

Northwest University Sexual Harassment Policy

Title IX of the Educational Amendments of 1972 (*Title IX*) prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. Northwest University (*University*) prohibits sexual harassment by its employees and students in all of the University's education programs and activities. Sexual harassment includes sexual assault, dating violence, domestic violence, and stalking.

Any student can experience sexual violence, whether undergraduate, graduate, part-time, full-time, male, female, gay, straight, lesbian, bisexual, transgender, disabled or not, or of a different race or national origin. The University will respond to sexual violence complaints regardless of whether the alleged Respondent and Complainant are of the same gender or different genders. Foreign students attending the University may need to be protected to maintain a certain credit load, and should be advised about the possible availability of U nonimmigrant status (regarding victims of certain crimes who suffer substantial mental or physical abuse as a result of the crime and are helpful to law enforcement) and T nonimmigrant status (for victims of severe forms of human trafficking who comply with a law enforcement agency's investigation or prosecution, and who would suffer severe hardship if removed from the United States), if appropriate. The University's employees are also protected by Title IX.

The U.S. Department of Education, which enforces Title IX, has issued regulations interpreting Title IX's prohibition of sex discrimination related to various forms of sexual harassment and sexual violence. The Title IX regulations narrow both the geographical scope of the University's authority to act under Title IX and the types of sexual harassment that it must subject to its Title IX investigation and adjudication process.

The University remains committed to addressing any unlawful sexual harassment and any violation of its policies, even those not falling within the scope of Title IX and this Sexual Harassment Policy. The following are eight other University policies (and there may be others) that may apply to inappropriate conduct that falls outside of Title IX:

- Nondiscrimination and Harassment Policy Including Sexual Harassment (Not covered by Title IX)
- Sexual Harassment Grievance Process (Title IX) Discrimination Grievance Procedures Including Sexual Harassment (Not covered by Title IX)
- Community Handbook
- Graduate/Online Student Handbook
- Employee Manual

- Faculty Manual
- Staff Manual

The University strongly encourages its students to report all incidents of Sexual Harassment or Sexual Violence to the Title IX Coordinator so that Supportive Measures can be offered to Complainants and sexual harassment and sexual violence can be prevented and addressed (whether or not the conduct meets the definition of Sexual Harassment under Title IX).

1. Definitions

Capitalized terms in this policy have the meanings provided below.

- 1.1 **Actual Knowledge** means notice of Sexual Harassment or allegations of Sexual Harassment by the Title IX Coordinator or any University official with authority (*OWA*, as defined below).
- 1.2 **Complainant** means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.
- 1.3 **Consent** means a clear, knowing, and voluntary agreement to engage in sexual activity. Clear, knowing, and voluntary consent to sexual activity requires that, at the time of the act, and throughout the sexual contact, all parties actively express words or conduct that a reasonable person would conclude demonstrate clear permission regarding willingness to engage in sexual activity and the conditions of that activity. Consent is active; silence or passivity is not consent. Even if words or conduct alone seem to imply consent, sexual activity is not consensual when:
- A. Force or coercion is threatened or used to procure compliance with the sexual activity.
- (1) Force is the use of physical violence, physical force, threat, or intimidation to overcome resistance or gain consent to sexual activity.
- (2) Coercion is unreasonable pressure for sexual activity. When an individual makes it clear through words or actions that the individual does not want to engage in sexual contact, wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure beyond that point may be coercive. Other examples of coercion may include using blackmail or extortion to overcome resistance or gain consent to sexual activity.
- B. The person is asleep, unconscious, or physically unable to communicate his or her unwillingness to engage in sexual activity.

- C. A reasonable person would or should know that the other person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that incapacity is produced by illness, defect, the influence of alcohol or other substance, or some other cause. When alcohol or drugs are involved, a person is considered incapacitated or unable to give valid consent if the individual cannot fully understand the details of the sexual interaction (that is, who, what, when, where, why, and how), or the individual lacks the capacity to reasonably understand the situation and to make rational, reasonable decisions.
 - D. The person is under 16 years of age.
- 1.4 ***Dating Violence*** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- 1.5 ***Domestic Violence*** means a violent act committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant, under state or local domestic or family violence laws (including Chapter 26.50), or by any other person against the Complainant who is protected from that person's acts under any state or local domestic or family violence laws.
- 1.6 ***Education Program or Activity***, for purposes of this policy, means all of the University's operations, and includes all locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurred. The University's locations include both on-campus locations and off-campus buildings owned or controlled by the University. University locations also include any building owned or controlled by a student organization that is officially recognized by the University. Off-campus locations that are not subject to substantial control by the University are not within the University's Education Program or Activity for purposes of the Title IX Sexual Harassment regulations or this policy. The University will consider factors such as whether the University funded, promoted, or sponsored the event or circumstance in which the alleged off-campus Sexual Harassment occurred in determining whether it occurred in the University's Education Program or Activity. There may be conduct that occurs at locations, events, or circumstances that are not within the definition of the University's Education Program or Activity, but that still violate other University policies (for example, the Nondiscrimination and Harassment Policy including Sexual Harassment (not covered by Title IX), the

Community Handbook, Graduate/Online Student Handbook, the Employee Manual, Staff Manual or the Faculty Manual).

- 1.7 **Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the University investigate the Sexual Harassment allegation. The phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in the University’s Education Program or Activity. If the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a Party.
- 1.8 **Party** means a Complainant or a Respondent.
- 1.9 **Respondent** means an individual who is alleged to be the perpetrator of conduct that could constitute Sexual Harassment.
- 1.10 **Sexual Assault** means any sexual act directed against a Complainant without the Complainant’s Consent. Sexual Assault includes fondling, incest, rape, and statutory rape. Sexual Assault also includes any sexual contact with another person without that person’s Consent. As defined by RCW 9A.44.010(13), **sexual contact** means “any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.”
- 1.11 **Sexual Harassment** as defined under the Title IX regulations means conduct on the basis of sex that satisfies one or more of the following:
- A. a University employee (including a faculty member) conditions the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct;
 - B. unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s Education Program or Activity; or
 - C. Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

There may be circumstances where alleged conduct does not satisfy the definition of Sexual Harassment under the Title IX Sexual Harassment regulations, but the conduct may still violate another University policy.

- 1.12 **Sexual Violence** means Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

- 1.13 **Stalking** means engaging in a course of conduct (two or more acts) directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or to suffer substantial emotional distress. Both in-person and electronic stalking are prohibited by the University. Stalking is further defined in RCW 9A.46.110.
- 1.14 **Supportive Measures** means nondisciplinary, nonpunitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant or a Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive Measures are measures designed to restore or preserve equal access to the University's Education Program or Activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the University's educational environment, or deter Sexual Harassment. Supportive Measures may include referral to the University's counseling center or other counseling resources, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, University security escort, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.
- 1.15 **Title IX** means Title IX under of the Education Amendments Act of 1972, which is a federal civil rights law that prohibits any person in the United States, on the basis of sex, from being excluded from participating in, denied the benefit of, or being subjected to discrimination under any education program or activity receiving Federal financial assistance.
- 1.16 **Title IX Coordinator** means the person authorized by the University to coordinate the University's efforts to comply with its responsibilities under Title IX and to institute corrective measures on behalf of the University.

2. Reporting Sexual Harassment

A Sexual Harassment report may be made by any person who believes that Sexual Harassment may have occurred that requires the University's response. The person reporting need not be the Complainant. Students are encouraged to report instances of Sexual Harassment or Sexual Violence involving University students or employees.

2.1 Mandatory Reporters.

- A. A University employee with authority to institute corrective measures on behalf of the University (an **Official with Authority**, or **OWA**) must report all relevant information to the Title IX Coordinator whenever the OWA has Actual Knowledge of Sexual Harassment or allegations of Sexual Harassment committed by any University employee or student or occurring

in the University's Education Program or Activity. OWA include the following University employees:

- (1) President,
- (2) Provost,
- (3) Vice Presidents,
- (4) Deans and Directors
- (5) Athletic Coaches
- (6) Area Coordinators

B. Any OWA who receives a report of Sexual Harassment committed by any University employee or student or occurring in the University's Education Program or Activity should tell the reporting individual that the OWA must report the incident to the Title IX Coordinator. The OWA must then promptly make the report to the Title IX Coordinator. Any OWA who knowingly fails to report relevant information to the Title IX Coordinator as required by this policy may be subject to disciplinary action. An OWA who receives the information as part of a confidential communication in the context of a professional or otherwise privileged relationship or communication (for example, the OWA was the reporting person's therapist, lawyer, minister, physician, or spouse) does not have a reporting obligation under this policy.

2.2 **Other University Employees and Resident Hall Advisors.** The University wants to stop and respond effectively to instances of Sexual Harassment and Sexual Violence against its students or employees. Therefore, if any employee and any resident hall advisor ("RA") witnesses or receives a report of Sexual Harassment committed by any University employee or students or occurring in the University's Education Program or Activity, then the employee or RA is expected to report the incident to the Title IX Coordinator. Employees who are statutorily prohibited from reporting that information are exempt from this reporting expectation, including any licensed counselor who receives the information in his or her professional capacity as a licensed counselor.

2.3 **Where to Report.**

Reports of Sexual Harassment may be made in person, by mail, by telephone, or by electronic mail, at the following locations:

Northwest University
Attn: Amanda Bowman, Title IX Coordinator
5520 108th Avenue NE

Kirkland, WA 98033
Email: amanda.bowman@northwestu.edu
Telephone number: 425.889.7824

This information is also located on the University's Title IX Office webpage:
<https://www.northwestu.edu/title-ix>.

Reports may be made at any time, including during nonbusiness hours, although in-person reports may be made only during regular business hours. Individuals may also submit reports, including anonymous reports (although we encourage non-anonymous reporting so the University can engage in a more comprehensive investigation).

Timing. Reports of Sexual Harassment should be made to the Title IX Coordinator as soon as possible.

2.4 **Supportive Measures available even if no Formal Complaint is filed.** Supportive Measures are available to Complainants regardless of whether a Formal Complaint is filed.

3. **University Response to Report of Sexual Harassment**

3.1 **General Response.**

A. The University's response to a report of Sexual Harassment will be to:

- (1) promptly contact the Complainant to:
 - (a) discuss and provide written information about the availability of Supportive Measures;
 - (b) consider the Complainant's wishes with respect to Supportive Measures;
 - (c) inform the Complainant that Supportive Measures are available with or without the filing of a Formal Complaint; and
 - (d) explain the process for filing a Formal Complaint;
- (2) treat the Complainant and Respondent equitably by offering Supportive Measures; and
- (3) follow the University's Sexual Harassment Grievance Process (Title IX), if a Formal Complaint is filed alleging Sexual Harassment under Title IX, as defined above.

- B. For allegations of Sexual Harassment, the University may not impose any disciplinary sanctions or other actions that are not Supportive Measures against a Respondent until the University has followed the Sexual Harassment Grievance Process (Title IX). However, the University may still impose disciplinary sanctions and take other acts that are not Supportive Measures regarding conduct that violates any other University policy.

3.2 **Allegations of Sexual Violence.** If the report includes allegations of Sexual Violence, the Title IX Coordinator will also provide the Complainant with written information about the following:

- A. the importance of preserving evidence that may be necessary to prove a crime or obtain a protection order;
- B. law enforcement options, including the Complainant's options to:
 - (1) notify the University's security department or local police, with the assistance of the Title IX Office or the University's security department if the Complainant so chooses; or
 - (2) decline to notify law enforcement authorities;
- C. the Complainant's rights regarding protection orders or similar orders issued by a criminal or civil court; and
- D. existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on campus and in the community.

3.3 **Supportive Measures.**

- A. The University will maintain as confidential any Supportive Measures provided to a Complainant or Respondent, to the extent that maintaining confidentiality would not impair the University's ability to provide the Supportive Measures.
- B. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures, as appropriate.

3.4 **Emergency Removal; Administrative Leave.**

- A. The University may remove a Respondent from the University's Education Program or Activity on an emergency basis if the University determines that an immediate threat to the physical health or safety of any student or other individual arising from the Sexual Harassment allegations justifies immediate removal pending further investigation and disposition. *See*

Section 5. The University will conduct an individualized safety and risk analysis before any emergency removal and will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

- B. The University may also place a non-student employee Respondent on administrative leave during the pendency of a formal or informal grievance process under this policy and the Sexual Harassment Grievance Process (Title IX). The University may also take action for any other violation of its policies.

3.5 Notice of applicable Grievance Process or Grievance Procedure.

- A. If a Complainant files a complaint (including a Formal Complaint for Sexual Harassment) against a Respondent, the Title IX Coordinator will notify the Respondent and provide the Complainant and the Respondent with a written notice of allegations that includes an explanation of the appropriate grievance process, grievance procedures, or other process used for disciplinary actions.
- B. The Title IX Coordinator will follow the Sexual Harassment Grievance Process (Title IX) to respond to Formal Complaints of Sexual Harassment occurring against a person in the United States who is participating in or attempting to participate in the University's Education Program or Activity, as required by the Title IX Sexual Harassment regulations.
- C. The Title IX Coordinator will follow the University's Nondiscrimination Grievance Procedures to respond to a complaint of sexual harassment or Sexual Violence against a University employee or student that do not fall under the definition of Sexual Harassment or that cannot be handled under the Sexual Harassment Grievance Process (Title IX) because the allegations in the complaint did not occur in the United States or did not occur within the University's Education Program or Activity, or because the Complainant is not a person who is participating in or attempting to participate in the University's Education Program or Activity.
- D. To the extent appropriate when there are acts that may violate more than this Sexual Harassment Policy, other complaints of sexual harassment (including Sexual Harassment as defined by Title IX) received by the Title IX Coordinator may be jointly evaluated by the Title IX Coordinator and the VP of Students (in the case of students) or the area Vice-President (in the case of employees) to ensure the University provides an appropriate response under its Nondiscrimination and Harassment Policy (if applicable), the Community Handbook, and any other applicable policies and procedures of the University.

3.6 **Sanctions.** Sanctions for violating this policy may include the following:

- A. For an employee (including faculty, staff, and administrative employees): verbal counseling, written warning, probation (for employees who are not employed at-will), reassignment, demotion, reduction in pay, suspension, termination of employment, a ban from campus, and any other appropriate sanction that may be imposed by the University. Any disciplinary sanction imposed on an employee Respondent and the reason for the sanction may also be noted on the employee's employment record.
- B. For a student: notice, warning, probation, suspension, restriction on athletic team participation or other University activity, dismissal, a ban from campus, and any other appropriate sanction that may be imposed by the University. Any disciplinary sanction imposed on a student Respondent and the reason for the sanction may also be noted on the student's academic transcript and other student file. Any sanction imposed on a student Respondent may include an educational action plan prescribed and administered through the VP of Students. If the Respondent is a student employee, possible sanctions include all sanctions applicable to students and all sanctions applicable to employees.
- C. For a Respondent who is neither a student nor an employee: limitation or termination of any agreement or association between the University and the Respondent and a temporary or complete ban of the Respondent from all or any part of the campus or other University property, and any other appropriate sanction that may be imposed by the University.

4. **Confidentiality, Nonretaliation, and Leniency**

4.1 **Confidentiality.**

- A. The University recognizes that Complainants or witnesses of Sexual Harassment might be hesitant to report an incident to University officials if they fear the discovery of violations of the University's handbook policies and employee manuals (for example, the policies about alcohol use, drug use, or consensual sexual activity outside of marriage). In the case of students, alleged violations of the University's handbook policies may be reported to the VP of Students, but in these situation, the University's judicial officers are instructed and expected to practice reasonable leniency. See *Section 4.3* below, regarding leniency.
- B. Except as otherwise permitted or required, the University will take reasonable precautions to keep confidential the identity of any individual who has made a report or filed a Formal Complaint of Sexual Harassment, any Complainant, any individual who has been reported to be a perpetrator of Sexual Harassment, any Respondent, and any witness. The University

need not keep confidential the identities of those individuals as necessary to carry out this policy, the Sexual Harassment Grievance Process (Title IX), or any other University policy or procedure. The University may disclose information as required or permitted by the Family Education Rights and Privacy Act (*FERPA*) or any other applicable law.

4.2 **Nonretaliation.**

- A. The University prohibits retaliation by anyone, including any University disciplinary office. Retaliation means intimidation, a threat, coercion, or discrimination for the purpose of interfering with any right provided or protected by this policy or because the individual has made a report or complaint, testified, or assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Nothing in this section prohibits the University from taking disciplinary action against an individual for student code violations, even if the violations arise out of the same facts or circumstances as a report of Sexual Harassment. But the disciplinary action is retaliatory if the disciplinary action is taken or discipline is imposed on an individual for the purpose of interfering with any right provided or protected by this policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to assist or participate in any manner, in an investigation, proceeding, or hearing under this policy. The University may discipline an employee who is an OWA under this policy and fails or refuses to forward a complaint of Sexual Harassment or provide relevant information to the Title IX Coordinator in violation of this policy.
- B. Any materially adverse action or course of conduct taken against a person could be the basis for a retaliation claim if the conduct would deter a reasonable person from complaining about Sexual Harassment. Petty slights, minor annoyances, and simple lack of good manners are generally insufficient to establish a retaliation claim.
- C. The University's student handbooks and employee manuals prohibits students and employees from making a materially false statement in bad faith during a grievance process or procedure, and a violation of any of those policies is grounds for discipline.
 - (1) Imposing discipline, or filing reports seeking to impose discipline, for a false statement does not constitute retaliation prohibited under this policy.
 - (2) But a University determination that the Respondent was or was not responsible for Sexual Harassment, alone, is not sufficient to conclude that any Party made a materially false statement in bad faith. For example, the fact that a Respondent who denies his or her

responsibility for Sexual Harassment is determined to be responsible for the Sexual Harassment does not necessarily mean that the Respondent has made a materially false statement in bad faith. Likewise, a determination that a Respondent is not responsible for Sexual Harassment, as alleged by a Complainant, does not necessarily mean that the Complainant's allegation was a materially false statement made in bad faith.

- (3) Individuals who feel they have been subjected to retaliation under this policy should report the incident to the Title IX Coordinator, who will address the report as required by the Sexual Harassment Grievance Process (Title IX) or other applicable policy or procedure.

4.3 **Leniency.** To encourage the reporting of Sexual Harassment, the University offers leniency to anyone (including a Complainant) who reports an incident of Sexual Harassment and whose conduct at the time of the Sexual Harassment (in the case of the Complainant) or at the time of witnessing the Sexual Harassment (in the case of a witness) violated the University's student handbook policies. For violations by students of the student handbook policies in those circumstances, the University's judicial officers are instructed and expected to practice reasonable leniency. The University may also offer and encourage support, counseling, or education efforts to help students and benefit the campus community.

5. **Emergency Removal.**

5.1 **Removal.** The University may remove a Respondent from the University's Education Program or Activity on an emergency basis if it determines that an immediate threat to the physical health or safety of any student or other individual arising from the Sexual Harassment allegations justifies immediate removal pending further investigation and disposition.

5.2 **Removal Decision Maker.** The *Removal Decision Maker* is a University employee with the authority to require the Respondent's removal. In the case of a student Respondent, the Removal Decision Maker is the VP of Student Development or the VP's designee. In the case of a faculty Respondent, the Removal Decision Maker is the Provost or the Provost's designee. In the case of a non-faculty employee Respondent, the Removal Decision Maker is the employee's area Vice President or the area Vice President's designee. In the case of employees, the Director of Human Resources should be consulted prior to a removal decision.

5.3 **Individualized Analysis.** The Removal Decision Maker will conduct an individualized safety and risk analysis before any emergency removal.

5.4 **Notice and Opportunity to Challenge.** If emergency removal of the Respondent is deemed appropriate, the Removal Decision Maker will provide the Respondent with notice and terms of the emergency removal and will also provide the

Respondent an opportunity to challenge the removal decision immediately following Respondent's removal. The notice must provide the date, time, and means by which Respondent may challenge the removal decision. The means may be by telephone, video call or other reasonable means permitted by the Removal Decision Maker. Respondent may request one extension to a mutually convenient time.

- 5.5 **Decision on Challenge.** As soon as reasonably possible, but in no event less than three days (excluding weekends and holidays), the Removal Decision Maker will notify Respondent whether the emergency removal remains effective. If for any reason the Removal Decision Maker is unable to provide a decision within the three day period, the challenge by the Respondent will be deemed denied.

6. Other Important Rights and Resources.

- 6.1 **Filing a Police Report.** Students and employees who are victims of sexual violence have a right to report the crime to University security or local law enforcement. Making a complaint with the University does not limit the rights of a student or employee to report a crime.

- 6.2 **Other Resources.** Victims of sexual violence should be aware of the following resources:

A. On-Campus Support:

- 1) Kirkland campus: phone 911 and Campus Security at (425) 889-5500 or (425) 864-1552.

NU Hope (Kirkland) - (425) 889-5261 or
nuhopeinfo@northwestu.edu.

- 2) Salem campus - phone 911 and Campus Security at (503) 304-0092.

B. Off-Campus Support:

- 1) Kirkland campus:

- King County Sexual Assault Resource Center 24 hour line at (888) 998-6243
- Harborview's Sexual Assault and Traumatic Stress - 24 Hour Community Care Line at (206) 744-1600
- National Sexual Assault Hotline at 1.800.656.HOPE (4673)

2) Salem campus:

- Center for Hope and Safety – domestic violence and sexual assault. 24-hour Crisis Line: (503) 399-7722 or (503) 378-1572
- Northwest Human Services – adult and children service, medical support shelter. 24 -hour Crisis Line: (503) 581-5535
- National Sexual Assault Hotline at 1(800) 656-HOPE (4673)

*Approved by Cabinet 8/16/2022
Revisions 7/2023*