening. As discussed in the policy coverage section, the university uses the term sexual misconduct in this policy as an umbrella term to include intimate relationship (including dating and domestic) violence, sex-based discrimination, sex-based intimidation, sex-based retaliation, sexual assault (including acquaintance rape), sexual exploitation, and sexual harassment. Individuals should also review the definitions of criminal behaviors as they appear in the Florida Statutes and other applicable jurisdictions.

Consent

Informed, voluntary, and mutual agreement to engage in a sexual activity. Consent must be sought by the initiator of each act, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, being asleep or unconscious, or being under the legal age to give consent.

Intimate Relationship Violence

Violence or the threat of violence between those in a sexual and/or comparably personal and private relationships. Violence may be sexual in nature (such as sexual assault), or it may be physical violence such as making death threats, punching, kicking, or using a weapon. 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 person involved in the relationship. This includes the following criminal behaviors:

Dating violence

Violence, including sexual or physical violence or the threat of such violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

Domestic violence

A felony or misdemeanor crime of violence committed—

1. By a current or former spouse or intimate partner of the victim;

2. By a person with whom the victim shares a child in common;
3. By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
4. 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.

Hostile Environment

Exists when sex-based harassment is sufficiently serious to deny or limit a person's ability to participate in or benefit from the university's programs or activities.

A hostile environment can be created by anyone involved in a university's program or activity (e.g., administrators, faculty members, students, and campus visitors).

In determining whether sex-based harassment has created a hostile environment, the university considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not enough, that the conduct was unwelcome to the person who was harassed. But the university will also need to find that a reasonable person in the person's position would have perceived the conduct as undesirable or offensive in order for that conduct to create or contribute to a hostile environment.

To make the ultimate determination of whether a hostile environment exists for a person or persons, the university considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected one or more student's education.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

Retaliation

An action taken by an accused individual or an action taken by a third party against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

Sexual Assault

Actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:

- Intentional touching of another person's intimate parts without that person's consent; or
- Other intentional sexual contact with another person without that person's consent; or

- Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent; or
- Rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent.
- Includes acquaintance rape, which is defined as forced, manipulated, or coerced sexual intercourse by a friend or acquaintance.

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:

- Prostituting another person;
- Recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
- Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and
- Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire.

Sexual Violence

Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Sexual violence includes rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Depending on the specific conduct, stalking may also be considered a form of sexual violence.

Sex-Based Harassment

Unwelcome conduct based on actual or perceived sex or gender, which includes:

Gender-based harassment

Unwelcome conduct of a non-sexual nature based on a person's actual or perceived gender, sexual orientation, gender identity, gender expression, or nonconformity with gender stereotypes.

Sexual harassment

Unwelcome conduct of a sexual nature. Examples include: unwelcome sexual advances; requests for sexual favors; or other verbal or nonverbal conduct of a sexual nature, including rape, sexual assault, and sexual exploitation. In addition, depending on the facts, dating violence, domestic violence, and stalking may also be forms of sexual harassment.

Another form of sexual harassment is "quid pro quo" harassment. This occurs when unwelcome sexual advances and/or requests for sexual favors are made by a person with power or authority over another when submission to such conduct is used as the basis for, or is implicitly or explicitly a term or condition of, employment and/or academic decision(s) or evaluation(s). An example of this

type of sexual harassment is if a faculty member or supervisor offers to provide a positive reference letter in exchange for sexual favor(s) from a student.

Stalking

1. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
 - a. Fear for the person’s safety or the safety of others; or
 - b. Suffer substantial emotional distress.
2. For the purpose of this definition—
 - a. 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.
 - b. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
 - c. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Unwelcome Conduct

Conduct is considered “unwelcome” if the person did not request or invite it and considered the conduct to be undesirable or offensive.

Unwelcome conduct may take various 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. Unwelcome conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Unwelcome conduct can involve persons of the same or different sexes.

Participation in the conduct or the failure to complain does not always mean that the conduct was welcome. The fact that a person may have welcomed some conduct does not necessarily mean that a person welcomed other conduct. Also, the fact that a person requested or invited conduct on one occasion does not mean that the conduct is welcome on a subsequent occasion.

PROCEDURAL RIGHTS OF NSU COMMUNITY MEMBERS

All members of the university community reporting or responding to an act of sexual misconduct have the right to

- be treated with dignity and respect;
- have a prompt, impartial, and equitable resolution of the report of the incident;
- have any proceedings conducted by individuals who have been adequately trained and are free from conflicts of interest;
- have all reports and investigations of sexual misconduct treated seriously and with respect for the privacy of all involved;
- have the full, prompt, and reasonable cooperation from campus personnel in responding to a report of an incident of sexual misconduct;
- have access to counseling and other appropriate services established by the university or through formal NSU agreements;
- have equitable rights in any resolution process, such as
 - being informed in writing of the outcome (including the decision[s], sanction[s], and rationale) of any university disciplinary proceeding, and
 - the opportunity to utilize an appeals procedure, if one is provided
- in situations involving crimes of sexual violence, the reporting or responding parties may also
 - have an adviser/support person of their choosing present with them during a disciplinary proceeding or any meeting pertaining to the investigation/ resolution (so long as that individual complies with the guidelines for participating as an adviser) and
 - be assured that the proceedings will be conducted by individuals who receive annual training on issues related to sexual violence and how to conduct investigations and/or resolutions in a way that protects the safety of victims and promotes accountability

RIGHTS OF VICTIMS OF SEXUAL VIOLENCE

If you have experienced sexual misconduct, you have certain rights and options under the law as well as university policy. In addition, a student or employee who has experienced sexual violence (including sexual assault, dating or domestic violence, and/or stalking), has these additional rights:

- be promptly notified of their rights and options upon report of an incident to a responsible employee;
- learn about and access existing resources on- and off-campus for counseling, health, mental health, victim advocacy, legal assistance, visa and immigration status, student financial aid, and other services available for victims within the institution and the local community;
- learn about options for, assistance in, and how to request changes to, academic, living, transportation, and working situations or protective measures and to
 - have such requests be provided when they are reasonably available, and
 - expect that the burden on the victim will be minimized when possible and appropriate;
- report to law enforcement, the university, both, or neither;
- be assisted by campus authorities in notifying law enforcement, if requested by the victim, and to pursue legal action available under the civil and criminal laws of the jurisdiction where the reported crime may have occurred;
- obtain orders of protection, no-contact orders, restraining orders, and other such legal orders, in accordance with applicable laws;
- be notified of the university's obligations for complying with lawful orders and to honor requests from the victim to assist in obtaining them when relevant;
- be free from pressure that would suggest that the victim (1) not report crimes committed against him or her to civil and criminal authorities or to the campus Public Safety and disciplinary officials, or (2) report crimes as lesser offenses than the victim perceives them to be;
- be provided with equitable rights as the responding party in any investigation or resolution process.

INITIAL RESPONSES TO INCIDENTS

A. Victim/Survivor's Response

After an incident of sexual violence, a victim may feel a variety of things, including not fully remembering or understanding what happened, self-blame, denial, anxiety, depression, physical pain, and/or emotional numbness. NSU's primary concern is the safety and well-being of any person affected by sexual violence during this difficult time. Secondary concerns are the apprehension of the assailant/prevention of further violence and preservation of evidence of the crime. A printable brochure regarding rights and options for those who have experienced sexual violence is available for download at nova.edu/title-ix.

Care for Physical Injuries, Forensic Exams, and Physical and Emotional Well-Being

Victims are encouraged to seek medical care for injuries as well as testing/treatment for sexually transmitted infections (if relevant) from licensed medical care providers. Given the importance of collecting evidence if a crime may have occurred, it is encouraged (but not required) to obtain a forensic sexual assault exam, conducted by specially trained professionals. The closest location to obtain such an exam from the Fort Lauderdale/ Davie Campus is the local sexual assault center, and it is ideal to call the 24-hour helpline to speak to their confidential staff and discuss resources and services:

Nancy J. Cotterman Center
400 NE 4th Street
Fort Lauderdale, Florida 33301
954-761-RAPE (7273) - 24-hour helpline

Any person can call the 24-Hour Sexual Assault Helpline and confidentially discuss options after experiencing sexual violence. Services provided at the center include crisis intervention, counseling, advocacy, accompaniment, information and referrals, and forensic medical exams for victims of sexual assault and survivors of child abuse. A forensic medical exam can be conducted even if the victim/survivor has not reported the crime to the police (if the victim is 18 years old or older). Victims are encouraged to seek an exam as soon as possible, within 120 hours following sexual violence. Some evidence may be able to be collected even after that time.

Individuals outside of Broward County can call 800-656-HOPE (4673) to learn about resources in their location from RAINN (Rape, Abuse, and Incest National Network). Victims are also encouraged to seek out confidential resources which can offer counseling and other services related to mental health care and processing traumatic events.

Preservation of Evidence

It is important that victims consider preserving evidence that may help prove that a crime occurred or may help in obtaining a protective order. Even if a victim is not sure what action(s) they may or may not want to take yet, preserving evidence can maximize these choices when a victim is ready to make a decision. If a victim can avoid showering, washing, brushing teeth or hair, changing clothes, or cleaning/removing things from the area where a crime occurred, these steps can help to preserve evidence. It is ideal to have evidence collected within 120 hours, but some may be obtained later. If a victim does need to remove clothing, the items should be placed in a paper bag to preserve them. Even if a victim has already cleaned up from the assault, the crime can still be reported and forensic medical exam/treatment and/or counseling can still be obtained.

If any crime happens on campus, the university encourages contacting the NSU Public Safety Department at 954-262-8999 and/or the local police, who can make a report and coordinate collection of evidence from the scene. Often NSU Public Safety and the Davie Police will respond, and they will likely contact the appropriate investigations unit. Davie Police also have a Victim Advocate. It is important to note that this Victim Advocate may not maintain the same level of confidentiality as the staff at the Nancy J. Cotterman Center or another rape crisis/domestic violence center.

B. University's Response

This section explains some of the initial responses taken by specific entities at the university.

Title IX Coordinator Response

The Title IX Coordinator provides coordination of services, options, and information to those affected by sexual violence (and other forms of sexual misconduct). Reports can be submitted online directly to the Title IX Coordinator at nova.edu/title-ix. These are reviewed during business hours and then the Title IX Coordinator will reach out to any known victim(s) to offer information and assistance. Persons needing immediate assistance can contact NSU Public Safety, Henderson Counseling, the Nancy J. Cotterman Center or the free and confidential national sexual assault hotline at 800-656-HOPE (4673).

Public Safety/Law Enforcement Response

Public Safety is the university entity designated to receive reports of crimes of sexual violence, as well as other incidents affecting the campus. If the incident may constitute a crime that occurred in the jurisdiction of the Davie Police Department, the Davie Police will also respond. If a crime occurred off campus or outside of the city of Davie, Public Safety can assist in locating and contacting the appropriate law enforcement for that jurisdiction.

When public safety or police officers arrive to take a report, they can assist the victim in obtaining medical assistance and with other immediate needs, but their focus (pending no safety concerns) is on learning what happened and conducting an investigation as to whether a crime occurred. They will likely ask for a brief account of what happened, a physical description of the assailant, and any information about where the individual might be (if known). It is up to a victim how much information he or she wishes to share. For example, a victim who has experienced trauma may prefer to have rest from one or two sleep cycles to mentally organize information about what has happened before participating in a more detailed interview. However, the police will want to get as much information as they can, as soon as they can, so they can do their part to investigate what occurred.

Reports to Responsible Employees

When a responsible employee receives a report of sexual violence (which includes dating violence, domestic violence, sexual assault, and stalking), from a victim or from a third party, the responsible employee should:

- offer to provide the Title IX coordinator's contact information
- encourage the victim to seek confidential assistance for medical concerns and counseling

- inform the Title IX coordinator of the information that has been reported (including any known name[s] of victims or potentially responsible parties) to ensure NSU can offer victims information about their rights, resources, and options for reporting and resolving the incident

Responsible employees must take the above steps for incidents that they observe directly, as well as incidents they learn about indirectly, whether they occurred on campus or off-campus.

Response to Third Party and Anonymous Reports

The university is obligated to respond to reports of sexual violence that are received anonymously and from third parties. In these cases, the Title IX Coordinator should be informed of the information and s/he will attempt to communicate with a reported victim in a sensitive manner to ensure the reported victim has information about rights and options.

ARCHIVED INFORMATION

ACCOUNTABILITY & DISCIPLINARY PROCEDURES

Overview

In addition to any criminal or civil actions that may be pending or in progress, the university has the obligation to investigate and address incidents that adversely affect its community, and/or otherwise may constitute a violation of university policy. This means that the university reserves the right to pursue its own administrative and accountability processes for students and employees and others impacting the campus.

Members of the university community (i.e., students and employees) found responsible for sexual misconduct may receive disciplinary actions that could include suspension, expulsion, and/or termination from the university. Such disciplinary action and institutional proceedings will proceed independently of any criminal and/or civil cases involving the victim and/or the responding party. The institutional accountability procedures will provide a fair, prompt, and impartial process from investigation to final result. Such institutional disciplinary or resolution proceedings for reports of sexual violence will be

- communicated to both the reporting party and the responding party,
- conducted in accordance with the university procedures published on the Title IX website
- conducted by individuals who do not have a conflict of interest or bias for or against the reporting party or the responding party
- conducted by individuals who receive annual training on issues related to sexual misconduct and how to conduct an investigation
- protective of victim safety, respective of the rights of all involved parties, and promoting of accountability for those found responsible for committing violation(s)

In some situations, informal resolution such as mediation or awareness education, may be mutually agreed upon by the reporting party/victim, responding party, and the university. In these cases, the Title IX coordinator will oversee the informal process and retain documentation of it. Mediation or other informal practices will never be used for resolving incidents involving sexual violence, such as sexual assault, but may be useful in some situations where unwelcome conduct and or nonviolent sexual misconduct has been reported.

Absent extenuating circumstances, review and resolution is expected to take place within 60 calendar days from formal notice of the incident and/or request for investigation. If the investigation is expected to take longer than 60 days, the investigator or Title IX coordinator will provide written notice to the reporting party and the responding party of the delay and the reason for the delay. Time frames are approximate and may be adjusted depending on the circumstances. A reporting party or responding party may contact the investigator or Title IX coordinator to inquire into the status of the investigation and/or disciplinary process. Parties will be informed simultaneously, in writing, of the outcome of the process and any subsequent changes thereto, the availability of any appeal procedures, and when the results become final after any appeals.

There may be instances when reported behavior(s) may also constitute a crime and a criminal investigation may be occurring concurrently. In cases where the university's Title IX investigation may hinder or compromise an ongoing criminal investigation, aspects of the university's investigation may be temporarily delayed while the law enforcement authorities conduct their fact-finding or evidence gathering. Such delays generally last a few days to two weeks, and the university will continue to provide interim measures

and/or take action to ensure the safety of the victim and the campus community. While all investigations and decisions are made by university officials with specialized training, existing procedures for discipline may be utilized. The Title IX coordinator and legal counsel may be consulted with, and/or involved in, any step in the process, and NSU reserves the right to utilize designees when appropriate.

Initial Review

Initial Review & Initiation of Investigation

Upon receipt of a report of sexual misconduct, or upon other formal notice that a violation of the Sexual Misconduct Policy may have occurred, the Title IX coordinator or designee will conduct a timely initial review, usually within one–two business days, to determine things such as whether an investigation is warranted, whether interim remedies may be warranted, the relationship to NSU of the individual reported to have engaged in the sexual misconduct, and whether the reported behavior(s) are subject to Title IX and/or the Sexual Misconduct Policy. Based on this assessment, the Title IX coordinator will ensure that appropriate action(s) occur. These actions may include

- a meeting with the reporting party to discuss interim measures and ensure the victim has received information about rights and options
- coordination of any supportive, protective, or other interim measures provided by the university
- initiation of an investigation of whether the campus Sexual Misconduct Policy was violated
- discussion with the reporting party of how and when the party reported to have engaged in misconduct will be informed of the complaint and any investigation process
- referral of the information to another university office when the reported behavior warrants review and/or response outside of the Title IX procedures

Depending on the circumstances of the situation and the relation of the reporting party to the university, the Title IX coordinator, an investigator, or another university official may conduct one or more of the above actions. The above actions can happen as soon as within one business day, or they may take several days or longer to occur.

Resolution Pathways

There are several pathways that can be utilized to investigate and resolve incidents of reported sexual misconduct, depending on the relationship that the individual or individuals reported to have engaged in misconduct have with the university. These relationships to the university include:

- NSU students (undergraduate and graduate)
- NSU employees or individuals/vendors with a contractual relationship to the university
- NSU University School students
- visitors, alumni, or other individuals who are not direct members of the NSU community

For reports of misconduct by individuals who may be student-employees, prospective students, employees enrolled in graduate courses, or who may otherwise have multiple relationships to the university, the Title IX coordinator, in consultation with appropriate university officials, will determine which pathway is most appropriate based on the context of the incident and relationship of the involved parties. For reports involving climate concerns or incidents where a responsible party cannot be identified, the Title IX coordinator may initiate education or climate investigations rather than a formal disciplinary process. As

the Title IX coordinator also reviews trends and patterns of all reports, including anonymous ones, educational initiatives may be initiated to target student organizations/athletic teams, academic departments or colleges, campus offices or residence halls, NSU University School classes, or other communities within NSU.

Definition/Roles in Process

Adjudication: The decision-making step of the investigation and resolution process. Adjudicators are designated NSU officials who have specialized training in areas such as how to evaluate information and credibility, how trauma can affect the brain and memory, and NSU's policies and procedures.

Adviser: A person selected by the reporting party or responding party to accompany them in any related meeting or proceeding to which the party (respondent or reporting party) is invited. Advisers are not permitted to speak on the behalf of a student, employee, or complainant, or to participate directly in any meeting or hearing. The adviser's role is to support/assist the individual who selected them through activities such as passing notes, providing emotional support, and consultation during breaks in proceedings. If a participant receives an accommodation under ADA for service provided by a person or requires language interpretation, the participant may still have a separate adviser.

Proceedings: All activities related to the resolution of an institutional disciplinary complaint including, but not limited to, investigation meetings, formal or informal meetings, and hearings. Proceedings do not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim, or criminal resolution procedures conducted by law enforcement or the courts to determine if a law was violated.

Reporting Party: The individual who reports the misconduct. In cases where a victim of sexual violence is not the original reporting party, or where NSU initiates an investigation based on notice received outside of a formal report, that victim still has the opportunity to participate in the investigation/resolution, may still receive notice of the result, and retains rights as a victim regardless of participation in the accountability or discipline process.

Responding Party: The individual or entity that has been reported to have engaged in misconduct and has the opportunity to respond to the report and the information obtained in the investigation.

Result: Any initial, interim, and final decision(s) by any official or entity authorized to resolve disciplinary matters within the institution. The notice of outcome will include any sanctions imposed by the institution in relation to violation(s) of the Sexual Misconduct Policy, as well as a rationale for the decision(s) made.

Standard of Proof: The standard of proof used to determine whether the Sexual Misconduct Policy was violated is the "preponderance of the evidence" or "more likely than not" standard. This is often described as "greater than 50 percent."

Investigation/Accountability Process for Students

The following is the process used to investigate and resolve reports of sexual misconduct exhibited by students, once the Title IX Coordinator has determined that a formal investigation is warranted.

1. Notice

The reporting party is typically aware that an investigation has begun as a result of filing a report. If the reporting party is not the victim, the Title IX coordinator will ensure that the victim receives opportunity for notice of any investigation being initiated, and of the aspects of the policy that is being investigated. The responding party is also entitled to receive notice of the aspects of the violation that are reported to have been violated. Depending upon the specific circumstances of the case, this notice may be provided after the investigator has met with the reporting party. The responding party will be provided with an opportunity to review the notice prior to being interviewed by the investigator and has the right to review the notice of possible violations and the Sexual Misconduct Policy prior to providing any information about the incident reported. If the responding party decides to talk about the incident prior to reviewing the notice, any information shared may still be utilized in the investigation and resolution process. Such notice may occur the same day that NSU receives and reviews the incident report, or it may occur several days later. For example, law enforcement may request that the campus investigation be temporarily delayed for one–two weeks while evidence gathering occurs in a criminal investigation.

2. Investigation

The investigator will make all reasonable attempts to first offer the reporting party (or the victim) an opportunity for a meeting to

- ask any questions about the investigation process;
- share as many details as possible about the incident;
- provide any information that may be useful in the investigation, such as photographs, screenshots, emails, etc.;
- describe any impacts the reported misconduct had on the victim's participation or success in academic programs or activities; and
- offer the names of witnesses who may have witnessed the incident itself, as well as behaviors relevant to the investigation that may have occurred right before or after the incident

The investigator will keep the reporting and responding parties informed of the status of the investigation as appropriate, including any delay(s) and the reason(s) for such delay(s). The investigation includes speaking with the responding party and any individuals who may have information related to the reported incident. The Title IX coordinator is kept apprised of the information gathered through the investigation and its status. Depending on the complexity of the investigation, it may take a week or several weeks to complete. If the investigation will not be completed within 60 days, both parties will be informed of that and the reason for the delay.

During the investigation process, the reporting party and responding party will be able to review and respond to any information that will be used to determine whether a violation occurred, and also to determine what (if any) sanctions may be appropriate. Both the reporting party and the responding party

have the opportunity to share information about the incident(s), provide the names of witnesses to be interviewed, and respond to contradictory information. This will be done separately through meeting(s) with the investigator. Character witnesses, unrelated and irrelevant past sexual behaviors, and other such information are excluded from the investigation. When the investigator has gathered all the information available, an investigation summary will be prepared. It will include

- a summary of the incident as reported by the reporting party;
- a summary of the incident as reported by the responding party;
- any additional information obtained during the investigation that is relevant to determining whether the reported individual is responsible or not for committing violation(s) of the Sexual Misconduct Policy, such as summaries or statements from witnesses;
- any supporting documentation, such as screenshots, photos, incident or police reports, or other items;
- the investigator's assessment(s) of credibility of interviewed parties and/or information;
- an investigative analysis and conclusion(s)

Both parties are then provided with an opportunity to review the investigation summary and provide any response to it. After reviewing the investigation summary, both parties are also given the opportunity to provide any information to be considered regarding personal impact, unique circumstances, or other factors that do not relate to determining whether or not a policy was violated, but that may be useful in determining sanctions. Any information shared by one party may be reviewed by the other party. The only exception is, if the responding party has a record of misconduct, that information will be shared with the adjudicator after the determination of responsibility has been made; the reporting party will not be informed of that unrelated conduct history.

Once the investigation summary has been completed and the parties have had the opportunity to review it, the investigation summary will be forwarded to the Title IX coordinator. Any information pertaining solely to sanctioning will be provided separate from the investigation summary to minimize bias on the part of the adjudicator.

3. Adjudication

The Title IX coordinator provides the investigation report to a trained adjudicator, usually the assistant dean of student affairs or designee, who is free from conflicts of interest. The adjudicator reviews the investigation summary and any included information (all of which both parties have already seen and have had the chance to respond to) and makes the determination, based on the preponderance of the evidence standard, as to whether the responding party was responsible or not for committing a violation of the Sexual Misconduct Policy.

The adjudicator then informs the Title IX coordinator that a decision about responsibility has been made. If the adjudicator determines that the Sexual Misconduct Policy was violated, the adjudicator will receive the information pertaining to sanctioning so he or she can determine appropriate sanctions. If the adjudicator determines that no violation of the Sexual Misconduct Policy has occurred, the adjudicator will not receive the information relevant to sanctioning. The adjudication generally should occur no later than one week after the adjudicator receives the investigation summary.

4. Notification of Decision

Within one week of receiving the investigation summary, the adjudicator will provide simultaneous notice of the decision to the reporting party and the responding party, as well as to the Title IX coordinator. The notice of decision will be sent via email to the parties' NSU email addresses. Additional copies may be provided by personal delivery, postal mail, or other means, if determined necessary by the adjudicator and/or the Title IX coordinator. The notice of decision will include

- a finding of responsible or not responsible for violation of the Sexual Misconduct Policy, including information on the specific aspects of the policy that were in question;
- a rationale for the finding(s);
- a description of any sanction(s) to be imposed; and
- a rationale for the selection of sanction*

*If the responding party had prior conduct sanction(s) that impacted the sanctions issued in a situation, the reporting party/victim will only be informed that there may have been prior circumstances involving the respondent that contributed to the sanctions that were applied in this case.

In the case that the victim of sexual misconduct is not the reporting party or chose not to participate in the investigation or resolution, the victim still has the right to receive notice of the results.

5. Appeals

Both the responding party and the reporting party have the opportunity to appeal the decision of responsibility and/or the sanction(s) based on any one of the following:

- new, relevant evidence that was not available during the investigation or adjudication that would substantially alter the outcome of the case;
- information that procedures (as published on the Title IX website) were not followed and the deviance would substantially alter the outcome of the case; or
- that the sanction(s) do not relate appropriately to the violation(s)

An appeal must be made in writing and must explain the basis for appeal. The written appeal must be received by the Vice President for Student Affairs within five business days of NSU sending the notice of decision. Upon receipt of an appeal, the office of the Vice President of Student Affairs will notify the Title IX Coordinator. The Title IX coordinator will notify the other party that an appeal has been received, and will provide up to five business days for the other party to provide any information in writing that he or she would like considered in the appeal review.

The Title IX coordinator will ensure that any information submitted by the parties for consideration is provided to the vice president of student affairs, who will review the appeal(s) and issue a decision within 10 business days of receiving the appeal information. The vice president of student affairs may review the investigation summary and decision letters in considering the appeal. The decision of the vice president of student affairs will be final.

At the conclusion of the process, both parties are welcome to contact the Title IX coordinator to provide any feedback about their experience during the proceedings.

6. Records of Proceedings

The records (i.e., investigation summary, sanctioning information, and copies of letters sent) of proceedings involving students are subject to the Family Educational Rights and Privacy Act (FERPA) and the university

respects the privacy of the individuals involved. While the investigation is focused on determining violations of the Sexual Misconduct Policy, relevant information may also be used to address other violations committed. As the university does not wish to deter reporting or full participation in the investigation process, violations that do not pose a threat to health or safety will not be pursued. The university recognizes that reporting and responding to reports of sexual misconduct may be difficult at times and encourages all involved parties to utilize confidential resources offered through the university during and after the disciplinary process as appropriate. The university does not issue nondisclosure agreements or prohibit individuals from discussing their experiences; however, all parties should take caution to avoid illegal acts such as libel or slander. If there are sanctions that require campus offices or entities to enforce, or when university employees have a legitimate educational interest in the information, a separate notice containing only the information necessary will be provided by the adjudicator. For example, if the responding party is suspended, dismissed, or expelled from the university, written notification of the sanction is provided to the dean of the student's academic program and appropriate university administrative offices. If the violation has implications to the standards of practice or supplementary standards of the student's academic program, the relevant information regarding the responding party is sent to the responding party's academic program dean (once the matter is subject to a final, non-appealable disposition). No personally identifiable information about the reporting party will be shared.

Records will be maintained in accordance with relevant recordkeeping practices, including compliance with the Clery Act, which requires some records to be maintained for a minimum of seven years. Students may view their FERPA-protected education records pertaining to sexual misconduct, but they may not receive copies of them.

7. Sanctions

When a student is found to have violated the Sexual Misconduct Policy, one or more sanctions from the Student Code of Conduct may be imposed. NSU does not have mandatory minimums or prescriptive sanctions. Factors considered by adjudicators when determining sanctions include, but are not limited to, the nature and egregiousness of the behavior, any prior misconduct and sanctions, and impacts of the behavior.

Available Sanctions

Expulsion: Permanent dismissal from the university with no right for future readmission under any circumstances. A student who has been expelled is barred from campus visiting privileges.

Suspension: Mandatory separation from the university for a period of time specified in an order of suspension. An application for admission will not be entertained until the period of separation indicated in the suspension order has elapsed. Readmission is subject to approval of the university. During the period of suspension, the student is barred from campus visiting privileges, unless specific permission is granted by the assistant dean of student affairs or his or her designee. Suspensions may range from one term to several years.

Temporary Suspension: Action taken by the vice president or assistant dean of student affairs that requires a student's temporary separation from the university until a final determination is made of whether or not a student has committed the reported offense.

Final Disciplinary Probation: A disciplinary sanction serving notice to a student that his or her behavior is a flagrant violation of university standards, under which the following conditions exist:

- The sanction is for the remainder of the student's academic career and may be reviewed by the vice president of student affairs no sooner than two regular academic semesters or equivalent after the sanction is imposed.
- After two semesters in attendance, a student may initiate a request, in writing, for reduction of the sanction to Disciplinary Probation, but must also demonstrate reason to substantiate the request.
- Another violation of the Code of Student Conduct and Academic Responsibility will result in the minimum of suspension being imposed if the student is found in violation.

Disciplinary Probation: A disciplinary sanction serving notice to a student that his or her behavior is in serious violation of university standards. A time period is indicated during which another offense of dating violence, domestic violence, sexual assault, stalking, or violation of the Code of Student Conduct will automatically raise the question of a more severe sanction (suspension or expulsion) if the student is found in violation.

Disciplinary Warning: A disciplinary sanction serving notice to a student that his or her behavior has not met university standards. This sanction remains in effect for a designated number of semesters of attendance, after which it is expunged from the student's file.

Verbal Warning: A verbal admonition to the student by a university staff member that the student's behavior is inappropriate. A verbal warning will be noted in the student's file.

Restitution: Payment made for damages or losses to the university, as directed by the adjudicating body.

Restriction or Revocation of Privileges: Temporary or permanent loss of privileges, including, but not limited to, the use of a particular university facility, visitation privileges, and parking privileges.

Termination or Change of Residence Hall Agreement/Accommodation: A disciplinary sanction that terminates or changes the Residence Hall Agreement/Accommodation. This should be accompanied by another form of disciplinary action. It is considered permanent unless lifted by the vice president of student affairs, the assistant dean of student affairs, the director of residential life, or their designees.

Counseling Intervention: Mandatory assessment and/or referral to receive assistance from a licensed care provider.

Other Appropriate Action: Disciplinary action not specifically outlined above, but approved through the vice president or assistant dean of student affairs or their designees.

Investigation/Accountability Process for Employees

Investigation and Disciplinary Process When an Employee All employees, including faculty and staff members and administrators, are required to comply with the NSU Sexual Misconduct Policy. Reports of sexual misconduct from an employee against another employee will be handled through the Employee Relations Unit of the Office of Human Resources in accordance with its procedures for handling employee complaints. The Title IX coordinator will meet periodically with the managing director of employee relations and employee relations staff members to discuss specific incidents and trends. Reports of sexual misconduct from a student against an employee will be assigned to the Employee Relations Unit by the Title IX coordinator and processed pursuant to the university's Title IX complaint procedure. More information about the procedures used to investigate and resolve reports of sexual misconduct by employees will be made available on the Title IX website. Sanctions and corrective actions against employees found to have violated the Sexual Misconduct Policy include:

- verbal or written warning
- formal counseling
- demotion
- probation
- suspension with or without pay
- dismissal/termination from employment

Investigation/Accountability Process for Non-NSU Affiliates

The NSU University School (USchool) educates students in grades junior kindergarten through 12th grade in its lower, middle, and upper school divisions. The NSU Sexual Misconduct Policy applies to USchool, in addition to age-appropriate policies and procedures outlined in the [NSU University School Student/Parent Handbook](#). Reports of sexual misconduct exhibited by a USchool student will be resolved under the coordination of NSU's Title IX Coordinator or designee, and will follow applicable procedures for discipline outlined in the [USchool Student/Parent Handbook](#). For reports of egregious conduct, such as sexual violence, the Title IX coordinator reserves the right to initiate an investigation in accordance with the process for NSU undergraduate and graduate students.