



Approving University Official s: Provost; Senior Vice
President for Business and Finance
Responsible Office:Provost; Human Resources; Student
Affairs; Office of Equity
Effective Date: August14, 2020
Next Review Dae: \$ X J X14, 2021

INTERIM POLICY ON TITLE IX SEXUAL HARASSMENT

I. Policy

- A. Policy Statement
- B. Jurisdiction
- C. Purpose
- D. Accessibility
- E. Definitions
 - 1. Consent
 - 2. Prohibited Conduct
 - 3. Participants
 - 4. Supportive Measures
 - 5. Formal Complaint
 - 6. Remedies
- F. Reporting
 - 1. Title IX Sexual Harassment Reporting Options
 - 2. Reporting Obligations
 - 3. Interim Removal
 - 4. Title IX Retaliation
 - 5. Amnesty for Title IX Sexual Harassment Complaints and Witnesses
 - 6. Free Expression and Academic Freedom
 - 7. Title IX and VAWA Statement
- G. Potential Consequences Following a Finding of a Policy Violation
 - 1. Sanctions
 - 2. Remedies
- H. Related Information
 - I. History
 - J. Policy URL

II. Resources

- A. Confidential Support, Advocacy, and Counseling Resources
- B. Seeking Confidential Medical Assistance
- C. Preserving Physical Evidence
- D. Education Training, Awareness, and Prevention Programming

III. Title IX Sexual Harassment Complaint Resolution Process

- A. Introduction
- B. Response to Reports
- C. Supportive Measures
- D. Formal Complaint
- E. Consolidation of Formal Complaints
- F. Initial Inquiry and Dismissal Prior to Commencement of Investigation

I. Policy

A. Policy Statement

On May 6, 2020, the United States Department of Education issued new regulations, effective August 14, 2020, defining sexual harassment under Title IX of the Education Amendments of 1972 ("Title IX") to include three categories of misconduct on the basis of sex that occur within the University's education programs or activities: *quid pro quo* harassment by an employee; severe, pervasive, and objectively offensive unwelcome conduct of a sexual nature; and Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined under the Clery Act and VAWA

While Northwestern prohibits all forms of discrimination and harassment, including sexual misconduct, this policy applies only to Sexual Harassment under Title IX as defined below

Discriminator.5 (e)14 (s.c.d) (1) 3.70255(e) 14 (1) 2((r) 652 (655) 9.3) 3240 c 0 Tw 7 (1) Tj-1.c d) 107i.p pe)2

- walking or standing without stumbling assistance);
- x Lack of awareness of circumstances or surroundings (for example, lack of awareness of where one is, how one got there, who one is with, or how or why one became engaged in sexual activity);
 - x Inability to effectively communicate for any reason (for example, slurring speech, difficulty finding words).

A person may appear to be giving consent but may not have the capacity to do so.

consent makes that known in clearly understandable words or actions.

2. Prohibited Conduct

Northwestern prohibits all forms of sexual misconduct. Such conduct violates our community values and disrupts the living, learning, and working environment for students, faculty, staff, and other community members. Consistent with the U.S. Department of Education's implementing regulations for Title IX

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship.
- (ii) The type of relationship.
- (iii) The frequency of interaction between the persons involved in the relationship.

v. Title IX Domestic Violence: “domestic violence” as defined in 34 U.S.C. 12291(a)(8).

Under 34 U.S.C. 12291(a)(8), the term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

vi. Title IX Stalking: “stalking” as defined in 34 U.S.C. 12291(a)(30).

Under 34 U.S.C. 12291(a)(30), the term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to

- (A) fear for their safety or the safety of others; or
- (B)

may request to receive support –

a Formal Complaint. A Complainant must be participating in or attempting to participate in Northwestern Education Programs or Activities. The University encourages reports be made as soon as possible after the incident.

The staff identified below are specially trained to work with individuals who report or are accused of Title IX Sexual Harassment and have knowledge about on and off campus resources, services, and options including the availability of supportive measures, as discussed above in Section (4).

Title IX Coordinator

Contact: Colleen Johnston

Location: Office of Equity, 1800 Sherman, Suite 4500, Evanston, IL 60208

Phone: (847) 4913881

Email: colleen.johnston@northwestern.edu

Deputy Title IX Coordinator

Contact: Amanda DaSilva

Location: Office of Equity, 1800 Sherman, Suite 4500, Evanston, IL 60208

Phone: (847) 4676571

Email: amandadasilva@northwestern.edu

Deputy Title IX Coordinator

Contact: Karen Tamburro

Location: Office of Equity, 1800 Sherman, Suite 4500, Evanston, IL 60208

Phone: (847) 4916697

Email: karen.tamburro@northwestern.edu

Northwestern has designated the Title IX Coordinator, with assistance of the Deputy Title IX Coordinators, to coordinate Northwestern's compliance with Title IX and VAWA and to respond to reports of violations. The University has directed its Clery Program Manager to coordinate Northwestern's compliance with the Clery reporting and VAWA requirements.

A person may also file a complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting

www2.ed.gov/about/offices/list/ocr/complaintintro.html or calling 1-800-421-3481.

Employees may also file a charge with the Equal Employment Opportunity Commission regarding an alleged violation of Title VII by calling 800-669-4000 or visiting

<https://www.eeoc.gov/employees/howtofile.cfm>. Employees may also file a charge with the Illinois Department of Human Rights (IDHR) regarding an alleged violation of the Illinois Human Rights Act by calling 1-800-662-3942 or 1866-740-3953 (TTY). In addition, after the IDHR has completed its investigation of the complaint, an appeal process is available through the Illinois Human Rights Commission, which can be contacted by calling 815-312-6269 or 312-814-4760 (TTY).

G. Potential Consequences Following a Finding of a Policy Violation

1. Sanctions

When a final determination is made that an individual has violated this policy, as determined by the Complaint Resolution Process in Section II, appropriate sanctions are determined based on several factors, including the severity of the conduct and any prior policy violations. Sanctions and corrective actions can include, but are not limited to:

- x Verbal warning
- x Written warning
- x Advisory letter
- x Conduct

- x Revocation of tenure
- x Termination of contract (for contractors)

[title-ix.pdf](#)

<p>CAPS: Counseling and Psychological Services*</p>	<p>Evanston Campus 633 Emerson Street, 2nd Floor (847) 4912151 (24hours)</p> <p>Chicago Campus: Abbott Hall, 5th Floor 710 N. Lake Shore Drive (847) 4912151 (24hours) www.northwestern.edu/counseling/</p>	<p>Provides counseling services to students, also provides a counselor on call 24 hours a day.</p>
---	---	--

Religious & Spiritual

Resource

Contact Information

Description

1. Medical Services Available On or Near the Evanston and Chicago Campuses

Northwestern University Health Service⁴

Evidence collection kit cannot be provided; CARE staff can be contacted to provide support services, if desired. (See Section II(A) for more information on CARE.)

Evanston Campus 633 Emerson Street, Evanston

Phone: (847) 4918100 (RN call service available 24 hours)

Website: <http://www.northwestern.edu/healthservice/evanston/>
(for regular hours of operation and 24-hour emergency contact info)

Chicago Campus: 675 North St. Clair Suite 1200, Chicago

Phone: (312) 6958134

Website: <http://www.northwestern.edu/healthservice/chicago>
(for regular hours of operation and 24-hour emergency contact info)

NorthShore University Health System/ Evanston Hospital, Emergency Dept. (24 hours)

Evidence collection kit available at no charge; Evanston Police Victim Services advocate can be present to provide support services, if desired.

Location: 2650 Ridge Avenue, Evanston

Phone: (847) 5702111 (emergency room)

Website: <http://www.northshore.org/locations/hospitals/evanstonhospital/>
(for more information or to request an appointment online)

Northwestern Memorial Hospital, Emergency Department (24 hours)

Evidence collection kit available at no charge; Advocate from Resilience will be present to provide support services, if desired.

Location: 251 E Huron Street, Chicago

Phone: (312) 9265188 (emergency room)

Website: <http://www.northwestern.edu/hospital/emergency/>

- x In order to best preserve their legal options in the future, individuals should consider not altering, disposing of, or destroying any physical evidence of the incident
- x If there is suspicion that a drink may have been drugged, an individual should inform a medical assistance provider and/or law enforcement as soon as possible ~~they can~~ attempt to collect possible evidence (e.g., from the drink, through urine or ~~sample~~ sample).
- x Individus Tc -0. (ct)-x.6 (dv)10.8 (e)-1.6 (be)-1.7 (e)-1.6 (n dr)6.9 (uger)6.9 (uger)6.9 (ugerne)-12

For information on educational training, awareness, and prevention programs offered each year, see: <https://www.northwestern.edu/sexualconduct/education/index.html>

III. Title IX Sexual Harassment Complaint Resolution Process

A. Introduction

The procedures below outline the process the University follows when it receives ~~alleging~~ a violation of the *Interim Policy on Title IX Sexual Harassment* committed by a member of the Northwestern community. For the purposes of this Policy, “by a member of the Northwestern community” means current students (as defined by the Student Handbook), current faculty (as defined by the Faculty Handbook), current staff members, and current ~~party~~ affiliates who have a formal (including contractual) ~~relationship~~ with the University

The procedures below ~~do~~ not apply to reports alleging violations of this policy committed by visitors to campus or by former students, faculty, staff members, or ~~party~~ affiliates. The procedures below also do not apply to Sexual Harassment that occurs outside the geographic boundaries of the United States. As indicated above, ~~is~~ conduct occurring outside of the jurisdiction of this policy may be addressed by other University policies, which may include but are not ~~solely~~ limited to the University’s [Policy on Institutional Equity](#)

The Office of Equity (“the Office”) is responsible for handling reports alleging violations of this policy. University groups, including student groups, and departments are expected to report to the Office of Equity any concerns

C. Offer of Supportive Measures

The University will offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to file a Formal Complaint.

In the event a Formal Complaint is filed, contemporaneously with the Respondent being notified, the Office of Equity will notify the Respondent of the availability of Supportive Measures to the Respondent. The University will offer and make available Supportive Measures to the Respondent in the same manner in which it offers and makes them available to the Complainant. The University will also offer and make available Supportive Measures to the Respondent prior to the Respondent being notified of a Formal Complaint if the Respondent requests such measures.

The University will maintain the confidentiality of Supportive Measures provided to either a Complainant or Respondent to the extent that maintaining such confidentiality does not impair the University's ability to provide the Supportive Measures in question.

D. Formal Complaint

A Complainant may file a Formal Complaint with the Office of Equity requesting that the University investigate and adjudicate a report of Title IX Sexual Harassment in accordance with the provisions of this section. At the time the Complainant submits a Formal Complaint, the Complainant must be participating in, or attempting to participate in, one or more of the University's Education Programs or Activities.

A Complainant may file a Formal Complaint with the Office of Equity in person, by regular mail, or by email using the contact information specified in Section (5) above or by using the Formal Complaint form available at <http://bit.ly/NUFormalTitleIXComplaint>. No person may submit a Formal Complaint

x

G. Investigation

The University invites parties to participate fully in all aspects of the investigation and hearing processes outlined below.

1. Notification

Within seven (7) calendar days of completing an initial inquiry resulting in the opening of an investigation, the Office of Equity will provide written notice to the parties who are known that includes

- x Notice of Northwestern's complaint resolution process.
- x Sufficient details of the allegations known at the time so that the parties may prepare a response to be an initial interview with the investigator(s), including
 - o the identifies of the parties involved in the incident, if known;
 - o the conduct alleged to constitute Title IX Sexual Harassment under this policy; and
 - o the date and location of the incident(s), if known.

The notice will include statements that Respondents is presumed not responsible for the alleged conduct; the Complainants presumed to have brought forward the complaint in good faith and a determination regarding responsibility is made at the conclusion of the complaint resolution process.

The written notice will inform the parties of their right to inspect and review evidence as specified in Section III(G)(5) below, and that they may have an advisor of their choice, who may be, but is not required to be, an attorney

The written notice will inform the parties of the University's prohibitions on retaliation and knowingly making false statements or knowingly submitting false information during the complaint resolution process.

If, in the course of an investigation, the University decides to investigate additional allegations about the Complainant or Respondent that were not included in the initial notice, the Office of Equity will provide notice of the additional allegations to the parties whose identities are known pursuant to the requirements above

2. Dismissal of Formal Complaint During Investigation or Adjudication

The University may dismiss a Formal Complaint or any allegations therein at any point during the investigation or hearing process if:

- x The Complainant requests to withdraw the Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed by contacting the Title IX Coordinator in writing. The Title IX Coordinator or designee will determine whether to dismiss the Formal Complaint or allegations or conclude the investigation and hearing without the Complainant's continued participation.
- x The Respondent is no longer enrolled or employed by the University, as the case may be;
- x Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint, or any discrete allegations (in which case those discrete allegations may be dismissed).

In the event the Title IX Coordinator determines the Formal Complaint should be dismissed pursuant to this Section, the Title IX Coordinator will provide written notice of dismissal, including the reasons for the dismissal, to the parties and advise them of their right to appeal as specified in Section III(H). The Title IX Coordinator may refer the subject matter of the Formal Complaint to other University offices, as appropriate. A dismissal pursuant to this Section is presumptively a final determination as it pertains to

this policy, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

3. Investigation Process

The Office of Equity investigates Formal Complaints. Depending upon the circumstances, the Office of Equity may assign one or more investigators from the Office of Equity. In some cases, an investigator from another University office may conduct the investigation under the direction of the Office of Equity, or an outside investigator may be retained. All investigators are trained in Title IX and the University's policies and procedures. Depending on the circumstances and in its discretion, the University may consolidate or severally investigate and/or resolve allegations involving this and other University

who will oversee the hearing process and render a determination of responsibility for the allegations in the Formal Complaint at the conclusion of the hearing process. The Title IX Coordinator will see that the decision maker provided a copy of the investigative report and a copy of all evidence transmitted to the parties by the investigator.

3. *Hearing Notice and Response to the Investigation Report*

After the decision maker is appointed by the Title IX Coordinator, the Office of Equity promptly transmit written notice to the parties notifying the parties of the decision maker's appointment; setting a deadline for the parties to submit any written response to the investigation report; setting a date for the pre-hearing conference; setting a date and time for the hearing; and providing a copy of the University's Hearing Procedures. Neither the pre-hearing conference, nor the hearing itself, may be held any earlier than ten (10) calendar days from the date of transmittal of the written notice specified in this Section.

A party's written response to the investigation report must include:

- x To the extent the party disagrees with the investigative report, any argument or commentary regarding such disagreement;
- x Any argument that evidence should be categorically excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of hearsay specified in Section II(L), or for any other reason;
- x A list of any witnesses that the party contends should be asked to attend the hearing pursuant to an attendance notice issued by the hearing officer;
- x A list of any witnesses that the party intends to bring to the hearing without an attendance notice issued by the hearing officer;
- x Any objection that the party has to the University's Hearing Procedures;
- x Any request that the parties be separated physically during the pre-hearing conference and/or hearing;
- x Any other accommodations that the party seeks with respect to the pre-hearing conference and/or hearing;
- x The name and contact information of the advisor who will accompany the party at the pre-hearing conference and hearing;
- x If the party does not have an advisor who will accompany the party at the hearing, a request that the University provide an advisor for purposes of conducting questioning as specified in Section II(J).

A party's written response to the investigation report may also include:

- x Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of the evidence;
- x Argument regarding whether any of the allegations in the Formal Complaint constitute

The decision maker will facilitate the hearing process. The hearing will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. Northwestern's discretion, the live hearing may be conducted by the person with the decision maker the parties, the advisors, witnesses, and other necessary University personnel together in the same

hearing officer will have discretion to modify the Hearing Procedures, when good cause exists to do so, and provided the minimal requirements specified in this Section are met.

8. Relevancy of Questions

Only relevant cross-examination and other questions may be asked of a party or witness. The decision maker will determine the relevancy of all questions asked during the hearing. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Parties and advisors may not challenge these determinations during the hearing. The decision maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Questions that are duplicative or repetitive of those already asked may be deemed not relevant and thus excluded.

9. Deliberation and Determination Regarding Responsibility

After the hearing is complete, the decision maker will objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the hearing, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent

- identification of the allegations potentially constituting Title IX Sexual Harassment and, if applicable, other University policy violations
- a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of Northwestern's policy to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility for each separate potential incident
- any disciplinary sanctions imposed on the Respondent
- whether remedies designed to restore or preserve equal access to the recipient's Education Program or Activity will be provided to the Complainant and
- the procedures and permissible bases for the Complainant and Respondent to appeal.

The determination regarding responsibility becomes final either on the date that the appeal reviewer provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator is responsible for effective implementation of remedies.

I. Appeals.

An appeal of a finding in a complaint against a student should be addressed to:

*Assistant Dean/Director of Community Standards
Scott Hall*

based on the scope of the appeal or unforeseen circumstances. The reviewer may review the full case, beyond the facts of the case outlined in the request for appeal. If the reviewer does not find that any of the three grounds for appeal are present in the case, the outcome will be upheld. If the reviewer finds that any of the grounds for appeal are present in the case, they may amend the outcome, may issue a new outcome, or may refer the matter back to the decision maker for further consideration. No further review beyond the appeal is permitted

J. Advisor of Choice

From the point a Formal Complaint is made, and until an investigation, adjudication, and appeal are complete, the Complainant and Respondent will have the right to be accompanied by an advisor of their choice to all meetings, interviews, and hearings that are part of the investigation, adjudication, and appeal process. The advisor may be, but is not required to be, an attorney.

Except for the questioning of witnesses during the hearing specified in Section (H)(7), the advisor will play a passive role and is not permitted to communicate on behalf of a party, insist that

any such records or information otherwise covered by this Section if the party holding the privilege

A party is deemed to have received notice upon transmittal of an email to their University email address. In the event notice is provided by mail, a party will be deemed to have received notice three (3) calendar days after the notice in question is postmarked.

Any notice inviting or requiring a party or witness to attend a meeting, interview, or hearing will be

timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal specified in Section I) or otherwise.

R. Standard of Evidence

The University uses the preponderance of the evidence standard. This means that the hearing process determines whether it is more likely than not that a violation of the policy occurred.