



BOV Policy # 05 (2015) Title IX: Sexual Violence, Discrimination, Harassment, and Retaliation

Policy Title: Title IX: Sexual Violence, Discrimination, Harassment, and Retaliation

Policy Type: Board of Visitors

Policy Number: BOV Policy #05 (2015)

Approved: October 26, 2015

Responsible Office: Office of the President

Responsible Executive: Associate Vice President for Human Resources/Title IX Coordinator

Applies to: University Community

POLICY STATEMENT

Norfolk State University (NSU) is committed to providing an environment that emphasizes the dignity, respect and self-worth of every member of its community. NSU’s Title IX Policy promotes a campus community that is free of any form of interpersonal violence which may include harassment, sexual violence, stalking, child abuse/neglect, dating violence and retaliation. NSU prohibits discrimination against anyone on the basis of sex in educational programs and activities as required by the Department of Education’s Office for Civil Rights (OCR). Specifically, discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity or expression, pregnancy, genetic information, disabilities, or any other status protected by law is prohibited. This policy seeks to address all incidents of retaliation against individuals who have filed a report, opposed discriminatory practices, have testified, and/or otherwise participated in investigations or proceedings.

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DEFINITIONS

Campus Security Authorities: Institutional employee with significant responsibility for student and campus activities and/or building relationships with students.

Child Abuse and Neglect: In accordance with the Code of Virginia § 63.2-100, is defined as any abused or neglected child under 18 years of age whose parent or any person responsible for his or her care has engaged in any of the following acts:

- Causes or threatens to cause a non-accidental physical or mental injury;
- Has a child present during the manufacture of a controlled substance or during the unlawful sale of such substance where such activity would constitute a felony violation;
- Neglects or refuses to provide adequate food, clothing, shelter, emotional nurturing, or health care;
- Abandons the child;
- Neglects or refuses to provide adequate supervision in relation to a child's age and level of development;
- Knowingly leaves a child alone in the same dwelling with a person, not related by blood or marriage, who has been convicted of an offense against a minor for which registration is required as a violent sexual offender; or
- Commits or permits an illegal sexual act upon a child, including incest, rape, indecent exposure, prostitution, or the inclusion of a child in sexually explicit visual material.

Complainant: A member of the University community filing a report against a person for a violation of this policy.

Consent: Permission to engage in any form of sexual activity based on explicit understanding and voluntary agreement with a person or persons legally capable of providing consent. Sexual activity with a minor is unlawful with or without consent, as is sexual activity with a person who is incapacitated. A person who passively allows another person to touch her/him in a sexual manner is not demonstrating consent. Silence does not constitute consent. Use of force, coercion, threats, or manipulation to have sex is not consent. It should also be noted that even if a person gives consent, the person has the right to withdraw consent at any time. Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. Previous relationships or prior consent does not imply consent to future sexual acts.

Dating violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. A social relationship of a romantic or intimate nature means a relationship which is characterized by the expectation of affection or sexual involvement between the parties. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence can be a single event or a pattern of behavior



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that includes, but is not limited to, sexual or physical abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic violence: A “felony or misdemeanor crime of violence committed by (a) a current or former spouse or intimate partner of the victim, (b) a person with whom the victim shares a child in common, or (c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner. Domestic violence can be a single event or a pattern of behavior.

Discrimination: Inequitable and unlawful treatment based on an individual's protected characteristics or status—such as race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity or expression, pregnancy, genetic information, disabilities, or any other status protected by law—that excludes an individual from participation in, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in an educational program or activity. Discrimination may include failing to provide a reasonable accommodation, consistent with state and federal law, to persons with disabilities.

Deputy Title IX Coordinator: A designated Norfolk State University employee responsible for providing oversight of the initial intake and investigative processes/procedures for reported Title IX violations involving students, employees, third parties involved in NSU activities which could include contractors, campus visitors, etc. The Deputy Title IX Coordinator will interpret this policy in accordance with the guidance and direction of the NSU Title IX Coordinator.

Employees: All full-time and part-time classified, wage, adjunct, teaching and research, and Administrative and Professional faculty employees subject to federal, state and NSU policies and regulations to include but not limited to the Virginia Department of Human Resource Management policies and procedures, the Faculty Handbook, the Administrative and Professional Faculty Handbook, and/or the NSU Employee Code of Conduct.

Force: The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation, implied threats, coercion and all activities that overcome resistance or produce consent.

Gender-based harassment: A form of sex-based harassment that refers to unwelcome conduct based on an individual’s actual or perceived sex, including harassment based on gender identity or non-conformity with sex stereotypes, and not necessarily involving conduct of a sexual nature.

Harassment: A form of discrimination in which unwelcome verbal, written, or physical conduct is directed toward an individual on the basis of his or her protected characteristics or statuses, by any member of the campus community. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents (see sexual harassment).



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Hostile environment: An environment created by oral, written (including but not limited to electronic or social media messages, etc.), graphic or physical conduct that is sufficiently severe, persistent or pervasive, and objectively offensive that it interferes with, limits or denies the ability of an individual to participate in or benefit from (a) educational programs, services, opportunities, or (b) access to employment-related opportunities. Mere subjective offensiveness is not enough to create a hostile environment. In determining whether conduct is severe, persistent or pervasive, and thus creates a hostile environment, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; (d) the perspective of a "reasonable person" in the same situation as the person subjected to the conduct, and (e) the nature of higher education.

International and undocumented students: NSU protects all students regardless of national origin, immigration status, or citizenship status. The University will ensure that all students regardless of their immigration status, including undocumented and international students, are aware of their rights, existing support services and community resources under Title IX.

Lack of Consent: Occurs when there is a lack of mutual agreement about sexual activity, or there is uncertainty about whether consent has been given. In the case of non-consent, a student or an employee can be charged with and found guilty of committing a sexual assault or sexual misconduct. It is the responsibility of the person initiating sexual activity or contact to receive clear and unambiguous consent or permission from the other person before any sexual activity is initiated. There is no consent by a victim when the acts are committed by force, threat, intimidation, or through use of the victim's mental or physical helplessness of which the accused was aware or should have been aware. There is no consent when a victim is incapable of giving consent because of age limits or emotional, mental or physical incapacity, such as when the victim is incapacitated by alcohol or other drugs.

Responsible Employee: Any employee who has the authority to take action to address sexual violence and/or has been given the duty of reporting acts of sexual violence or other misconduct by students to the Title IX coordinator or another appropriate institution designee, or whom a student could reasonably believe has this authority or duty. All NSU employees, except those specifically excluded from reporting by law or regulation, are considered "Responsible Employees" and are required to report all complaints or incidents. Employees specifically excluded from reporting include a licensed health care professional, an employee providing administrative support to such health care professionals, a professional counselor, an accredited rape crisis or domestic violence counselor, a campus victim support personnel, a member of the clergy, or an attorney.

Respondent: An individual that is accused of violating this policy.

Sexual assault: Non-consensual contact of a sexual nature. It includes any sexual contact when the victim does not or is unable to consent due to the use of force, fear, intimidation, physical



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helplessness, ruse, impairment or incapacity (including impairment or incapacitation as a result of the use of drugs or alcohol, knowingly or unknowingly); intentional and non-consensual touching of, or coercing, forcing, or attempting to coerce or force another to touch a person's genital area, groin, inner thigh, buttocks or breast; and non-consensual sexual intercourse, defined as anal, oral or vaginal penetration with any object.

Sexual exploitation: Occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an individual's sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism, knowingly transmitting HIV or an STD to another, or exposing one's genitals to another in non-consensual circumstances.

Sexual harassment: A form of discrimination based on sex. It is defined as unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature including: verbal (e.g., specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, or sexual threats); non-verbal (e.g., sexually suggestive emails, other writings, articles or documents, objects or pictures, graphic commentaries, suggestive or insulting sounds or gestures, leering, whistling, or obscene gestures); or physical (e.g., touching, pinching, brushing the body, any unwelcome or coerced sexual activity, including sexual assault). Sexual harassment, including sexual assault, can involve persons of the same or different sexes. Sexual harassment may also include sex-based harassment directed toward stereotypical notions of what is female/feminine vs. male/masculine or a failure to conform to those gender stereotypes.

This policy prohibits the following types of sexual harassment:

- **Quid Pro Quo:** This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a University activity are conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity.
- **Hostile environment:** Acts that create a hostile environment, as defined above.

Sexual violence is a form of sexual harassment and refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). Sexual violence includes acquaintance rape, rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.



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Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress, meaning significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. A "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means; follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

Student: A person who was admitted or is enrolled at the University at the time of an alleged violation of Title IX policy.

Title IX Coordinator: Norfolk State University's designated employee responsible for coordinating the University's compliance with Title IX of the Education Amendments of 1972. The Title IX Coordinator is responsible for interpretation of this policy and resolution on all matters pertaining to the Title IX Policy. The Title IX Coordinator monitors outcomes, identifies and addresses patterns, assesses the campus climate, and coordinates the University's response to reports in violation of this policy. Complaints involving the Title IX Coordinator shall be referred to the President for resolution in conjunction with the Virginia Department of Human Resource Management.

Title IX Investigator: Serves as an investigative fact-finder regarding Title IX complaints and discloses evidence to the Deputy Title IX Coordinator and/or Title IX Coordinator.

Title IX Review Committee ("Review Committee"): Designated committee to review information related to acts of sexual violence, and at minimum, make a decision about whether to report information to local law enforcement or the Norfolk Commonwealth's Attorney Office. The Review Committee must consist of a minimum of three persons to include the NSU Title IX Coordinator or Deputy Title IX Coordinator, a representative from Campus Police, and a Student Affairs representative. The Review Committee may include other individuals at the discretion of the Title IX Coordinator. The Review Committee shall consult with and actively engage and seek the advice of University counsel on these matters.

CONTACTS

Questions regarding this policy may be referred to the Title IX Coordinator at 757-823-8160 or via email TitleIX@nsu.edu, and/or to the Department of Education's Office for Civil Rights at (800) 421-3481, 202-453-6020 or email ocr@ed.gov.

POLICY CONTENTS

This policy seeks to comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), 34 C.F.R. Part 106 (1980), and the Violence Against Women Reauthorization Act of 2013 and §23-9.2:15 of the Code of Virginia. This policy addresses all forms



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of sexual violence, discrimination, harassment, and retaliation by Norfolk State University employees, students, or third parties whether such acts occur on campus or off campus.

I. JURISDICTION

This policy applies to on- or off-campus conduct involving all members of the University community, including members of the Board of Visitors, faculty/staff, employees, students, and visitors to campus (including, but not limited to, camp programs participants, non-degree seeking, exchange, and other students taking courses or participating in programs at Norfolk State University); contractors working on campus who are not Norfolk State University employees, and to students, visiting students, employees, faculty and staff participating in Norfolk State University-sponsored activities off campus. This policy also is applicable to any conduct that occurs off-campus with continuing effects that create a hostile environment on-campus.

The Title IX Coordinator will confirm that a report involves a violation of this policy. If the Title IX Coordinator determines that he or she does not have jurisdiction, he or she will offer to assist the complainant and, as appropriate, the respondent in finding appropriate on-campus and off-campus resources to address the issues.

II. NSU TITLE IX COORDINATOR AND DEPUTY TITLE IX COORDINATOR(S) ROLES AND RESPONSIBILITIES:

Norfolk State University has designated the Associate Vice President of Human Resources as the University's Title IX Coordinator. The Title IX Coordinator will work to coordinate the University's efforts to comply with and carry out the institution's responsibilities under this policy and Title IX (20 U.S.C. §1681 et seq.). The Title IX Coordinator will collaborate with the University community to provide consistent interpretation and enforcement of this policy as well as oversee the grievance procedures regarding all Title IX matters to include reports and final resolutions. The Title IX Coordinator's interpretation of this policy supersedes all other University interpretations but is subordinate to the interpretation of the University President. The Title IX Coordinator reserves the right to appoint a designee to act on his or her behalf to execute or provide consistent interpretation of Title IX policies and procedures provided that the Title IX Coordinator remains responsible to the President for the actions of his/her designee. Persons with questions, concerns, or complaints should contact the Title IX Coordinator at (757) 823-8160, via email at TitleIX@nsu.edu, or visit the Department of Human Resource, Norfolk State University, 700 Park Avenue, Harrison B. Wilson Hall, Room 160, Norfolk, Virginia, 23504. Complaints involving the Title IX Coordinator shall be referred to the President for resolution in conjunction with the Virginia Department of Human Resource Management.



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The Equal Employment Opportunity (EEO) Manager position is designated as the Deputy Title IX Coordinator for Employees. The EEO Manager/Deputy Title IX Coordinator for Employees is responsible for interpreting policy and managing the investigative procedures for all employee matters with the guidance and direction of the Title IX Coordinator. The EEO Manager/Deputy Title IX Coordinator for Employees is located in the Department of Human Resources, Norfolk State University, 700 Park Avenue, Harrison B. Wilson Hall - Room 160, Norfolk, Virginia 23504. The Deputy Title IX Coordinator for Employees may be contacted at (757) 823-8138.

The Dean of Students position is designated as the Deputy Title IX Coordinator for Students. The Deputy Title IX Coordinator for Students is responsible for interpreting policy and managing the investigative procedures for all student matters under the guidance and direction of the Title IX Coordinator. The Deputy Title IX Coordinator for Students will address all reports where a student is the respondent or if both the complainant and respondent are NSU students. The Dean of Students Office is located in Room 318 Student Services Center, Norfolk State University, 700 Park Avenue, Norfolk, Virginia 23504. The Dean of Students may be contacted at (757) 451-7768.

The Senior Associate Director for Athletics/ Senior Woman Administrator position is designated as the Deputy Title IX Coordinator for Athletics. The Deputy Title IX Coordinator for Athletics is responsible for interpreting policy and procedures for all Title IX matters pertaining to equitable services and programs within the Athletics Program. The Deputy Title IX Coordinator for Athletics office is located in Echols Hall Room 163, Norfolk State University, 700 Park Avenue, Norfolk, Virginia 23504. The Deputy Title IX Coordinator for Athletics can be contacted at (757) 823-8404.

Complaints involving a Deputy Title IX Coordinator shall be referred to the Title IX Coordinator for resolution.

III. RESPONSIBLE EMPLOYEES/MANDATORY REPORTERS

All employees defined as “Responsible Employees” in this policy’s definitions are considered to be mandated reporters and must report violations of this policy to the Title IX Coordinator without delay. Personally identifiable information of the involved parties must be given. As further noted in the “Responsible Employee” definition, licensed healthcare professionals, counselors, clergy and attorneys are exempt from this requirement except for child abuse and neglect reports. However, not all of these individuals have statutory privilege that would protect communication with a victim from being compelled in litigation, including deposition testimony. Employees must not undertake any independent efforts to determine whether or not a report has merit. If an employee is a victim of a violation of this policy, they are not required to make a report. All other reports should be made to the NSU’s Title IX Coordinator.

Any responsible employee who makes a report by this provision or who testifies in a judicial or administrative proceeding, as a result of such report shall be immune from civil liability alleged to



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have resulted from the report unless the responsible employee acted in bad faith or with malicious intent.

IV. WHO MAY MAKE A REPORT

Employees, students, and third parties (contractors, visitors and/or witnesses) may report violations of this policy through the following options:

Title IX Coordinator. Contact information for NSU's Title IX Coordinator and Deputy Title IX Coordinators is listed below:

Associate Vice President for Human Resources
Title IX Coordinator
700 Park Avenue
160 Wilson Hall
757-823-8160 (office)
757-419-1936 (cell)

Equal Employment Opportunity Manager
Deputy Title IX Coordinator for Employees
700 Park Avenue
160 Wilson Hall
757-823-8160 (office)
757-647-0309 (cell)

Dean of Students
Deputy Title IX Coordinator for Students
700 Park Avenue
318 Student Services Center
757-451-7768 (office)
757-354-0978 (cell)

Senior Associate Athletics Director/Senior Woman Administrator
Deputy Title IX Coordinator for Athletics
700 Park Avenue
Echols Hall 163
757-823-8404 (office)
757-651-6514 (cell)

Online Incident Report Form

- <https://surveys.nsu.edu/index.php/958274/lang-en>



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Anonymous reporting. The University may be limited in its ability to investigate an anonymous report unless sufficient information is furnished to conduct a meaningful and fair investigation. Anonymous reporting may be accomplished through the following:

- *LiveSafe App*— available to download for free on iPhone and Android devices.
- Calling (757) 823-2148.

Confidential resources. The University realizes that some *students or employees* may be unsure about whether to report violations of this policy and may want to speak with someone confidentially. Complainants may receive confidential services to include counseling, medical treatment, advocacy, or emotional support by contacting any of the offices listed below:

- **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 Street, Norfolk, VA 23502
(757) 226-9922
- **Sentara Norfolk General Hospital (Emergency Room)**
600 Gresham Drive, Norfolk, VA 23507
(757) 388-3551

These confidential offices will inform the complainant of his or her right to make a report to law enforcement and/or the Title IX Coordinator. However, reports made to the Counseling Center, Spartan Health Center, RESPONSE (YWCA), or the Emergency Room cannot be disclosed to anyone without the complainant's consent.

If the complainant requests confidentiality or that an investigation not be conducted (other than a report made through a confidential office), NSU may be limited in the actions taken and its ability to respond. The complainant will be asked to sign a statement verifying his or her desire for confidentiality and request not to participate in an investigation.

Law Enforcement. In addition to filing a report with the University, a complainant and/or third party is strongly encouraged to contact University Police and local law enforcement to pursue criminal action at any time. Law enforcement officials may be contacted at any of the following phone numbers:



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

Child Abuse and Neglect Hotline. To report incidents of child abuse and neglect please call the following numbers:

- City of Norfolk Department of Social Services (DSS) 757-664-6022
- Virginia Department of Social Service (DSS)
Child Abuse and Neglect toll-free hotline at 1-800-552-7096

All employees should be aware that there can be penalties for failing to make a required report in accordance with the Code of Virginia. Any person required to make a report and who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, may be fined not more than \$500 for the first failure, and not less than \$1000 for subsequent failures. Persons who knowingly and intentionally fail to make reports in cases involving rape, sodomy, or object sexual penetration, may be guilty of a Class 1 misdemeanor.

Employees should call DSS or the hotline whenever they believe that a person who is caring for a child, who lives with a child, or who works with and around children has caused injury or harm or put the child at risk of physical injury as defined in the Code of Virginia. Some examples include:

- If you see someone hitting a child with an object.
- If you see marks on a child's body that do not appear to have been caused by an accident.
- If a child tells you that he or she has been harmed by someone.
- If a child appears to have been left alone, dressed inappropriately for the weather, or appears to be undernourished.

Child Abuse and Neglect Reporting Requirements for all NSU Employees: In accordance with the Code of Virginia § 63.2-1509 in 2012 the Virginia General Assembly (SB 239) added to the Code that "any person employed by a public or private institution of higher education" is regarded as a "mandated reporter" for child abuse and neglect reporting. All NSU employees are considered mandated reporters and are required to report all instances of child abuse to the City of Norfolk Department of Social Services (DSS) at Child Abuse and Neglect hotline at (757) 664-6022 or the Virginia Department of Social Service Child Abuse and Neglect toll-free hotline at 1-800-552-7096.

V. TITLE IX REVIEW COMMITTEE ROLES AND RESPONSIBILITIES

The University has established a Review Committee to assist with responding to reports of this policy. Once a report is received, the Title IX Coordinator and/or Deputy Title IX Coordinator will



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immediately notify the Review Committee and schedule a meeting within 72 hours in person, via email or telephone.

The Review Committee has the authority to obtain criminal records, pursuant to Virginia Code § 19.2-389 and § 19.2-389.1, health records pursuant to Virginia Code § 32.1- 127.1:03, student conduct or personnel records, and any known facts and circumstances reported by the responsible employee or the Title IX Coordinator or evidence otherwise known to the institution or to law enforcement. The Review Committee, however constituted, shall be considered to be a threat assessment team established pursuant to the Code of Virginia § 23-9.2:10 for two purposes: (i) obtaining criminal history and health information under the provisions cited above; and (ii) exemption of disclosure of records under the Virginia Freedom of Information Act. All meetings and review conducted by the Review Committee shall be in compliance with federal privacy law.

VI. TRAINING

All individuals assisting with the investigation and resolution of reports in violation of this policy (including the Title IX Coordinator, investigators and members of the Title IX Appeals Committee) are required to receive adequate annual training. Training includes how to conduct an investigation that protects the safety of the complainant and what constitutes sexual assault, dating violence, domestic violence, and stalking. Training shall be documented and maintained by the Title IX Coordinator and the Title IX Deputy Coordinators. Training will ensure that these individuals understand the University's grievance procedures.

VII. REMEDIES AND ENFORCEMENT

Any member of the University Community who violates this policy is subject to discipline (which may include permanent dismissal for students or employees). Disciplinary action will be taken in accordance with the following appendices which are incorporated by reference as part of this policy:

- For students: the Title IX Sexual Violence, Discrimination, Harassment, and Retaliation Grievance Procedures for Students (Appendix A), the NSU Code of Student Conduct, NSU policies and procedures, and/or the Commonwealth of Virginia policies and procedures.
- For Faculty and Staff: the Title IX Sexual Violence, Discrimination, Harassment, and Retaliation Grievance Procedures for Employees (Appendix B); the NSU Teaching Faculty Handbook, the NSU Administrative and Professional Faculty Handbook, the Commonwealth of Virginia Department of Human Resource Management Policy 1.60- Standards of Conduct and Policy 2.30 Workplace Violence.
- For NSU Board of Visitors: Section 2.2-108 of the Code of Virginia, the NSU Board of Visitors Bylaws, and/or the applicable Commonwealth of Virginia's policies and procedures.

If Norfolk State University determines that a violation of this policy has occurred, the Office of Human Resources and the Dean of Students Office will be notified to address the student and/or



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employee misconduct based upon the Title IX violation. Immediate action may be needed to eliminate a hostile environment, prevent its recurrence, and address its effects. When necessary or requested, effective corrective action may be taken, including but not limited to, taking interim steps before the final outcome of an investigation, making changes to services or applicable policies, or other necessary action that may protect the complainant and provide due process to the respondent.

Employees violating this policy and the State's policies are subject to disciplinary action under the Virginia Department of Human Resource Management [Policy 1.60 - Standards of Conduct](#). Violent acts by employees occurring outside the workplace may also be grounds for disciplinary action, up to and including dismissal (See Virginia Department of Human Resource Management [Policy 2.30 Workplace Violence](#)). In these situations, the University must demonstrate, in writing that the violent conduct committed has an adverse impact on the employee's ability to perform the assigned duties and responsibilities or that it undermines the effectiveness of the University's activities.

Students violating this policy and/or the [Code of Student Conduct](#) are subject to the student conduct process.

VIII. RETALIATION

Title IX makes it unlawful to retaliate against individuals – including the University's Title IX coordinators – not just when an individual files a complaint alleging a violation of Title IX, but also when an individual participates in a Title IX investigation, hearing, or proceeding, or advocates for others' Title IX rights. Title IX's broad anti-retaliation provision protects Title IX coordinators from discrimination, intimidation, threats, and coercion for the purpose of interfering with the performance of their job responsibilities.

Retaliation against anyone for reporting a violation of this policy is a violation of federal and state laws. It is unlawful to retaliate against anyone for making a complaint, testifying, or participating in an investigation in any manner.

Any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any complainant, person reporting or filing a complaint, or any person cooperating in the investigation of reports to include testifying, assisting or participating in any manner in an investigation pursuant to this policy and the procedures, is strictly prohibited. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed.

Retaliation should be reported immediately to the Title IX Coordinator in the Office of Human Resources (757) 823-8160 or to the University Police Department at (757) 823-8102 or (757) 823-9000. Anonymous calls can be made by calling (757) 823-2148.



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Complaints involving the Title IX Coordinator shall be referred to the President for resolution in conjunction with the Virginia Department of Human Resource Management. Complaints involving a Title IX Deputy Coordinator shall be referred to the Title IX Coordinator for resolution.

IX. AMNESTY FOR STUDENTS

The University encourages the reporting of violations of the [*Code of Student Conduct*](#) and crimes to Campus Police and the Dean of Students Office. The University realizes that students are sometimes hesitant to report Title IX violations. Due to their fear that they themselves may receive sanctions for behaviors that would otherwise be considered a violation. To create a culture of reporting, the University may not charge students with minor violations. Amnesty will be considered on the following occasions:

- When a student is a victim of misconduct.
- When a student offers assistance to others in need.
- When a student brings a drug/alcohol dependency issue to the attention of a University official for assistance.

The University may impose educational options as opposed to sanctions in such cases, at the discretion of the student conduct officer.

Amnesty may not be offered if a minor disciplinary infraction places or placed the health or safety of any other person at risk or if the student who committed the disciplinary infraction previously has been found to have committed the same disciplinary infraction.

X. PRIVACY

A report of sexual violence may result in the gathering of extremely sensitive information about individuals in the NSU community. While such information is considered confidential, the NSU policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of sexual misconduct. In such cases, every effort will be made to redact the records in order to protect the privacy of individuals.

XI. RETENTION OF RECORDS

The Title IX Coordinator maintains, in a confidential manner, for at least ten (10) years paper or electronic files of all training, reports, witness statements, documentary evidence, written investigation reports, resolutions, appeals, and associated documents. The Title IX Coordinator will prepare a monthly summary of pending reports and provide a copy to the President of the University. Such summary will contain sufficient information to permit the Title IX Coordinator to assess NSU's compliance with the requirements of Title IX.



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PUBLICATION

This policy will be widely published or distributed to the University community. To ensure timely publication and distribution thereof, the Office of the President shall make every effort to:

- Communicate the policy in writing, electronically or otherwise, to the University community within 14 days of Board of Visitors approval;
- Submit the policy for inclusion in the online Policy Library within 14 days of Board approval;
- Post the policy on the Board of Visitors and University Websites; and
- Direct appropriate offices to educate and train all stakeholders and appropriate audiences on the policy's content, as necessary.

Failure to satisfy procedural requirements does not invalidate this policy.

REVIEW SCHEDULE

- Next Scheduled Review: 06/04/2016
- Approved by, date: Board of Visitors, October 26, 2015
- Supersedes: BOV Policy #5 (2014) Sexual Misconduct

RELATED DOCUMENTS

1. [Appendix A: Title IX Grievance Procedures for Students \(attached\)](#)
2. [Appendix B: Title IX Grievance Procedures for Employees \(attached\)](#)
3. [Virginia Department of Human Resource Management Policy Number 1.80 - Workplace Violence \(5/01/2002\)](#)
4. [Virginia Department of Human Resource Management Policy Number 1.60 Standards of Conduct](#)
5. [Virginia Department of Human Resource Management Policy Number 2.30 Workplace Harassment](#)
6. [Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 et seq.](#)
7. [Title IX Regulations, 34 C.F.R. Part 106 \(1980\)](#)
8. U.S. Department of Education Office for Civil Rights [Dear Colleague Letter](#)
9. [Know Your Rights](#)
10. [Norfolk State University Student Handbook](#)
11. NSU's Sexual Violence, Discrimination, Harassment, and Retaliation Procedures for Students
12. NSU's Sexual Violence, Discrimination, Harassment, and Retaliation Procedures for Employees
13. [Campus Sexual Violence Resource List](#)
14. <http://law.lis.virginia.gov/vacode/63.2-1509/>



BOV Policy # 05 (2015) Title IX: Sexual Violence, Discrimination, Harassment, and Retaliation

FORMS

1. [Online Incident Report Form](#)



Appendix A: Title IX: Sexual Violence, Discrimination, Harassment and Retaliation Grievance Procedures for Students

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I. OVERVIEW

These procedures provide a prompt and equitable resolution for reports of discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, gender expression, pregnancy, genetic information, against, disabilities, or based on any other status protected by law, including reports of sexual harassment or sexual misconduct prohibited by Norfolk State University’s policy on Discrimination, Harassment, Sexual Violence, and Retaliation. These procedures also address any reports of retaliation against individuals who have filed a report, opposed discriminatory practices, have testified, and/or otherwise participated in investigations or proceedings.

II. REPORTING

The University urges anyone who becomes aware of an incident of a Title IX violation involving a student to immediately report the incident to the University according to the following reporting procedure.

The Title IX Coordinator oversees the handling and resolution of all matters that are related to any forms of interpersonal violence which may include harassment, sexual violence, stalking, child abuse/neglect, dating violence and retaliation. The Deputy Title IX Coordinator(s) for Students, Employees and Athletics will be available to take all reports by telephone, email or in person during regular office hours. Below are, telephone numbers, e-mail addresses and office addresses where Title IX incidents can be reported:

- Associate Vice President for Human Resources
 Title IX Coordinator
 700 Park Avenue
 160 Wilson Hall
 757-823-8160 (office)
TitleIX@nsu.edu

Title IX Sexual Violence, Discrimination, Harassment, and Retaliation Grievance Procedures for Students

- Equal Employment Opportunity Manager
Deputy Title IX Coordinator for Employees
700 Park Avenue
160 Wilson Hall
757-823-8160 (office)
TitleIX-employees@nsu.edu

- Dean of Students
Deputy Title IX Coordinator for Students
700 Park Avenue
318 Student Services Center
757-451-7768 (office)
TitleIX-students@nsu.edu

- Senior Associate Director for Athletics/Senior Woman Administrator
Deputy Title IX Coordinator for Athletics
700 Park Avenue
Echols Hall 163
757-823-8404 (office)
TitleIX-athletes@nsu.edu

Students can make an anonymous report to the Deputy Title IX Coordinator by submitting an **online incident report form**. The University may be limited in its ability to investigate an anonymous report unless sufficient information is furnished to conduct a meaningful and fair investigation.

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

The University realizes that some students may be unsure whether to report violations of this policy and may want to speak with someone confidentially. Complainants may receive **CONFIDENTIAL** services to include counseling or emotional support by contacting any of the offices listed below.

Counseling Center (on-campus)
Student Services Center, Suite 312
(757) 823-8173 or (757) 352-8121 (24/7 hotline and after hours/weekends/holidays)

Spartan Health Center (on-campus)
Spartan Station
(757) 747-7607

Sexual Assault Support Services of the YWCA (RESPONSE)
5215 Colley Avenue Norfolk, VA 23508
(757) 226-9922

Title IX Sexual Violence, Discrimination, Harassment, and Retaliation Grievance Procedures for Students

Sentara Norfolk General Hospital (Emergency Room)

600 Gresham Drive, Norfolk, VA 23507
(757) 388-3551

These on and off-campus offices will encourage victims to make a report to the University Police Department (PD), the Title IX Coordinator, or local law enforcement. However, confidential reports made to the Counseling Center, Spartan Health Center, and RESPONSE (YWCA) cannot be disclosed to anyone without the victim's consent.

If the complainant requests confidentiality or does not wish to participate in an investigation, NSU may be limited in the actions that can be taken and its abilities to respond to the allegations. The complainant will be asked to sign a statement verifying his or her desire for confidentiality; his or her request not to participate in an investigation, and/or a request that the investigation not be pursued.

Law Enforcement. In addition to filing a report with the University, a complainant is strongly encouraged to contact law enforcement officials to pursue criminal action at any time or to report safety concerns. Law enforcement officials may be contacted at any of the following phone numbers.

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

III. EXPECTATIONS AND RESPONSIBILITIES

Through these procedures, complainants and respondents can expect:

- Written notice of an investigation, including the potential policy violation and the nature of the alleged Title IX violation;
- The opportunity to offer information, present evidence, and/or identify witnesses relevant to the determination of a policy violation and any sanction(s) imposed;
- Timely notice of any meeting or any relevant proceeding in accordance with these procedures where the party's presence may be requested;
- The opportunity to have an advisor of choice, including an attorney, attend any meetings or any relevant proceedings in accordance with these procedures where the party's presence may be requested;
- Timely and equal access to any information that will be used during informal or formal resolution proceedings and related meetings;
- A reasonable length of time to prepare any response contemplated by these procedures;
- Prompt and equitable resolution under these procedures;
- Written notice of any extension of time frames for good cause;
- Privacy in accordance with the policy and any legal requirements;

Title IX Sexual Violence, Discrimination, Harassment, and Retaliation Grievance Procedures for Students

- The opportunity to articulate concerns or issues about the process and to appeal the assignment of a Title IX Investigator (s) or a member of the Title IX Review Committee (“Review Committee”) due to bias or a conflict of interest;
- Written notice of the outcome, imposition of any sanction(s), and the rationale for each;
- Reasonably available interim remedial measures;
- Freedom from retaliation, harassment or intimidation;

Both the complainant and respondent are responsible for providing truthful information while participating in an investigation. In addition, retaliation, harassment, and/or the intimidation of an individual who participates in an investigation is expressly prohibited.

IV. INITIAL ASSESSMENT

Upon receipt of a report of a Title IX violation regarding a student, the Deputy Title IX Coordinator will make an initial assessment of the information and respond to any immediate health or safety concerns. In this initial assessment, the Deputy Title IX Coordinator will:

- Assess the complainant’s safety and well-being and offer the University’s immediate support and assistance;
- Inform the complainant of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
- Inform the complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- Inform the complainant about University and community resources, the right to seek appropriate and available remedial and protective measures, and how to request those resources and measures, to include appropriate changes in academics, housing, transportation, and working situation;
- Inform the complainant of the right to seek resolution under these procedures, and determine whether the complainant wishes (a) to seek such resolution, or (b) to request confidentiality (i.e., that their name or other identifying information not be shared with the respondent, that no investigation be pursued, and/or that no disciplinary action be taken);
- Explain the University’s prohibition against retaliation;
- Assess the nature and circumstances of the report, including whether it provides any identifiable information;
- Ascertain the ages of the complainant and the respondent and, whether either of the parties is a minor (under 18), and, if applicable, contact the appropriate child protective service agency; and
- 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 necessary actions to meet those obligations.

The Deputy Title IX Coordinator shall ensure that complainants receive a written explanation of available resources on and off campus. When a decision is reached to impose interim protective measures, to initiate an investigation or to take any action that involves notifying a respondent, the

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Deputy Title IX Coordinator will also ensure that the respondent receives a written explanation of available resources and options and is offered the opportunity to meet with the Deputy Title IX Coordinator to discuss those resources and options.

The Deputy Title IX Coordinator shall provide written notification to the Title IX Coordinator of all official Title IX reports within 24 hours.

V. TITLE IX REVIEW COMMITTEE

The University has established a review committee to assist with responding to reports of violations of NSU Title IX policy and applicable laws. Once a report is received, the Title IX Coordinator and/or Deputy Title IX Coordinator will immediately notify the Title IX Review Committee (“Review Committee”) and schedule a meeting within 72 hours in person, via email or via telephone. The Review Committee must consist of a minimum of three persons to include the NSU Title IX Coordinator or Deputy Title IX Coordinator, a representative from Campus Police, and a Student Affairs Representative. The University may include other individuals at the discretion of the Title IX Coordinator.

The Review Committee operates pursuant to Va. Code §23-9.2:15 and has access under Virginia law to certain otherwise confidential information, including law enforcement records and 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; available university disciplinary, academic and/or personnel records, known facts and circumstances of the reported information or information or evidence known to the institution or to law enforcement, including prior reports of Title IX violations maintained by the Title IX Coordinator. The Review Committee will have access to all available facts and circumstances and may seek additional information about the reported incident through any other legally permissible means. The Review Committee will be considered a threat assessment team established pursuant to Va. Code §23-9.2:10 for purposes of (i) obtaining criminal history record information and health records and (ii) the Virginia Freedom of Information Act (§2.2-3700 et seq.). The Review Committee shall conduct its review in compliance with federal privacy law. (Va. Code §23-9.2:15 (D)).

A. HEALTH OR SAFETY RISK

The Review Committee will determine whether the report and any other available information presents a rational basis for concluding that there is a risk of serious harm to the complainant or any member of the University community. The Review Committee will make this determination based upon the following “Risk Factors”:

- Whether the respondent has prior arrests, reports and/or complaints related to any form of Title IX violation or any history of violent behavior;
- Whether the respondent has a history of failing to comply with any University no-contact directive, other University protective measures, and/or any judicial protective order;
- Whether the respondent has threatened to commit violence or any form of Title IX violation in the future;
- Whether the Title IX violation involved multiple respondents;

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

B. ACTIONS FOLLOWING REVIEW COMMITTEE’S ASSESSMENT

Upon completion of its assessment, the Review Committee will determine the appropriate course of action under these procedures, which may include:

- (1) no further action;
- (2) informal resolution; or
- (3) formal resolution.

In making this determination, the Review Committee will consider the complainant’s preference for pursuing University resolution and the manner in which any subsequent action(s) might impact the complainant. The Review Committee will also consider (a) any evidence showing that the respondent made statements of admission or otherwise accepted responsibility for the Title IX violation, (b) the existence of any independent information or evidence regarding the Title IX violation, and any other available and relevant information.

Where the Review Committee determines that the report raises a health or safety risk to the complainant and/or to the University community, the Review Committee will direct the Title IX Coordinator to take any appropriate University actions, which may include: (a) initiating an investigation and formal resolution under these procedures; (b) arranging, imposing or extending any other appropriate remedial and/or protective measures; and/or (c) reporting information to any external agency as required or permitted by law.

The University’s ability to provide a meaningful investigation and response to a report may be limited if the complainant requests that their name not be disclosed to the respondent or declines to participate in an investigation. 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 Title IX violation, such as recordings from security cameras, corroborating reports from other witnesses, or physical evidence). However, in the absence of

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such other evidence, the University will only be able to respond to the report in limited and general ways, such as providing targeted training or prevention programs and/or offering appropriate remedial measures to the complainant. In such cases, the report and threat assessment will be documented and retained by the University, in accordance with applicable law.

Consistent with its obligation to ensure the health and safety of the University community, where the University determines that it must move forward with an investigation despite a complainant's request for confidentiality, the University will notify the complainant and will make reasonable efforts to protect the privacy of the complainant to the extent possible. However, certain actions that may be required as part of the University's response, including an investigation and disciplinary resolution, 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 University will notify the complainant that it intends to move forward with an investigation. The complainant, however, will not be required to participate in any such actions undertaken by the University.

The Deputy Title IX Coordinator will inform the complainant of the chosen course of action and of any additional actions taken by the University to address a health or safety risk. A complainant who has (i) requested confidentiality, (ii) requested no investigation and/or (iii) requested that no disciplinary action be taken against the respondent, may, at any time, request that the report be re-opened and pursued under these procedures. The Title IX Coordinator may also request that a report be re-opened and pursued under these procedures if any new or additional information becomes available.

C. NOTICE OF INTERIM MEASURES

The respondent will be notified and be given an opportunity to respond when the University takes interim protective measures or other actions that will directly affect the Respondent. The Title IX Coordinator has the discretion to ensure the appropriateness of any interim measure based on all available information. An interim protective measure will remain in effect until the resolution of the report by the Review Committee, unless new circumstances arise which warrant reconsideration of the protective measure prior to the conclusion of the Review Committee. A complainant or respondent may challenge an interim protective measure or other action, or failure to impose such, by contacting the Title IX Coordinator to address any concerns.

VI. RESOLUTION

Incidents violating this policy may be resolved informally or formally. For reported violations of this policy, other than sexual assault, the complainant and respondent have the option to seek informal resolution as approved by the Title IX Coordinator. The Deputy Title IX Coordinator will explain the available informal and formal resolutions to both the complainant and respondent. The Deputy Title IX Coordinator will ensure that there is no conflict of interest in the investigation and resolution of reports.

The past sexual history or sexual character of the complainant or respondent, with anyone other than each other, will not be considered during the investigation. However, demonstration of a

Title IX Sexual Violence, Discrimination, Harassment, and Retaliation Grievance Procedures for Students

pattern of repeated and/or predatory behavior by the respondent in the form of previous findings will be considered. The complainant or respondent will be notified in advance of any information that is considered.

The Title IX Coordinator will comply with all requests for cooperation with investigations made by the University Police Department (PD) or local law enforcement agency. A description of any evidence and information from the institution's Title IX investigation may be shared with University PD or local law enforcement agency. Such cooperation may require the Title IX Coordinator or Title IX Investigator to temporarily suspend an investigation/fact-finding while the University PD or local law enforcement gathers evidence. The Deputy Title IX Coordinator or Title IX Investigator will promptly resume the investigation when notified by University PD or law enforcement agency that it has completed the evidence-gathering process. The University may still proceed with its investigation, regardless of the outcome of criminal proceedings.

Students should be aware that the criminal (law enforcement) and Student conduct (University) processes are separate, but may occur concurrently.

INFORMAL RESOLUTION

These procedures provide the option of resolving Title IX incidents informally or formally. The Review Committee will determine which option is appropriate based upon an assessment of the risk factors.

Participation in informal resolution is voluntary. The University will not compel a complainant or respondent to engage in informal resolution or directly confront the respondent. Cross-examination by either party or their representative or counsel is not permitted. The University will allow a complainant or respondent to withdraw from informal resolution at any time. The University may decline the request for informal resolution in any particular case and may terminate an ongoing informal resolution process at any time based upon known risk factors. Pursuing informal resolution does not preclude later use of formal resolution if the informal resolution fails to achieve a resolution acceptable to the parties and the University. Where the complainant or the respondent withdraws from informal resolution, or if informal resolution is otherwise terminated for any reason, any statements or disclosures made by the parties during the course of the informal resolution may be considered in a subsequent investigation and formal resolution.

With any form of informal resolution, each party has the right to consult with an advisor of their choosing. 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 informal 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.

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Informal Resolution may include:

Resolution with the Assistance of a Third Party: A complainant may seek assistance from the Title IX Coordinator in informally resolving a report of Title IX violations. The Title IX Coordinator can arrange to have a trained representative facilitate a meeting or meetings between the parties. The availability of this form of informal resolution, and any resolution reached through such form of informal resolution, is subject to the agreement of the Title IX Coordinator, the complainant and the respondent. This form of informal resolution may not be used where the allegation involves a sexual assault incident.

Interventions and Remedies: Informal resolution agreements may involve a host of interventions and remedies, such as (a) actions designed to maximize the complainant's access to educational, extracurricular, and/or university employment activities; (b) increased monitoring, supervision, and/or security at locations or activities where the reported Title IX violation occurred or is likely to reoccur; (c) targeted or broad-based educational programming or training for relevant individuals or groups; (d) academic and/or university housing modifications for students complainants;(e) workplace modifications for student complainants, and 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 achieve the goals of the Title IX policy.

Any form of informal resolution and any combination of interventions and remedies may be utilized. If an agreement acceptable to the University, the complainant, and the respondent is reached through informal 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 either party fails to comply with the terms of the informal resolution, the matter may be referred for an investigation and/or formal resolution under these procedures.

Informal resolution must adequately address the concerns of the complainant, rights of the respondent, and the responsibility of University to prevent, address, and remedy reported violations of this procedure. Informal resolution remedies may include training, counseling referrals, a student plan of action and/or use of sanctions through the [Code of Student Conduct](#).

FORMAL RESOLUTION

Formal resolution is commenced when:

- A complainant reports that a student has engaged in one or more instances of a reported Title IX violation and requests that the Title IX/Deputy Title IX Coordinator initiate an investigation and resolution under these procedures;
- An informal resolution process does not resolve a reported violation of this policy and the Title IX Coordinator determines that an investigation is required based upon risk factors.

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- At the conclusion of the University's Review Committee evaluation, the Review Committee has determined that the presence of one or more risk factors requires an investigation of the reported violation.

Investigation. Under any of the preceding three (3) circumstances, the Deputy Title IX Coordinator will designate one or more investigator(s) to conduct a prompt, thorough, fair, and impartial investigation.

Notice of Investigation. The Deputy 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 reported violation;
- (3) Identify the reported policy violation(s);
- (4) Identify the investigator(s);
- (5) Include information about the parties' respective rights and responsibilities under this policy and procedures;
- (6) Explain the prohibition against retaliation;
- (7) Instruct the parties to preserve any potentially relevant evidence in any format;
- (8) Inform the parties on how to appeal the assignment of an investigator due to a conflict of interest; and
- (9) Provide a copy of this policy and procedures.

The investigator(s) will conduct a prompt, adequate, reliable, and impartial investigation of the report. Typically an investigation, not including the time necessary for appeals, will be completed within 60 calendar days of receipt of notice. If extension of the investigation beyond 60 calendar days is necessary, the respondent and complainant will be notified of the expected time frame.

In determining whether the reported harassment has created a hostile environment, the investigator(s) will consider not only whether the conduct was unwelcome to the complainant, but the severity or pervasiveness of the conduct and whether a reasonable person, similarly situated to the complainant, would have perceived the conduct to be offensive.

Draft Investigation Report. At the conclusion of the investigation, the investigator(s) will prepare a draft investigation report summarizing the information gathered. This report will not include a finding of "responsible" or "not responsible". In most cases, the report will be provided simultaneously to the complainant and respondent within 60 calendar days of notice of the report. If an extension of the 60 calendar day time frame is necessary, the complainant and respondent will be notified of the expected time frame for completion of the report. The complainant and respondent will be provided five (5) business days to review and respond to the investigation report. During this time, the complainant and respondent may submit additional comments and information, identify any additional witnesses or evidence, and submit any further questions that they believe should be directed by the investigator(s) to the other party or to any witness.

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The investigator(s) will submit the investigation report to the Deputy Title IX Coordinator, including all the facts, any findings and identified violations. The findings will be based on a preponderance of the evidence standard (i.e., whether it is more likely than not) that a violation did occur. The rationale for the finding(s) must also be included in the investigation report. The Deputy Title IX Coordinator will review the findings utilizing the preponderance of the evidence that a violation of this policy did not occur. The Deputy Title IX Coordinator will include the rationale for this decision in the report and will submit it to the Title IX Coordinator.

Final Investigation Report. If the Title IX Coordinator finds by a preponderance of the evidence that a violation of this policy did occur, the Title IX Coordinator will refer the matter to a conduct officer in the Dean of Students Office to initiate the sanctioning process.

The Title IX Coordinator will provide the final investigation report to both the complainant and respondent, including the actions/remedies that will be taken to eliminate a hostile environment, if one was found to exist and to prevent its recurrence. The Title IX Coordinator will disclose to the complainant within five (5) calendar days of notification the respondent's sanctions that directly relate to the complainant as permitted by state and federal law including the Federal Educational Rights and Privacy Act (FERPA) and the Virginia Freedom of Information Act. The Title IX Coordinator will also disclose to the complainant in writing the final results of a disciplinary proceeding involving the respondent with regard to forcible or non-forcible sex offense, stalking, domestic violence or dating violence against the complainant, as permitted by state and federal law including FERPA and the Virginia Freedom of Information Act.

SANCTIONS

Sanctions for students are determined in accordance with the *NSU Code of Student Conduct*. The conduct officer will provide the recommended sanctions to the Dean of Students for inclusion in the final investigation report. If interim measures have been taken, the Deputy Title IX Coordinator in consultation with Title IX Coordinator will determine the status of continuation, suspension, or modification of any interim measures.

APPEALS

The complainant or respondent has the right to appeal the investigative findings and/or imposed sanctions by the Title IX Coordinator. Such an appeal should be filed within five (5) business days of receipt of the outcome to the Title IX Coordinator. The appeal process is not designed to initiate a new investigation.

The appeal must include a written summary outlining one or more of the following basis or rationales as described below:

- Consideration of new evidence unavailable at the time of the investigation that could substantially impact the investigator's finding;
- Consideration of a procedural error in the investigation process that is of such magnitude as to deny fundamental fairness.

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The Title IX Coordinator will acknowledge receipt of the appeal in writing, assess the appeal to determine if the appeal was filed within five (5) business days, and if the basis for appeal is consistent with this title IX policy and its procedures. If the appeal does not meet the aforementioned criteria, the appeal will be denied. If the appeal meets the criteria, the respondent and complainant will be provided an opportunity to review and respond in writing to the Title IX Coordinator within (5) business days from the date of receipt of the appeal. Three (3) trained faculty and staff members from the Title IX Appeals Committee will review all written documentation supporting the basis for the appeal. The Title IX Appeals Committee members may request to speak with the Title IX Coordinator, Deputy Title Coordinator, or investigator(s) regarding the finding(s) and/or sanction(s). In addition, the Title IX Appeals Committee may seek advice regarding procedures and laws from the Office of the University Counsel.

The Title IX Appeals Committee will provide a written decision to the complainant and respondent within 10 business days from the date of receipt of the appeal. The Title IX Appeals Committee may uphold the outcome, modify the outcome to include the impositions of penalties, return the matter to the Title IX Coordinator to consider new evidence, or require the Deputy Title IX Coordinator to address a procedural error of the investigation. The decision of the Title IX Appeals Committee is final.

Members of the university Title IX Appeals Committee are required to receive training before they are assigned to review Title IX appeals. The training is coordinated by the Title IX Coordinator or appointed designee. The training includes, but is not limited to, an overview of Title IX as it relates to sexual assault and harassment, unique issues and ethics involved in sexual assault and harassment cases, evidence standards, and procedures for interrogating witnesses.



Appendix B: Title IX Sexual Violence, Discrimination, Harassment and Retaliation Grievance Procedures for Employees

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I. OVERVIEW

These procedures provide a prompt and equitable resolution of reports of discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, gender expression, pregnancy, genetic information, disabilities, or based on any other status protected by law, including reports of sexual harassment or sexual misconduct prohibited by Norfolk State University’s policy on Discrimination, Harassment, Sexual Violence, and Retaliation. These procedures also address any reports of retaliation against individuals who have filed a report, opposed discriminatory practices, have testified, and/or otherwise participated in investigations or proceedings.

II. REPORTING

The University urges anyone who becomes aware of an incident of a Title IX violation involving an employee to immediately report the incident to the University according to the following reporting procedure.

The University Title IX Coordinator oversees the handling and resolution of all matters that are related to any forms of interpersonal violence which may include harassment, sexual violence, stalking, child abuse/neglect, dating violence and retaliation. The Deputy Title IX Coordinator(s) for Students, Employees and Athletics will be available to take all reports by telephone, email or in person during regular office hours. Below are the telephone numbers, e-mail addresses and office addresses of the appropriate University officials listed below:

- Associate Vice President for Human Resources
Title IX Coordinator
700 Park Avenue
160 Wilson Hall
757-823-8160 (office)
TitleIX@nsu.edu

Title IX Sexual Violence, Discrimination, Harassment, and Retaliation Grievance Procedures for Employees

- Equal Employment Opportunity Manager
Deputy Title IX Coordinator for Employees
700 Park Avenue
160 Wilson Hall
757-823-8160 (office)
757-647-0309 (cell)
TitleIX-employees@nsu.edu

- Dean of Students
Deputy Title IX Coordinator for Students
700 Park Avenue
318 Student Services Center
757-451-7768 (office)
TitleIX-students@nsu.edu

- Senior Associate Director for Athletics/Senior Woman Administrator
Deputy Title IX Coordinator for Athletics
700 Park Avenue
Echols Hall 163
757-823-8404 (office)
TitleIX-athletes@nsu.edu

Employees can make an anonymous report to the Deputy Title IX Coordinator by submitting an online **incident report form**. The University may be limited in its ability to investigate an anonymous report unless sufficient information is furnished to conduct a meaningful and fair investigation.

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

The University realizes that some employees may be unsure about whether to report violations of this policy and may want to speak with someone confidentially. Complainants may receive **CONFIDENTIAL** services to include counseling or emotional support by contacting any of the offices listed below.

Counseling Center (on-campus)
Student Services Center, Suite 312
(757) 823-8173 or (757) 352-8121 (24/7 hotline available after hours/weekends/holidays)

Spartan Health Center (on-campus)
Spartan Station
(757) 747-7607

**Title IX Sexual Violence, Discrimination, Harassment, and Retaliation
Grievance Procedures for Employees**

Sexual Assault Support Services of the YWCA (RESPONSE)

5215 Colley Avenue, Norfolk, VA 23508
(757) 226-9922

Sentara Norfolk General Hospital (Emergency Room)

600 Gresham Drive, Norfolk, VA 23507
(757) 388-3551

Employee Assistance Program (EAP)

Your EAP specialist or care manager will arrange a referral according to your specific needs. Contact your plan's Member Services department for more information.

**COVA Care and COVA HDHP
Anthem Blue Cross and Blue Shield**

Member Services: 1-855-223-9277
www.anthemead.com

COVA HealthAware
Aetna 1-888-238-6232
www.covahealthaware.com

Kaiser Permanente HMO
(866) 517-7042 (toll free)
<http://my.kaiserpermanente.org/mida/commonwealthofvirginia/>

These on and off campus offices will encourage victims to report incidents to the University Police Department (PD), the Title IX Coordinator, or local law enforcement officials. However, confidential reports made to the Counseling Center, Spartan Health Center, RESPONSE (YWCA), Emergency Room, or Employee Assistance Program cannot be disclosed to anyone without the victim's consent.

If the complainant requests confidentiality or does not wish to participate in an investigation, NSU may be limited in the actions that can be taken and its ability to respond to the allegation(s). The complainant will be asked to sign a statement verifying his or her desire for confidentiality; his or her request not to participate in an investigation, and/or a request that the investigation not be pursued.

Law Enforcement. In addition to filing a report with the University, a complainant is strongly encouraged to contact law enforcement officials to pursue criminal action at any time or to report safety concerns. Law enforcement officials may be contacted at any of the following phone numbers:

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

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III. EXPECTATIONS AND RESPONSIBILITIES:

Through these procedures, complainants and respondents can expect:

- Written notice of an investigation, including the potential policy violation and the nature of the alleged Title IX violation;
- The opportunity to offer information, present evidence, and/or identify witnesses relevant to the determination of a policy violation and any sanction(s) imposed;
- Timely notice of any meeting or any relevant proceeding in accordance with these procedures where the party's presence may be requested;
- The opportunity to have an advisor of choice, including an attorney, attend any meetings or any relevant proceedings in accordance with these procedures where the party's presence may be requested;
- Timely and equal access to any information that will be used during informal or formal resolution proceedings and related meetings;
- A reasonable length of time to prepare any response contemplated by these procedures;
- Prompt and equitable resolution under these procedures;
- Written notice of any extension of time frames for good cause;
- Privacy in accordance with the policy and any legal requirements;
- The opportunity to articulate concerns or issues about the process and to appeal the assignment of a Title IX Investigator (s) or a member of the Review Committee due to bias or a conflict of interest;
- Written notice of the outcome, imposition of any sanction(s), and the rationale for each;
- Reasonably available interim remedial measures;
- Freedom from retaliation, harassment or intimidation.

Both the complainant and respondent are responsible for providing truthful information while participating in an investigation. In addition, retaliation, harassment, and/or the intimidation of an individual who participates in an investigation is expressly prohibited.

IV. INITIAL ASSESSMENT

Upon receipt of the report of a Title IX violation regarding an employee, the Deputy Title IX Coordinator will make an initial assessment of the reported information and respond to any immediate health or safety concerns. In this initial assessment, the Deputy Title IX Coordinator will:

- Assess the complainant's safety and well-being and offer the University's immediate support and assistance;
- Inform the complainant of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
- Inform the complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- Inform the complainant about university and community resources, the right to seek appropriate and available remedial and protective measures, and how to request those

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resources and measures, to include appropriate changes in academics, housing, transportation, and working situations;

- Inform the complainant of the right to seek resolution under these procedures, and determine whether the complainant wishes (a) to seek such resolution, or (b) to request confidentiality (i.e. that their name or other identifying information not be shared with the respondent, that no investigation be pursued, and/or that no disciplinary action be taken);
- Explain the University's prohibition against retaliation;
- Assess the nature and circumstances of the report, including whether it provides any identifiable information;
- Ascertain the ages of the complainant and the respondent, determine whether either of the parties is a minor (under 18), and, if applicable, contact the appropriate child protective service agency; and
- 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 necessary actions to meet those obligations.

The Deputy Title IX Coordinator shall ensure that complainants receive a written explanation of available resources on and off campus. When a decision is reached to impose interim protective measures, to initiate an investigation, or to take any action that involves notifying a respondent; the Deputy Title IX Coordinator will also ensure that the respondent receives a written explanation of available resources and options, and is offered the opportunity to meet with the Deputy Title IX Coordinator to discuss those resources and options.

The Deputy Title IX Coordinator shall provide written notification to the Title IX Coordinator of all official Title IX reports within 24 hours.

V. TITLE IX REVIEW COMMITTEE

The University has established a review committee to assist with responding to reports of violations of NSU Title IX policy and applicable laws. Once a report is received, the Title IX Coordinator and/or Deputy Title IX Coordinator will immediately notify the Title IX Review Committee ("Review Committee") and schedule a meeting within 72 hours in person, via email or via telephone.

The Review Committee must consist of a minimum of three persons to include the NSU Title IX Coordinator or Deputy Title IX Coordinator, a representative from Campus Police, and a representative from the Division of Student Affairs (in accordance with the "Guidance on 2015 Campus Sexual Violence Legislation," p. 5, dated July 15, 2015). The University may include other individuals at the discretion of the Title IX Coordinator.

The Review Committee operates pursuant to Va. Code §23-9.2:15 and has access under Virginia law to certain otherwise confidential information, including law enforcement records and 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; available university disciplinary, academic and/or personnel records, known facts and circumstances of the reported information or information or evidence

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known to the institution or to law enforcement, including prior reports of Title IX violations maintained by the Title IX Coordinator. The Review Committee will have access to all available facts and circumstances and may seek additional information about the reported incident through any other legally permissible means. The Review Committee will be considered a threat assessment team established pursuant to Va. Code §23-9.2:10 for purposes of (i) obtaining criminal history record information and health records and (ii) the Virginia Freedom of Information Act (§2.2-3700 et seq.). The Review Committee shall conduct its review in compliance with federal privacy law. (Va. Code §23-9.2:15 (D)).

A. HEALTH OR SAFETY RISK

The Review Committee will determine whether the report and any other available information presents a rational basis for concluding that there is a risk of serious harm to the complainant or any member of the university community. The Review Committee will make this determination based upon the following “Risk Factors”:

- Whether the respondent has prior arrests, reports and/or complaints related to any form of a Title IX violation or any history of violent behavior;
- Whether the respondent has a history of failing to comply with any university no-contact directive, other University protective measures, and/or any judicial protective order;
- Whether the respondent has threatened to commit violence or any form of Title IX violation in the future;
- Whether the Title IX violation involved multiple respondents;
- Whether the Title IX violation 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 Title IX violations (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 Title IX violation was facilitated through the use of “date-rape” or similar drugs or intoxicants;
- Whether the Title IX violation occurred while the complainant was unconscious, incapacitated, physically helpless or unaware that the Title IX violation was occurring;
- Whether the complainant is (or was at the time of the Title IX violation) a minor (under 18); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

B. ACTIONS FOLLOWING REVIEW COMMITTEE’S ASSESSMENT

Upon completion of its threat assessment, the Review Committee will determine the appropriate course of action under these procedures, which may include:

- (1) no further action;

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- (2) informal resolution; or
- (3) formal resolution.

In making this determination, the Review Committee will consider the complainant's preference for pursuing university resolution and the manner in which any subsequent action(s) might impact the complainant. The Review Committee will also consider (a) any evidence showing that the respondent made statements of admission or otherwise accepted responsibility for the Title IX violation, and/or (b) the existence of any independent information or evidence regarding the Title IX violation, and any other available and relevant information.

Where the Review Committee determines that the report raises a health or safety risk to the complainant and/or to the university community, the Review Committee will direct the Title IX Coordinator to take appropriate university actions, which may include: (a) initiating an investigation and formal resolution under these procedures; (b) arranging, imposing or extending any other appropriate remedial and/or protective measures; and/or (c) reporting information to any external agency as required or permitted by law.

The University's ability to provide a meaningful investigation and response to a report may be limited if the complainant requests that their name not be disclosed to the respondent, or declines to participate in an investigation. 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 Title IX violation, such as recordings from security cameras, corroborating reports from other witnesses, or physical evidence). However, in the absence of such other evidence, the university will only be able to respond to the report in limited and general ways, such as providing targeted training or prevention programs and/or offering appropriate remedial measures to the complainant. In such cases, the report and threat assessment will be documented and retained by the university, in accordance with applicable law.

Consistent with its obligation to ensure the health and safety of the university community, where the University determines that it must move forward with an investigation despite a complainant's request for confidentiality, the University will notify the complainant and will make reasonable efforts to protect the privacy of the complainant to the extent possible. However, certain actions that may be required as part of the University's response, including an investigation and disciplinary resolution, 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 University will notify the complainant that it intends to move forward with an investigation. However, in no event will the complainant be required to participate in any such actions undertaken by the university.

The Deputy Title IX Coordinator will inform the complainant of the chosen course of action and of any additional actions taken by the university to address a health or safety risk. A complainant who has (i) requested confidentiality, (ii) requested no investigation and/or (iii) requested that no disciplinary action be taken against the respondent, may, at any time, request that the report be re-opened and pursued under these procedures. The Title IX Coordinator may also request that a

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report be re-opened and pursued under these procedures if any new or additional information becomes available.

C. NOTICE OF INTERIM MEASURES

A respondent will be notified and be given an opportunity to respond when the University takes interim protective measures or other actions that will directly affect the respondent. The Title IX Coordinator has the discretion to ensure the appropriateness of any interim measure based on all available information. An interim protective measure will remain in effect until the resolution of the report by the Review Committee, unless new circumstances arise which warrant reconsideration of the protective measure prior to the conclusion of the Review Committee review. A complainant or respondent may challenge an interim protective measure or other action, or failure to impose such, by contacting the Title IX Coordinator.

VI. RESOLUTION

Incidents violating this policy may be resolved informally or formally. For reported violations of this policy, other than sexual assault, the complainant and respondent have the option to seek informal resolution as approved by the Title IX Coordinator. The Deputy Title IX Coordinator will explain the available informal and formal resolutions to both the complainant and respondent. The Deputy Title IX Coordinator will ensure that there is no conflict of interest in the investigation and resolution of reports.

The past sexual history or sexual character of the complainant or respondent, with anyone other than each other, will not be considered during the investigation. However, demonstration of a pattern of repeated and/or predatory behavior by the respondent in the form of previous findings will be considered. The complainant or respondent will be notified in advance of any information that is considered.

The Title IX Coordinator will comply with all requests for cooperation with investigations made by the University Police Department (PD) or a local law enforcement agency. A description of any evidence and information from the institution's Title IX investigation may be shared with University PD or local law enforcement agency. Such cooperation may require the Title IX Coordinator or Title IX Investigator to temporarily suspend an investigation/fact-finding process while the University PD or local law enforcement agency gathers evidence. The Deputy Title IX Coordinator or Title IX Investigator will promptly resume the investigation when notified by the University PD or law enforcement agency that it has completed the evidence-gathering process. The University may still proceed with its investigation, regardless of the outcome of criminal proceedings.

Employees should be aware that the criminal (law enforcement) and employee conduct (university) processes are separate, but may occur concurrently.

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INFORMAL RESOLUTION

These procedures provide the option of resolving Title IX incidents informally or formally. The Review Committee will determine which option is appropriate based upon an assessment of the risk factors.

Participation in informal resolution is voluntary. The University will not compel a complainant or respondent to engage in informal resolution or directly confront the respondent. Cross examination by either party or their representative or counsel is not permitted.

The University will allow a complainant or respondent to withdraw from informal resolution at any time. The University may decline the request for informal resolution in any particular case and may terminate an ongoing informal resolution process at any time based upon known risk factors. Pursuing informal resolution does not preclude later use of formal resolution if the informal resolution fails to achieve a resolution acceptable to the parties and the University. Where the complainant or the respondent withdraws from informal resolution, or if informal resolution is otherwise terminated for any reason, any statements or disclosures made by the parties during the course of the informal resolution may be considered in a subsequent investigation and formal resolution.

With any form of informal resolution, each party has the right to consult with an advisor of their choosing. 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 informal 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 disrupt such meetings and/or proceedings.

Informal Resolution may include:

Resolution with the Assistance of a Third Party: A complainant may seek assistance from the Title IX Coordinator in informally resolving a report of a Title IX violation. The Title IX Coordinator can arrange to have a trained representative facilitate a meeting or meetings between the parties. The availability of this form of informal resolution, and any resolution reached through such form of informal resolution, is subject to the agreement of the Title IX Coordinator, the complainant and the respondent. This form of informal resolution may not be used where the allegation involves a sexual assault incident.

Interventions and Remedies: Informal resolution agreements may involve a host of interventions and remedies, such as (a) actions designed to maximize the complainant's access to educational, extracurricular, and/or university employment activities; (b) increased monitoring, supervision, and/or security at locations or activities where the reported Title IX violation occurred or is likely to reoccur; (c) targeted or broad-based educational programming or training for relevant individuals or groups; (d) academic and/or university housing modifications for employee complainants; (e) workplace modifications for employee complainants, and 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 achieve the goals of the Title IX policy.

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Any form of informal resolution and any combination of interventions and remedies may be utilized. If an agreement acceptable to the University, the complainant, and the respondent is reached through informal 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 either party fails to comply with the terms of the informal resolution, the matter may be referred for an investigation and/or formal resolution under these procedures.

Informal resolution must adequately address the concerns of the complainant, rights of the respondent, and the responsibility of the university to prevent, address, and remedy reported violations of this procedure. Informal resolution remedies may include training, counseling referrals, an employee plan of action and/or use of sanctions through the Virginia Department of Human Resource Management [Policy 1.60 - Standards of Conduct, University or Commonwealth of Virginia policies or procedures](#), or any other applicable policies or procedures.

FORMAL RESOLUTION

Formal resolution is commenced when:

- A complainant reports that an employee has engaged in one or more instances of a reported Title IX violation and requests that the Title IX/Deputy Title IX Coordinator initiate an investigation and resolution under these procedures;
- An informal resolution process does not resolve a reported violation of this policy and the Title IX Coordinator determines that an investigation is required based upon risk factors.
- At the conclusion of the University's Review Committee evaluation, the Review Committee has determined that the presence of one or more risk factors requires an investigation of the reported violation.

Investigation: Under any of the preceding three (3) circumstances, the Deputy Title IX Coordinator will designate one or more investigator(s) to conduct a prompt, thorough, fair, and impartial investigation.

Notice of Investigation: The Deputy 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 reported violation;
- (3) Identify the reported policy violation(s);
- (4) Identify the investigator(s);
- (5) Include information about the parties' respective rights and responsibilities under this Title IX policy and procedures;
- (6) Explain the prohibition against retaliation;
- (7) Instruct the parties to preserve any potentially relevant evidence in any format;

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- (8) Inform the parties on how to appeal the assignment of an investigator due to a conflict of interest; and
- (9) Provide a copy of the Title IX policy and procedures.

The investigator(s) will conduct a prompt, adequate, reliable, and impartial investigation of the report. Typically an investigation, not including the time necessary for appeals, will be completed within 60 calendar days of receipt of notice. If extension of the investigation beyond 60 calendar days is necessary, the respondent and complainant will be notified of the expected time frame.

In determining whether the reported harassment has created a hostile environment, the Investigator(s) will consider not only whether the conduct was unwelcome to the complainant, but the severity or pervasiveness of the conduct and whether a reasonable person, similarly situated to the complainant, would have perceived the conduct to be offensive.

Draft Investigation Report: At the conclusion of the investigation, the Investigator(s) will prepare a draft investigation report summarizing the information gathered. This report will not include a finding of “responsible” or “not responsible”. In most cases, the report will be provided simultaneously to the complainant and respondent within 60 calendar days of notice of the report. If an extension of the 60 calendar day time frame is necessary, the complainant and respondent will be notified of the expected time frame for completion of the report. The complainant and respondent will be provided five (5) business days to review and respond to the investigation report. During this time, the complainant and respondent may submit additional comments and information; identify any additional witnesses or evidence; and submit any further questions that they believe should be directed by the Investigator(s) to the other party or to any witness.

The Investigator(s) will submit the investigation report to the Deputy Title IX Coordinator, including all the facts, any findings and identified violations. The findings will be based on the preponderance of evidence standard, i.e., whether it is more likely than not) that a violation did occur. The rationale for the finding(s) must also be included in the investigation report. The Investigator(s) will submit a draft investigation report to the Deputy Title IX Coordinator. The Deputy Title IX Coordinator will review the finding(s) and submit the report to the Title IX Coordinator with recommendations for action(s) (i.e. disciplinary action, case closure, etc.). If it has been determined by a preponderance of the evidence that a violation of this or other applicable policies did occur, the Deputy Title IX Coordinator will refer the matter to a conduct officer in the Office of Human Resources for a determination of appropriate sanctions. The Human Resources department will provide a written determination of proposed sanctions to the Deputy Title IX Coordinator according to applicable policies. If employee discipline is appropriate, the Title IX Coordinator will ensure that corrective action is administered in accordance with the Virginia Department of Human Resource Management Policy 1.60 - Standards of Conduct and/or other applicable University and/or Commonwealth of Virginia policies. Violent acts of employees occurring outside the workplace may also be grounds for disciplinary action, up to and including dismissal (See Virginia Department of Human Resource Management Policy 2.30 Workplace Violence).

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Final Investigation Report: The Deputy Title IX Coordinator will submit the investigation report to the Title IX Coordinator for final resolution. If interim measures have been taken, the Deputy Title IX Coordinator, in consultation with the Title IX Coordinator, will determine the status of continuation, suspension, or modification of any such interim measures.

The Title IX Coordinator will provide the final investigation report to both the complainant and respondent, including the actions/remedies that will be taken to eliminate a hostile environment, if one was found to exist, and to prevent its recurrence. The Title IX Coordinator will disclose to the complainant within five (5) calendar days of notification, the respondent's sanctions that directly relate to the complainant as permitted by state and federal law including the Federal Educational Rights and Privacy Act (FERPA) and the Virginia Freedom of Information Act. The Title IX Coordinator will also disclose to the complainant in writing, the final results of a disciplinary proceeding involving the respondent with regard to forcible or non-forcible sex offenses, stalking, domestic violence or dating violence against the complainant, as permitted by state and federal law including FERPA and the Virginia Freedom of Information Act.

VII. APPEALS

The complainant or respondent has the right to appeal the investigation findings and/or imposed sanctions by the Title IX Coordinator. Such an appeal should be filed within five (5) business days of receipt of the outcome to the Title IX Coordinator. The appeal process is not designed to initiate a new investigation.

The appeal must include a written summary outlining one or more of the following grounds as described below:

- Consideration of new evidence unavailable at the time of the investigation that could substantially impact the investigator's findings; or
- Consideration of a procedural error in the investigation process that is of such magnitude as to deny fundamental fairness.

The Title IX Coordinator will acknowledge receipt of the appeal in writing, assess the appeal to determine if it was filed within five (5) business days, and if the basis for appeal is consistent with this Title IX policy and/or procedures. If the appeal does not meet the aforementioned criteria, the appeal will be denied. If the appeal meets the criteria, the respondent and complainant will be provided an opportunity to review and respond in writing to the Title IX Coordinator within (5) business days from the date of receipt of the appeal. Three (3) trained faculty and staff members from the Title IX Appeals Committee will review all written documentation supporting the grounds for the appeal. The Title IX Appeals Committee members may request to speak with the Title IX Coordinator, Deputy Title Coordinator, or Investigator(s) regarding the finding(s) and/or sanction(s). In addition, the Title IX Appeals Committee may seek advice regarding procedures and laws from the Office of the University Counsel.

The Title IX Appeals Committee will provide a written decision to the complainant and respondent within 10 business days from the date of receipt of the appeal. The Title IX Appeals Committee may uphold the outcome, modify the outcome to include the imposition of penalties, return the

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matter to the Title IX Coordinator to consider new evidence, or require the Deputy Title IX Coordinator to address a procedural error of the investigation. The decision of the Title IX Appeals Committee is final.

Members of the university Title IX Appeals Committee are required to receive training before they are assigned to review Title IX appeals. The training is coordinated by the Title IX Coordinator or appointed designee. The training includes, but is not limited to, an overview of Title IX as it relates to sexual assault and harassment, unique issues and ethics involved in sexual assault and harassment cases, evidence standards, and procedures for interrogating witnesses.