

---

# 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 (EFFECTIVE AS OF AUGUST 14, 2020) &  
PROCEDURES (LAST REVISED AUGUST 2, 2022) –  
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

Introduction .....	2
Sexual Harassment Prohibited by Title IX .....	3
Jurisdiction: When & Where Title IX Applies .....	4
Other Prohibited Sexual Misconduct .....	4
Standards of Analysis .....	6
Title IX Resolution Procedures Overview .....	7
Terminology .....	7
General Procedural Notes .....	7
Reporting/Disclosure of Incidents.....	8
Initial Response to Reports of Potential Title IX Sexual Harassment.....	8
Notice of Allegations of Title IX Sexual Harassment & Initiation of Investigation .....	9
Dismissal of a Formal Complaint of Title IX Sexual Harassment .....	9
Investigation of Title IX Sexual Harassment.....	10
Informal Resolution of Title Sexual Harassment.....	10
Adjudication/Decision-Making.....	10
Possible Sanctions .....	11
Notice of Outcomes Regarding Title IX Sexual Harassment .....	11
Appeals of Determinations of Responsibility and/or Dismissal of Title IX Sexual Harassment .....	11
Records & Privacy of Information .....	12

## 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 has designated a full-time professional in the Office of Human Resources to lead NSU’s response to sexual misconduct and compliance with Title IX. NSU may also designate Deputy Title IX Coordinators to provide the investigation and response to reports of Title IX Sexual Harassment. Any questions or concerns may be directed to the Title IX Coordinator:

Name: Laura Bennett

Title: Title IX Coordinator and Managing Director of Title IX Compliance & Institutional Response to Sexual Misconduct

Email: [laura.bennett@nova.edu](mailto:laura.bennett@nova.edu)

Website & Online Incident Reporting Form: <http://nova.edu/title-ix>

Phone: 954-262-7858

Office: NSU East Campus, Office of Human Resources, #248  
3100 SW 9<sup>th</sup> Avenue  
Fort Lauderdale, FL 33315

This policy describes sexual harassment prohibited by Title IX as well as other forms of sexual misconduct prohibited by NSU. If a report of sexual misconduct (including committed or attempted acts, as well as facilitation of others’ engagement in misconduct) appears subject to Title IX (both in the nature of the allegation and the context in which it occurred), it is subject to the *Title IX Resolution Procedures*. 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.

### **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 offensive that it effectively denies a person equal access to the NSU education program or activity.
3. **Title IX Sex Offense:** A sexual offense that meets one or more of the following:
  - 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, without consent of the victim.
  - b. **Non-consensual sexual contact:** the touching of clothed or unclothed private body parts (i.e. breast, buttocks, genital area, groin, and inner thigh) of another person through human contact or with an object for the purpose of sexual gratification. This may occur through force or against someone’s will or it may occur without force when a person cannot consent because of age or incapacitation.
  - c. **Non-forcible sexual offenses:**
    - i. *Statutory rape:* sexual intercourse with a person under the age of consent, which is 18 in the state of Florida and 16 in Puerto Rico.
    - 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, threatens, or communicates to or 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.
4. **Retaliation:** 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.

### **Jurisdiction: When & Where Title IX Applies**

When all of the following circumstances are met, the *Title IX 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 activity<sup>1</sup>.
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) and thus may be referred for response through the procedures in the Student Code of Conduct, NSU Employee and Faculty Policy Manuals, NSU University School Student/Parent Handbook or other such applicable NSU procedure(s):

1. **Non-Title IX Sex Offense** 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, or
  - Sexual harassment by a faculty member reported by student who has already graduated.
2. **Sexual Harassment**, defined as unwelcome conduct of a sexual nature<sup>2</sup>. Conduct is considered "unwelcome" if the person did not request or invite it and considered the conduct to be undesirable or offensive. Sexual harassment can be verbal, non-verbal and/or physical. Examples include but are not limited to:
  - 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.

---

<sup>1</sup> For the purposes of the *Title IX 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.

<sup>2</sup> While sexual harassment is generally defined as "unwelcome conduct of a sexual nature," the application of formal disciplinary action will be determined on a case-by-case basis.

- “Quid pro quo” from a person in a position of authority requesting sexual activities in exchange for a grade or positive recommendation,
  - Physical conduct such as non-consensual touching, patting, pinching, stroking, or making sexual comments while touching someone on a non-private body part.
3. **Gender-based harassment**, defined as unwelcome conduct of a nonsexual nature based on a person’s actual or perceived gender, sexual orientation, gender identity, gender expression, or nonconformity with gender stereotypes. Examples include but are not limited to:
- Verbal or electronic communications designed to bully someone because of how they appear or don’t appear to fit a stereotype of a traditional masculine or feminine person,
  - Aggressive or intimidating acts towards person(s) because of their gender-related identity,
  - Telling jokes designed to make fun of lesbian, gay, bisexual, or transgender persons.
4. **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:
- Recording images (e.g., video, photograph) or audio of an individual while in the restroom or locker room,
  - Sharing sexual images with another person without their consent in an attempt to cause sexual feelings,
  - Knowingly transmitting a disease or infection to someone by means of sexual contact without their knowledge or consent,
  - Coercing a student sending intimate photos of him/her/themselves outside of school hours/off-campus, resulting in the student not feeling able to participate in class.
  - Watching another person in a place where that person would have a reasonable expectation of privacy, without that person’s consent, and for the purpose of feeling sexually aroused.
5. 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 location where the conduct occurs.

### **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 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
- Consent can be withdrawn at any time.
- There is no consent when force, whether expressed or implied, is used.
- There is no consent when coercion, intimidation, threats, and/or duress is applied.
- 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.
- 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 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.

**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.

**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.

### **Title IX 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 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](https://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 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 an institutional disciplinary complaint. It does not include communications or meetings between officials and parties concerning accommodations or supportive measures.
- **“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.

### **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 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 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 employees<sup>1</sup> who observe, receive a report of, or otherwise learn about potential violations of this policy are required to inform the Title IX Coordinator. 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.

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

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. 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. 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 Resolution Procedures* apply.

**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. 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.

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,

---

<sup>1</sup> 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.

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 Resolution Procedures*.

**Emergency Removal** of a student<sup>2</sup> 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 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 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 Resolution Procedures* when:

- The complainant provides written notice to withdraw the complaint,
- The respondent is no longer enrolled or employed at NSU<sup>3</sup>, *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 RESOLUTION PROCEDURES:** Following any dismissal under the Title IX Resolution Procedures, NSU reserves the right to initiate any applicable procedure (e.g. Student Code of Conduct, NSU Employee or Faculty Policy Manual, NSU University School

---

<sup>2</sup> NSU will follow its usual procedures for employee respondents, including application of any administrative leave procedures when appropriate.

<sup>3</sup> 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.

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 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**

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 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, expulsion/dismissal.

### **Notice of Outcomes Regarding Title IX Sexual Harassment**

After 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 only disclose information in accordance with those procedures.