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# NSU TITLE IX HANDBOOK

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*for Students and Employees*



**NORFOLK STATE**  
UNIVERSITY  
[www.nsu.edu](http://www.nsu.edu)

Approved by the  
Norfolk State University Board of Visitors  
on  
September 15, 2017



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## SECTION 1

### PREVENTING AND ADDRESSING DISCRIMINATION, HARASSMENT, AND RETALIATION: COMPLAINT PROCEDURES

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#### I. INTRODUCTION

In order to provide a safe and non-discriminatory learning, living, and working environment, Norfolk State University (“NSU”) prohibits discrimination and harassment on the basis of age, color, disability, marital status, national or ethnic origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, gender identity, veteran status or family medical or genetic information in NSU academics, employment, or in its programs or activities (together, “Prohibited Discriminatory Conduct”). These forms of Prohibited Discriminatory Conduct are defined in [NSU’s Preventing and Addressing Discrimination and Harassment \(PADH\) policy](#). Through its [Preventing and Addressing Retaliation \(PAR\) policy](#), NSU prohibits retaliation against any individuals who, in good faith (holding a genuine belief in the truth of one’s allegations), complain of discrimination and/or harassment prohibited by the PADH policy or who participates in an investigation into such reports (“Prohibited Retaliatory Conduct”).

The Office of Human Resources (OHR) is responsible for enforcing the PADH and PAR policies on behalf of NSU through these [Preventing and Addressing Discrimination, Harassment and Retaliation Complaint Procedures \(PADHR Procedures\)](#). [\[INSERT LINK\]](#) Under these PADHR Procedures, faculty, staff, students, student and employee applicants and certain third-parties may report and seek resolution of complaints of Prohibited Discriminatory or Retaliatory Conduct. The PADHR Procedures offer two forms of resolution for reports made under the PADH or PAR policies: (1) Informal Procedures, which include a variety of informal options and channels for resolving reports, and (2) Formal Procedures, which provide a structured negotiated resolution option, where available, and formal investigation procedures.

Reports of **Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual or Gender-Based Harassment, Complicity** (with such behaviors), or **Retaliation** (for reporting such conduct) (Sexual or Gender-Based Prohibited Conduct) are governed by NSU’s Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence (SH/IPV policy), which establishes separate procedures for reporting and resolving allegations of Sexual or

Gender-Based Prohibited Conduct against Students (Appendix A) and Employees (Appendix B). For more information on the SH/IPV policy, including definitions of the Sexual or Gender-Based Prohibited Conduct and reporting options, please visit. If you have questions about which policy and procedures apply to your concerns, please contact OHR at \_\_\_\_\_ or (e-mail address).

## II. INFORMAL PROCEDURES

Employees and students are encouraged to attempt initially to resolve complaints at the lowest level through the relevant administrative structure of the employment unit or academic department. Certain types of Prohibited Discriminatory or Retaliatory Conduct or concerning behaviors that may not yet rise to the level of such conduct may be more appropriately and efficiently resolved through one of the many forms of informal resolution outlined below. On the other hand, some reports of Prohibited Discriminatory or Retaliatory Conduct, particularly those implicating violence or particularly severe harassment, may not be appropriate for resolution under the Informal Procedures and NSU reserves the right to forward a report for formal investigation at any time.

Pursuing resolution under the Informal Procedures does not preclude subsequent recourse to the Formal Procedures if the attempts at informal resolution fail to adequately resolve the reported concern. **You are not required to follow the Informal Procedures before initiating Formal Procedures.**

Informal Procedures may involve individual and/or community remedies that are designed to address a report of Prohibited Discriminatory or Retaliatory Conduct, such as:

- **One-on-One Communication:** If a Complainant wishes to address a situation with a Respondent without the direct involvement of a third party, the Complainant may communicate directly with the Respondent. This option is only appropriate if the Complainant does not feel threatened, there is no risk of physical harm, and the Complainant reasonably believes the Respondent will be receptive to the communication. **Complainants are NOT required to engage in one-on-one communication before seeking third party assistance or other help.**
- **Resolution with the Assistance of a Third Party:** A Complainant may seek assistance in informally resolving a report of Prohibited Discriminatory or Retaliatory Conduct from (i) the Complainant's supervisor, if the Complainant is an employee; (ii) the Respondent's supervisor; (iii) the Human Resources professional for the department and/or unit; or (iv) the Office of the Provost (Faculty); **Any of the foregoing third parties must consult with Human Resources before taking action to resolve a report of Prohibited Discriminatory or Retaliatory Conduct.**
- **Interventions and Remedies:** Resolution under Informal Procedures may also include other interventions and remedies, such as broad-based educational programming or training for relevant individuals or groups; one or more sanctions for Respondent(s), if warranted and in accordance with relevant disciplinary procedures; and/or any other

remedial or protective measures that can be tailored to the involved individuals to achieve the goals of the PADH and PAR policies.

Any combination of the options offered under the Informal Procedures may be utilized in any order. If resolution of the report of Prohibited Discriminatory or Retaliatory Conduct is reached through one of these Informal Procedures, the matter will be considered closed. If resolution is not reached, and the Office of Human Resources (OHR) determines that further action is necessary, or if a Respondent fails to comply with the terms of any agreed to resolution, the matter will be referred for an investigation under the Formal Procedures.

### **III. FORMAL PROCEDURES**

Complainants may initiate Formal Procedures by filing a complaint with OHR, regardless of whether resolution under Informal Procedures has been attempted. OHR responds to complaints in accordance with the procedures outlined below. However, there may be exceptional circumstances which justify a departure from these Procedures, and should such circumstances arise, OHR will advise the parties to the complaint, as soon as possible.

#### **A. FILING A COMPLAINT**

A complaint may be filed with OHR by any Academic Division, present or former employee, present or former student, applicant for admission or employment, or any other participant in NSU's programs or activities who believes that he or she has been subject to Prohibited Discriminatory or Retaliatory Conduct ("PADHR Complaint").

Reports of sexual assault, sexual exploitation, intimate partner violence, stalking, and/or sexual or gender-based harassment (Sexual or Gender-Based Prohibited Conduct) are governed by the SH/IPV policy and separate procedures referenced in that policy, which outline the investigation and resolution of claims of Sexual or Gender-based Prohibited Conduct made against Students (Appendix A) and Employees (Appendix B). Reports of Sexual or Gender-Based Prohibited Conduct may be made through NSU's online reporting system or by contacting the Title IX Coordinator or one of the Deputy Title IX Coordinators:

1. Complaints under the PADHR Procedures must be in writing and filed with HR within 300 days of the most recent alleged Prohibited Discriminatory or Retaliatory Conduct. HR retains discretion to accept complaints filed outside of the 300-day timeframe for good cause. A Complainant may also file a formal charge of discrimination, harassment and/or retaliation with a state or federal agency authorized by law to receive such complaints.

2. PADHR Complaints may be submitted to OHR in any one of the following ways:

- Email to [stwatkins@nsu.edu](mailto:stwatkins@nsu.edu);
- Hand-delivery to OHR's main office at 700 Park Avenue, 160 Wilson Hall;
- Mail to Norfolk State University, Office of Human Resources, 700 Park Avenue, 160 Wilson Hall, Norfolk, Virginia, 23504; or
- Fax to (757) 823-2805

## **B. RECEIPT OF COMPLAINT AND INITIAL ASSESSMENT**

Upon receipt of a complaint, OHR will first assess the allegations to determine whether interim measures pending resolution of the matter are appropriate. Interim measures may include, but are not limited to, a safety plan, schedule change, temporary removal of the Respondent from the workplace or academic program, if warranted, and other workplace and/or academic accommodations. In making this assessment, OHR will consider the totality of the circumstances, the nature and severity of the allegations, and whether the allegations implicate a potential, ongoing safety threat to the Complainant or the community. OHR will consult with University administrators, as appropriate.

## **C. EVALUATION OF COMPLAINT**

1. Within five (5) business days of OHR's receipt of a complaint, OHR shall decide whether the complaint states a potential violation of the PADH and/or PAR policies and shall notify the Complainant in writing of its decision. If the written complaint lacks sufficient information for OHR to make this decision, OHR will contact the Complainant to gather further information. In such situations, OHR will notify the Complainant of its decision within five (5) business days of the last contact with the Complainant.
2. If OHR determines that the Complainant's allegations, if true, do not state a violation of NSU policies, the written notice of this decision shall explain why the complaint does not state a violation and may inform the Complainant of other possible avenues of redress, such as contacting the University Ombudsman.
3. If OHR concludes that the Complainant's allegations do not state a PADH or PAR policy violation, but nevertheless implicate potentially concerning behaviors, OHR will advise the Complainant of steps OHR will take to assist him/her in addressing the concerns, informally.
4. If OHR concludes that the allegations of the complaint state a potential violation, OHR will notify the Complainant that it has accepted his/her complaint and, within ten (10) days thereafter, will meet with the Complainant to confirm the specific factual allegations upon which the complaint is based, discuss OHR's complaint procedures, including whether the complaint is suitable for negotiated resolution.
5. For PADHR Complaints which also implicate conduct prohibited by the SH/IPV Policy, OHR will consult with the Title IX Coordinator. Generally, such complaints or reports will be investigated together under the appropriate SH/IPV Procedures (Students - Appendix A; Employees - Appendix B), unless the Title IX Coordinator determines that doing so would unduly delay resolution of the allegations under the SH/IPV Policy. In these situations, OHR will expressly inform the Complainant in writing under which policies and procedures their reported allegations will be resolved.

## **D. NEGOTIATED RESOLUTION**

Negotiated resolution is a process by which OHR attempts to resolve complaints quickly and to the satisfaction of all parties without reaching formal findings, while protecting confidentiality to the extent possible. In contrast to mediation, negotiated resolution is undertaken after the filing of



a complaint with OHR and generally does not involve a facilitated meeting between the Complainant and the Respondent (collectively, the “parties”), unless such meeting is expressly agreed upon.

1. If OHR determines that a complaint is suitable for negotiated resolution, then this option will be discussed and offered to the Complainant who will be given five (5) business days to decide whether to pursue this option and inform OHR of his/her decision.
2. If the Complainant agrees to negotiated resolution, OHR will notify the Respondent that he/she has been named in a complaint and advise him/her of the nature of the allegations. Such notification will provide information regarding PADHR Complaint Procedures and will offer the negotiated resolution option to the Respondent, who has five (5) business days from receipt of this notice to decide whether to exercise this option.
3. Negotiated resolution should be completed no later than thirty (30) calendar days from the date the Respondent agrees to this process.
4. If OHR deems the complaint unsuitable for negotiated resolution or if either party declines to participate in or fails to make a decision regarding negotiated resolution, then OHR will conduct an investigation in accordance with the procedures outlined below.
5. At any time during the negotiated resolution process, either party may elect to terminate the process. Upon termination of the process, OHR will investigate the complaint in accordance with the procedures outlined below. OHR reserves the right not to proceed with an investigation if, during negotiated resolution, the Complainant was offered and refused all of the relief to which he/she would be entitled if a formal investigation was conducted.
6. Generally, OHR will only involve the Complainant, the Respondent and individuals necessary to facilitating the negotiated resolution process. Likewise, the parties will be asked to respect the confidentiality of the process. In some cases, it may be necessary to consult with or otherwise involve other NSU officials regarding NSU policies and procedures or available remedies. However, information will be provided solely to these persons on a need-to-know basis.
7. If the complaint is successfully resolved, the parties will sign a “Negotiated Resolution Form” prepared by OHR, setting forth the agreed-upon terms. Upon the parties’ execution of the Negotiated Resolution Form, OHR will destroy all other documents and notes except the original complaint. Copies of the complaint and the Negotiated Resolution Form will be provided to the Complainant and Respondent upon request and maintained by OHR in accordance with NSU policies and state and federal law.

## **E. INVESTIGATION**

If OHR determines that negotiated resolution is not suitable, or if a negotiated resolution is not agreed to by both parties or is not successful, OHR will conduct an investigation in accordance with the following procedures.

1. Notice of the Investigation: As soon as practicable, OHR will provide notice to the Complainant and the Respondent(s), simultaneously and in writing, of the commencement of the investigation. Such notice will: (a) name the Complainant and the Respondent; (b) specify the nature of the alleged Prohibited Discriminatory or Retaliatory Conduct; (c) explain that the complaint will be investigated in accordance with these PADHR Procedures; (d) identify the Investigator; (e) explain NSU's prohibition against Retaliation; and (f) provide a copy the PADH and PAR policies and the PADHR Complaint Procedures.

Where the Respondent is an Employee, OHR will also notify, in writing, the Respondent's supervisor, Human Resources and, if applicable, the Human Resources professional of the particular school/department/unit of the investigation. Such notice will inform these individuals that: (a) a complaint has been filed alleging that the Respondent has engaged in conduct prohibited by the PADH and/or PAR policies; (b) the report will be investigated in accordance with the PADHR Procedures; (c) the supervisor and the Human Resources professional are obliged to monitor the relevant environment, depending on the facts of the case, for Retaliation; and (d) information related to the report is confidential and will only be shared as needed to either obtain information pertinent to the investigation or to facilitate fulfillment of the duty of the supervisor and/or Human Resources to address any concerns regarding safety or Retaliation.

2. Interview with the Complainant and Summary of Allegations: If OHR has not already done so, OHR will conduct a formal interview of the Complainant. After the interview with the Complainant, OHR will summarize the primary complaint allegations ("Summary of Allegations"). If there is more than one Respondent, HR will create a separate Summary of Allegations for each Respondent. OHR will then request the Complainant's review and approval of the Summary of Allegations document(s) within five (5) business days. The Complainant will be given a copy of the approved Summary of Allegations document(s) for his/her record. The Summary of Allegations will serve as the basis of the complaint investigation.

If, at any time prior to the drafting of the Summary of Allegations, the Complainant provides information that indicates that one or more of the complaint allegations, interpreted in the light most favorable to the Complainant, do not state a violation of either the PADH policy or the PAR policy, such allegation(s) will not be included in the Summary of Allegations. OHR will inform the Complainant of this development, in writing, at or before the time the Complainant is provided a draft of the Summary of Allegations to review.

3. Interview with the Respondent(s) and Summary of Response: OHR will then meet with the Respondent(s) to provide him/her with the Summary of Allegations and solicit his/her response. OHR will then summarize the Respondent's response to each of the allegations outlined in the Summary of Allegations and request the Respondent's review and approval of this document ("Summary of Response") within five (5) business days. The approved Summary of Response will be provided to the Complainant and the Respondent.

4. Investigation Overview: During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit questions that they believe should be directed by the Investigator to each other or to any witness. The Investigator will notify and seek to meet

separately with the Complainant, the Respondent, and third-party witnesses and will gather other relevant and available evidence and information, including electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party). The investigation conducted by OHR may further include, but is not limited to:

- a. Interviewing material witnesses;
- b. Reviewing relevant files and records;
- c. Comparing the treatment of the Complainant to that of others similarly situated in the department or unit;
- d. Reviewing applicable policies and procedures; and/or
- e. Following-up with the parties as new evidence is collected, as appropriate, and permitting the parties to provide additional information to the record.

5. Timeframe for Investigation: The investigation shall normally be concluded within sixty (60) business days from the date of notice to the parties that the complaint has been accepted for investigation. This timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for NSU breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. OHR will notify the parties in writing of any extension of this timeframe.

6. Investigative Report and Recommended Findings: Upon conclusion of the investigation, OHR shall issue a written report to the appropriate cabinet level administrator in the Respondent's chain of command or administrator with appropriate authority. The investigative report will summarize the evidence gathered during the investigation and will include a recommendation as to whether there is sufficient information, by a preponderance of the evidence, to support a finding that the Respondent(s) engaged in the alleged Prohibited Discriminatory or Retaliatory Conduct in violation of the PADH and/or PAR policies.

If OHR recommends a finding of violation, the report will further issue recommended action items, which may include, but are not limited to: (a) a directive to stop any ongoing discriminatory, harassing and/or retaliatory behavior/practice; (b) disciplinary or other corrective action be taken against the Respondent and/or others; (c) relief be granted to the Complainant, such as accommodations, reinstatement, hiring, reassignment, promotion, training, back pay or other compensation and/or benefits (specific remedies shall be fact-specific to each complaint); and/or (d) other proactive measures, such as targeted training or education.

## **F. ADMINISTRATIVE DECISION AND NOTICE OF OUTCOME TO THE PARTIES**

Upon receipt of the Investigative Report, the appropriate cabinet level administrator will have ten (10) business days to review the Investigative Report, accept or reject the recommended findings and the recommended action items and, if applicable, determine sanction in accordance with the

appropriate disciplinary procedures. Nothing in the PADHR Procedures prevents the cabinet level administrator from implementing disciplinary action against a Respondent where the Final Investigation Report demonstrates the Respondent engaged in other conduct prohibited by NSU, regardless of whether the Respondent has been found responsible for violating the PADH or PAR policies.

The cabinet level administrator will communicate, in writing, his/her decision on the finding(s) and each of the recommended action items outlined in the Investigative Report with supporting reason to OHR. If the cabinet level administrator requires additional time for further investigation or other good cause, the cabinet level administrator shall request such an extension from OHR. OHR will inform the parties, simultaneously and in writing, of any extension the executive requests.

OHR will communicate the cabinet level administrator's decision, in writing, simultaneously, to the parties within five (5) business days of receipt of the decision. The decision outlined in this notice is final under the Policy and is not subject to further NSU appeal or grievance. Nothing in these Procedures abrogates post-adjudication rights as provided by state and federal law (i.e., State Grievance Procedure, under Chapter 30 (§2.2-3000 et. seq.) of Title 2.2 of the Code of Virginia; the Office for Civil Rights; Equal Opportunity Employment Commission).

#### **IV. ADMINISTRATIVE REVIEW**

OHR retains discretion to conduct an administrative review into allegations of Prohibited Discriminatory or Retaliatory Conduct, in absence of a formal complaint. In determining whether to initiate an administrative review of allegations of Prohibited Discriminatory or Retaliatory Conduct, OHR will consider all known information, including (1) the nature and the severity of the allegations; (2) whether the allegations are amenable to resolution through other channels, such as human resources intervention; (3) the history of prior complaints regarding the same individuals, department and/or area; (4) the expressed wishes, if known, of the affected individual(s); and (5) any other pertinent information.

Upon initiation of an administrative review, OHR will notify the head of the department/ unit/ area and the relevant human resources professionals of the commencement and scope of the review. Administrative reviews will include interviewing witnesses and reviewing pertinent documents and will normally be concluded within sixty (60) business days. OHR shall then produce a written report outlining the findings of the Administrative Review and any recommended action items to the cabinet level administrator responsible for the department/unit/area. The same level of confidentiality applicable in complaint investigations will apply to administrative reviews.

#### **V. OBLIGATION TO PROVIDE TRUTHFUL INFORMATION**

All NSU community members are expected to provide truthful information in connection with any report made under the PADH and PAR policies. Submitting or providing false or misleading information in bad faith or with a view to personal gain or to intentionally harm another in connection with a complaint under these policies is prohibited and subject to disciplinary

sanction. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

## **VI. EXTERNAL COMPLAINTS**

Individuals also have the right to file complaints with one of the following federal or state agencies. Please be advised that separate deadlines and time limitations for filing complaints with the external agencies may apply, and OHR's investigation does not toll or otherwise suspend these deadlines or time limitations. Please contact the agencies for more information about the applicable deadlines.

- Equal Employment Opportunity Commission  
1-800-669-4000  
info@eeoc.gov  
<http://eeoc.gov/>
- U.S. Department of Education  
U.S. Office for Civil Rights  
1-800-421-3481  
ocr@ed.gov  
<http://www2.ed.gov/about/offices/list/ocr/index.html>
- Commonwealth of Virginia  
Division of Human Rights  
(804) 225-2292  
human\_rights@oag.state.va.us  
<http://www.oag.state.va.us/index.php/programs-initiatives/human-rights>

**SECTION 2:**  
**STUDENTS**

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**SECTION 2**

**PROCEDURES FOR REPORTS AGAINST STUDENTS:  
INVESTIGATING AND RESOLVING REPORTS OF SEXUAL AND GENDER-BASED  
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## I. INTRODUCTION

Norfolk State NSU (“NSU”) is committed to providing a safe and non-discriminatory environment for all members of NSU community. NSU prohibits Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual and Gender-Based Harassment, Complicity and Retaliation (together, “Prohibited Conduct”). These forms of Prohibited Conduct are defined in NSU’s Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence (the “Policy”). This Appendix identifies the procedures (the “Procedures”) NSU follows when it receives a report alleging Prohibited Conduct by a Student. NSU uses these Procedures to investigate and adjudicate any such allegations and to impose disciplinary sanctions against Students found responsible for violating the Policy. <sup>1</sup>

## II. REPORTING

NSU encourages anyone<sup>2</sup> who experiences or becomes aware of an incident of Prohibited Conduct involving a Student to *immediately* report the incident to NSU through the following reporting options:

- By contacting NSU’s Title IX Coordinator or any Deputy Title IX Coordinator by telephone, email, or in person during regular office hours:

### **Mr. Sylvester T. Watkins**

Title IX Coordinator (Interim)  
700 Park Avenue  
160 Wilson Hall  
Norfolk, Virginia 23504  
757-823-8160  
[stwatkins@nsu.edu](mailto:stwatkins@nsu.edu)

### **Ms. Lisa Little**

Equal Employment Opportunity Manager  
Deputy Title IX Coordinator for Employees  
700 Park Avenue  
160 Wilson Hall  
Norfolk, Virginia 23504  
757-823-8160  
[lmittle@nsu.edu](mailto:lmittle@nsu.edu)

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<sup>1</sup> These Procedures should be read in conjunction with the Policy. Capitalized terms used and not otherwise defined in these Procedures are defined in the Policy. For purposes of these Procedures, the “Title IX Coordinator” means the Title IX Coordinator, any Deputy Title IX Coordinator, and/or any of their respective trained designees.

<sup>2</sup> Pursuant to NSU policy, certain NSU employees, called “Responsible Employees,” are *required* to report to the Title IX Coordinator all information disclosed to them about an incident of Prohibited Conduct. See “Reporting by NSU Employees of Disclosures Relating to Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence.”



**Ms. Michelle Marable**

Deputy Title IX Coordinator for Students (Interim)

700 Park Avenue

318 Student Services Center

Norfolk, Virginia 23504

757-451-7768

[mdmarable@nsu.edu](mailto:mdmarable@nsu.edu)

- Through the online reporting process which allows for anonymous reporting:  
<https://itunes.apple.com/us/app/livesafe/id653666211?ls=1&mt=8> or **Android:**  
<https://play.google.com/store/apps/details?id=com.livesafe.activities&hl=en>

A Complainant may choose to make a report to NSU to pursue resolution under these Procedures and may also choose to make a report to law enforcement. A Complainant may pursue either or both of these options at the same time. As set forth in the Policy, a Complainant who wishes to pursue criminal action in addition to, or instead of, making a report under these Procedures should contact law enforcement directly:

- 911 (for emergencies)
- City of Norfolk Police (757) 664-4610 (for non-emergencies)
- NSU Police (757) 823-8102 (for non-emergencies)
- NSU Police (757) 823-9000 (emergencies)
- NSU Police (757) 823-2148 (anonymous report)

NSU also offers access to confidential resources for individuals who are unsure about whether to report Prohibited Conduct or are seeking counseling or other emotional support in addition to (or without) making a report to NSU. The following guides identify confidential resources, both at NSU and in the Norfolk community, and further explain options for reporting Prohibited Conduct to NSU and to law enforcement:

- Students may refer to the Student Resource Guide (Appendix A-1);
- Employees may refer to the Employee Resource Guide (Appendix B-1);
- Third Parties may contact NSU's Title IX Coordinator.

Complainants are entitled to receive information, assistance and a broad range of support and remedial measures regardless of whether they choose to pursue criminal and/or NSU disciplinary resolution of Prohibited Conduct. The Student and Employee Resource Guides outline these resources and remedial measures and describe how to request them.

### **III. EXPECTATIONS OF COMPLAINANTS AND RESPONDENTS**

Pursuant to these Procedures, Complainants and Respondents can expect:

- A. Prompt and equitable resolution of allegations of Prohibited Conduct;
- B. Privacy in accordance with the Policy and any legal requirements;

- C. Reasonably available interim remedial measures, as described in these Procedures and in the applicable Resource Guide;
- D. Freedom from Retaliation for making a good faith report of Prohibited Conduct or participating in any proceeding under the Policy;
- E. The responsibility to refrain from Retaliation directed against any person for making a good faith report of Prohibited Conduct or participating in any proceeding under the Policy;
- F. The responsibility to provide truthful information in connection with any report, investigation, or resolution of Prohibited Conduct under the Policy or these Procedures;
- G. The opportunity to articulate concerns or issues about proceedings under the Policy and these Procedures;
- H. Timely notice of any meeting or proceeding at which the party's presence is contemplated by these Procedures;
- I. The opportunity to choose an advisor, including the right to have that advisor attend any meeting or proceeding at which the party's presence is contemplated by these Procedures;
- J. Written notice of an investigation, including notice of potential Policy violations and the nature of the alleged Prohibited Conduct;
- K. The opportunity to challenge the Investigator or any member of the Review Panel for bias or conflict of interest;
- L. The opportunity to offer information, present evidence, and identify witnesses during an investigation;
- M. The opportunity to be heard, orally and/or in writing, as to the determination of a Policy violation and the imposition of any sanction(s);
- N. Timely and equal access to any information that will be used during Alternative or Formal Resolution proceedings and related meetings;
- O. Reasonable time to prepare any response contemplated by these Procedures;
- P. Written notice of any extension of timeframes for good cause; and
- Q. Written notice of the outcome of any Formal Resolution proceedings, including the determination of a Policy violation, imposition of any sanction(s), and the rationale for each.

#### **IV. INITIAL ASSESSMENT**

Upon receipt of a report of Prohibited Conduct committed by a Student, the Title IX Coordinator will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. In this initial assessment, the Title IX Coordinator will:

- A. Assess the Complainant's safety and well-being and offer NSU's immediate support and assistance;
- B. Inform the Complainant of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
- C. Inform the Complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- D. Inform the Complainant about NSU and community resources, the right to seek appropriate and available remedial and protective measures, and how to request those resources and measures;
- E. Inform the Complainant of the right to seek Alternative Resolution (where available) or Formal Resolution under these Procedures; ascertain the Complainant's expressed preference (if the Complainant has, at the time of the initial assessment, expressed a preference) for pursuing Alternative Resolution, Formal Resolution, or neither; and discuss with the Complainant any concerns or barriers to participating in any NSU investigation and resolution under these Procedures;
- F. Explain NSU's prohibition against Retaliation and that NSU will take prompt action in response to any act of Retaliation;
- G. Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that personally identifies the Complainant, the Respondent, any witness, and/or any other third party with knowledge of the reported incident;
- H. Ascertain the ages of the Complainant and the Respondent, if known, and, if either of the parties is a minor (under 18), contact the appropriate child protective service agency; and
- I. Communicate with appropriate NSU officials to determine whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and take steps to meet those obligations.

The Title IX Coordinator will ensure that the Complainant receives a written explanation of all available resources and options and is offered the opportunity to meet to discuss those resources and options. When a decision is reached to initiate an investigation or to take any other action under these Procedures that impacts a Respondent (including the imposition of interim protective measures), the Title IX Coordinator will ensure that the Respondent is notified, receives a written explanation of all available resources and options, and is offered the opportunity to meet to discuss those resources and options.

## **V. THREAT ASSESSMENT**

Following the initial assessment, the Title IX Coordinator will promptly forward to an Evaluation Panel all information then known about the reported incident of Prohibited Conduct. Such information includes, if known, the names and/or any other information that personally identifies the Complainant, the Respondent, any witnesses, and/or any other third parties with knowledge of the reported incident.

### **A. EVALUATION PANEL**

An Evaluation Panel will evaluate every report of Prohibited Conduct. The Evaluation Panel will convene (in person, by telephone, or by videoconference) within 72 hours after receiving information from the Title IX Coordinator, as described above, and will convene again, as necessary, to review new information as it becomes available. The Evaluation Panel may include any and all members of NSU's Threat Assessment Team and shall include, at a minimum: (1) the Title IX Coordinator, (2) a representative of the Campus Police Department (the "CPD Representative"), and (3) a representative from the Division of Student Affairs. In addition, the Evaluation Panel may include a representative from Human Resources or the Office of the Provost, depending on the circumstances of the reported incident and the status of the Complainant and the Respondent.

The Evaluation Panel operates pursuant to Va. Code §23-9.2:15 (the "Virginia Reporting Statute") and has access, under Virginia law, to certain otherwise confidential information, including law enforcement records, criminal history record information, as provided in Va. Code §19.2-389 and §19.2-389.1; health records, as provided in Va. Code §32.1-127.1:03; NSU disciplinary, academic and/or personnel records; and any other information or evidence known to NSU or to law enforcement. The Evaluation Panel may seek additional information about the reported incident through any other legally permissible means.

### **B. HEALTH AND SAFETY THREAT ASSESSMENT**

1. Risk Factors. The Evaluation Panel will determine whether the reported information and any other available information provides a rational basis for concluding that there is a threat to the health or safety of the Complainant or to any other member of NSU community. The Evaluation Panel will make this determination based upon a review of the totality of the known circumstances, and will be guided by a consideration of the following factors (the "Risk Factors"):

- Whether the Respondent has prior arrests, is the subject of prior reports and/or complaints related to any form of Prohibited Conduct, or has any history of violent behavior;
- Whether the Respondent has a history of failing to comply with any NSU No-Contact Directive, other NSU protective measures, and/or any judicial protective order;
- Whether the Respondent has threatened to commit violence or any form of Prohibited Conduct;
- Whether the Prohibited Conduct involved multiple Respondents;

- Whether the Prohibited Conduct involved physical violence. “Physical violence” means exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking and brandishing or using any weapon;
- Whether the report reveals a pattern of Prohibited Conduct (e.g., by the Respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location);
- Whether the Prohibited Conduct was facilitated through the use of “date-rape” or similar drugs or intoxicants;
- Whether the Prohibited Conduct occurred while the Complainant was unconscious, physically helpless or unaware that the Prohibited Conduct was occurring;
- Whether the Complainant is (or was at the time of the Prohibited Conduct) a minor (under 18); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

2. Disclosure(s) of Information to Law Enforcement. Pursuant to the Virginia Reporting Statute, the Evaluation Panel is *required* to disclose information about alleged Prohibited Conduct to law enforcement in the following circumstances:

a) If the Evaluation Panel (or, in the absence of consensus within the Evaluation Panel, the CPD Representative) concludes that there is a significant and articulable threat to the health or safety of the Complainant or to any other member of NSU community and that disclosure of available information (including the names and any other information that personally identifies the Complainant, the Respondent, any witnesses, and/or any other third parties with knowledge of the reported incident) is necessary to protect the health or safety of the Complainant or other individuals, the CPD Representative will immediately disclose the information to the law enforcement agency that would be responsible for investigating the alleged act of Prohibited Conduct.<sup>3</sup> The Evaluation Panel will make this determination based upon a review of the totality of the known circumstances and consideration of the list of Risk Factors, as described in Section V.B.1 of these Procedures. The Title IX Coordinator will promptly notify the Complainant whenever such disclosure has been made.

b) If the alleged act of Prohibited Conduct constitutes a felony violation of the Code of Virginia, the CPD Representative will so inform the other members of the Evaluation Panel and will, within 24 hours, (i) consult with the appropriate Commonwealth’s Attorney or other prosecutor who would be responsible for prosecuting the alleged act of Prohibited Conduct (the “Prosecuting Authority”), and (ii) disclose to the Prosecuting Authority the information then known to the Evaluation Panel. This disclosure is required by the Virginia Reporting Statute where the alleged act of Prohibited Conduct would violate Article 7 (§18.2-61 et seq.) of Chapter 4 of title 18.2 of the Code of Virginia. Such disclosure will exclude the names and any other information that personally identifies the Complainant, the Respondent, any witnesses, and/or any other third parties with knowledge of the reported incident (the “Identifying Information”), unless the Identifying Information was disclosed to law enforcement under the health and safety exception

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<sup>3</sup> Where the law enforcement agency that would be responsible for investigating the alleged act of Prohibited Conduct is located outside of the United States, this disclosure is not required by the Virginia Reporting Statute.

described in paragraph (a), above, in which case the Identifying Information also will be disclosed to the Prosecuting Authority. If the CPD Representative declines to so consult with the Prosecuting Authority, any member of the Evaluation Panel who individually concludes that the alleged act of Prohibited Conduct would constitute such a felony violation may consult with the Prosecuting Authority and make the required disclosure(s) in the manner and within the timeframe set forth above.

The Evaluation Panel will reconvene as necessary to continue to evaluate whether any new or additional information received triggers any further obligation(s) under the Clery Act or with respect to any child protective service agency, and will direct the Title IX Coordinator to take such further actions, as necessary.

### **C. NSU ACTIONS FOLLOWING HEALTH AND SAFETY THREAT ASSESSMENT**

Upon completion of the health and safety threat assessment, the Evaluation Panel will determine the course of action under these Procedures, which may include, without limitation, Formal Resolution and/or Alternative Resolution (if available). Where the Complainant requests that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no further action be taken, the Evaluation Panel will seek to honor the preferences of the Complainant wherever possible. In all cases, the initial report, the health and safety threat assessment, and the determinations of the Evaluation Panel will be documented and retained by NSU in accordance with applicable law.

1. Where the Complainant Wishes to Pursue Formal Resolution. In *every* case in which the Complainant reports Prohibited Conduct and requests an investigation and disciplinary action, the Title IX Coordinator will promptly initiate Formal Resolution under these Procedures.

2. Where the Complainant Requests Anonymity, that an Investigation not be Pursued, and/or that No Disciplinary Action Be Taken. A Complainant may request that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary action be taken.

The Evaluation Panel will consider the following factors in evaluating such request(s): (1) the totality of the known circumstances; (2) the presence of any Risk Factors, as described in Section V.B.1 of these Procedures; (3) the potential impact of such action(s) on the Complainant; (4) any evidence showing that the Respondent made statements of admission or otherwise accepted responsibility for the Prohibited Conduct; (5) the existence of any independent information or evidence regarding the Prohibited Conduct; and (6) any other available and relevant information. NSU will seek to honor the Complainant's request(s) if it is possible to do so while also protecting the health and safety of the Complainant and NSU community.

a) Determination that a Complainant's Request(s) *Can* be Honored. Where the Evaluation Panel determines that a Complainant's request(s) (that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary action be taken) *can* be honored, NSU may nevertheless take other appropriate steps designed to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the Complainant and NSU

community. Those steps may include offering appropriate remedial measures to the Complainant, providing targeted training or prevention programs, and/or providing or imposing other remedies tailored to the circumstances as a form of Alternative Resolution.

At any time, the Complainant may choose to pursue Alternative Resolution (if available) or Formal Resolution under these Procedures. The Title IX Coordinator also may request that a report be re-opened and pursued under these Procedures if any new or additional information becomes available.<sup>4</sup>

b) Determination that a Complainant's Request(s) **Cannot** be Honored. Where the Evaluation Panel has determined that a Complainant's request(s) (that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary action be taken) *cannot* be honored (i.e., because honoring the Complainant's request(s) would impede NSU's ability to ensure the health and safety of the Complainant and other members of NSU community), the Evaluation Panel will direct the Title IX Coordinator to take any appropriate NSU actions, which may include, without limitation, (i) causing the Dean of Students to impose a No-Contact Directive or an Interim Disciplinary Suspension on the Respondent; (ii) causing NSU Registrar to place a "hold" on the Respondent's NSU transcript; (iii) initiating an investigation and Formal Resolution under these Procedures; and/or (iv) arranging, imposing, or extending any other appropriate remedial and/or protective measures.

Where the Evaluation Panel has determined that NSU must proceed with an investigation despite a Complainant's request to the contrary, the Title IX Coordinator will make reasonable efforts to protect the privacy of the Complainant. However, actions that may be required as part of NSU's investigation will involve speaking with the Respondent and others who may have relevant information, in which case the Complainant's identity may have to be disclosed. In such cases, the Title IX Coordinator will notify the Complainant that NSU intends to proceed with an investigation, but that the Complainant is not required to participate in the investigation or in any other actions undertaken by NSU.

Where a Complainant declines to participate in an investigation, NSU's ability to meaningfully investigate and respond to a report may be limited. In such cases, the Title IX Coordinator may pursue the report if it is possible to do so without the Complainant's participation in the investigation or resolution (e.g., where there is other relevant evidence of the Prohibited Conduct, such as recordings from security cameras, corroborating reports from other witnesses, physical evidence, or any evidence showing that the Respondent made statements of admission or otherwise accepted responsibility for the Prohibited Conduct). In the absence of such other evidence, however, NSU will only be able to respond to the report in limited and general ways (i.e., through the provision of remedial measures, targeted training or prevention programs, or other remedies tailored to the circumstances).

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<sup>4</sup> Although a report may be re-opened at any time, NSU will only be able to pursue disciplinary resolution and sanctions where the Respondent continues to be a NSU "Student" (i.e., continues to be registered or enrolled for credit- or non-credit-bearing coursework at NSU).

## **D. NOTICE TO COMPLAINANT AND RESPONDENT OF NSU ACTIONS**

The Title IX Coordinator will promptly inform the Complainant of any action(s) undertaken by NSU to respond to a health or safety threat to the Complainant or NSU community, including the decision to proceed with an investigation. The Title IX Coordinator also will promptly inform the Respondent of any action(s) (including any interim protective measures) that will directly impact the Respondent, and provide an opportunity for the Respondent to respond to such action(s). The Title IX Coordinator retains the discretion to impose and/or modify any interim protective measures based on all available information. Interim protective measures will remain in effect until the resolution of the report by the Review Panel, unless new circumstances arise which warrant reconsideration of the protective measures prior to the hearing and determination by the Review Panel. A Complainant or Respondent may challenge interim protective measures or other actions, or failure to impose interim protective measures or take other actions, by contacting the Title IX Coordinator to address any concerns.

## **E. NOTICE OF POTENTIAL NSU ACTIONS AGAINST STUDENT GROUPS OR ORGANIZATIONS**

If, upon completion of the health and safety threat assessment, the Evaluation Panel determines that a report of Prohibited Conduct reveals involvement of, or a pattern of behavior by, a particular Student group or organization (e.g., special status organization, fraternity, sorority, club sport, and/or athletic team), the Evaluation Panel will direct the Title IX Coordinator to impose any appropriate remedial or protective measures contemplated by these Procedures (e.g., training and/or prevention programs targeted to Student members of the group or organization). The Title IX Coordinator will also consult with relevant NSU officials regarding any appropriate NSU action directed at the Student group or organization, including, but not limited to, modification, suspension, revocation, or termination of the Student group's or organization's status with NSU.

## **VI. NSU RESOLUTION**

These Procedures offer two forms of resolution of reports of Prohibited Conduct: (1) Formal Resolution, which involves an investigation, and review and sanction (if applicable) by a Review Panel (as described in Section VI.A.3 of these Procedures), and (2) Alternative Resolution (as described in Section VI.B of these Procedures), which includes a variety of informal options for resolving reports.

### **A. FORMAL RESOLUTION**

Formal Resolution is commenced when:

- A Complainant reports that a Student has engaged in one or more instances of Prohibited Conduct and requests, at any time, an investigation and disciplinary action; or
- Alternative Resolution does not resolve a reported incident of Prohibited Conduct and, in the Title IX Coordinator's discretion, an investigation of the report of Prohibited Conduct is required; or



- At the conclusion of the threat assessment process described in Section V.B of these Procedures, the Evaluation Panel has determined, based upon a review of the totality of the circumstances and guided by a consideration of the Risk Factors, that investigation of the reported conduct is necessary to ensure the health and safety of the Complainant and/or other members of NSU community, notwithstanding the Complainant's request that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary action be taken.

1. Investigation. Whenever Formal Resolution is commenced, the Title IX Coordinator will designate one or more Investigators from NSU's pool of trained investigators to conduct a prompt, thorough, fair, and impartial investigation. All Investigators will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of Complainants and NSU community while promoting accountability.

a) Notice of Investigation. The Title IX Coordinator will notify the Complainant and the Respondent, in writing, of the commencement of an investigation. Such notice will (1) identify the Complainant and the Respondent; (2) specify the date, time (if known), location, and nature of the alleged Prohibited Conduct; (3) identify potential Policy violation(s); (4) identify the Investigator; (5) include information about the parties' respective expectations under the Policy and these Procedures; (6) explain the prohibition against Retaliation; (7) instruct the parties to preserve any potentially relevant evidence in any format; (8) inform the parties how to challenge participation by the Investigator on the basis of bias or a conflict of interest; and (9) provide a copy of the Policy and these Procedures.

b) Other Forms of Discriminatory and/or Harassing Conduct. If a report of Prohibited Conduct also implicates other forms of discriminatory and/or harassing conduct prohibited by NSU's Preventing and Addressing Discrimination and Harassment (PADH) policy and/or any other violation(s) of NSU's Standards of Conduct, the Title IX Coordinator will evaluate all reported allegations to determine whether the alleged Prohibited Conduct and the alleged PADH violation(s) and/or alleged Standard of Conduct violation(s) may be appropriately investigated together without unduly delaying the resolution of the report of Prohibited Conduct. Where the Title IX Coordinator determines that a single investigation is appropriate, the determination of responsibility for the violation of NSU policy will be evaluated under the applicable policy (i.e., the Policy, the PADH policy, and/or the Standards of Conduct), but the investigation and resolution will be conducted in accordance with these Procedures.

c) Presumption of Non-Responsibility and Participation by the Parties. The investigation is a neutral fact-gathering process. The Respondent is presumed to be not responsible; this presumption may be overcome only where the Investigator and/or Review Panel conclude that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the Respondent violated the Policy. Neither party is required to participate in the investigation nor any form of resolution under these Procedures, and the Investigator will not draw any adverse inference from a decision by either of the parties not to participate.

d) Timeframe for Completion of Investigation; Extension for Good Cause. Typically, the period from commencement of an investigation through resolution (finding and sanction, if any) will not exceed sixty (60) calendar days. This timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for NSU breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. The Investigator will notify the parties in writing of any extension of this timeframe and the reason for such extension.

e) Overview of Investigation. During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit questions that they believe should be directed by the Investigator to each other or to any witness. The Investigator will notify and seek to meet separately with the Complainant, the Respondent, and third-party witnesses, and will gather other relevant and available evidence and information, including, without limitation, electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party).

f) Advisors. Throughout the investigation and resolution process, each party has the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation and resolution of a report under these Procedures. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

g) Prior or Subsequent Conduct. Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. Such prior or subsequent conduct may also constitute a violation of the PADH policy and/or NSU's Standards of Conduct, in which case it may subject the Respondent to additional sanctions. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.

h) Prior Sexual History. The sexual history of a Complainant or Respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of either of the parties is generally not relevant to the determination of a Policy violation and will be considered only in limited circumstances. For example, if the existence of Affirmative Consent is at issue, the sexual history between the parties may be relevant to help understand the manner and

nature of communications between the parties and the context of the relationship, which may have bearing on whether Affirmative Consent was sought and given during the incident in question. However, even in the context of a relationship, Affirmative Consent to one sexual act does not, by itself, constitute Affirmative Consent to another sexual act, and Affirmative Consent on one occasion does not, by itself, constitute Affirmative Consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve another question raised by the report. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.

i) Relevance. The Investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the Investigator will not consider statements of personal opinion, rather than direct observations or reasonable inferences from the facts, or statements as to any party's general reputation for any character trait.

j) Site Visit(s). The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means.

k) Expert Consultation(s). The Investigator may consult medical, forensic, technological or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

l) Coordination with Law Enforcement. The Investigator will contact any law enforcement agency that is conducting its own investigation to inform that agency that a NSU investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to NSU in its investigation. At the request of law enforcement, the Investigator may delay NSU investigation temporarily while an external law enforcement agency is gathering evidence. The Investigator will promptly resume NSU investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.

m) Draft Investigation Report. At the conclusion of the investigation, the Investigator will prepare a Draft Investigation Report summarizing the information gathered and outlining the contested and uncontested information. The Draft Investigation Report will not include any findings. The Complainant and the Respondent will have an opportunity to review the Draft Investigation Report; meet with the Investigator; submit additional comments and information to the Investigator; identify any additional witnesses or evidence for the Investigator to pursue; and submit any further questions that they believe should be directed by the Investigator to the other party or to any witness. The Investigator will designate a reasonable time for this review and response by the parties, not to exceed five (5) calendar days. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator during the designated review and response period will not be considered in the determination of responsibility for a violation of the Policy, and will not be considered by the Review Panel.

n) Final Investigation Report. Unless there are significant additional investigative steps requested by the parties or identified by the Investigator, within five (5) calendar days after receipt and consideration of any additional comments, questions and/or information submitted by the parties during the designated review and response period, the Investigator will prepare a Final Investigation Report, which will include a recommendation as to whether there is sufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility for a violation of the Policy (and, where applicable, the PADH policy and/or NSU's Standards of Conduct). In reaching this recommended finding, the Investigator will consult with the Office of NSU Counsel. The Investigator will deliver the Final Investigation Report to the Title IX Coordinator. The Title IX Coordinator will notify both parties, simultaneously, that the Final Investigation Report is complete and available for review.

o) Recommended Finding(s) of Responsibility. When the Investigator determines that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility on one or more of the allegations, the Respondent may accept or contest such recommended finding(s) by so notifying the Title IX Coordinator, in writing. If the Respondent accepts the recommended finding(s) of responsibility, the Title IX Coordinator will refer the case for a Hearing before the Review Panel solely on the issue of sanction, as outlined in Section VI.A.3(g) of these Procedures. If the Respondent contests one or more of the recommended finding(s), the Respondent may submit to the Title IX Coordinator a written statement explaining why the Respondent contests such finding(s). The Title IX Coordinator will ensure that the Complainant has an opportunity to review and respond in writing to any such statement. The Title IX Coordinator will provide the Final Investigation Report, together with any statements by the parties, to the Review Panel for further proceedings as outlined in Section VI.A.3 of these Procedures.

p) Recommended Finding(s) of No Responsibility. When the Investigator determines that there is insufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility on one or more of the allegations, the Complainant may accept or contest the recommended finding(s) by so notifying the Title IX Coordinator, in writing. If the Complainant accepts the recommended finding(s) of no responsibility, the investigation will be closed and documented in accordance with applicable NSU policies. If the Complainant contests one or more of the recommended finding(s), the Complainant may submit to the Title IX Coordinator a written statement explaining why the Complainant contests such finding(s). The Title IX Coordinator will ensure that the Respondent has an opportunity to review and respond in writing to any such statement. The Title IX Coordinator will provide the Final Investigation Report, together with any statements by the parties, to the Review Panel for further proceedings as outlined in Section VI.A.3 of these Procedures.

q) Impact and Mitigation Statements. Where there is a finding of responsibility on one or more of the allegations, both parties may submit a statement to the Title IX Coordinator for consideration by the Review Panel in determining an appropriate sanction. The Complainant may submit a written statement describing the impact of the Prohibited Conduct on the Complainant and expressing a preference about the sanction(s) to be imposed. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. The Title IX Coordinator will ensure that each of the parties has an opportunity to review any statement submitted by the other party. The

Title IX Coordinator will provide any statement(s) with the Final Investigation Report and the parties' other written submissions to the Review Panel.

r) Timing of Investigation. The investigation typically will be completed within forty-five (45) calendar days. This period may be extended to account for a previous attempt, if any, at Alternative Resolution, or for other good cause, as described Section VI.A.1(d) of these Procedures. Any extension, other than for Alternative Resolution, and the reason for the extension, will be shared with the parties in writing.

2. Acceptance of Responsibility. The Respondent may, at any time, elect to resolve the Formal Resolution process by accepting responsibility for the Prohibited Conduct, in which case the Title IX Coordinator will refer the matter to the Review Panel to determine the appropriate sanction(s).

3. Review Panel Hearing. The Title IX Coordinator will appoint a standing pool of trained members of NSU community and, at the discretion of the Title IX Coordinator, external professionals with experience adjudicating cases of Prohibited Conduct. The Title IX Coordinator will select (a) three members from this pool to serve on the Review Panel, and (b) an additional member from this pool to serve as the non-voting Hearing Chair. The Review Panel will review the Investigator's recommended finding(s) and, if applicable, determine any appropriate sanction(s) under these Procedures. All persons serving on any Review Panel (or as the Hearing Chair) must be impartial and free from actual bias or conflict of interest.

a) Standard of Review. If either of the parties contests the Investigator's recommended finding(s) of responsibility (or no responsibility) for an alleged violation of the Policy, the Review Panel will hold a Hearing to determine (1) whether the concerns stated by the contesting party raise substantial doubt about the thoroughness, fairness and/or impartiality of the investigation; and, if not, (2) whether there is sufficient evidence to support the Investigator's recommended finding(s) by a Preponderance of the Evidence.

b) Notice and Timing of Hearing. Typically, a Hearing will be held within fifty-five (55) calendar days from the date of the Notice of Investigation, subject to extension for good cause, as described in Section VI.A.1(d) of these Procedures. The Hearing Chair will notify the parties in writing of the date, time, and location of the Hearing; the names of the Review Panel members and the Hearing Chair; and how to challenge participation by any member of the Review Panel or the Hearing Chair for bias or conflict of interest. The Hearing will usually be scheduled within five (5) calendar days from the date of the Notice of Hearing, subject to extension for good cause at the discretion of the Title IX Coordinator. Good cause for extension may include the unavailability of the parties, the timing of semester breaks or NSU holidays, or other extenuating circumstances. Any extension, including the reason for the extension, will be shared with the parties in writing.

c) Postponement of Hearing. Permission to postpone a Hearing may be granted provided that the request to do so is based on a compelling emergency and communicated to the Hearing Chair prior to the time of the Hearing.

d) Hearing Format. The Hearing is an opportunity for the parties to address the Review Panel, in person about issues relevant to the Standard of Review to be applied by the Review Panel. The

parties may address any information in the Final Investigation Report, supplemental statements submitted in response to the Final Investigation Report, and any impact and mitigation statements. Each party has the opportunity to be heard, to identify witnesses for the Review Panel's consideration, and to respond to any questions of the Review Panel. The parties may not directly question each another or any witness, although they may proffer questions for the Review Panel, which may choose, in its discretion, to pose appropriate and relevant questions to the Investigator, the parties and/or any witnesses. A typical hearing may include brief opening remarks by the Complainant and/or Respondent, with follow-up questions posed by the Review Panel; information presented by the Investigator or witnesses deemed relevant by the Review Panel, with follow-up questions by the Review Panel of the Investigator or witnesses; and brief concluding remarks by the Complainant and/or Respondent. The Chair of the Review Panel has the discretion to determine the specific Hearing format.

e) Participation in Hearing.

i. Parties. Both the Complainant and the Respondent have a right to be present at the Hearing. Either party may request alternative methods for participating in the Hearing that do not require physical proximity to the other party, including participating through electronic means. This request should be submitted to the Hearing Chair at least two (2) calendar days prior to the Hearing.

If, despite being notified of the date, time, and location of the Hearing, either party is not in attendance, the Hearing may proceed and applicable sanctions may be imposed. Neither party is required to participate in the Hearing in order for the Hearing to proceed.

ii. Investigator or other witnesses. The Review Panel may request the presence of the Investigator or any other witness it deems necessary to its determination. The parties may also request the presence of any witness they deem relevant to the determination by the Review Panel. The Review Panel has absolute discretion to determine which witnesses are relevant to its determination and may decline to hear from witnesses where it concludes that the information is not necessary for its review.

iii. Advisors. Both the Complainant and the Respondent have the right to be accompanied at the Hearing by an advisor of their choosing. The advisor may be anyone, including an attorney, who is not otherwise a party or witness. While the advisor may provide support and advice to a party at the Hearing, the advisor may not speak on behalf of the party or otherwise participate in, or in any manner disrupt, the Hearing. NSU reserves the right to remove any individual whose actions are disruptive to the proceedings.

f) Determination by the Review Panel. Where either of the parties has contested the recommended finding(s) of responsibility, the members of the Review Panel will, at the conclusion of the Hearing, determine, by majority vote, (1) whether the concern(s) stated by the contesting party raise substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation; and, if not, (2) whether there is sufficient evidence to support the Investigator's recommended finding(s) by a Preponderance of the Evidence.

If the Review Panel finds that concerns stated by the contesting party raise substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation, it will remand the matter to the Title IX Coordinator with instructions for further investigation or other action. The instructions may include guidance regarding the scope of information to be further investigated and any appropriate stipulations, including the appointment of a new Investigator.

If the Review Panel finds no cause for substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation, but determines there is insufficient evidence to support the Investigator's recommended finding, it may remand the matter for further investigation, or reject the Investigator's recommended finding(s) and make alternative finding(s).

If the Review Panel finds no cause for substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation *and* affirms that there is sufficient evidence to support a recommended finding of responsibility by a Preponderance of the Evidence, it will then determine, by majority vote, the appropriate sanction(s) for the Prohibited Conduct. If the Review Panel finds no cause for substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation *and* affirms a recommended finding of no responsibility, the matter will be considered resolved and the investigation will be closed. The Title IX Coordinator may nevertheless ensure that remedial measures remain in effect to support a Complainant.

g) Sanctions. Where there is a finding of responsibility, the Review Panel may impose one or more sanctions. Sanctions may include any of the sanctions that are available for violations of NSU's Standards of Conduct, including:

- Expulsion: Termination of student status for any indefinite period.
- Suspension: Exclusion from classes and other privileges or activities or from NSU for a definite period of time.
- Suspension held in abeyance: Exclusion from classes and other privileges or activities or from NSU for a definite period of time to be enforced should another violation occur.
- Restitution: Reimbursement for damages or misappropriation of property.
- Disciplinary Probation: Exclusion from participation in privileged or extracurricular activities for a definite period of time.
- Reprimand: A written censure for violation of the Policy (and, if applicable, the PADH policy and/or the Standards of Conduct) placed in the Student's record, including the possibility of more severe disciplinary sanctions should another violation occur within a stated period of time.
- Warning Notice: A notice, in writing, that continuation or repetition of conduct found wrongful, within a period of time stated in the warning, may be cause for more severe disciplinary action.
- Educational Project
- Community Service
- Counseling Referral
- Fine
- Loss of Privilege
- Housing Reassignment

- NSU Housing Visitation Restriction
- NSU Housing Removal
- NSU Residence Hall Relocation
- Interim Suspension

The Policy prohibits a broad range of conduct, all of which is serious in nature. The propriety of any particular sanction is reviewed on an individual basis based on the unique facts and circumstances as found by the Review Panel. In keeping with NSU's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the Policy provides the Review Panel with wide latitude in the imposition of sanctions tailored to the facts and circumstances of the Prohibited Conduct, the impact of the conduct on the Complainant and NSU community, and accountability by the Respondent. The imposition of sanctions is designed to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects, while supporting NSU's educational mission and legal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion from NSU.

Once the Review Panel has determined that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility under the Policy, any one or more sanctions may be imposed. In determining the appropriate sanction(s), the Review Panel will be guided by a number of considerations, including:

- The severity, persistence or pervasiveness of the Prohibited Conduct;
- The nature or violence (if applicable) of the Prohibited Conduct;
- The impact of the Prohibited Conduct on the Complainant;
- The impact or implications of the Prohibited Conduct within NSU community;
- Prior misconduct by the Respondent, including the Respondent's relevant prior disciplinary history, at NSU or elsewhere, and any criminal convictions;
- Whether the Respondent has accepted responsibility for the Prohibited Conduct;
- The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and
- Any other mitigating, aggravating, or compelling factors.

Sanctions are effective immediately, unless otherwise specified by the Review Panel. In addition to other sanctions, the Review Panel may direct the Title IX Coordinator to impose or extend a No-Contact Directive and impose or extend academic, NSU housing and/or NSU employment modifications, as may be appropriate; impose or extend increased monitoring, supervision, and/or security at locations or in connection with activities where the Prohibited Conduct occurred or is likely to reoccur; arrange for conducting targeted or broad-based educational programming or training for relevant persons or groups; impose one or more restorative remedies to encourage a Respondent to develop insight about the Prohibited Conduct, learn about the impact of that Prohibited Conduct on the Complainant and NSU community, and identify how to prevent that Prohibited Conduct in the future (including community service and mandatory participation in



training, education and/or prevention programs related to the Prohibited Conduct); and/or impose any other remedial or protective measures that are tailored to achieve the goals of the Policy.

h) Transcript Notations. If the Review Panel imposes a sanction of expulsion or suspension, the Title IX Coordinator will notify NSU Registrar to place a prominent notation on the Respondent's transcript, as described in Section VI.C of these Procedures.

i) Decision of the Review Panel is Final. The decision of the Review Panel is final, without further recourse or appeal by either party.

j) Final Outcome Letter. The Review Panel Chair will simultaneously issue a written decision (the "Final Outcome Letter") to both the Complainant and the Respondent, with a copy to the Title IX Coordinator, within five (5) calendar days following the Review Panel Hearing (or such longer time as the Chair may for good cause determine). The Final Outcome Letter will set forth the violation(s) of the Policy (and, if applicable, the PADH policy and/or the Standards of Conduct) for which the Respondent was found responsible or not responsible, as supported by the rationale set forth in the Final Investigation Report and/or modified by the Review Panel; the sanction(s) (if applicable) imposed against the Respondent; and the rationale for any sanction(s) imposed. The Final Outcome Letter may also identify protective measures implemented with respect to the Respondent or the broader NSU community. The Final Outcome Letter will not disclose any remedial measures provided to the Complainant.

k) Release of Documents. Under federal privacy laws, the Final Investigation Report, statements of one party that are shared with the other party in the resolution process, and any documents prepared by NSU, including documents by or for the Review Panel in advance of the Hearing, constitute education records which may not be disclosed outside of the proceedings, except as may be required or authorized by law. NSU does not, however, impose any restrictions on the parties regarding re-disclosure of the incident, their participation in proceedings under these Procedures, or the Final Outcome Letter.

## **B. ALTERNATIVE RESOLUTION**

The Complainant may seek Alternative Resolution in place of an investigation and Formal Resolution. NSU, however, has the discretion to determine whether the nature of the reported conduct is appropriate for Alternative Resolution, to determine the type of Alternative Resolution that may be appropriate in a specific case, and, pursuant to Section V.C of these Procedures, to refer a report for Formal Resolution at any time. In addition, Alternative Resolution may not be available where the Evaluation Panel has determined that one or more of the Risk Factors listed in Section V.B.1 of these Procedures is present. **Forms of Alternative Resolution that involve face-to-face meetings between the Complainant and the Respondent, such as mediation, are not available in cases involving Sexual Assault.**

Participation in Alternative Resolution (including any specific form of Alternative Resolution) is voluntary. NSU will not compel a Complainant or Respondent to engage in Alternative Resolution, will not compel a Complainant to directly confront the Respondent, and will allow a Complainant or Respondent to withdraw from Alternative Resolution at any time. NSU may decline the request

for Alternative Resolution in any particular case and may terminate an ongoing Alternative Resolution process at any time. Pursuing Alternative Resolution does not preclude later use of Formal Resolution if the Alternative Resolution fails to achieve a resolution acceptable to the parties and NSU. Where the Complainant or the Respondent withdraws from Alternative Resolution or Alternative Resolution is otherwise terminated for any reason, any statements or disclosures made by the parties during the course of the Alternative Resolution may be considered in a subsequent investigation and Formal Resolution.

With any form of Alternative Resolution, each party has the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness to the reported incident(s). The parties may be accompanied by their respective advisors at any meeting or proceeding held as part of Alternative Resolution. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

Alternative Resolution may include:

- Resolution with the Assistance of a Third Party: A Complainant may seek assistance in informally resolving a report of Prohibited Conduct from the Title IX Coordinator, who can arrange to have a trained representative facilitate a meeting or meetings between the parties. The availability of this form of Alternative Resolution, and any resolution reached through such form of Alternative Resolution, is subject to the agreement of the Title IX Coordinator, the Complainant and the Respondent. This form of Alternative Resolution may not be used where the allegation involves Sexual Assault.
- Interventions and Remedies: Alternative Resolution agreements may involve a host of interventions and remedies, such as actions designed to maximize the Complainant's access to educational, extracurricular, and/or NSU employment activities; increased monitoring, supervision, and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur; targeted or broad-based educational programming or training for relevant individuals or groups; academic and/or NSU housing modifications for Student Complainants; workplace modifications for Employee Complainants; one or more of the restorative remedies or other sanctions described in these Procedures; and/or any other remedial or protective measures that can be tailored to the involved individuals to achieve the goals of the Policy.

Any form of Alternative Resolution and any combination of interventions and remedies may be utilized. If an agreement acceptable to NSU, the Complainant, and the Respondent is reached through Alternative Resolution, the terms of the agreement are implemented and the matter is resolved and closed. If an agreement is not reached, and the Title IX Coordinator determines that further action is necessary, or if a Respondent fails to comply with the terms of the Alternative Resolution, the matter may be referred for an investigation and Formal Resolution under these Procedures.

The Title IX Coordinator will maintain records of all reports and conduct referred for Alternative Resolution, which typically will be completed within thirty (30) calendar days.

### **C. ACADEMIC TRANSCRIPT NOTATIONS**

Pursuant to Va. Code §23-9.2:18, the Title IX Coordinator will direct NSU Registrar to include a prominent notation on the academic transcript of any Student who has been (1) suspended, (2) expelled (i.e., permanently dismissed), or (3) who has withdrawn from NSU while under investigation, for Prohibited Conduct pursuant to the Policy. Such notation will reflect, as appropriate, the following language: “[Suspended, Expelled, or Withdrew While Under Investigation] for a Violation of NSU’s Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence.” The Title IX Coordinator will direct NSU Registrar to remove any such notation where (a) a Student is subsequently found not to have committed an act of Prohibited Conduct pursuant to the Policy, and/or (b) a Student who has been suspended for Prohibited Conduct pursuant to the Policy, has (i) completed the term of such suspension and any conditions thereof, and (ii) has been determined by NSU to be in good standing pursuant to all applicable NSU academic and non-academic standards.

### **D. RECORDS RETENTION**

NSU shall retain all records relating to a report of Prohibited Conduct in accordance with the Library of Virginia Records Retention and Disposition Schedule – General Schedule No. GS-111 for all state agencies

## **SECTION 2 (B)**

### **RESOURCE AND REPORTING GUIDE FOR STUDENTS: SEXUAL AND GENDER-BASED HARASSMENT AND OTHER FORMS OF INTERPERSONAL VIOLENCE**

Norfolk State NSU (“NSU”) is committed to providing a safe and non-discriminatory environment for all members of NSU community. NSU prohibits Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual and Gender-Based Harassment, Complicity and Retaliation (together, “Prohibited Conduct”). These forms of Prohibited Conduct are defined in NSU’s Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence (the “Policy”). This Resource and Reporting Guide, referred to as the “Student Resource Guide” in the Policy, provides an overview of NSU and community resources, including confidential resources, and options for reporting Prohibited Conduct to law enforcement and/or to NSU.<sup>5</sup>

When used in this Student Resource Guide, the term “Student” refers to Complainants, Respondents, witnesses or any other NSU student in need of information, assistance, or support. As outlined in the Policy, NSU offers a wide range of resources for Students to provide support and guidance throughout the initiation, investigation and resolution of a report of Prohibited Conduct. NSU will offer reasonable and appropriate measures to protect a Complainant and facilitate the Complainant’s continued access to NSU employment or education programs and activities. These measures may be both remedial (designed to address a Complainant’s safety and well-being and continued access to educational opportunities) or protective (involving action against a Respondent). Remedial and protective measures, which may be temporary or permanent, may include no-contact directives, residence modifications, academic modifications and support, work schedule modifications, interim disciplinary suspension, suspension from employment, and pre-disciplinary leave (with or without pay). Remedial measures are available regardless of whether a Complainant pursues criminal or NSU disciplinary action.

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<sup>5</sup> This Resource Guide should be read in conjunction with the Policy. Capitalized terms used and not otherwise defined in this Resource Guide are defined in the Policy.

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### I. NSU AND COMMUNITY RESOURCES

#### A. EMERGENCY MEDICAL, LAW ENFORCEMENT AND CRISIS RESPONSE RESOURCES

1. Medical Assistance: An individual who experiences sexual assault or any other form of interpersonal violence is strongly encouraged to seek immediate medical attention at Spartan Health Center (on campus) Spartan Station (757) 747-7607 or Sentara Norfolk General Hospital (757) 388-3551 (Emergency Room) 600 Gresham Drive, Norfolk, Virginia 23507.

Individuals can receive a forensic sexual assault examination by a Sexual Assault Nurse Examiner (also known as “SANE Nurse”) at **Sentara Norfolk General Hospital Emergency Room located at [600 Gresham Drive, Norfolk, VA 23507](#); (757) 388-3551**. SANE Nurses can assess injuries related to physical trauma; evaluate for sexually-transmitted infections and possible pregnancy; provide medical care (including medications to prevent infections and pregnancy); and can, *within the first 72 hours* after a sexual assault, administer a “forensic exam.”<sup>6</sup>

During the forensic exam, the SANE Nurse documents and collects evidence of sexual contact and/or physical trauma (including injuries to the body and genitals), trace evidence, biological fluids, and identifiable DNA. When there is reason to believe that an assault may have been

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<sup>6</sup> Detailed information about obtaining a forensic exam at Sentara Norfolk General Hospital can be accessed at [insert weblink]

facilitated by the use of drugs or alcohol, the forensic exam may also include the collection of urine and blood samples for toxicology testing. *Students are not required to report an incident to law enforcement or NSU in order to receive medical attention or a forensic exam.* Students may have a support person of their choosing present throughout the forensic exam.

Regardless of whether a forensic exam is obtained within the first 72 hours after a sexual assault, Students are encouraged to seek follow-up care to address any ongoing medical concerns, including those related to sexually-transmitted infections and pregnancy. Students may access follow-up care at Spartan Health Center or through any appropriate health care provider outside of NSU.

2. **Law Enforcement:** Students are urged to report any Prohibited Conduct that may constitute a crime to local law enforcement (“Police”) immediately. Police have unique legal authority to seek and execute search warrants, to collect forensic evidence that may have been left at the scene or at other relevant locations and to make an arrest when supported by probable cause to believe a crime has been committed. Police are also able to assist Students in seeking Emergency Protective Orders (see below).

Police can be reached by calling “911” (or one of the following other numbers). Incidents that occur on campus fall within the jurisdiction of NSU Police. Incidents that occur off campus within the City of Norfolk, fall within the jurisdiction of the City of Norfolk Police. Students will be directed to the appropriate Police Department when they call “911” or by contacting NSU’s Police Department at (757) 823-8102 or (757) 823-9000. NSU’s Police Department is committed to ensuring that victims and witnesses of criminal offenses receive fair and compassionate treatment throughout the criminal justice process.

3. **Confidential Crisis Resources (Support and Counseling):** Students are urged to seek immediate emotional support after any incident of Prohibited Conduct. The following campus and community confidential sources can provide trauma-informed support and offer information about reporting options.

- **Counseling Center**  
Student Services Center, Suite 312  
(757) 823-8173 or (757) 352-8121 (24/7 hotline and after hours/weekends/holidays)
- **Spartan Health Center**  
Spartan Station  
(757) 747-7607
- **Sexual Assault Support Services of the YWCA (RESPONSE)**  
1424 McNeil St. Norfolk, VA 23502  
(757) 226-9922

## **B. NSU SUPPORT; REMEDIAL AND PROTECTIVE MEASURES**

Division of Student Affairs (DSA) can provide Students with information, support, and assistance and can arrange for a broad range of remedial and protective measures. DSA employees have received training for this purpose and will assist Students in determining whether certain forms of support, remedial and/or protective measures may be beneficial and appropriate. DSA employees are Responsible Employees and are therefore required to report information disclosed to them about Prohibited Conduct to NSU's Title IX Coordinator. If a Complainant requests (a) that personally-identifying information not be shared with the Respondent, (b) that no investigation be pursued, and/or (c) that no disciplinary action be taken, NSU will seek to honor this request unless there is a health or safety risk to the Complainant or to any member of NSU community. The Procedures outlined in Appendix A provide additional guidance about how NSU will evaluate such requests.

The availability of remedial and protective measures will be determined by the specific circumstances of each case. DSA, in consultation with the Title IX Coordinator, will consider several factors in determining which measures to take, including the needs of the Student seeking remedial and/or protective measures; the severity or pervasiveness of the alleged Prohibited Conduct; any continuing effects on the Complainant; whether the Complainant and the Respondent share the same residence hall, dining hall, academic course(s), job or parking location(s); and whether other judicial measures have been taken to protect the Complainant (e.g., Protective Orders). When implementing such measures, NSU will seek to minimize the burden on the Student seeking the measures. For example, if the Complainant and the Respondent share the same class or residence hall, NSU will not, as a matter of course, remove the Complainant from the class or residence hall while allowing the Respondent to remain, without carefully considering all options and circumstances.

Protective and remedial measures may be temporary or permanent and may be modified by NSU as circumstances change. Examples of such measures include:

- Imposition of a No-Contact Directive against an Employee or Student (i.e., an order directing one or both of the parties to refrain from contacting the other, directly or through proxies);
- Arranging a meeting with Police to discuss or report Prohibited Conduct;
- Arranging a meeting with Police to discuss safety planning;
- Arranging access to counseling services and assistance in setting up initial appointments;
- Arranging access to medical services and assistance in setting up initial appointments;
- Assistance in seeking academic assistance, including modified class schedules (including transfer to another section), permission to withdraw from and/or retake a class or attend a class via alternative means (e.g., online or independent study), extension of assignment deadlines, and voluntary leaves of absence;
- Assistance in modifying NSU housing arrangements, including immediate temporary relocation to safe living quarters and/or permanent reassignment of NSU residence halls;
- Assistance in modifying assigned parking;

- Assistance in modifying NSU employment arrangements, including changes in work schedules, job assignments, work locations and/or assigned parking;
- Imposing an interim disciplinary suspension and/or pre-disciplinary leave, with or without pay, on the Respondent; and
- Any other measures that may be arranged by NSU (to the extent reasonably available) to ensure the safety and well-being of a Student who has been affected by Prohibited Conduct.

In some cases, a Student may choose to seek a leave of absence or a reduced course load; these actions may, in turn, impact a Student's immigration, visa and/or financial aid status. In such cases, DSA will connect Students with the applicable NSU department or unit so that they may obtain relevant information and assistance.

The Title IX Coordinator will ensure Students receive written notification of all their rights and options, regardless of whether a Student chooses to report Prohibited Conduct to NSU or to the Police.

## **II. REPORTING PROHIBITED CONDUCT**

Students may report Prohibited Conduct to the Police, to NSU, to both or to neither. These reporting options are not exclusive. Complainants may simultaneously pursue criminal and NSU disciplinary action. NSU will support Complainants in understanding and assessing their reporting options.

### **A. PRESERVATION OF EVIDENCE**

NSU recognizes that making the decision to report Prohibited Conduct often takes time. Nevertheless, pending the decision to report, Students are strongly encouraged to take immediate steps to preserve all evidence that might support a future report of Prohibited Conduct, a Protective Order, or an investigation by the Police, by NSU, or both. Such evidence may include:

- A forensic sexual assault examination (within 72 hours);
- Any clothing, sheets or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
- Electronic exchanges (e.g., text messages, emails, and Facebook, Instagram, Snapchat or other social media posts, to the extent that they can be captured or preserved);
- Photographs (including photographs stored on smartphones and other devices); and
- Voice-mail messages and other physical, documentary and/or electronic data that might be helpful or relevant in an investigation.

Electronic and photographic evidence may be lost through the upgrade or replacement of equipment (including smartphones), software and/or accounts or may simply be lost to the passage of time.



## B. REPORTING TO THE POLICE

Students have the right to notify Police or decline to notify Police. Students may contact the Police directly (see Section I, above). Alternatively, Students may seek assistance in notifying the Police from the NSU Police Department. NSU police can assist in setting up an initial meeting with Police and can accompany Students to that meeting. Filing a Police report does not obligate a Student to participate in any subsequent criminal proceedings. Although a Police report may be made at any time, Students should be aware that a one-year statute of limitations may apply to certain misdemeanors in Virginia.

## C. REPORTING TO NSU

NSU strongly encourages Students who have experienced, have knowledge of, or have witnessed Prohibited Conduct to make a report to NSU. Under Title IX, once an institution has notice of an act of Prohibited Conduct, it is required to (1) take immediate and appropriate steps to investigate or otherwise determine what occurred; and (2) take prompt and effective action to end any misconduct that occurred; remedy its effects; and prevent its recurrence. Although there is no time limit for reporting Prohibited Conduct to NSU, NSU's ability to respond may diminish over time, as evidence may erode, memories may fade, and Respondents may no longer be affiliated with NSU. If the Respondent is no longer a Student or an Employee, NSU will provide reasonably appropriate remedial measures, assist the Complainant in identifying external reporting options, and take other reasonable steps to respond under Title IX. Making a report to NSU does not require participation in any subsequent NSU proceedings, nor is a report required in order for a Student to receive support or remedial measures.

Students are encouraged to report Prohibited Conduct through NSU's online reporting process [<https://surveys.nsu.edu/index.php/958274/lang-en>], or by contacting the Title IX Coordinator or DSA. Students may also make an anonymous report using the online reporting process, by using NSU's *LiveSafe App* — Available to download for free on [iPhone](#) and [Android](#) devices, or calling (757) 823-2148.

Students should be aware that all disclosures of Prohibited Conduct to any "Responsible Employee" will be reported, as required by NSU Policy, to the Title IX Coordinator. A ***Responsible Employee*** is any NSU Employee who is not a Confidential Employee. Upon receipt of a report of Prohibited Conduct, NSU will conduct an initial assessment, a ***threat assessment***, and take any immediate action that may be necessary to protect the health and safety of the Student and NSU community, as described in the Procedures attached as Appendix A and Appendix B to the Policy.

## D. SEEKING A PROTECTIVE ORDER

Where Prohibited Conduct is reported to the Police, it may be possible to obtain a court-ordered Emergency or Preliminary Protective Order. These Protective Orders may be issued if the judge or magistrate believes that there is an immediate threat to health or safety. Later, after a full hearing, the court may agree to issue a "Permanent" Protective Order, in appropriate cases. A Permanent Protective Order may remain in place for up to two years under Virginia law and, in

some cases, may be extended for an additional two years. “Protective Orders” are separate and distinct from “No-Contact Directives” (described above). Protective Orders may be obtained only from a court of law and are enforceable anywhere in the United States; their violation may result in criminal charges. In contrast, No-Contact Directives may be obtained from Norfolk Circuit Court and are enforceable through NSU. DSA can arrange and/or attend a meeting with NSU Police, who can explain the process for seeking a Protective Order and can escort a Student to the appropriate office in order to initiate a petition seeking a Protective Order.

**SECTION 3:**  
**EMPLOYEES**

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## SECTION 3 (A)

### ON-CAMPUS RESOURCES/CONFIDENTIAL EMPLOYEES

Norfolk State University (“NSU”) has a policy requiring most NSU employees to report any information disclosed by students regarding alleged acts of sexual misconduct to NSU’s Title IX Coordinator. Certain NSU employees are exempt from this reporting requirement. These employees are involved in the provision of medical and mental health services on campus; they are designated as “Confidential Employees.” Any disclosures made to Confidential Employees are protected under federal and/or state health care privacy laws. Confidential Employees will not disclose identifiable information to NSU’s Title IX Coordinator or to any other person/entity without consent, unless a legal exception applies. Exceptions to health care privacy include:

- Communications with family members, law enforcement, or others when a patient, as a result of mental illness, will likely cause serious physical harm to self or others;
- Notification of law enforcement when a patient has communicated a specific, immediate and credible threat to cause serious bodily injury or death to a third party;
- Legal reporting obligations, e.g., reports of abuse or neglect of a minor;
- Providing information in a lawsuit in which a patient's condition is at issue or a judge orders disclosure; and
- Sharing information with health care providers and others, as needed, for the patient's treatment or for billing a patient's insurance, and for other administrative operations (these recipients of health care information are themselves generally required by law not to further disclose such information).

Following is a list of “Confidential Employees” and their location on campus.

Dr. Vanessa Caldwell Jenkins Hightower  
757-823-8323  
[cdjenkins@nsu.edu](mailto:cdjenkins@nsu.edu)

Laura Lee Gottula  
757-823-8173  
[llgottula@nsu.edu](mailto:llgottula@nsu.edu)

Arkitia Pegram-Crawley  
757-823-8173  
[ascrawley@nsu.edu](mailto:ascrawley@nsu.edu)

Dr. Benita Jones, M.D.  
757-747-7607  
[Bwjones@nsu.edu](mailto:Bwjones@nsu.edu)

Denise Bailey, LPN  
757-278-3360  
[dsbailey@nsu.edu](mailto:dsbailey@nsu.edu)

Johan Quesada  
757-747-7607  
[jquesada@nsu.edu](mailto:jquesada@nsu.edu)

Consistent with the definition of Confidential Employees and licensed community professionals, there are resources within NSU and the Norfolk community where Students and Employees can obtain confidential, trauma-informed counseling and support. These resources include:

1. Counseling Center  
Student Services Center, Suite 312  
(757) 823-8173 or (757) 352-8121 (24/7 hotline and after hours/weekends/holidays)
2. Spartan Health Center  
Spartan Station (757)747-7607
3. Sexual Assault Support Services of the YWCA (RESPONSE)  
1424 McNeil St. Norfolk, VA 23502  
(757) 226-9922
4. Family Violence & Sexual Assault Virginia Hotline  
(800) 838-8238  
(804) 793-9999 (text)

#### **OFF-CAMPUS RESOURCES**

There are several local and national resource agencies that provide support and assistance to victims of sexual misconduct. These agencies are not subject to NSU's reporting policy. They will not disclose identifiable information to the NSU's Title IX Coordinator.

1. Sexual Assault Support Services of the YWCA (RESPONSE)  
1424 McNeil St. Norfolk, VA 23502  
(757) 226-9922
2. Family Violence & Sexual Assault Virginia Hotline  
(800) 838-8238  
(804) 793-9999 (text)

For a complete list of NSU and community-based confidential resources for Students, see the Student Resource Guide (Appendix A-1).

Employees can also obtain such counseling through the Employee Assistance Program ((434) 243-2643). For a complete list of NSU and community-based confidential resources for Employees, see the Employee Resource Guide (Appendix B-1).

**SECTION 3 (B)**

**PROCEDURES FOR REPORTS AGAINST EMPLOYEES  
INVESTIGATING AND RESOLVING REPORTS OF SEXUAL AND GENDER-BASED  
HARASSMENT AND OTHER FORMS OF INTERPERSONAL VIOLENCE  
COMMITTED BY EMPLOYEES UNDER THE POLICY**

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## I. INTRODUCTION

Norfolk State University (“NSU or “University”) is committed to providing a safe and non-discriminatory environment for all members of NSU community. NSU prohibits Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual and Gender-Based Harassment, Complicity and Retaliation (together, “Prohibited Conduct”). These forms of Prohibited Conduct are defined in NSU’s Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence (the “Policy”). This Appendix identifies the procedures (the “Procedures”) NSU follows when it receives a report alleging Prohibited Conduct by an Employee. NSU uses these Procedures to investigate and adjudicate any such allegations and to impose disciplinary sanctions against Employees found responsible for violating the Policy.<sup>7</sup>

## II. REPORTING

NSU encourages anyone<sup>8</sup> who experiences or becomes aware of an incident of Prohibited Conduct involving an Employee to *immediately* report the incident to NSU through the following reporting options:

- By contacting NSU’s Title IX Coordinator or any Deputy Title IX Coordinator by telephone, email, or in person during regular office hours:

### **Mr. Sylvester T. Watkins**

Title IX Coordinator (Interim)

700 Park Avenue

160 Wilson Hall

Norfolk, Virginia 23504

757-823-8160

[stwatkins@nsu.edu](mailto:stwatkins@nsu.edu)

### **Ms. Lisa Little**

Equal Employment Opportunity Manager

Deputy Title IX Coordinator for Employees

700 Park Avenue

160 Wilson Hall

Norfolk, Virginia 23504

757-823-8160

[lmittle@nsu.edu](mailto:lmittle@nsu.edu)

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<sup>7</sup> These Procedures should be read in conjunction with the Policy. Capitalized terms used and not otherwise defined in these Procedures are defined in the Policy. For purposes of these Procedures, the following definitions apply: (1) the “Title IX Coordinator” means the Title IX Coordinator, any Deputy Title IX Coordinator, and/or any of their respective trained designees; (2) “Supervisor” means the individual or individuals to whom an Employee reports in the context of their employment with NSU (for academic faculty, that individual may be the Department Chair, Dean or other unit administrator); and (3) “Human Resources” means NSU Human Resources and/or the Human Resources professional in a particular school/department/unit.

<sup>8</sup> Pursuant to NSU policy, certain NSU employees, called “Responsible Employees,” are *required* to report to the Title IX Coordinator all information disclosed to them about an incident of Prohibited Conduct. See “Reporting by NSU Employees of Disclosures Relating to Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence.”

**Ms. Michelle Marable**

Deputy Title IX Coordinator for Students (Interim)

700 Park Avenue

318 Student Services Center

Norfolk, Virginia 23504

757-451-7768

[mdmarable@nsu.edu](mailto:mdmarable@nsu.edu)

Through NSU's online reporting process (which allows for anonymous reporting).

- To file an online incident report, visit the following link:  
<https://surveys.nsu.edu/index.php/958274/lang-en>.

A Complainant may choose to make a report to NSU to pursue resolution under these Procedures and may also choose to make a report to law enforcement. A Complainant may pursue either or both of these options at the same time. As set forth in the Policy, a Complainant who wishes to pursue criminal action in addition to, or instead of, making a report under these Procedures should contact law enforcement directly:

- NSU Police Department (757) 823-8102 non-emergencies or (757) 823-9000 for emergencies
- City of Norfolk (757) 664-4610 (non-emergencies)
- 911 (for emergencies)

NSU also offers access to confidential resources for individuals who are unsure about whether to report Prohibited Conduct or are seeking counseling or other emotional support in addition to (or without) making a report to NSU. The following guides identify confidential resources, both at NSU and in the Norfolk community, and further explain options for reporting Prohibited Conduct to NSU and to law enforcement:

- Students may refer to the Student Resource Guide (Appendix A-1);
- Employees may refer to the Employee Resource Guide (Appendix B-1);
- Third Parties may contact NSU's Title IX Coordinator.

Complainants are entitled to receive information, assistance and a broad range of support and remedial measures regardless of whether they choose to pursue criminal and/or NSU disciplinary resolution of Prohibited Conduct. The Student and Employee Resource Guides outline these resources and remedial measures and describe how to request them.

### **III. EXPECTATIONS OF COMPLAINANTS AND RESPONDENTS**

Pursuant to these Procedures, Complainants and Respondents can expect:

- A. Prompt and equitable resolution of allegations of Prohibited Conduct;
- B. Privacy in accordance with the Policy and any legal requirements;



- C. Reasonably available interim remedial measures, as described in these Procedures and in the applicable Resource Guide;
- D. Freedom from Retaliation for making a good faith report of Prohibited Conduct or participating in any proceeding under the Policy;
- E. The responsibility to refrain from Retaliation directed against any person for making a good faith report of Prohibited Conduct or participating in any proceeding under the Policy;
- F. The responsibility to provide truthful information in connection with any report, investigation, or resolution of Prohibited Conduct under the Policy or these Procedures;
- G. The opportunity to articulate concerns or issues about proceedings under the Policy and these Procedures;
- H. Timely notice of any meeting or proceeding at which the party's presence is contemplated by these Procedures;
- I. The opportunity to choose an advisor, including the right to have that advisor attend any meeting or proceeding at which the party's presence is contemplated by these Procedures;
- J. Written notice of an investigation, including notice of potential Policy violations and the nature of the alleged Prohibited Conduct;
- K. The opportunity to challenge the Investigator or any member of the Review Panel for bias or conflict of interest;
- L. The opportunity to offer information, present evidence, and identify witnesses during an investigation;
- M. The opportunity to be heard, orally and/or in writing, as to the determination of a Policy violation and the imposition of any sanction(s);
- N. Timely and equal access to any information that will be used during Alternative or Formal Resolution proceedings and related meetings;
- O. Reasonable time to prepare any response contemplated by these Procedures;
- P. Written notice of any extension of timeframes for good cause; and
- Q. Written notice of the outcome of any Formal Resolution proceedings, including the determination of a Policy violation, imposition of any sanction(s), and the rationale for each.

#### **IV. INITIAL ASSESSMENT**

Upon receipt of a report of Prohibited Conduct committed by an Employee, the Title IX Coordinator will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. In this initial assessment, the Title IX Coordinator will:

- A. Assess the Complainant's safety and well-being and offer NSU's immediate support and assistance;

- B. Inform the Complainant of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
- C. Inform the Complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- D. Inform the Complainant about NSU and community resources, the right to seek appropriate and available remedial and protective measures, and how to request those resources and measures;
- E. Inform the Complainant of the right to seek Alternative Resolution (where available) or Formal Resolution under these Procedures; ascertain the Complainant's expressed preference (if the Complainant has, at the time of the initial assessment, expressed a preference) for pursuing Alternative Resolution, Formal Resolution, or neither; and discuss with the Complainant any concerns or barriers to participating in any NSU investigation and resolution under these Procedures;
- F. Explain NSU's prohibition against Retaliation and that NSU will take prompt action in response to any act of Retaliation;
- G. Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that personally identifies the Complainant, the Respondent, any witness, and/or any other third party with knowledge of the reported incident;
- H. Ascertain the ages of the Complainant and the Respondent, if known, and, if either of the parties is a minor (under 18), contact the appropriate child protective service agency; and
- I. Communicate with appropriate NSU officials to determine whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and take steps to meet those obligations.

The Title IX Coordinator will ensure that the Complainant receives a written explanation of all available resources and options and is offered the opportunity to meet to discuss those resources and options. When a decision is reached to initiate an investigation or to take any other action under these Procedures that impacts a Respondent (including the imposition of interim protective measures), the Title IX Coordinator will ensure that the Respondent is notified, receives a written explanation of all available resources and options, and is offered the opportunity to meet to discuss those resources and options.

## **V. THREAT ASSESSMENT**

Following the initial assessment, the Title IX Coordinator will promptly forward to an Evaluation Panel all information then known about the reported incident of Prohibited Conduct. Such information includes, if known, the names and/or any other information that personally identifies the Complainant, the Respondent, any witnesses, and/or any other third parties with knowledge of the reported incident.

## **A. EVALUATION PANEL**

An Evaluation Panel will evaluate every report of Prohibited Conduct. The Evaluation Panel will convene (in person, by telephone, or by videoconference) within 72 hours after receiving information from the Title IX Coordinator, as described above, and will convene again, as necessary, to review new information as it becomes available. The Evaluation Panel may include any and all members of NSU's Threat Assessment Team and shall include, at a minimum: (1) the Title IX Coordinator, (2) a representative of the Campus Police Department (the "CPD Representative"), and (3) a representative from the Division of Student Affairs. In addition, the Evaluation Panel may include a representative from Human Resources or the Office of the Provost, depending on the circumstances of the reported incident and the status of the Complainant and the Respondent.

The Evaluation Panel operates pursuant to Va. Code §23-9.2:15 (the "Virginia Reporting Statute") and has access, under Virginia law, to certain otherwise confidential information, including law enforcement records, criminal history record information, as provided in Va. Code §19.2-389 and §19.2-389.1; health records, as provided in Va. Code §32.1-127.1:03; NSU disciplinary, academic and/or personnel records; and any other information or evidence known to NSU or to law enforcement. The Evaluation Panel may seek additional information about the reported incident through any other legally permissible means.

## **B. HEALTH AND SAFETY THREAT ASSESSMENT**

1. Risk Factors. The Evaluation Panel will determine whether the reported information and any other available information provides a rational basis for concluding that there is a threat to the health or safety of the Complainant or to any other member of NSU community. The Evaluation Panel will make this determination based upon a review of the totality of the known circumstances, and will be guided by a consideration of the following factors (the "Risk Factors"):

- Whether the Respondent has prior arrests, is the subject of prior reports and/or complaints related to any form of Prohibited Conduct, or has any history of violent behavior;
- Whether the Respondent has a history of failing to comply with any NSU No-Contact Directive, other NSU protective measures, and/or any judicial protective order;
- Whether the Respondent has threatened to commit violence or any form of Prohibited Conduct;
- Whether the Prohibited Conduct involved multiple Respondents;
- Whether the Prohibited Conduct involved physical violence. "Physical violence" means exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking and brandishing or using any weapon;
- Whether the report reveals a pattern of Prohibited Conduct (e.g., by the Respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location);

- Whether the Prohibited Conduct was facilitated through the use of “date-rape” or similar drugs or intoxicants;
- Whether the Prohibited Conduct occurred while the Complainant was unconscious, physically helpless or unaware that the Prohibited Conduct was occurring;
- Whether the Complainant is (or was at the time of the Prohibited Conduct) a minor (under 18); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

2. Disclosure(s) of Information to Law Enforcement. Pursuant to the Virginia Reporting Statute, the Evaluation Panel is *required* to disclose information about alleged Prohibited Conduct to law enforcement in the following circumstances:

a) If the Evaluation Panel (or, in the absence of consensus within the Evaluation Panel, the CPD Representative) concludes that there is a significant and articulable threat to the health or safety of the Complainant or to any other member of NSU community and that disclosure of available information (including the names and any other information that personally identifies the Complainant, the Respondent, any witnesses, and/or any other third parties with knowledge of the reported incident) is necessary to protect the health or safety of the Complainant or other individuals, the CPD Representative will immediately disclose the information to the law enforcement agency that would be responsible for investigating the alleged act of Prohibited Conduct.<sup>9</sup> The Evaluation Panel will make this determination based upon a review of the totality of the known circumstances and consideration of the list of Risk Factors, as described in Section V.B.1 of these Procedures. The Title IX Coordinator will promptly notify the Complainant whenever such disclosure has been made.

b) If the alleged act of Prohibited Conduct constitutes a felony violation of the Code of Virginia, the CPD Representative will so inform the other members of the Evaluation Panel and will, within 24 hours, (i) consult with the appropriate Commonwealth’s Attorney or other prosecutor who would be responsible for prosecuting the alleged act of Prohibited Conduct (the “Prosecuting Authority”), and (ii) disclose to the Prosecuting Authority the information then known to the Evaluation Panel. This disclosure is required by the Virginia Reporting Statute where the alleged act of Prohibited Conduct would violate Article 7 (§18.2-61 et seq.) of Chapter 4 of title 18.2 of the Code of Virginia. Such disclosure will exclude the names and any other information that personally identifies the Complainant, the Respondent, any witnesses, and/or any other third parties with knowledge of the reported incident (the “Identifying Information”), unless the Identifying Information was disclosed to law enforcement under the health and safety exception described in paragraph (a), above, in which case the Identifying Information also will be disclosed to the Prosecuting Authority. If the CPD Representative declines to so consult with the Prosecuting Authority, any member of the Evaluation Panel who individually concludes that the alleged act of Prohibited Conduct would constitute such a felony violation may consult with the Prosecuting Authority and make the required disclosure(s) in the manner and within the timeframe set forth above.

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<sup>9</sup> Where the law enforcement agency that would be responsible for investigating the alleged act of Prohibited Conduct is located outside of the United States, this disclosure is not required by the Virginia Reporting Statute.

The Evaluation Panel will reconvene as necessary to continue to evaluate whether any new or additional information received triggers any further obligation(s) under the Clery Act or with respect to any child protective service agency, and will direct the Title IX Coordinator to take such further actions, as necessary.

### **C. NSU ACTIONS FOLLOWING HEALTH AND SAFETY THREAT ASSESSMENT**

Upon completion of the health and safety threat assessment, the Evaluation Panel will determine the course of action under these Procedures, which may include, without limitation, Formal Resolution and/or Alternative Resolution (if available). Where the Complainant requests that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no further action be taken, the Evaluation Panel will seek to honor the preferences of the Complainant wherever possible. In all cases, the initial report, the health and safety threat assessment, and the determinations of the Evaluation Panel will be documented and retained by NSU in accordance with applicable law.

1. Where the Complainant Wishes to Pursue Formal Resolution. In *every* case in which a Complainant reports Prohibited Conduct and requests an investigation and disciplinary action, the Title IX Coordinator will promptly initiate Formal Resolution under these Procedures.

2. Where the Complainant Requests Anonymity, that an Investigation not be pursued, and/or that No Disciplinary Action Be Taken. A Complainant may request that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary action be taken.

The Evaluation Panel will consider the following factors in evaluating such request(s): (1) the totality of the known circumstances; (2) the presence of any Risk Factors, as described in Section V.B.1 of these Procedures; (3) the potential impact of such action(s) on the Complainant; (4) any evidence showing that the Respondent made statements of admission or otherwise accepted responsibility for the Prohibited Conduct; (5) the existence of any independent information or evidence regarding the Prohibited Conduct; and (6) any other available and relevant information. NSU will seek to honor the Complainant's request(s) if it is possible to do so while also protecting the health and safety of the Complainant and NSU community.

a) Determination that a Complainant's Request(s) *Can* be Honored. Where the Evaluation Panel determines that a Complainant's request(s) (that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary action be taken) *can* be honored, NSU may nevertheless take other appropriate steps designed to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the Complainant and NSU community. Those steps may include offering appropriate remedial measures to the Complainant, providing targeted training or prevention programs, and/or providing or imposing other remedies tailored to the circumstances as a form of Alternative Resolution.

At any time, the Complainant may choose to pursue Alternative Resolution (if available) or Formal Resolution under these Procedures. The Title IX Coordinator also may request that a report be re-opened and pursued under these Procedures if any new or additional information becomes available.<sup>10</sup>

b) Determination that a Complainant's Request(s) **Cannot** be Honored. Where the Evaluation Panel has determined that a Complainant's request(s) (that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary action be taken) *cannot* be honored (i.e., because honoring the Complainant's request(s) would impede NSU ability to ensure the health and safety of the Complainant and other members of the NSU community), the Evaluation Panel will direct the Title IX Coordinator to take any appropriate NSU actions, which may include, without limitation, (i) causing the Respondent's supervisor, in consultation with the relevant Human Resources representative, to impose a No-Contact Directive and/or to place the Respondent on pre-disciplinary leave, with or without pay; (ii) initiating an investigation and Formal Resolution under these Procedures; and/or (iii) arranging, imposing, or extending any other appropriate remedial and/or protective measures.

Where the Evaluation Panel has determined that NSUNSU must proceed with an investigation despite a Complainant's request to the contrary, the Title IX Coordinator will make reasonable efforts to protect the privacy of the Complainant. However, actions that may be required as part of NSU's investigation will involve speaking with the Respondent and others who may have relevant information, in which case the Complainant's identity may have to be disclosed. In such cases, the Title IX Coordinator will notify the Complainant that NSUNSU intends to proceed with an investigation, but that the Complainant is not required to participate in the investigation or in any other actions undertaken by NSU.

Where a Complainant declines to participate in an investigation, NSU's ability to meaningfully investigate and respond to a report may be limited. In such cases, the Title IX Coordinator may pursue the report if it is possible to do so without the Complainant's participation in the investigation or resolution (e.g., where there is other relevant evidence of the Prohibited Conduct, such as recordings from security cameras, corroborating reports from other witnesses, physical evidence, or any evidence showing that the Respondent made statements of admission or otherwise accepted responsibility for the Prohibited Conduct). In the absence of such other evidence, however, NSU will only be able to respond to the report in limited and general ways (i.e., through the provision of remedial measures, targeted training or prevention programs, or other remedies tailored to the circumstances).

#### **D. NOTICE TO COMPLAINANT AND RESPONDENT OF NSU ACTIONS**

The Title IX Coordinator will promptly inform the Complainant of any action(s) undertaken by NSU to respond to a health or safety threat to the Complainant or NSU community, including the decision to proceed with an investigation. The Title IX Coordinator also will promptly inform the Respondent of any action(s) (including any interim protective measures) that will directly impact

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<sup>10</sup> Although a report may be re-opened at any time, NSU will only be able to pursue disciplinary resolution and sanctions where the Respondent continues to be a NSU "Employee."

the Respondent, and provide an opportunity for the Respondent to respond to such action(s). The Title IX Coordinator retains the discretion to impose and/or modify any interim protective measures based on all available information. Interim protective measures will remain in effect through resolution of the report by the appropriate NSU administrator, unless new circumstances arise which warrant reconsideration of the protective measures prior to the Review Panel Meeting and/or Administrative Review. A Complainant or Respondent may challenge interim protective measures or other actions, or failure to impose interim protective measures or take other actions, by contacting the Title IX Coordinator to address any concerns.

## **VI. NSU RESOLUTION**

These Procedures offer two forms of resolution of reports of Prohibited Conduct: (1) Alternative Resolution (as described in Section VI.A of these Procedures), which includes a variety of informal options for resolving reports, and (2) Formal Resolution, which involves an investigation and review and sanction (if applicable) by a Review Panel and the appropriate NSU administrator (as described in Section VI.B of these Procedures).

### **A. ALTERNATIVE RESOLUTION**

The Complainant may seek Alternative Resolution in place of an investigation and Formal Resolution. NSU, however, has the discretion to determine whether the nature of the reported conduct is appropriate for Alternative Resolution, to determine the type of Alternative Resolution that may be appropriate in a specific case and, pursuant to Section V.C of these Procedures, to refer a report for Formal Resolution at any time. In addition, Alternative Resolution may not be available where the Evaluation Panel has determined that one or more of the Risk Factors listed in Section V.B.1 of these Procedures is present. **Forms of Alternative Resolution that involve face-to-face meetings between the Complainant and the Respondent, such as mediation, are not available (a) in cases involving Sexual Assault, and/or (b) where the Complainant is a Student and the Respondent is an Employee in a position of authority over the Complainant.**

Participation in Alternative Resolution (including any specific form of Alternative Resolution) is voluntary. NSU will not compel a Complainant or Respondent to engage in Alternative Resolution, will not compel a Complainant to directly confront the Respondent, and will allow a Complainant or Respondent to withdraw from Alternative Resolution at any time. NSU may decline the request for Alternative Resolution in any particular case and may terminate an ongoing Alternative Resolution process at any time. Pursuing Alternative Resolution does not preclude later use of Formal Resolution if the Alternative Resolution fails to achieve a resolution acceptable to the parties and NSU. Where the Complainant or the Respondent withdraws from Alternative Resolution or where Alternative Resolution is otherwise terminated for any reason, any statements or disclosures made by the parties during the course of the Alternative Resolution may be considered in a subsequent investigation and Formal Resolution.

With any form of Alternative Resolution, each party has the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness to the reported incident(s). The parties may be accompanied by their respective advisors at any meeting or proceeding held as part of Alternative Resolution. While the advisors may

provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

Alternative Resolution may involve individual and/or community remedies that are designed to address a report of Prohibited Conduct, such as:

- **One-on-One Communication:** If a Complainant wishes to address a situation with a Respondent without the direct involvement of a third party, the Complainant may communicate directly with the Respondent. This form of Alternative Resolution is appropriate only if the Complainant does not feel threatened, there is no risk of physical harm, and the Complainant reasonably believes the Respondent will be receptive to the communication. **Complainants are NOT required to engage in one-on-one communication before seeking third party assistance or other help.**
- **Resolution with the Assistance of a Third Party:** A Complainant may seek assistance in informally resolving a report of Prohibited Conduct from (i) the Complainant's supervisor, if the Complainant is an Employee; (ii) the Respondent's supervisor; (iii) the Office of the Provost (Faculty); (iv) the Title IX Coordinator; or (v) a trained mediator. The availability of this form of Alternative Resolution, and any resolution reached through such form of Alternative Resolution, is subject to the agreement of the Title IX Coordinator, the Complainant, and the Respondent. Any of the foregoing third parties must consult with the Title IX Coordinator before taking action to resolve a report of Prohibited Conduct. This form of Alternative Resolution may not be used where the allegation involves Sexual Assault.
- **Interventions and Remedies:** Alternative Resolution agreements may involve a host of other interventions and remedies, such as actions designed to maximize the Complainant's access to educational, extracurricular, and/or NSU employment activities; increased monitoring, supervision, and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur; targeted or broad-based educational programming or training for relevant individuals or groups; academic and/or NSU housing modifications for Student Complainants; workplace modifications for Employee Complainants; one or more of the restorative remedies or other sanctions described in these Procedures, including suspension and termination, in accordance with relevant disciplinary procedures; and/or any other remedial or protective measures that can be tailored to the involved individuals to achieve the goals of the Policy.

Any form of Alternative Resolution and any combination of interventions and remedies may be utilized. If an agreement acceptable to NSU, the Complainant, and the Respondent is reached through Alternative Resolution, the terms of the agreement are implemented and the matter is resolved and closed. If an agreement is not reached, and the Title IX Coordinator determines that further action is necessary, or if a Respondent fails to comply with the terms of the Alternative Resolution, the matter may be referred for an investigation and Formal Resolution under these Procedures.



The Title IX Coordinator will maintain records of all reports and conduct referred for Alternative Resolution, which typically will be completed within thirty (30) calendar days.

## **B. FORMAL RESOLUTION**

Formal Resolution is commenced when:

- A Complainant reports that an Employee has engaged in one or more instances of Prohibited Conduct and requests, at any time, an investigation and disciplinary action; or
- Alternative Resolution does not resolve a reported incident of Prohibited Conduct and, in the Title IX Coordinator's discretion, an investigation of the report of Prohibited Conduct is required; or
- At the conclusion of the threat assessment process described in Section V.B of these Procedures, the Evaluation Panel has determined, based upon a review of the totality of the circumstances and guided by a consideration of the Risk Factors, that investigation of the reported conduct is necessary to ensure the health and safety of the Complainant and/or other members of the NSU community, notwithstanding the Complainant's request that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary action be taken.

1. Investigation. Whenever Formal Resolution is commenced, the Title IX Coordinator will designate one or more Investigators from NSU's pool trained investigators to conduct a prompt, thorough, fair, and impartial investigation. All Investigators will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of Complainants and NSU community while promoting accountability.

- a) Notice of Investigation. The Title IX Coordinator will notify the Complainant and the Respondent, in writing, of the commencement of an investigation. Such notice will (1) identify the Complainant and the Respondent; (2) specify the date, time (if known), location, and nature of the alleged Prohibited Conduct; (3) identify potential Policy violation(s); (4) identify the Investigator; (5) include information about the parties' respective expectations under the Policy and these Procedures; (6) explain the prohibition against Retaliation; (7) instruct the parties to preserve any potentially relevant evidence in any format; (8) inform the parties how to challenge participation by the Investigator on the basis of bias or a conflict of interest; and (9) provide a copy of the Policy and these Procedures.

The Title IX Coordinator will also notify, in writing, the Respondent's supervisor, Human Resources, and, if applicable, the Human Resources professional of the particular school/department/unit that an investigation has been initiated. Such notice will inform these individuals that (1) the Title IX Coordinator has received a report alleging that the Respondent has engaged in Prohibited Conduct under the Policy; (2) the report will be investigated in accordance with these Procedures; (3) the supervisor and the Human Resources professional are obliged to

monitor the relevant environment, depending on the facts of the case, for Retaliation; and (4) information related to the report is confidential (including the identity of the Complainant) and will only be shared as needed to either obtain information pertinent to the investigation or to facilitate fulfillment of the duty of the supervisor and/or Human Resources to address any concerns regarding safety or Retaliation.

b) Other Forms of Discriminatory and/or Harassing Conduct. If a report of Prohibited Conduct also implicates other forms of discriminatory and/or harassing conduct prohibited by NSU's Preventing and Addressing Discrimination and Harassment (PADH) policy, the Title IX Coordinator will evaluate all reported allegations to determine whether the alleged Prohibited Conduct and the alleged PADH violation(s) may be appropriately investigated together without unduly delaying the resolution of the report of Prohibited Conduct. Where the Title IX Coordinator determines that a single investigation is appropriate, the determination of responsibility for the violation of NSU policy will be evaluated under the applicable policy (i.e., the Policy and/or the PADH policy), but the investigation and resolution will be conducted in accordance with these Procedures.

c) Presumption of Non-Responsibility and Participation by the Parties. The investigation is a neutral fact-gathering process. The Respondent is presumed to be not responsible; this presumption may be overcome only where the Investigator and/or Review Panel conclude that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the Respondent violated the Policy. Neither party is required to participate in the investigation nor any form of resolution under these Procedures, and the Investigator will not draw any adverse inference from a decision by either of the parties not to participate.

d) Timeframe for Completion of Investigation; Extension for Good Cause. Typically, the period from commencement of an investigation through resolution (finding and sanction, if any) will not exceed sixty (60) calendar days. This timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for NSU breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. The Investigator will notify the parties in writing of any extension of this timeframe and the reason for such extension.

e) Overview of Investigation. During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit questions that they believe should be directed by the Investigator to each other or to any witness. The Investigator will notify and seek to meet separately with the Complainant, the Respondent, and third-party witnesses, and will gather other relevant and available evidence and information, including, without limitation, electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party).

f) Advisors. Throughout the investigation and resolution process, each party has the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation and resolution of a report under these Procedures. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

g) Prior or Subsequent Conduct. Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. Such prior or subsequent conduct may also constitute a violation of the PADH policy and/or other NSU policy, in which case it may subject the Respondent to additional sanctions. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.

h) Prior Sexual History. The sexual history of a Complainant or Respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of either of the parties is generally not relevant to the determination of a Policy violation and will be considered only in limited circumstances. For example, if the existence of Affirmative Consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether Affirmative Consent was sought and given during the incident in question. However, even in the context of a relationship, Affirmative Consent to one sexual act does not, by itself, constitute Affirmative Consent to another sexual act, and Affirmative Consent on one occasion does not, by itself, constitute Affirmative Consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve another question raised by the report. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.

i) Relevance. The Investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the Investigator will not consider statements of personal opinion, rather than direct observations or reasonable inferences from the facts, or statements as to any party's general reputation for any character trait.

j) Site Visit(s). The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means.

k) Expert Consultation(s). The Investigator may consult medical, forensic, technological or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

l) Coordination with Law Enforcement. The Investigator will contact any law enforcement agency that is conducting its own investigation to inform that agency that a NSU investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to NSU in its investigation. At the request of law enforcement, the Investigator may delay NSU investigation temporarily while an external law enforcement agency is gathering evidence. The Investigator will promptly resume the NSU investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.

m) Draft Investigation Report. At the conclusion of the investigation, the Investigator will prepare a Draft Investigation Report summarizing the information gathered and outlining the contested and uncontested information. The Draft Investigation Report will not include any findings. The Complainant and the Respondent will have an opportunity to review the Draft Investigation Report; meet with the Investigator; submit additional comments and information to the Investigator; identify any additional witnesses or evidence for the Investigator to pursue; and submit any further questions that they believe should be directed by the Investigator to the other party or to any witness. The Investigator will designate a reasonable time for this review and response by the parties, not to exceed five (5) calendar days. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator during the designated review and response period will not be considered in the determination of responsibility for a violation of the Policy, and will not be considered by the Review Panel.

n) Final Investigation Report. Unless there are significant additional investigative steps requested by the parties or identified by the Investigator, within five (5) calendar days after receipt and consideration of any additional comments, questions and/or information submitted by the parties during the designated review and response period, the Investigator will prepare a Final Investigation Report, which will include a recommendation as to whether there is sufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility for a violation of the Policy (and, where applicable, the PADH policy). In reaching this recommended finding, the Investigator will consult with the Office of University Counsel. The Investigator will deliver the Final Investigation Report to the Title IX Coordinator. The Title IX Coordinator will notify both parties, simultaneously, that the Final Investigation Report is complete and available for review.

o) Recommended Finding(s) of Responsibility. When the Investigator determines that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility on one or more of the allegations, the Respondent may accept or contest such recommended finding(s) by so notifying the Title IX Coordinator, in writing. If the Respondent accepts the recommended finding(s) of responsibility, the Title IX Coordinator will refer the case to the appropriate NSU administrator solely on the issue of sanctions, as outlined in Section VI.B.4(b) of these Procedures. If the Respondent contests one or more of the recommended finding(s), the Respondent may

submit to the Title IX Coordinator a written statement explaining why the Respondent contests such finding(s). The Title IX Coordinator will ensure that the Complainant has an opportunity to review and respond in writing to any such statement. The Title IX Coordinator will provide the Final Investigation Report, together with any statements by the parties, to the Review Panel for further proceedings as outlined in Section VI.B.3 of these Procedures.

p) Recommended Finding(s) of No Responsibility. When the Investigator determines that there is insufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility on one or more of the allegations, the Complainant may accept or contest the recommended finding(s) by so notifying the Title IX Coordinator, in writing. If the Complainant accepts the recommended finding(s) of no responsibility, the investigation will be closed and documented in accordance with applicable NSU policies. If the Complainant contests one or more of the recommended finding(s), the Complainant may submit to the Title IX Coordinator a written statement explaining why the Complainant contests such finding(s). The Title IX Coordinator will ensure that the Respondent has an opportunity to review and respond in writing to any such statement. The Title IX Coordinator will provide the Final Investigation Report, together with any statements by the parties, to the Review Panel for further proceedings as outlined in Section VI.B.3 of these Procedures.

q) Impact and Mitigation Statements. Where there is a finding of responsibility on one or more of the allegations, both parties may submit a statement to the Title IX Coordinator for consideration by the Review Panel in determining an appropriate sanction. The Complainant may submit a written statement describing the impact of the Prohibited Conduct on the Complainant and expressing a preference about the sanction(s) to be imposed. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. The Title IX Coordinator will ensure that each of the parties has an opportunity to review any statement submitted by the other party. The Title IX Coordinator will provide any statement(s) with the Final Investigation Report and the parties' other written submissions to the Review Panel.

r) Timing of Investigation. The investigation typically will be completed within thirty-five (35) calendar days. This period may be extended to account for a previous attempt, if any, at Alternative Resolution, or for other good cause, as described Section VI.B.1(d) of these Procedures. Any extension, other than for Alternative Resolution, and the reason for the extension, will be shared with the parties in writing.

2. Acceptance of Responsibility. The Respondent may, at any time, elect to resolve the Formal Resolution process by accepting responsibility for the Prohibited Conduct, in which case the Title IX Coordinator will refer the matter to the Respondent's supervisor for imposition of sanction(s).

3. Review Panel Meeting. The Title IX Coordinator will appoint a standing pool of trained members of the NSU community and, at the discretion of the Title IX Coordinator, external professionals with experience adjudicating cases of Prohibited Conduct. The Title IX Coordinator will select (a) three members from this pool to serve on the Review Panel, and (b) an additional member from this pool to serve as the non-voting Meeting Chair. Where the Respondent is an academic faculty member, at least two of the voting members of the Review Panel will be

appropriately trained full-time faculty members, one of whom will be appointed by NSU's Faculty Senate Executive Committee, if possible. The Review Panel will review the Investigator's recommended finding(s) and, if applicable, recommend any appropriate sanction(s) under these Procedures. All persons serving on any Review Panel (or as the Meeting Chair) must be impartial and free from actual bias and conflict of interest.

a) Standard of Review. If either of the parties contests the Investigator's recommended finding(s) of responsibility (or no responsibility) for an alleged violation of the Policy, the Review Panel will hold a Meeting to determine (1) whether the concerns stated by the contesting party raise substantial doubt about the thoroughness, fairness and/or impartiality of the investigation; and, if not, (2) whether there is sufficient evidence to support the Investigator's recommended finding(s) by a Preponderance of the Evidence.

b) Notice and Timing of Meeting. Typically, a Meeting will be held within forty-five (45) calendar days from the date of the Notice of Investigation, subject to extension for good cause, as described in Section VI.B.1(d) of these Procedures. The Meeting Chair will notify the parties in writing of the date, time, and location of the Meeting; the names of the Review Panel members and the Meeting Chair; and how to challenge participation by any member of the Review Panel or the Meeting Chair for bias or conflict of interest. The Meeting will usually be scheduled within five (5) calendar days from the date of the Notice of Meeting, subject to extension for good cause at the discretion of the Title IX Coordinator. Good cause for extension may include the unavailability of the parties, the timing of semester breaks or NSU holidays, or other extenuating circumstances. Any extension, including the reason for the extension, will be shared with the parties in writing.

c) Postponement of Meeting. Permission to postpone a Meeting may be granted provided that the request to do so is based on a compelling emergency and communicated to the Meeting Chair prior to the time of the Meeting.

d) Meeting Format. The Meeting is an opportunity for the parties to address the Review Panel, in person, about issues relevant to the Standard of Review to be applied by the Review Panel. The parties may address any information in the Final Investigation Report, supplemental statements submitted in response to the Final Investigation Report, and any impact and mitigation statements. Each party has the opportunity to be heard, to identify witnesses for the Review Panel's consideration, and to respond to any questions of the Review Panel. The parties may not directly question each another or any witness, although they may proffer questions for the Review Panel, which may choose, in its discretion, to pose appropriate and relevant questions to the Investigator, the parties and/or any witnesses. A typical Meeting may include brief opening remarks by the Complainant and/or Respondent, with follow-up questions posed by the Review Panel; information presented by the Investigator or witnesses deemed relevant by the Review Panel, with follow-up questions by the Review Panel of the Investigator or witnesses; and brief concluding remarks by the Complainant and/or Respondent. The Meeting Chair has the discretion to determine the specific Meeting format.

e) Participation in Meeting:

i. Parties. Both the Complainant and the Respondent have a right to be present at the Meeting. Either party may request alternative methods for participating in the Meeting that do not require physical proximity to the other party, including participating through electronic means. This request should be submitted to the Meeting Chair at least two (2) calendar days prior to the Meeting.

If, despite being notified of the date, time, and location of the Meeting, either party is not in attendance, the Meeting may proceed and applicable sanctions may be recommended. Neither party is required to participate in the Meeting in order for the Meeting to proceed.

ii. Investigator or other witnesses. The Review Panel may request the presence of the Investigator or any other witness it deems necessary to its determination. The parties may also request the presence of any witness they deem relevant to the determination by the Review Panel. The Review Panel has absolute discretion to determine which witnesses are relevant to its determination and may decline to hear from witnesses where it concludes that the information is not necessary for its review.

iii. Advisors. Both the Complainant and the Respondent have the right to be accompanied at the Meeting by an advisor of their choosing. The advisor may be anyone, including an attorney, who is not otherwise a party or witness. While the advisor may provide support and advice to a party at the Meeting, the advisor may not speak on behalf of the party or otherwise participate in, or in any manner disrupt, the Meeting. NSU reserves the right to remove any individual whose actions are disruptive to the proceedings.

f) Determination by the Review Panel. Where either of the parties has contested the recommended finding(s) of responsibility, the members of the Review Panel will, at the conclusion of the Meeting, determine, by majority vote, (1) whether the concern(s) stated by the contesting party raise substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation; and, if not, (2) whether there is sufficient evidence to support the Investigator's recommended finding(s) by a Preponderance of the Evidence.

If the Review Panel finds that concerns stated by the contesting party raise substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation, it will remand the matter to the Title IX Coordinator with instructions for further investigation or other action. The instructions may include guidance regarding the scope of information to be further investigated and any appropriate stipulations, including the appointment of a new Investigator.

If the Review Panel finds no cause for substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation, but determines there is insufficient evidence to support the Investigator's recommended finding, it may remand the matter for further investigation or reject the Investigator's recommended finding(s) and make alternative finding(s), which will be forwarded to the appropriate executive for further review, as described in Section VI.B.4 of these Procedures. If the Review Panel finds no cause for substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation *and* affirms that there is sufficient evidence to

support a recommended finding of responsibility by a Preponderance of the Evidence, such decision will be forwarded to the appropriate executive for further review, as described in Section VI.B.4 of these Procedures. Where the Review Panel has affirmed a recommended finding(s) of responsibility, the Review Panel will also, by majority vote, recommend sanction(s). The scope of possible sanctions will be dependent upon the employee disciplinary procedures applicable to the Respondent, but will include one or more of the following: verbal counseling, written counseling, reprimand, written notice, pre-disciplinary leave with pay, removal from the workplace for alleged criminal conduct, loss of academic status, suspension with or without pay, transfer with disciplinary action, demotion, dismissal for cause and discharge.

If the Review Panel finds no cause for substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation *and* affirms a recommended finding of no responsibility, the matter will be considered resolved and the investigation will be closed. The Meeting Chair will provide notice of the decision to the Title IX Coordinator, who will issue a Final Outcome Letter to the parties as outlined in Section VI.B.4(d). The Title IX Coordinator may nevertheless ensure that remedial measures remain in effect to support a Complainant.

g) Notice of Review Panel Determination. Within five (5) days of the Review Panel Meeting, the Meeting Chair will notify in writing (which may include email) the Complainant, the Respondent, and the appropriate Cabinet level administrator in the Respondent's chain of command or the President, of the Review Panel's determination of responsibility and the recommended sanction, if applicable. At the time of this notice, the Meeting Chair will also forward to the appropriate executive a confidential copy of the Final Investigative Report and any accompanying supplemental statements ("Decision Packet").

#### 4. Administrative Review; Sanction; Notice of Outcome

a) Administrative Review of Review Panel Decision and Recommended Sanction. Upon receipt of notice from the Review Panel and the Decision Packet, the appropriate Cabinet level administrator or the President will have seven (7) days to review all the foregoing information, affirm or reject the Review Panel's decision on the finding of responsibility under the Policy and, if applicable, determine the sanction(s) in accordance with the disciplinary procedures appropriate for the type of Employee.

b) Sanctions. Where disciplinary action is recommended, such action, as described in Section VI.B.3(f) above, may include one or more of the following: verbal counseling, written counseling, reprimand, written notice, pre-disciplinary leave with pay, removal from the workplace for alleged criminal conduct, loss of academic status, suspension with or without pay, transfer with disciplinary salary action, demotion, dismissal for cause, and discharge.

The Policy prohibits a broad range of conduct, all of which is serious in nature. The propriety of any particular sanction is reviewed on an individual basis based on the unique facts and circumstances outlined in the Decision Packet. In keeping with NSU's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the Policy provides the appropriate Cabinet level administrator or the President with wide latitude in the imposition of sanctions tailored to the facts and circumstances of the Prohibited Conduct, the



impact of the conduct on the Complainant and NSU community, and accountability for the Respondent. The imposition of sanctions is designed to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects, while supporting NSU's educational mission and legal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved or so deleterious to the educational process that it requires severe sanctions, including suspension or termination of employment from NSU.

Once the appropriate Cabinet level administrator or the President has determined that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility under the Policy, any one or more sanctions may be imposed. In determining the appropriate sanction(s), the appropriate executive will be guided by a number of considerations, including:

- The severity, persistence or pervasiveness of the Prohibited Conduct;
- The nature or violence (if applicable) of the Prohibited Conduct;
- The impact of the Prohibited Conduct on the Complainant;
- The impact or implications of the Prohibited Conduct within the NSU community;
- Prior misconduct by the Respondent, including the Respondent's relevant prior disciplinary history, at NSU or elsewhere, and any criminal convictions;
- Whether the Respondent has accepted responsibility for the Prohibited Conduct;
- The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and Any other mitigating, aggravating, or compelling factors.

The Cabinet level administrator or the President will consult with other administrators as needed, including Human Resources, the Office of the Provost, and the Title IX Coordinator, to ensure that any disciplinary action is appropriate for the violation and consistent with the disciplinary procedures for the Employee type and prior NSU action for similar policy violations. The executive will also determine any other appropriate actions, which may include (1) imposing or extending a No-Contact Directive; (2) imposing or extending academic, NSU housing and/or NSU employment modifications; (3) other restorative remedies for the Respondent, such as formal referral to the Employee Assistance Program and education and training that encourage the Respondent to develop insight about the Prohibited Conduct, learn about the impact of the Prohibited Conduct on the Complainant and NSU community, and identify how to prevent that Prohibited Conduct in the future (including community service and mandatory participation in training, education and/or prevention programs related to the Prohibited Conduct); (4) imposing or extending increased monitoring, supervision, and/or security at locations or in connection with activities where the Prohibited Conduct occurred or is likely to reoccur; (5) arranging for conducting targeted or broad-based educational programming or training for relevant persons or groups; and/or (6) imposing any other remedial or protective measures that are tailored to achieve the goals of the Policy. Any sanction or combination of sanctions imposed upon a Respondent will be documented in the Respondent's personnel file. Nothing in these Procedures prevents the Cabinet level administrator or the President from imposing disciplinary action against a Respondent where the Final Investigation Report demonstrates that the Respondent engaged in other conduct prohibited by NSU, regardless of whether the Respondent has been found responsible for violating the Policy.

c) Notice to the Title IX Coordinator. The Cabinet level administrator or the President will notify the Title IX Coordinator in writing of his or her decision, outlining his or her acceptance or rejection of the Review Panel decision, the rationale for the decision, any sanction(s) against the Respondent, the rationale for such sanction(s) (including why the executive did or did not accept the sanction(s) recommended by the Review Panel), and any other remedial actions for the Complainant, the Respondent and/or community to be implemented as a result of the finding.

d) Notice of Final Outcome to Parties. Within two (2) business days of receipt of either the Review Panel or the executive's decision, the Title IX Coordinator shall notify the Complainant and the Respondent, simultaneously, in writing (which may include email) of the final outcome of the investigation and the rationale for the outcome (the "Final Outcome Letter"). The Final Outcome Letter shall include the name of the Respondent; the violation(s) of the Policy (and, if applicable, the PADH policy) for which the Respondent was found responsible or not responsible, as supported by the rationale set forth in the Final Investigation Report and/or modified by the Review Panel or administrator; the sanction(s) (if applicable) imposed against the Respondent; the rationale for any sanction(s) imposed. The Final Outcome Letter may also identify protective measures implemented with respect to the Respondent or the broader NSU community. The Final Outcome Letter will not disclose any remedial measures provided to the Complainant. Any such remedial measures will be shortly thereafter shared with the Complainant by separate communication.

NSU does not impose any restrictions on the parties regarding re-disclosure of the incident, their participation in proceedings under these Procedures, or the Final Outcome Letter.

e) Decision of Review Panel/Administrator is Final. The decision outlined in this notice is final under the Policy and is not subject to further NSU appeal or grievance. Nothing in these Procedures abrogates post-adjudication rights as provided by state and federal law (i.e., State Grievance Procedure, under Chapter 30 (§2.2-3000 et. seq.) of Title 2.2 of the Code of Virginia; the Office for Civil Rights; and the Equal Opportunity Employment Commission).

## **VII. RECORDS RETENTION**

NSU shall retain all records relating to a report of Prohibited Conduct in accordance with the Library of Virginia Records Retention and Disposition Schedule – General Schedule No. GS-111 for all state agencies.

## SECTION 3 (C)

### **RESOURCE AND REPORTING GUIDE FOR EMPLOYEES: SEXUAL AND GENDER-BASED HARASSMENT AND OTHER FORMS OF INTERPERSONAL VIOLENCE**

Norfolk State University (“NSU” or “University”) is committed to providing a safe and non-discriminatory environment for all members of the NSU community. NSU prohibits Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual and Gender-Based Harassment, Complicity and Retaliation (together, “Prohibited Conduct”). These forms of Prohibited Conduct are defined in NSU’s Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence (the “Policy”). This Resource and Reporting Guide, referred to as the “Employee Resource Guide” in the Policy, provides an overview of University and community resources, including confidential resources, and options for reporting Prohibited Conduct to law enforcement and/or to NSU.<sup>11</sup>

When used in this Employee Resource Guide, the term “Employee” refers to Complainants, Respondents, witnesses or any other NSU employee in need of information, assistance, or support. As outlined in the Policy, NSU offers a wide range of resources for Employees to provide support and guidance throughout the initiation, investigation and resolution of a report of Prohibited Conduct. NSU will offer reasonable and appropriate measures to protect a Complainant and facilitate the Complainant’s continued access to NSU employment or education programs and activities. These measures may be both remedial (designed to address a Complainant’s safety and well-being and continued access to educational opportunities) or protective (involving action against a Respondent). Remedial and protective measures, which may be temporary or permanent, may include no-contact directives, work schedule modifications, interim disciplinary suspension, suspension from employment, and pre-disciplinary leave (with or without pay). Remedial measures are available regardless of whether a Complainant pursues criminal or University disciplinary action.

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<sup>11</sup> This Resource Guide should be read in conjunction with the Policy. Capitalized terms used and not otherwise defined in this Resource Guide are defined in the Policy.

**SECTION 3 (C)**

**RESOURCE AND REPORTING GUIDE FOR EMPLOYEES: SEXUAL AND GENDER-BASED HARASSMENT AND OTHER FORMS OF INTERPERSONAL VIOLENCE**

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**I. UNIVERSITY AND COMMUNITY RESOURCES**

**A. EMERGENCY MEDICAL, LAW ENFORCEMENT AND CRISIS RESPONSE RESOURCES**

1. **Medical Assistance:** An individual who experiences sexual assault or any other form of interpersonal violence is strongly encouraged to seek immediate medical attention at **Sentara Norfolk General Hospital 600 Gresham Drive, Norfolk, Virginia 23507 (757) 388-3000 (main) (757) 388-3551 (Emergency).**

Individuals can receive a forensic sexual assault examination by a Sexual Assault Nurse Examiner (also known as “SANE Nurse”) at **Sentara Norfolk General Hospital Emergency Room located at [600 Gresham Drive, Norfolk, VA 23507](#); (757) 388-3551.** SANE Nurses can assess injuries related to physical trauma; evaluate for sexually-transmitted infections and possible pregnancy; provide medical care (including medications to prevent infections and pregnancy); and can, *within the first 72 hours* after a sexual assault, administer a “forensic exam.”<sup>12</sup>

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<sup>12</sup> Detailed information about obtaining a forensic exam at Sentara Norfolk General Hospital can be accessed at [weblink]

During the forensic exam, the SANE Nurse documents and collects evidence of sexual contact and/or physical trauma (including injuries to the body and genitals), trace evidence, biological fluids, and identifiable DNA. When there is reason to believe that an assault may have been facilitated by the use of drugs or alcohol, the forensic exam may also include the collection of urine and blood samples for toxicology testing. ***Employees are not required to report an incident to law enforcement or NSU in order to receive medical attention or a forensic exam.*** Employees may have a support person of their choosing present throughout the forensic exam.

Regardless of whether a forensic exam is obtained within the first 72 hours after a sexual assault, Employees are encouraged to seek follow-up care to address any ongoing medical concerns, including those related to sexually-transmitted infections and pregnancy. Employees may access follow-up care through any appropriate health care provider outside of NSU.

2. **Law Enforcement:** Employees are urged to report any Prohibited Conduct that may constitute a crime to local law enforcement (“Police”) immediately. Police have unique legal authority to seek and execute search warrants, to collect forensic evidence that may have been left at the scene or at other relevant locations and to make an arrest when supported by probable cause to believe a crime has been committed. Police are also able to assist Employees in seeking Emergency Protective Orders (see below).

Police can be reached by calling “911” (or one of the following other numbers). Incidents that occur on campus fall within the jurisdiction of NSU Police. Incidents that occur off campus within the City of Norfolk fall within the jurisdiction of the City of Norfolk Police. Employees will be directed to the appropriate Police Department when they call “911” or by contacting NSU’s Police Department at (757) 823-8102 or (757) 823-9000. NSU’s Police Department is committed to ensuring that victims and witnesses of criminal offenses receive fair and compassionate treatment throughout the criminal justice process.

3. **Confidential Crisis Resources (Support and Counseling):** Employees are urged to seek immediate emotional support after any incident of Prohibited Conduct. The following confidential sources can provide trauma-informed support and offer information about reporting options.

- Employee Assistance Program (EAP)  
Anthem Blue Cross and Blue Shield (855) 223-9277  
[www.anthemeap.com](http://www.anthemeap.com)
- COVA HealthAware  
Aetna (888) 238-9277
- Kaiser Permanente HMO  
(866) 517-7042  
<http://my.kaiserpermanente.org/mida/commonwealthofvirginia/>
- Sexual Assault Support Services of the YWCA (RESPONSE)  
**1424 McNeil St. Norfolk, VA 23502**  
(757) 226-9922

Employees may also obtain legal services via Legal Resources at 2877 Guardian Lane, Suite 101, Virginia Beach, Virginia 23452. (800) 728-5768.

## **B. UNIVERSITY SUPPORT; REMEDIAL AND PROTECTIVE MEASURES**

NSU Police, NSU Counseling, and the NSU Threat Assessment Team can provide Employees with information, support, and assistance and can arrange for a broad range of remedial and protective measures. NSU Police and Threat Assessment Team employees are Responsible Employees and are therefore required to report information disclosed to them about Prohibited Conduct to NSU's Title IX Coordinator. If a Complainant requests (a) that personally-identifying information not be shared with the Respondent, (b) that no investigation be pursued, and/or (c) that no disciplinary action be taken, NSU will seek to honor this request unless there is a health or safety risk to the Complainant or to any member of the NSU community. The Procedures outlined in Appendix B provide additional guidance about how NSU will evaluate such requests.

The availability of remedial and protective measures will be determined by the specific circumstances of each case. NSU's Chief of Police and the appropriate Deputy Title IX Coordinator, in consultation with the Title IX Coordinator, will consider several factors in determining which measures to take, including the needs of the Employee seeking remedial and/or protective measures; the overall structural and work needs of the relevant unit or department; the severity or pervasiveness of the alleged Prohibited Conduct; any continuing effects on the Complainant; whether the Complainant and the Respondent share the same employment assignment or parking location; and whether other judicial measures have been taken to protect the Complainant (e.g., Protective Orders). When implementing such measures, NSU will seek to minimize the burden on the Employee seeking the measures. For example, if the Complainant and the Respondent share the same employment assignment, NSU will not, as a matter of course, remove the Complainant from the assignment while allowing the Respondent to remain, without carefully considering all options and circumstances.

Protective and remedial measures may be temporary or permanent and may be modified by NSU as circumstances change. Examples of such measures include:

- Imposition of a No-Contact Directive against an Employee or Student (i.e., an order directing one or both of the parties to refrain from contacting the other, directly or through proxies);
- Arranging a meeting with Police to discuss or report Prohibited Conduct;
- Arranging a meeting with Police to discuss safety planning;
- Arranging access to counseling services and assistance in setting up initial appointments;
- Arranging access to medical services and assistance in setting up initial appointments;
- Modifying an Employee's work schedule and/or work location;
- Reassigning an Employee's parking location;
- Changing an Employee's phone number at work;
- Assistance in enforcement of Protective Orders in an Employee's work environment
- Imposing an interim disciplinary suspension and/or pre-disciplinary leave, with or without pay, on the Respondent; and

- Any other measures that may be arranged by NSU (to the extent reasonably available) to ensure the safety and well-being of a Employee who has been affected by Prohibited Conduct.

In some cases, an Employee may choose to seek leave to attend court proceedings or meet other legal obligations. NSIU will endeavor to approve reasonable leave for Employees who have experience Prohibited Conduct to seek Protective Orders, attend court, make custody arrangements, or relocate to a safe living environment. Employees should direct any such requests for leave to their supervisor. Employees and/or supervisors should direct any questions or concerns related to such requests to the Title IX Coordinator.

The Title IX Coordinator will ensure Employees receive written notification of all their rights and options, regardless of whether a Employee chooses to report Prohibited Conduct to NSU or to the Police.

## **II. REPORTING PROHIBITED CONDUCT**

Employees may report Prohibited Conduct to the Police, to NSU, to both or to neither. These reporting options are not exclusive. Complainants may simultaneously pursue criminal and University disciplinary action. NSU will support Complainants in understanding and assessing their reporting options.

### **A. PRESERVATION OF EVIDENCE**

NSU recognizes that making the decision to report Prohibited Conduct often takes time. Nevertheless, pending the decision to report, Employees are strongly encouraged to take immediate steps to preserve all evidence that might support a future report of Prohibited Conduct, a Protective Order, or an investigation by the Police, by NSU, or both. Such evidence may include:

- A forensic sexual assault examination (within 72 hours);
- Any clothing, sheets or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
- Electronic exchanges (e.g., text messages, emails, and Facebook, Instagram, Snapchat or other social media posts, to the extent that they can be captured or preserved);
- Photographs (including photographs stored on smartphones and other devices); and
- Voice-mail messages and other physical, documentary and/or electronic data that might be helpful or relevant in an investigation.

Electronic and photographic evidence may be lost through the upgrade or replacement of equipment (including smartphones), software and/or accounts or may simply be lost to the passage of time.

### **B. REPORTING TO THE POLICE**

Employees have the right to notify Police or decline to notify Police. Employees may contact the Police directly (see Section I, above). Alternatively, Employees may seek assistance in notifying

Police from the Deputy Title IX Coordinator for Employees and the Title IX Coordinator can assist in setting up an initial meeting with Police and can accompany Employees to that meeting. Filing a Police report does not obligate an Employee to participate in any subsequent criminal proceedings. Although a Police report may be made at any time, Employees should be aware that a one-year statute of limitations may apply to certain misdemeanors in Virginia.

### **C. REPORTING TO NSU**

NSU strongly encourages Employees who have experienced, have knowledge of, or have witnessed Prohibited Conduct to make a report to NSU. Under Title IX, once an institution has notice of an act of Prohibited Conduct, it is required to (1) take immediate and appropriate steps to investigate or otherwise determine what occurred; and (2) take prompt and effective action to end any misconduct that occurred; remedy its effects; and prevent its recurrence. Although there is no time limit for reporting Prohibited Conduct to NSU, NSU's ability to respond may diminish over time, as evidence may erode, memories may fade, and Respondents may no longer be affiliated with NSU. If the Respondent is no longer a Student or an Employee, NSU will provide reasonably appropriate remedial measures, assist the Complainant in identifying external reporting options, and take other reasonable steps to respond under Title IX. Making a report to NSU does not require participation in any subsequent NSU proceedings, nor is a report required in order for an Employee to receive support or remedial measures.

Employees are encouraged to report Prohibited Conduct through NSU's online reporting process [<https://surveys.nsu.edu/index.php/958274/lang-en>], or by contacting the Title IX Coordinator. Employees may also make an anonymous report using the online reporting process, using NSU's *LiveSafe App* — Available to download for free on [iPhone](#) and [Android](#) devices, or calling (757) 823-2148.

Employees should be aware that every supervisor, manager, and human resources professional is required to report to the Title IX Coordinator all relevant details about an incident of Prohibited Conduct where both the Complainant and Respondent are Employees.

Upon receipt of a report of Prohibited Conduct, NSU will conduct an initial assessment, a *threat assessment*, and take any immediate action that may be necessary to protect the health and safety of the Employee and the University community, as described in the Procedures attached as Appendix A and Appendix B to the Policy.

### **D. SEEKING A PROTECTIVE ORDER**

Where Prohibited Conduct is reported to the Police, it may be possible to obtain a court-ordered Emergency or Preliminary Protective Order. These Protective Orders may be issued if the judge or magistrate believes that there is an immediate threat to health or safety. Later, after a full hearing, the court may agree to issue a "Permanent" Protective Order, in appropriate cases. A Permanent Protective Order may remain in place for up to two years under Virginia law and, in some cases, may be extended for an additional two years. "Protective Orders" are separate and distinct from "No-Contact Directives" (described above). Protective Orders may be obtained only from a court of law and are enforceable anywhere in the United States; their violation may result



in criminal charges. In contrast, No-Contact Directives are arranged by NSU Police, and are enforceable through NSU. Employees may speak with NSU Police, who can explain the process for seeking a Protective Order, and can escort an Employee to the appropriate office in order to initiate a petition seeking a Protective Order.