



BOV POLICY # 05 (2023) TITLE IX SEXUAL HARASSMENT POLICY

Policy Title:	Title IX Sexual Harassment
Policy Type:	Board of Visitors
Policy No.:	BOV Policy # 05 (2023)
Approval Date:	February 17, 2023
Responsible Office:	Access and Equal Opportunity
Responsible Executive:	Vice President for Operations & Chief Strategist for Institutional Effectiveness

POLICY APPLICABILITY

This policy applies to situations where (1) the alleged Sexual Harassment occurred on or after February 21, 2023 and (2) a Formal Complaint was filed with or signed by the Title IX Coordinator on or after February 21, 2023.

The substantive but not procedural provisions of the prior BOV Policy # 05, approved March 19, 2021, apply when the alleged Sexual Harassment occurred before February 21, 2023.

5.1. Authority

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 (“Title IX”) and its implementing regulations, 34 C.F.R. Part 106 and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092, as amended by the Violence Against Women Act of 1994, 42 U.S.C. § 13925, constitute the authority for this policy.

5.2. Title IX Nondiscrimination Policy Statement

Norfolk State University (“NSU”) does not discriminate on the basis of Sex in the Education Program or Activity that it operates. NSU, as a recipient of federal financial assistance, is required by Title IX and 34 C.F.R. Part 106 (“Title IX regulations”) not to discriminate in such a manner. The requirement not to discriminate in NSU’s Education Programs or Activities extends to admission and employment, and inquiries about the application of Title IX and the Title IX regulations to NSU may be referred to NSU’s Title IX Coordinator or the Assistant Secretary, Office for Civil Rights, U.S. Department of Education, or both.¹

¹ 34 C.F.R. § 106.8(b)(1).



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5.3. Applicability

This policy applies² to applicants for admission and employment, students, and employees of NSU concerning Sexual Harassment in an Education Program or Activity of NSU.³

The requirements set forth in this policy apply only to Sexual Harassment occurring against a person in the United States.⁴

5.4. Definitions

- A. “Actual Knowledge”⁵ means notice of Sexual Harassment or allegations of Sexual Harassment to NSU’s Title IX Coordinator or one of NSU’s Title IX Designated Officials. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute Actual Knowledge. This standard is not met when the only official of NSU with Actual Knowledge is the Respondent. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of NSU. “Notice” as used in this paragraph includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator as described in the Title IX regulations at § 106.8(a).
- B. “Appellate Officer” means the individual responsible for rendering appeal decisions. The Appellate Officer will not be a member of the hearing panel, the investigator, or the Title IX Coordinator.
- C. “Complainant”⁶ means an individual who is alleged to have been subjected to the conducted prohibited under this policy.
- D. “Consent”⁷ means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. The following rules apply to the term “Consent” as defined in this policy:
 - 1. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has Consented before engaging in the sexual activity. For Consent to be valid, there must be a clear expression in words or actions that the other individual Consented to that specific sexual activity.

² 106.8(a).

³ 106.44(a).

⁴ 106.8(d).

⁵ 106.30(a).

⁶ 106.30(a).

⁷ 106.30(a).



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2. A person cannot Consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. It is not an excuse that the individual initiating or furthering the Sexual Harassment was intoxicated and, therefore, did not realize the incapacity of the other.
 3. The definition of Consent also covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from the taking of incapacitating drugs.
 4. Consent to some sexual contact, such as kissing or fondling, cannot be presumed to be Consent for other sexual activity, such as intercourse. A current or previous dating or social relationship is not sufficient to constitute Consent. The existence of Consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not Consent. A person can withdraw Consent at any time during sexual activity by expressing in words or actions that the person no longer wants the act to continue, and, if that happens, the other person must stop immediately.
 5. A person who is 17 years old or younger cannot give Consent.
- E. “Education Program or Activity”⁸ means locations, events, or circumstances over which NSU exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by NSU.
- F. “Formal Complaint”⁹ means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that NSU investigate the allegation of Sexual Harassment. At the time of filing a Formal Complaint with NSU, a Complainant must be participating in or attempting to participate in the Education Program or Activity of NSU. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by e-mail, by using the contact information listed for the Title IX Coordinator. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by e-mail) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the

⁸ 106.44(a).

⁹ 106.30(a).



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person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.

- G. “NSU Title IX Designated Official” are personnel whom NSU authorized to institute corrective measures for purposes of this policy. For purposes of this policy, NSU has authorized the following personnel to institute corrective measures: the President (or Designee), Provost, Vice President of Operations, Vice President of Student Affairs, Vice President of Finance and Administration, Athletic Director, Assistant Vice President for Human Resources, Title IX Coordinator, Deputy Title IX Coordinator), Equity Investigators, Deans, Chief of Police, Deputy Chief of Police, Dean of Students, Assistant Director of Student Conduct, Assistant Vice President of Campus Life and Diversity, and the Director of Housing.
- H. “Respondent”¹⁰ means an individual who has been reported to have engaged in conduct that could constitute Title IX Sexual Harassment.
- I. “Student” means a person who has been admitted to or has enrolled at the University but has not completed a program of study for which she/he has enrolled; or a person who has completed a program of study and has satisfied all academic requirements for the program but has not been awarded a degree at the time of the alleged Sexual Harassment. Student status exists regardless of whether the University is in session (i.e. spring break and summer).
- J. “Supportive Measures”¹¹ means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to NSU’s Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or NSU’s educational environment, or deter Sexual Harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. NSU must maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of NSU to provide the Supportive Measures. The Title

¹⁰ 106.30(a).

¹¹ 34 C.F.R. § 106.30(a).



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IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

K. “Title IX Sexual Harassment”¹² or “Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of NSU conditioning the provision of an aid, benefit, or service of NSU on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the NSU’s Education Program or Activity; or
3. Sexual assault as defined in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Acts (“Clery Act,” specifically 20 U.S.C 1092(f)(g)(A)(v)), Dating Violence as defined in the Violence Against Women Act (“VAWA,” specifically 34 U.S.C. 12291(a)(10)), Domestic Violence as defined in VAWA (34 U.S.C. 12291(a)(8)), and Stalking as defined in VAWA (34 U.S.C. 12291(a)(36)).
 - a. “Sexual Assault”¹³ means an offense classified as a sex offense under the uniform crime reporting system of the FBI (<https://www.fbi.gov/file-repository/ucr/ucr-2019-1-nibrs-user-manual.pdf/view>). The following offenses are classified as sex offenses:
 - 1) Rape (except statutory rape): Penetration, no matter how slight, of the vagina or anus with any body part or object or oral penetration by a sex organ of another person, without the Consent of the Complainant, including instances where the Complainant is incapable of giving Consent because of age or because of temporary or permanent mental or physical incapacity.
 - 2) Sodomy: Oral or anal sexual intercourse with another person, without the Consent of the Complainant, including instances where the Complainant is incapable of giving Consent because of age or because of temporary or permanent mental or physical incapacity.
 - 3) Sexual Assault With An Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of the Complainant, including instances where the Complainant is incapable of giving

¹² 106.30(a).

¹³ 34 C.F.R. § 106.30(a); 20 U.S.C. 1092(f)(6)(A)(v).



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Consent because of age or because of temporary or permanent mental or physical incapacity.

- 4) Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the Complainant, including instances where the Complainant is incapable of giving Consent because of age or because of temporary or permanent mental or physical incapacity.
- 5) Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- 6) Statutory Rape: Sexual intercourse with a person who is under 18 years of age.

Any incident meeting the definition of Sexual Assault is considered a crime for the purposes of Clery Act reporting.

- b. “Dating Violence”¹⁴ means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - 1) The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
 - 2) For the purposes of this definition, Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - 3) Dating Violence does not include acts covered under the definition of Domestic Violence.
 - 4) Any incident meeting the definition of Dating Violence is considered a crime for the purposes of Clery Act reporting.
- c. “Domestic Violence”¹⁵ means a felony or misdemeanor crime of violence committed:
 - 1) By a current or former spouse or intimate partner of the Complainant;

¹⁴ 34 C.F.R. § 106.30(a); 34 U.S.C.12291(a)(11).

¹⁵ 34 C.F.R. § 106.30(a); 34 U.S.C.12291(a)(12).



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- 2) By a person with whom the Complainant shares a child in common;
 - 3) By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
 - 4) By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
 - 5) By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
 - 6) Any incident meeting the definition of Domestic Violence is considered a crime for the purposes of Clery Act reporting.
- d. "Stalking"¹⁶ means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition:
- 1) 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.
 - 2) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
 - 3) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
 - 4) Any incident meeting the definition of Stalking is considered a crime for the purposes of Clery Act reporting.

5.5. Title IX Coordinator

NSU has designated and authorized Brianna Williams, as the Title IX Coordinator, to coordinate NSU's efforts to comply with its responsibilities under Title IX, 34 C.F.R. Part

¹⁶ 34 C.F.R. § 106.30(a); 34 U.S.C. 12291(a)(36).



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106,¹⁷ and any reference to the Title IX Coordinator in this policy includes the Title IX Coordinator's designee such as a Deputy Title IX Coordinator. The contact information¹⁸ for the Title IX Coordinator and Deputy Title IX Coordinators are as follows:

Brianna Williams
Assistant Vice President for Access and Equal Opportunity
Title IX Coordinator
Office of Institutional Equity
700 Park Avenue
Wilson Hall, Suite 510
Norfolk, VA 23504
Phone: (757) 823-8294
bewilliams@nsu.edu

Neema Connor
Associate Athletics Director
Deputy Title IX Coordinator for Athletics
700 Park Avenue
110 Gill Gym
Norfolk, VA 23504
Phone: (757) 823-2337
neconnor@nsu.edu

NSU may designate and authorize other designee(s) to serve as Title IX Coordinator in the absence of the Assistant Vice President for Access and Equal Opportunity. In such event, notice of such designation and authorization, along with name(s)/title(s), office address(es), e-mail address(es), and office telephone number(s) will be provided to the applicable groups set forth in Section 5.3 above.¹⁹

5.6. Adoption of Grievance Procedures

NSU shall adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by the Title IX regulations in 34 C.F.R. Part 106 and a grievance process that complies with the Title IX regulations for Formal Complaints as defined in this policy.²⁰

NSU shall provide to its applicants for admission and employment, students, and employees notice of NSU's grievance procedures and grievance process, including the following:

¹⁷ 106.8(a).

¹⁸ 106.8(a).

¹⁹ 106.8(a) & 106.8(b)(2).

²⁰ 106.8(c).



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How to report or file a Formal Complaint of Sexual Harassment, and

How NSU will respond.²¹

5.7. Response to Sexual Harassment

Sexual Harassment is prohibited.

Should NSU have Actual Knowledge of Sexual Harassment in an Education Program or Activity of NSU against a person in the United States, NSU shall respond in a manner that is not deliberately indifferent. NSU would be deliberately indifferent only if its response to Sexual Harassment is clearly unreasonable in light of the known circumstances.²²

NSU's response must treat Complainants and Respondents equitably by offering Supportive Measures to a Complainant, and by following a grievance process that complies with the Title IX regulations, 34 C.F.R. § 106.45, before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against a Respondent.²³

5.8. Retaliation

Retaliation is prohibited.²⁴

Neither NSU nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX under this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.²⁵

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct, handbook, or policy or procedure violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX or the Title IX regulations, constitutes retaliation.²⁶

NSU must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Sexual Harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness,

²¹ 106.8(c).

²² 106.44(a).

²³ 106.44(a).

²⁴ 106.71(a).

²⁵ 106.71(a).

²⁶ 106.71(a).



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except as may be permitted by the FERPA statute, 20 U.S.C. § 1232g, or FERPA regulations, 34 C.F.R. Part 99, or as required by law, or to carry out the purposes of 34 C.F.R. Part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.²⁷

Complaints alleging retaliation may be filed under this policy.²⁸

Specific circumstances:

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under Section 5.8 above.²⁹

Charging an individual with a code of conduct, handbook, or policy or procedure violation for making a materially false statement in bad faith in the course of a grievance proceeding under the Title IX regulations does not constitute retaliation prohibited under Section 5.8, above; provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.³⁰

5.9.False Reports

NSU will not tolerate intentional false reporting of incidents. Deliberately false and/or malicious accusations of violations of this policy, as opposed to complaints which, even if erroneous, are made in good faith, are just as serious an offense as a violation of this policy and will subject the false reporter to appropriate disciplinary action. Intentionally false reports may also violate criminal and civil laws.

5.10. Federal Timely Warning Obligations

All parties should be aware that NSU administrators must issue timely warnings to the NSU community for crimes reported to them that represent a serious or continuing threat to members of the campus community. No such warning will identify a victim or contain information that could do so unless permitted by the victim.

5.11. Prevention & Awareness Programs

NSU has educational programs and campaigns to promote the awareness of Dating Violence, Domestic Violence, Sexual Assault, and Stalking. These programs can be found

²⁷ 106.71(a).

²⁸ 106.71(a).

²⁹ 106.71(b)(1).

³⁰ 106.71(b)(2).



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on the NSU website: <https://www.nsu.edu/campus-life-and-diversity/sexual-assault-interpersonal-violence-resources>.

5.12. Implementation of Policy

This policy will be implemented using applicable NSU policies and procedures, and NSU faculty, staff, and student handbooks. In the event the individual, name, title, or contact information changes for any of the individuals listed in this policy, the President of NSU may revise such information within this policy without resubmittal of this policy through the rulemaking process.

5.13. Superseding Provisions

This policy supersedes any conflicting provisions within the NSU Employee Handbook, the NSU Faculty Handbook, or any other NSU policies or procedures. This policy also repeals and supersedes NSU's BOV Policy # 05 (2021) - Title IX; Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence, approved on March 19, 2021.

EDUCATION AND COMPLIANCE

The Office of the Vice President for Operations and Institutional Effectiveness provides oversight for this policy. In conjunction with university leadership, executive officers, and the Title IX Coordinator, the Office of the Vice President for Operations and Institutional Effectiveness will ensure appropriate training on an annual or ad hoc basis. The Title IX Coordinator will maintain appropriate records regarding any report of Sexual Harassment or related misconduct and document resolutions and outcomes.

A. POLICY TRAINING

On an annual basis, ad hoc, or per any federal action, order, or legislation, all university employees, faculty, and students, will participate in a training on Title IX, Sexual Harassment, and related information and content. Training materials will be developed and sanctioned by the Title IX Coordinator.

B. POLICY COMPLIANCE AND VIOLATIONS

The Assistant Vice President for Access and Equal Opportunity, currently the Title IX Coordinator, measures compliance with this policy through various measures including reports, observations, audits, or reviews.

Violations of this policy will be addressed in accordance with this policy, related procedures, and Title IX of the Education Amendments of 1972.



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PUBLICATION

NSU shall prominently display the contact information for the Title IX Coordinator and the nondiscrimination policy statement set forth in Section 5.2 above on the NSU website and in the NSU Student, Faculty, and Employee Handbooks.³¹

NSU shall not use or distribute a publication stating that NSU treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by Title IX or the Title IX regulations.³²

REVIEW SCHEDULE

- Next Scheduled Review: February 21, 2026
- Approval by Board of Visitors: February 17, 2023
- Revision History: Supersedes BOV Policy #05 (2021) Title IX: Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence.

RELATED LINKS

Previous Version of this policy: <https://www.nsu.edu/policy/bov-05.aspx>

FORMS

INCIDENT REPORT: <https://nsu.guardianconduct.com/incident-reporting>

³¹ 106.8(b)(2).

³² 106.8(b)(2)(ii).