



BOV POLICY # 05.01 (2017) REPORTING BY UNIVERSITY EMPLOYEES OF DISCLOSURES RELATING TO SEXUAL AND GENDER-BASED HARASSMENT AND OTHER FORMS OF INTERPERSONAL VIOLENCE

Policy Title: Reporting by University Employees of Disclosures Relating to Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence

Policy Type: Board of Visitors

Policy No.: BOV Policy # 05.01 (2017)

Approval Date: June 22, 2020

Responsible Office: Office of the President

Responsible Executive: Title IX Coordinator

Applies to: University Community

POLICY STATEMENT

Consistent with Title IX and other applicable state and federal law, this Policy outlines the options available to students to disclose alleged **“Prohibited Conduct”** (as defined in Norfolk State University’s [BOV Policy #05 \(2017\) Title IX; Sexual and Gender-Based Harassment and other Forms of Interpersonal Violence](#) (“SGBHV Policy”) to Norfolk State University (“NSU”) employees, and the obligations of NSU employees to respond to such disclosures, including the responsibilities of certain NSU employees, called **“Responsible Employees,”** to report such disclosures to NSU’s Title IX Coordinator, so that NSU may provide appropriate support, resources and interim measures, take immediate and appropriate steps to investigate what occurred, and take prompt and effective action to end any Prohibited Conduct, remedy its effects, and prevent its recurrence. All NSU employees are also required to complete training in order to understand their responsibilities in this area, including how to respond to disclosures of alleged Prohibited Conduct.

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PURPOSE

NSU adopts this policy with a commitment to: (1) eliminating, preventing, and addressing the effects of Prohibited Conduct; (2) fostering NSU's Community of Trust, in which Prohibited Conduct is not tolerated; (3) cultivating a climate where all individuals are well-informed and supported in reporting Prohibited Conduct; (4) providing a fair and impartial process for all parties; and (5) identifying the standards by which violations of this policy will be evaluated and disciplinary action may be imposed.

CONTACTS

The Title IX Coordinator officially interprets this policy and is responsible for matters pertaining to this policy as it relates to the University Community. The President's Office is responsible for obtaining approval for any revisions as required by BOV Policy # 01 Creating and Maintaining Policies through appropriate governance structures. Questions regarding this policy should be directed to the Title IX Coordinator.

DEFINITIONS

"Complainant" means the person who presents as the victim of any Prohibited Conduct, regardless of whether such person makes a report of such Prohibited Conduct.

"Confidential Employee" is (1) any NSU employee who is a licensed medical, clinical or mental-health professional (e.g., physicians, nurses, physicians' assistants, psychologists, psychiatrists, professional counselors and social workers, and those performing services under their supervision), when acting in that professional role in the provision of services to a patient who is a NSU student ("health care providers"), and (2) any NSU employee providing administrative, operational and/or related support for such health care providers in the performance of such services.

"Evaluation Panel" means the panel that evaluates every report of alleged Prohibited Conduct. The Evaluation Panel may include any and all members of the University's Threat Assessment Team and shall include, at a minimum: (1) the Title IX Coordinator, (2) a representative of the NSU Campus Police Department, and (3) a representative from the Division of Student Affairs. In addition, the Evaluation Panel may include a representative from Human Resources or the Office of the Provost, depending on the circumstances of the reported incident and the status of the Complainant and the Respondent. A detailed description of the Evaluation Panel and the threat assessment process is set forth in the Student Procedures.

"NSU's Online Reporting Process" allows for anonymous reporting of alleged Prohibited Conduct. To file an online incident report, visit the following link:

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



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“Prohibited Conduct” means all of the conduct defined as “Prohibited Conduct” in [BOV Policy # 05 \(2017\) Title IX; Sexual and Gender-Based Harassment and other Forms of Interpersonal Violence](#) (the “SGBHV Policy”). Prohibited Conduct includes, as such terms are defined in the SGBHV Policy, Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual and Gender-Based Harassment, Complicity and Retaliation.

“Reporter” means any NSU student who is registered or enrolled for credit- or non-credit-bearing coursework who discloses an incident of alleged Prohibited Conduct to a NSU employee. Reporters include students who disclose such information, whether as Complainants, Respondents, or witnesses.

“Respondent” means any person who has been accused of Prohibited Conduct. **“Responsible Employee”** (For purposes of students disclosing alleged acts of Prohibited Conduct) means any NSU employee who is not a Confidential Employee is a Responsible Employee. For purposes of employees disclosing alleged acts of Prohibited Conduct involving NSU employees, supervisors, management, and human resource professionals are Responsible Employees. Responsible Employees include Resident Assistants, Graduate Teaching Assistants, and all other student-employees, when disclosures are made to any of them in their capacities as employees.

“Student Procedures” means NSU’s Procedures for Reports against Students in the [Title IX Handbook for Students and Employees](#), setting forth the procedures for investigating and resolving reports of alleged Prohibited Conduct committed by Students.

“Student Resource Guide” means NSU’s Resource and Reporting Guide for Students in the [Title IX Handbook for Students and Employees](#), providing complete information for students about how to locate and access University and community resources for medical and mental-health assistance and support, how to obtain interim remedial and protective measures, how to report Prohibited Conduct to the University and to law enforcement, and other information that may be useful to University students who have experienced or witnessed an incident of Prohibited Conduct.

“Title IX Coordinator” as used in this Policy, the term “Title IX Coordinator” means the appointed Title IX Coordinator, a Deputy Title IX Coordinator, a Title IX Investigator, or another person designated by the appointed Title IX Coordinator, unless under context it is clear that reference is to the appointed Title IX Coordinator.



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EMPLOYEE RESPONSIBILITIES BY DESIGNATION

A. CONFIDENTIAL EMPLOYEES:

A Confidential Employee will not disclose information about alleged Prohibited Conduct to NSU's Title IX Coordinator or to anyone else without the Reporter's written permission, subject to certain limited exceptions, as set forth below.

1. Limits of Confidentiality:

Confidential Employees are required to maintain the confidentiality of information shared with them about Prohibited Conduct and will not disclose such information to NSU's Title IX Coordinator or to anyone else, except with the written permission of the Reporter or when such disclosures are permitted or required by applicable law or court order. For example, Confidential Employees may be required to disclose such information where there is a concern that the individual will likely cause serious physical harm to self or others or when the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18. Questions about how to interpret the validity of any permission given or the applicability or scope of any law or court order requiring disclosure should be directed to the Office of University Counsel.

Reporters who disclose information to Confidential Employees should understand that, except in the limited circumstances described above, the information they have disclosed will not be shared with the Title IX Coordinator, and NSU will therefore be unable to use such information to investigate the alleged Prohibited Conduct or to pursue disciplinary action against the Respondent.

2. Interim Remedial and Protective Measures:

Confidential Employees may provide information to students where appropriate about how to obtain necessary health or mental health services, including victim advocacy services, at NSU and within the local community. Students also may ask Confidential Employees how to request remedial measures (designed to address a student's safety and well-being and continued access to educational opportunities) or protective measures (involving action against a Respondent). These measures may include No-Contact Directives (prohibiting contact between parties to an incident of alleged Prohibited Conduct), academic modifications and support, or modifications to NSU residence, employment and/or parking arrangements.

Confidential Employees should direct students who wish to request such remedial and/or protective measures to the Deputy Title IX Coordinator for Students, located in the Division of Student Affairs ("DSA"). *Students should understand, however, that DSA employees (including the Deputy Title IX Coordinators) are **not** Confidential Employees, and thus will share any disclosures made to them about Prohibited Conduct with the Title IX Coordinator.* Students may be able to access a range of remedial measures without disclosing significant details about the alleged Prohibited Conduct, however, and also may request that their names not be shared with the Respondent or others, that no investigation be pursued, and/or that no disciplinary action be



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taken. NSU will honor such requests if it is possible to do so while also protecting the health and safety of the Complainant and the University community. Such requests will be considered by an Evaluation Panel, as described in the Student Procedures. (See also Balancing Respect for the Agency and Autonomy of Complainants with the University's Obligations under State and Federal Law, p. ##).

3. Making a Report:

A Reporter who at first seeks the assistance of a Confidential Employee always has the right to report an incident of alleged Prohibited Conduct to NSU and/or to local law enforcement. In such cases, if the Reporter communicates to a Confidential Employee a wish to make a report, the Confidential Employee should support this decision and direct the Reporter to the online reporting process, to the Title IX Coordinator, or to the appropriate Deputy Title IX Coordinator so that a report can be made. Detailed information about University and law enforcement reporting options is set forth in the SGBHV Policy and the Student Resource Guide.

B. RESPONSIBLE EMPLOYEES

A Responsible Employee is required to report to NSU's Title IX Coordinator all relevant details disclosed by a Reporter about an incident of alleged Prohibited Conduct, including the names and all other information that personally identifies the Reporter, the parties, any witnesses, and any other relevant information (e.g., the date, time and specific location of the alleged incident).

1. Student Disclosures¹:

Except in the context of Public Awareness Events, Responsible Employees are required to immediately report all relevant details about an incident of alleged Prohibited Conduct disclosed by a Reporter (including the names and all other information that personally identifies the Reporter, the Complainant, the Respondent, any witness, and/or any other third party with knowledge of the reported incident) and any other relevant information (including the date, time and specific location of the reported incident) to NSU's Title IX Coordinator through the online reporting process.

If possible, before a Reporter discloses any information to a Responsible Employee, the Responsible Employee should explain the reporting obligations under this Policy. If the Reporter has not disclosed any information and indicates a desire to maintain confidentiality, the Responsible Employee should direct the Reporter to a Confidential Employee instead.

¹ Although this Policy is directed primarily to disclosures by students, certain NSU employees who are designated as Responsible Employees under this Policy also may be obligated to report disclosures about Prohibited Conduct involving a University employee. Under the SGBVH Policy, supervisors, management and human resource professionals are required to report to the Title IX Coordinator all relevant details about an incident of Prohibited Conduct where either the Complainant or the Respondent is a University employee. Reporting is required when such supervisors, management and human resource professionals knew (by reason of a direct or indirect disclosure) or should have known of such Prohibited Conduct. For academic faculty, supervisors include department chairs, deans, and other unit administrators.



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2. Disclosures by Anyone of Prohibited Conduct on Certain University Property:

Although this Policy is directed primarily toward disclosures by NSU students to NSU employees about incidents of alleged Prohibited Conduct, consistent with the requirements of [*Code of Virginia § 23.1-806*](#) (the “Virginia Reporting Statute”), Responsible Employees are also required to report to the Title IX Coordinator all information obtained, from any source, about any incident of alleged Prohibited Conduct that occurs “on campus, in or on a non-campus building or property, or on public property.” The Virginia Reporting Statute defines the terms “campus,” “non-campus building or property” and “public property” broadly to include, for example, the NSU campus (including residence halls); all contiguous (off-campus) property owned or controlled by NSU; all property controlled by a student organization or frequently used by students, wherever located; Spartan Suites, Alumni House and public property (including streets, sidewalks and parking facilities) that is within or immediately adjacent to, and accessible from, NSU. Responsible Employees are not expected to be experts in interpreting the Virginia Reporting Statute; any questions about whether to report such information should be directed to the Title IX Coordinator.

a. Exceptions for Public Awareness Events:

Responsible Employees are not required to report information disclosed at public awareness events (e.g., “Take Back the Night,” candlelight vigils, protests, “survivor speak-outs” or other public forums in which students may disclose incidents of Prohibited Conduct; collectively, “Public Awareness Events”). NSU may provide information about students’ Title IX rights and about available NSU and community resources and support at Public Awareness Events.

b. University Actions Following Receipt of a Report:

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator will conduct an initial assessment, as described in the Student Procedures, and will provide the Complainant, if known, with information about resources and options, offer interim measures, and take appropriate action to resolve the reported incident as promptly and equitably as possible. The Title IX Coordinator also will promptly forward all information then known to an Evaluation Panel, in accordance with the Student Procedures. To the extent possible, information disclosed to a Responsible Employee will be shared only with (A) a limited circle of NSU employees who “need to know” in order to assist in the assessment, investigation, and resolution of the reported incident, or (B) as directed by the Evaluation Panel, with local law enforcement or the Prosecuting Authority (as defined in the Student Procedures). A detailed description of the initial assessment, the threat assessment, and the range of available NSU measures and actions following the threat assessment is set forth in the Student Procedures.

c. External Reporting:

Except in the event of an emergency, as may be directed by the Evaluation Panel, or where an incident has already been reported to law enforcement, a Responsible Employee should not disclose information to law enforcement without the Complainant’s consent. Any request for information from law enforcement should be referred directly to the Title IX Coordinator.



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d. Balancing Respect for the Agency and Autonomy of Complainants with the University's Obligations under State and Federal Law:

Reporting all disclosures, reports or other known information about alleged Prohibited Conduct to the Title IX Coordinator allows the University to meet its state and federal obligations and to maintain an environment free from harassment and discrimination. Reporting such information to the Title IX Coordinator also provides NSU with the best opportunity to offer appropriate support, resources and interim measures to assist a Complainant, assess any health or safety risk posed by the alleged Prohibited Conduct, take immediate and appropriate steps to investigate what occurred, and take prompt and effective action to end any Prohibited Conduct, remedy its effects, and prevent its recurrence.

In some instances, however, a Reporter may tell a Responsible Employee about an incident of Prohibited Conduct *but also* request (a) that their name and any other personally-identifying information not be shared with the Respondent or others, (b) that no investigation be pursued, and/or (c) that no disciplinary action be taken. The Responsible Employee should communicate any such requests to the Title IX Coordinator.² In such cases, the University will seek to balance respect for the agency and autonomy of Complainants with the University's obligations under state and federal law. Accordingly, the University will seek to honor such requests if it is possible to do so while also protecting the health and safety of the NSU community, in accordance with the SGBVH Policy and in compliance with state and federal law.

A detailed discussion of the Evaluation Panel, the threat assessment process, and NSU's response when a Complainant requests (a) that their name and any other personally-identifying information not be shared with the Respondent or others, (b) that no investigation be pursued, and/or (c) that no disciplinary action be taken, is set forth in the Student Procedures.

C. OTHER FORMS OF DISCLOSURE

1. Anonymous Reporting:

Although NSU encourages students to report Prohibited Conduct, NSU also provides a means for anonymous reporting, through the online reporting process. This system will notify users that all information provided will be reported to NSU for action in accordance with the SGBHV Policy, and users can provide as much or as little information as they choose.

An anonymous report will be evaluated in the same manner as a report with an identified Complainant. Once an anonymous report is submitted, it will be directed to NSU's Title IX Coordinator, who will review the information provided and determine whether further action is necessary in order to protect the health and safety of affected individuals and the University community. Consistent with the provisions of the SGBHV Policy and the Student Procedures, NSU will respond to any report, including anonymous reports, with an initial assessment and threat assessment to determine available steps based on the nature and circumstances of any known information.

² The online reporting process allows for Responsible Employees to indicate that such a request has been made.



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2. Off-campus Resources:

Counselors, advocates, and health-care providers in the Norfolk community are not subject to this Policy and are not required to disclose information to NSU unless the student requests and authorizes the disclosure and signs a consent or waiver form. Local advocates include the Sexual Assault Resource Agency, which, pursuant to an ongoing agreement with NSU, ensures immediate access to a confidential, independent advocate who can provide a trauma-informed response, including an explanation of available resources, support and reporting options.

While counselors, advocates and health-care providers may maintain confidentiality vis-à-vis the University, they may have reporting or other obligations under state and federal law.

3. Training:

All NSU employees must complete regular training in order to understand their reporting responsibilities under Title IX. The required training is managed through an on-line process, and completion will be tracked to verify compliance.

4. Responsibilities:

A. Students (Reporters) are responsible for:

- Understanding the options available to them for the disclosure of information about alleged Prohibited Conduct (i.e., understanding the differences between Confidential Employees and Responsible Employees) and understanding the University's obligation to respond to such disclosures;
- Understanding NSU's process for evaluating requests (a) that their names and any other personally-identifying information not be shared with the Respondent or others, (b) that no investigation be pursued, and/or (c) that no disciplinary action be taken; and
- Requesting remedial and protective measures from the Deputy Title IX Coordinator for Students, as needed.

B. Responsible Employees are responsible for:

- Communicating to students who are considering disclosing or have disclosed information about alleged Prohibited Conduct that, as Responsible Employees, they are required to report such information to NSU;
- Reporting information they receive about alleged Prohibited Conduct promptly through the online reporting process or other means;
- Completing all applicable University training on reporting requirements and staying current on training requirements; and
- Contacting the Title IX Coordinator with questions or concerns.



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C. Confidential Employees are responsible for:

- Communicating to students who are considering disclosing or have disclosed information about alleged Prohibited Conduct that, except in the limited circumstances described in this Policy, the information they have disclosed will not be shared with the Title IX Coordinator and that the University will therefore be unable to use such information to investigate the alleged Prohibited Conduct or to pursue disciplinary action against the Respondent;
- Understanding and providing information about available resources and support services;
- Supporting students who, following an initial confidential disclosure, decide to make a report to NSU and/or local law enforcement, by directing such students to the appropriate NSU resources for assistance with such filing or further reporting; and
- Serving as a resource to NSU employees regarding their responsibilities with respect to reporting alleged Prohibited Conduct.

D. Title IX Coordinator is responsible for:

- Tracking changes in state and federal law which may require conforming modifications to this Policy, the SGBHV Policy and associated procedures and ensuring that the University's policies and procedures for reporting of Prohibited Conduct disclosures are current. The Title IX Coordinator will work closely with the Office of University Counsel in this regard;
- Communicating with the Division of Student Affairs (DSA) and other NSU offices or units, as appropriate, to verify that all parties receive any necessary information, assistance and support, including appropriate remedial and protective measures;
- Monitoring institutional compliance with this Policy, including required training; and
- Serving as a resource to NSU employees regarding their responsibilities with respect to reporting alleged Prohibited Conduct.

PUBLICATION

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

- Communicate the policy in writing, electronically or otherwise, to the NSU community;
- 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.



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RELATED POLICIES AND DOCUMENTS

IN GENERAL

- [Title IX Handbook for Students and Employees](#)
- [BOV Policy # 04 \(2014\) Equal Opportunity](#)

STUDENTS

- [Code of Student Conduct](#)
- Rights of Students at Norfolk State University Pursuant to the [Family Educational Rights and Privacy Act](#) (FERPA)

EMPLOYEES

- [Reporting Policy: BOV Policy # 05.01 \(2017\) Reporting by University Employees of Disclosures to Sexual and Gender-based Harassment and Other Forms of Interpersonal Violence](#)

EMPLOYEES AND THIRD PARTIES

- [BOV Policy # 05 \(2017\) Title IX: Sexual and Gender-based Harassment and Other Forms Interpersonal Violence](#)
- [BOV Policy # 05.02 \(2017\) Preventing and Addressing Discrimination and Harassment](#)
- [BOV Policy # 05.03 \(2017\) Preventing and Addressing Retaliation](#)

REVIEW SCHEDULE

- Next Scheduled Review: Annually in October
- Approved date: June 22, 2020
- Revision History: BOV Policy # 05.01 (2017) Reporting by University Employees of Disclosures Relating to Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence, (as amended September 15, 2017); BOV Policy # 05 (2014) Sexual Violence, Discrimination, Harassment and Retaliation, (as amended December, 2015); BOV Policy # 05 (2014) Sexual Misconduct; and NSU Policy #27.004 Sexual Assault Policy (2011)