

GENDER-BASED AND SEXUAL MISCONDUCT POLICY AND GRIEVANCE PROCESS

GENDER-BASED MISCONDUCT POLICY

A. INTRODUCTION

Members of the Northwood University community (students and employees) guests and visitors have the right to be free from all forms of discrimination under Title IX not just instances of sexual harassment. Examples of gender and sex-based discrimination can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Northwood University will not tolerate unlawful discrimination. When an allegation of discrimination or misconduct is brought to an appropriate administrator's attention, and a respondent is found to have violated this policy, serious sanctions will be used to reasonably ensure that such actions are never repeated. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

We encourage all members of our University community to seek support for and report sexual misconduct directly to the [Title IX Coordinator](#) or the [Safety and Security](#) team.

B. OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO PHYSICAL SEXUAL MISCONDUCT

The expectations of our University community regarding sexual misconduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Silence--without actions demonstrating permission--cannot be assumed to show consent.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. Under this policy, “No” always means “No,” and “Yes” may not always mean “Yes.” Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a “no.”

C. NON-RETALIATION POLICY

It is a violation of University policy to retaliate in any way against a student or employee because he or she raised allegations. The University recognizes that retaliation can take many forms, may be committed by or against an individual or a group and that a respondent or third party may also be the subject of retaliation by other individuals, including the complainant.

This policy prohibits retaliation for any individuals making a Title IX complaint, as well as for any individuals participating in the investigations. For harassment complaints made in good faith even if later unsubstantiated, the University will implement interim steps during its investigation period to provide for the safety of the victim(s) and the campus community and to avoid retaliation. Such interim steps will not be at the detriment of the complainant. Complaints of retaliation should be filed with the appropriate senior official, Title IX Coordinator, or the Office of Civil Rights.

D. OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the faculty/staff handbooks. The University does not wish to interfere with private choices regarding personal relationships

when these relationships do not interfere with the goals and policies of the University. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes RAs and students over whom they have direct responsibility. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

E. SEXUAL VIOLENCE -- RISK REDUCTION TIPS

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.

- DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

In campus investigations, legal terms like "guilt, "innocence" and "burdens of proof" are not applicable. University investigations are conducted to take into account the totality of all evidence available, from all relevant sources.

The University reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct or any form of illegal harassment in order to protect an individuals' rights and personal safety. Such measures could include, but are not limited to, modification of living arrangements, interim suspension from campus pending an investigation, and reporting the matter to the local police. Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the University reserves the right to impose different sanctions, ranging from verbal warning to expulsion, depending on the severity of the offense. The University will consider the concerns and rights of both the complainant and the person accused of sexual misconduct.

F. SEXUAL MISCONDUCT OFFENSES INCLUDE, BUT ARE NOT LIMITED TO:

1. Sexual Harassment
2. Non-Consensual Sexual Contact (or attempts to commit same)
3. Non-Consensual Sexual Intercourse (or attempts to commit same)
4. Sexual Exploitation

a) SEXUAL HARASSMENT

Sexual Harassment is:

- unwelcome, gender-based verbal or physical conduct that is,
- sufficiently severe, persistent or pervasive that it,
- unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's educational program and/or activities, and is
- based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.

Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence, stalking; gender-based bullying.

b) NON-CONSENSUAL SEXUAL CONTACT

Non-Consensual Sexual Contact is:

- any intentional sexual touching,
- however slight,
- with any object,
- by a man or a woman upon a man or a woman,
- that is without consent and/or by force.

Sexual Contact includes:

- Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

c) NON-CONSENSUAL SEXUAL INTERCOURSE

Non-Consensual Sexual Intercourse is:

- any sexual intercourse
- however slight,
- with any object,

- by a man or woman upon a man or a woman,
- that is without consent and/or by force. Intercourse includes:
 - vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

d) SEXUAL EXPLOITATION

Occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another student;
- Non-consensual video or audio-taping of sexual activity;
- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- Engaging in voyeurism;
- Knowingly transmitting an STI or HIV to another student;
- Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

G. ADDITIONAL APPLICABLE DEFINITIONS:

- **Consent:** Consent is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.
 - Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
 - Previous relationships or prior consent cannot imply consent to future sexual acts.
- **Force:** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation

(implied threats) and coercion that overcome resistance or produce consent (“Have sex with me or I’ll hit you. Okay, don’t hit me, I’ll do what you want.”).

- Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- NOTE: There is no requirement that a party resists the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.
- In order to give effective consent, one must be of legal age.
- Sexual activity with someone who one should know to be -- or based on the circumstances should reasonably have known to be -- mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), constitutes a violation of this policy.
 - Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
 - This policy also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>
- Use of alcohol or other drugs will never function as a defense for any behavior that violates this policy.
- The sexual orientation and/or gender identity of individuals engaging in sexual activity is not relevant to allegations under this policy.

H. SANCTION STATEMENT

- Any individual found responsible for violating the policy on Non-Consensual or Forced Sexual Contact (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion (for students), written warning to discharge (for faculty, staff, and other employees), depending on the severity of the incident, and taking into account as applicable any previous campus conduct code violations or employee

policy or code of conduct violations.

- Any individual found responsible for violating the policy on Non-Consensual or Forced Sexual Intercourse will likely face a recommended sanction of suspension or expulsion (for students), suspension or discharge (for faculty, staff, and other employees).*
- Any individual found responsible for violating the policy on sexual exploitation or sexual harassment will likely receive a recommended sanction ranging from warning to expulsion (for students), written warning to discharge (for faculty, staff, and other employees) depending on the severity of the incident, and taking into account as applicable any previous campus conduct code violations, or employee policy or code of conduct violations.*

*The conduct body reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Deciding management will not deviate from the range of recommended sanctions unless compelling justification exists to do so.

I. EXAMPLES

1. Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00pm until 3:00am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being "a prude." Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a "hand job" (hand to genital contact). Amanda would never had done it but for Bill's incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left.

Bill is responsible for violating the University Non-Consensual or Forced Sexual Contact policy. It is likely that a University decision would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not effective when forced. Sex without effective consent is sexual misconduct.

2. Jiang is a junior at the University. Beth is a sophomore. Jiang comes to Beth's dorm room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation?

Jiang would be held responsible in this scenario for Non Consensual Sexual Intercourse. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, students should attempt to be as clear as possible as to whether or not sexual contact is desired, but students must be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.

3. Kevin and Amy are at a party. Kevin is not sure how much Amy has been drinking, but he is pretty sure it's a lot. After the party, he walks Amy to her room, and Amy comes on to Kevin, initiating sexual activity. Kevin asks her if she is really up to this, and Amy says yes. Clothes go flying, and they end up in Amy's bed. Suddenly, Amy runs for the bathroom. When she returns, her face is pale, and Kevin thinks she may have thrown up. Amy gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that Amy seems pretty groggy and passive, and he thinks Amy may have even passed out briefly during the sex, but he does not let that stop him. When Kevin runs into Amy the next day, he thanks her for the wild night. Amy remembers nothing, and decides to make a complaint to the Dean.

This is a violation of the Non-Consensual Sexual Intercourse Policy. Kevin should have known that Amy was incapable of making a rational, reasonable decision about sex. Even if Amy seemed to consent, Kevin was well aware that Amy had consumed a large amount of alcohol, and Kevin thought Amy was physically ill, and that she passed out during sex.

Kevin should be held accountable for taking advantage of Amy in her condition. This is not the level of respectful conduct expected of students.

J. OTHER MISCONDUCT OFFENSES (WILL FALL UNDER TITLE IX WHEN SEX OR GENDER-BASED)

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of gender;
3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
4. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the University community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity;
5. Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally;
6. Violence between those in an intimate relationship to each other;
7. Stalking, defined as repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of a member of the community; or the safety of any of the immediate family of members of the community.

To enable the University to respond to all reports in a prompt and equitable manner, the University encourages all individuals to directly report any incident to the Title IX Coordinator, the Director of Campus Safety and Security, or the Dean of Students.

Regular business hours are Monday through Friday, 8:30 am through 5:00 pm

K. RESPONSIBLE EMPLOYEES OF NORTHWOOD UNIVERSITY

All locations

Title IX Coordinator:
Pamela Christie, Human Resources Director
Northwood University
4000 Whiting Drive
Midland, MI 48640

christie@northwood.edu
Telephone: 989.837.4212

Title IX Investigator:
Lori Isenhart, Human Resources Manager
Northwood University
4000 Whiting Drive
Midland, MI 48640
loriw@northwood.edu
Telephone: 989-837-4236

Title IX Investigator:
Jason vonReichbauer, Director of Safety and Security
Northwood University
4000 Whiting Drive
Midland, MI 48640
vonreich@northwood.edu
Telephone: 989-837-4396

Title IX Investigator:
Andy Cripe, Dean of Students
Northwood University
4000 Whiting Drive
Midland, MI 48640
cripe@northwood.edu
Telephone: 989-837-4398

Note, in the event a complaint involves the Title IX Coordinator, a complaint shall be filed directly with the President:

Keith Pretty, President
CFAB
Northwood University 4000
Whiting Drive
Midland, MI 48640
president@northwood.edu
Telephone:
989.837.4203

Michigan Campus
Dean of Students Andy Cripe
Northwood University
4000 Whiting Drive

Midland, MI 48640
cripe@northwood.edu
Telephone: 989.837.4398

Michigan and all Locations

Campus Resources: 24 hour 7 days a week

Campus Safety and
Security Telephone:
989.837.4373

If you have an emergency, don't wait. Don't drive. Call 911 immediately.

Michigan and all Locations

University System Director of Safety and Security
Jason vonReichbauer
Northwood University
4000 Whiting Drive
Midland, MI 48640

vonreich@northwood.edu
Telephone: 989.837.4396
24 hour number: 989-837-4373

Other Michigan Campus Resources:

Michigan Campus Health Center
RN, Sue Mishler
8:00 am – 5:00 pm
Miner Hall
Telephone: 989.837.4312
mishler@northwood.edu

CONFIDENTIAL REPORTING:

Michigan and all locations

Counseling Services
J&A Counseling and Evaluations,
Inc. 5100 Eastman Avenue, Suite 2
Midland MI 48640
telephone: 989.631.4092
Business hours: 10:00 a.m. - 7:00
p.m. Monday through Thursday
10:00 a.m. – 5:00 p.m. Friday

Clergy

Midland Reformed Church
1100 Saginaw d.
Midland, MI 48640
Contact Number: 835-4000
www.midlandreformed.org

Open Door Baptist
Church 6200 Sturgeon
Midland, MI 48640
Contact Number: 832-3402
www.opendoorbaptistchurchmidland.com

St. John's Episcopal
Church 405 Saginaw Rd.
Midland, MI 48640
Contact Number: 631-2260
www.sjec-midland.org

Urgent Care

Midland Urgent Care
3009 N. Saginaw Road
Midland, Michigan 48640
(Between Sturgeon Road and Orchard Drive)
Telephone: 989.633.1350
Hours: Monday – Friday, 8:00 am – 8:00 pm
Saturday – Sunday - 8 a.m. - 4 p.m.

Hospital

Midland Hospital and Emergency Room
4005 Orchard Drive
Midland, MI 48670
Telephone: 989.839.3100
Fax: 989.839.1393
Hours - 24 hours per day 7 days per week

L. Filing an External Complaint

Any individual that believes that they have been subjected to unlawful discrimination, harassment or retaliation has the right to file a complaint with an appropriate local, state or federal agency, including law enforcement, within applicable time limits.

Midland Police Department

Law Enforcement Center

2727 Rodd Street

Midland, MI 48640

Telephone: 989-631-5716

US Department of Education

Office for Civil Rights 1350 Euclid Ave

Suite 325

Cleveland, OH 44115

Telephone – (216) 522-4970

Facsimile – (216) 522-2573

Email – OCR.Cleveland@ed.gov

US Equal Employment Opportunity

Commission Detroit Field Office

Gail Cober, Director

477 Michigan Ave, Room 865

Detroit, MI 48226

Telephone – (800) 669-4000

Facsimile – (313) 226-4610

M. Title IX Review, Investigation and Resolution

Although a report may come in through many sources, the University is committed to ensuring that all reports are referred to the Title IX Coordinator which ensures consistent application of the policy to all individuals and allows the University to respond promptly and equitably to eliminate the harassment, prevent its recurrence, and eliminate its effects. The Title IX Coordinator assists in the review, investigation, and/or resolution of the report. Additional resources may be utilized and may include: the Dean of Students, Director of Campus Safety and Security, and others as may be necessary. The members of this team oversee the resolution of reported harassment or misconduct through the University's complaint processes. The process followed will be determined by the role of the Respondent.

Regardless of whether the Complainant is a student, faculty member, or staff member, the University will use the Title IX policy and procedures to investigate and address the complaint against any of these individuals. The results of any investigation will be referred to the appropriate sanctioning body for any sanctions determined appropriate where harassment or misconduct is found to have occurred.

N. Procedural

As outlined in this policy, an individual who wishes to make a report of alleged sexual harassment, sexual violence, sexual assault, intimate partner violence, domestic violence, dating violence, and/or stalking is encouraged to make a report directly to the Title IX

Coordinator, the Dean of Students, and/or Campus Safety and Security. In every report of this nature, the University, through the coordinated efforts of the Title IX Coordinator, will conduct an initial Title IX review.

In the course of this assessment, University officials, to the best of their ability, will consider the interest of the Complainant and his/her expressed preference for manner of resolution. Where possible, and as warranted by an assessment of the facts and circumstances, the University will seek action consistent with the Complainant's request. Where a Complainant requests that his/her name or other identifiable information not be shared with the Respondent or that no formal action be taken, the University will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all University community members and to afford a Respondent fundamental fairness by providing notice and an opportunity to respond before action is taken against a Respondent.

The University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue a full investigation, but its ability to do so may be limited based on the nature of the request by the Complainant.

Where the University is unable to take action consistent with the request of the Complainant, a member of the Title IX team will communicate with the Complainant about the chosen course of action.

As part of the initial assessment of the facts, the Title IX Coordinator and/or team will:

- Assess the nature and circumstances of the allegation(s);
- Address immediate physical safety and emotional well-being;
- Notify the Complainant of his/her right to contact law enforcement and seek medical treatment;
- Notify the Complainant of the importance of preservation of evidence;
- Enter the report into the University's daily crime log;
- Assess the reported conduct for the need for a timely warning under the Clery Act;
- Provide the Complainant with information about on- and off-campus resources;
- Notify the Complainant of the range of interim accommodations and remedies available to him/her;
- Provide the Complainant with an explanation of the procedural options, including Resolution;
- Assess for pattern of evidence or conduct by Respondent;
- Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding; and
- Explain the University's policy prohibiting retaliation.

At the conclusion of the Title IX assessment, the Title IX Coordinator and/or team will determine the appropriate manner of resolution and, if appropriate, refer the report for further investigation, or resolution.

O. Investigation

An investigator will be assigned to the complaint and will inform the complainant and respondent the policy and process moving forward. The investigator will explain to the complainant and respondent the nature of the complaint, any retaliatory actions, and that either may have an adviser and respond to the allegations. An adviser is a nonparticipating supporter. Both the complainant and respondent are able to present witnesses and other evidence regarding the complaint and their position(s) regarding the facts and other information. Both the complainant and the respondent will be provided a reasonable expected timeline for investigation and/or resolution and the University expects the process will take no longer than 30 days but reserves the right and understanding that circumstances might require a longer period of time. The complainant and respondent are able to appeal the decision to a University official within 5 days of the parties' receipt of notice of the outcome of the investigation.

The investigation process shall be as follows:

1. The filing of a complaint shall be within 10 business days of the alleged incident to one of the "RESPONSIBLE EMPLOYEES OF NORTHWOOD UNIVERSITY" as identified within this policy, unless extreme circumstances require that the 10 days be extended for reporting;
2. Within two business days of receipt and initial review of the complaint by the contacted "RESPONSIBLE EMPLOYEE" a determination will be made in conjunction with the Title IX Coordinator whether further investigation is necessary, or other actions should be taken;
3. If an investigation is warranted a Title IX Investigator(s)* in conjunction with others will interview witnesses, collect statements and evidence** for determining an appropriate outcome. The investigation should be completed within 30 days of the complaint;
4. Within 5 days of the completion of the investigation, the Title IX investigator shall provide the findings to the Title IX Coordinator;
5. Within 14 days of the completion of the investigation, the Title IX Coordinator will report the outcome to the complainant and the respondent;
6. The Title IX investigator will provide the Title IX coordinator a report of the findings within 5 business days of notification to the complainant and the respondent, unless the Title IX investigator requests the report sooner;
7. The Title IX investigator shall also refer to the sanctioning body for any sanctions determined appropriate where discrimination harassment or misconduct is found to have occurred.
8. In addition to stopping all discrimination found to have occurred, the University will remedy the discriminatory effects on the complainant and others, and will take all reasonable steps necessary to prevent recurrence, which may include sanctions, discipline, or other action from the sanctioning

body or others.

9. It is not appropriate for the alleged student harassment victim to be required to work out the alleged problem directly with the alleged harasser. In some cases, such as alleged sexual assaults, mediation is never appropriate, even on a voluntary basis.

*The University will not allow conflicts of interests (real or perceived) by those handling investigations.

** Evidence of a past relationship between the parties will not be considered in the investigation of sexual harassment.

P. CONFIDENTIALITY, PRIVACY AND REPORTING POLICY

Institutions must clearly articulate who are “responsible employees” under Title IX for purposes of initiating notice and/or investigation, and those who have more discretion on how they act in response to notice of gender-based discrimination. Different people on campus have different reporting responsibilities and different abilities to maintain confidentiality, depending on their roles at the University and upon University policy.

When consulting campus resources, all parties should be aware of confidentiality, privacy and mandatory reporting in order to make informed choices. On campus, some resources can offer you confidentiality, sharing options and advice without any obligation to tell anyone unless you want them to. Other resources are expressly there for you to report crimes and policy violations and they will take action when you report your victimization to them. Most resources on campus fall in the middle of these two extremes. Neither the University nor the law requires them to divulge private information that is shared with them except in certain circumstances, some of which are described below. A victim may seek assistance from these University officials without starting a formal process that is beyond the victim’s control, or violates her/his privacy.

Q. To Report Confidentially

If one desires that details of the incident be kept confidential, they should speak with our off-campus resources or a rape crisis resource who can maintain confidentiality. In addition, you may speak with members of the clergy and chaplains, who will also keep reports made to them confidential.

R. Reporting To Those Who Can Maintain The Privacy Of What You Share

You can seek advice from certain resources who are not required to tell anyone else your private, personally identifiable information unless there is cause for fear for your safety, or the safety of others. These are individuals who the University has not specifically

designated as “responsible employees” for purposes of putting the institution on notice and for whom mandatory reporting is required, other than in the stated limited circumstances. These resources include those without supervisory responsibility or remedial authority to address sexual misconduct, such as RAs, faculty members, advisors to student organizations, career services staff, admissions officers, student activities personnel, and many others. If you are unsure of someone’s duties and ability to maintain your privacy, ask them before you talk to them. They will be able to tell you, and help you make decisions about who can help you best.

Some of these resources, such as RAs, should be instructed to share incident reports with their supervisors, but they will not share any personally identifiable information about your report unless you give permission, except in the rare event that the incident reveals a need to protect you or other members of the community. If your personally identifiable information is shared, it will only be shared as necessary with as few people as possible, and all efforts will be made to protect your privacy.

S. NON-CONFIDENTIAL REPORTING OPTIONS

You are encouraged to speak to officials of the institution to make formal reports of incidents (deans, vice presidents, or other administrators with supervisory responsibilities, campus security, and human resources). The University considers these people to be “responsible employees.” Notice to them is official notice to the institution. You have the right and can expect to have incidents of sexual misconduct to be taken seriously by the institution when formally reported, and to have those incidents investigated and properly resolved through administrative procedures. Formal reporting means that only people who need to know will be told and information will be shared only as necessary with investigators, witnesses, and the accused individual.

T. Federal Statistical Reporting Obligations

Certain campus officials have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student/conduct affairs, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the

Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

U. Federal Timely Warning Reporting Obligations

Victims of sexual misconduct should also be aware that University administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The University will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. The reporters for timely warning purposes are exactly the same as detailed at the end of the above paragraph.

V. QUESTIONS AND ANSWERS

Here are some of the most commonly asked questions regarding University's sexual misconduct policy and procedures.

Does information about a complaint remain private?

The privacy of all parties to a complaint of sexual misconduct must be respected, except insofar as it interferes with the University's obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the complainant or the accused individual may lead to disciplinary action by the University.

In all complaints of sexual misconduct, all parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain University administrators are informed of the outcome within the bounds of student privacy (e.g., the President of the University, Dean of Students, Director of Security). If there is a report of an act of alleged sexual misconduct to a conduct officer of the University and there is evidence that a felony has occurred, local police will be notified in the event state law requires such notification. This does not mean charges will be automatically filed or that a victim must speak with the police, but in the event the institution is legally required to notify law enforcement authorities, it will do so. The institution also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

Will my parents be told?

No, not unless you tell them. Whether you are the complainant or the accused individual, the University's primary relationship is to the student and not to the parent. However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents. University officials will directly inform parents when requested to do so by a student, in a life-threatening situation, or if an accused individual has signed the permission form at registration which allows such communication.

Will the accused individual know my identity?

Yes, if you file a formal complaint. Sexual misconduct is a serious offense and the accused individual has the right to know the identity of the complainant/alleged victim. Every effort will be given to provide a non-confrontational environment.

Do I have to name the perpetrator?

Yes, if you want a formal disciplinary action to be taken against the alleged perpetrator. No, if you choose to respond informally and do not file a formal complaint (but you should consult the complete confidentiality policy above to better understand the University's legal obligations depending on what information you share with different University officials). Victims should be aware that not identifying the perpetrator may limit the institution's ability to respond comprehensively.

What do I do if I am accused of sexual misconduct?

DO NOT contact the alleged victim. You may immediately want to contact someone who can act as your advisor; **anyone may serve as your advisor**. You may also contact the Dean of Student's Office, which can explain the University's procedures for addressing sexual misconduct complaints. You may also want to talk to a confidential counselor or seek other community assistance. See below regarding legal representation.

Will I (as a victim) have to pay for counseling/or medical care?

Not typically, if the institution provides these services already. If a victim is accessing community and non-institutional services, payment for these will be subject to state/local laws, insurance requirements, etc.

What about legal advice?

Victims of criminal sexual assault need not retain a private attorney to pursue prosecution because representation will be handled by the District Attorney's office. You may want to retain an attorney if you are the accused individual or are considering filing a civil action. The accused individual may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution and/or the campus conduct proceeding. Both the accused and the victim may also use an attorney as their advisor during the campus' grievance processes.

What about changing residence hall rooms?

If you want to move, you may request a room change. Room changes under these circumstances are considered emergencies. It is typically institutional policy that in emergency room changes, the student is moved to the first available suitable room. If you want the accused individual to move, and believe that you have been the victim of sexual misconduct, you must be willing to pursue a formal or informal University complaint. No contact orders can be imposed and room changes for the accused individual can usually be arranged quickly. Other accommodations available to you might include:

- Assistance from University support staff in completing the relocation;
- Arranging to dissolve a housing contract and pro-rating a refund;
- Assistance with or rescheduling an academic assignment (paper, exams, etc.);
- Taking an incomplete in a class;
- Assistance with transferring class sections;
- Temporary withdrawal;
- Assistance with alternative course completion options;
- Other accommodations for safety as necessary.

What should I do about preserving evidence of a sexual assault?

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the Hospital Emergency Room, before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is usually on call 24 hours a day, 7 days a week (call the Emergency Room if you first want to speak to the nurse; ER will refer you). University security can transport you to the hospital or law enforcement. If a victim goes to the hospital, local police will be called, but s/he is not obligated to talk to the police or to pursue prosecution. Having the evidence collected in

this manner will help to keep all options available to a victim, but will not obligation him or her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.

For the Victim: the hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear evidence for the police to collect.

Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?

No. The severity of the infraction will determine the nature of the University's response, but whenever possible the University will respond educationally rather than punitively to the illegal use of drugs and/or alcohol. The seriousness of sexual misconduct is a major concern and the University does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct.

Will the use of drugs or alcohol affect the outcome of a sexual misconduct conduct complaint?

The use of alcohol and/or drugs by either party will not diminish the accused individual's responsibility. On the other hand, alcohol and/or drug use is likely to affect the complainant's memory and, therefore, may affect the outcome of the complaint. A person bringing a complaint of sexual misconduct must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to prove his/her complaint. If the complainant does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the accused without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by an accused individual.

Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?

Not unless there is a compelling reason to believe that prior use or abuse is relevant to

the present complaint.

What should I do if I am uncertain about what happened?

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the institution's sexual misconduct policy, you should contact the institution's dean of student's office. This office can help you to define and clarify the event(s), and advise you of your options.