

**Updated 6/15/2017, Frances Conine and Lori LeBlanc**

## **SEX DISCRIMINATION and SEXUAL ASSAULT & SEXUAL MISCONDUCT POLICY**

### **INTRODUCTION**

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. To ensure compliance with Title IX and other federal and state civil rights laws, Northwestern State University prohibits discrimination and sexual misconduct on the basis of sex, which includes sexual harassment, sexual assault, dating violence, domestic violence, stalking, coercion, and discrimination based on sexual orientation, gender identity or gender expression. Retaliation through intimidation, threats, coercion, or discrimination is also prohibited. It is the intention of the University to take whatever action may be needed to prevent or correct sex discrimination and sexual misconduct and, if necessary, sanction individuals who act in violation of this policy.

### **University Obligations:**

- take immediate action to investigate the alleged incident
- take prompt necessary steps to end the sexual violence and harassment, prevent its recurrence, and address its effects, whether or not the incident is subject of criminal investigation.
- protect the complainant, including taking interim steps prior to the final outcome of the investigation, including but not limited to assisting the students in moving residence halls, moving classes, changing transportation options, issuing “no contact” orders, or any other reasonable accommodation.
- provide a complaint procedure based on a preponderance of evidence standard to resolve complaints of sex discrimination, including complaints of sexual violence and harassment.
- notify both complainant and respondent of the outcome of a complaint

The Law Title IX of the Education Amendments of 1972: <https://www.justice.gov/crt/overview-title-ix-education-amendments-1972-20-usc-1681-et-seq>

**Scope of Policy:** The policy covers students and employees of Northwestern State, including visitors to campus, third parties, and contractors, whether within the Clery geographical boundaries of campuses or not. If an incident of misconduct occurs off campus, but is related to a University event or individual affiliated with the University, the University will investigate and take appropriate action if reported.

Members of the University community – students, staff, faculty and administrators – are entitled to a professional environment free of harassment or interference for reasons unrelated to the performance of their duties. Since some members of the community hold positions of authority that may involve the legitimate exercise of power over others, it is the person of authority's responsibility to be sensitive to that power, so as to avoid actions that are abusive or unprofessional. Faculty and supervisors, in particular, in their relationships with students and

fellow employees, need to be aware of potential conflicts of interest and the possible compromise of their evaluative capacity.

Because there is an inherent power difference in these relationships, the potential exists for the less powerful person to perceive a coercive element in suggestions regarding activities outside those appropriate to a strictly professional relationship. It is the responsibility of faculty, staff and students to behave in such a manner that their words or actions will not reasonably be perceived as suggestive or coercive.

**Confidentiality:** All reports of sex discrimination and sexual misconduct are treated as confidential to the greatest extent possible; the privacy of all individuals involved is important to the Northwestern State University. In most situations, only individuals involved in the resolution of the situation will have access to the information about the case. If there is a risk of the alleged perpetrator committing additional crimes, if a student is in immediate danger, or if there has been expressed intent to harm others, or other risks such as involvement of a weapon or the age of the students involved, the University may determine that it is necessary to compromise the level of privacy provided.

**Freedom of Speech:** Northwestern will not implement this policy or procedures in a manner that infringes on the First Amendment Rights of any individual.

**Amnesty:** Northwestern State University provides amnesty for any student who reports, in good faith, sexual violence to a Confidential Advisor, Responsible Employee, or Campus Security Authority. Students shall not be sanctioned by the University for a nonviolent student conduct violation, such as underage drinking, that is revealed in the course of such a report.

One in five women is sexually assaulted while in college. Most often, it happens her freshman or sophomore year. In the great majority of cases, it's by someone she knows – and most often, she does not report what happened. And though fewer, men, too, are victimized.

At Northwestern State University, we strive to create a community of respect. While we understand the rights of an individual to make the best decision for themselves, we encourage reporting sexual misconduct in order to protect our community and identify crime trends. It's on us as a community to recognize that non-consensual sex is sexual assault; to identify situations in which sexual assault may occur; to intervene in situations where consent has not or cannot be given; to create an environment in which sexual assault is unacceptable and survivors are supported.

### **Options for Reporting and Assistance**

NSU strongly advocates reporting sexual misconduct. If a student discloses an incident they will learn options for assistance, such as health and wellbeing counseling, residence and class accommodations, and options for filing complaints or criminal charges. Disclosure to University personnel will not obligate the complainant to file a complaint or criminal charge, nor will it subject the complainant to scrutiny or judgmental opinions.

### Reporting Options for Students:

1. Reporting to Title IX Coordinator & Student Advocate, Lori LeBlanc, (318) 357-5570, [leblancl@nsula.edu](mailto:leblancl@nsula.edu)
2. Confidential Disclosure to Campus Counselor/Confidential Advisor, (318) 357-5621. [booner@nsula.edu](mailto:booner@nsula.edu)
3. For emergencies call University Police (318) 357-5431
4. For a 24/7 Confidential Advisor, please call University Police, and they will forward the call.

Webpage for more information: <https://www.nsula.edu/notalone/>

Victims of sexual assault should get to a place where they feel safe and where they can receive emotional support. Victims should obtain necessary medical treatment in a timely manner; ideally a victim should not wash, douche, use the toilet, or change clothing prior to a medical exam as soon as possible or within 72 hours. This is a critical factor for evidence collection and preservation. The Natchitoches Parish Regional Hospital and the Natchitoches Parish Coroner's office will provide a victim with a Sexual Assault Nurse Examiner (SANE) once the victim reaches the hospital. Victims may request that a **Confidential Advisor** (see definition below) from the University attend the hospital visit. Counseling, whether or not a victim decides to report, can be beneficial. Taking steps for self-care provides empowerment. During regular working hours call (318) 357-5621; after hours call University Police at (318) 357-5431 and ask for campus counseling services.

### Contacts for Assistance:

Title IX Coordinator & Student Advocate, Lori LeBlanc, (318) 357-5570, [leblancl@nsula.edu](mailto:leblancl@nsula.edu)  
 Counseling and Career Services (318) 357-5621, [booner@nsula.edu](mailto:booner@nsula.edu)  
 Student Health Services (318) 357-5351, [campbells@nsula.edu](mailto:campbells@nsula.edu)

### Contacts for Emergencies:

University Police (318) 357-5431 (This number can contact an NSU Counselor 24/7)  
 911  
 Sexual Assault Hotline (800) 656-4673  
 Natchitoches Regional Medical Center (318) 214-4200

### Other Contacts:

Natchitoches Parish Sheriff (318) 352-6432  
 Natchitoches Police Department (318) 352-8101  
 Local Sexual Assault Advocate (318) 256-6242  
 Natchitoches Parish District Attorney (318) 357-2214

**Confidential Advisors:** A confidential advisor may serve as a liaison between the complainant and the institution and/or law enforcement at the request of the complainant who is fully informed of all procedures and confidentiality. Confidential advisor may accompany complainant to interviews, investigative, and institutional proceedings. Confidential advisors

shall inform the complainant of rights, reporting options, consequences of reporting, investigation and adjudication process for university and criminal justice system, disciplinary proceedings and sanctions, and options for reasonable accommodations. A request for accommodations by a confidential advisor shall not trigger an investigation by an institution, unless indicated by the complainant.

### **Confidential Advisors Contact Information:**

- Licensed Counseling and Career Services personnel (318) 357-5621, [booner@nsula.edu](mailto:booner@nsula.edu)
- Registered Nurses in Health Services (318) 357-5351, [campbells@nsula.edu](mailto:campbells@nsula.edu)
- Campus Pastoral personnel, see NSU: Not Alone webpage listed below.
- Other Faculty and Staff Confidential Advisors, see NSU: Not Alone webpage listed below.

NSU: Note Alone <https://www.nsula.edu/notalone/>

**Responsible Employees:** A Responsible Employee is a University employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. When an individual tells a Responsible Employee about an incident of sexual violence, the individual has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. A Responsible Employee must report to the Title IX Coordinator all relevant details about the alleged sexual misconduct shared by the individual, including the names of the individual who allegedly experienced sexual misconduct and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident. To the extent possible, information reported to a Responsible Employee will be shared only with people responsible for handling the University's response to the report.

### **Sexual Assault Response Team (SART):**

- Frances Conine, Vice President of The Student Experience & Dean of Students, [coninef@snula.edu](mailto:coninef@snula.edu)
- Veronica Biscoe, Executive Director of Institutional Effectiveness & Human Resources and Employee Title IX Coordinator, [ramirezv@nsula.edu](mailto:ramirezv@nsula.edu)
- Lori LeBlanc, Title IX Coordinator & Student Advocate, [leblancl@nsula.edu](mailto:leblancl@nsula.edu)
- Rebecca Boone, Director Counseling and Career Services, [booner@nsula.edu](mailto:booner@nsula.edu)
- Jon Caliste, University Police, [calistej@nsula.edu](mailto:calistej@nsula.edu)
- Doug Prescott, Detective, University Police, [prescott@nsula.edu](mailto:prescott@nsula.edu)

## **DEFINITIONS**

No matter how carefully worded a definition of sexual misconduct may be, situations may arise outside of these definitions. Therefore, a sexual offense at Northwestern State University is defined but not limited to the following:

**Sexual misconduct** is a sexual act or contact of a sexual nature that occurs, regardless of personal relationship, without the consent of the other person(s), or that occurs when the person(s) is unable to give consent or whose consent is coerced or obtained in a fraudulent manner. For the purpose of this Policy, sexual misconduct includes, but is not limited to, sexual assault, sexual abuse, violence of a sexual nature, sexual harassment, non-consensual sexual intercourse, sexual exploitation, video voyeurism, contact of a sexual nature with an object, or the obtaining, posting or disclosure of intimate descriptions, photos, or videos without the express consent of the persons depicted therein, as well as dating violence, domestic violence and stalking.

Public universities in the state of Louisiana shall use the federal and state definitions of the following terms when making all decisions regarding sexual misconduct including publication of definitions, disciplinary decisions, Clery reporting decisions, campus climate decisions, and training and prevention decisions. If there are any changes to state and federal law, definitions must be amended to reflect any changes to federal and state laws and regulations.

**Sexual Assault as defined by the Clery Act:** an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program

**Sexual Assault as defined by Louisiana State Law:**

**Non-Consensual Sexual Intercourse:** Having or attempting to have sexual intercourse, cunnilingus, or fellatio without Consent. Sexual intercourse is defined as anal or vaginal penetration by a penis, tongue, finger, or inanimate object.

**Non-Consensual Sexual Contact:** Any intentional sexual touching, or attempted sexual touching, without Consent.

**Sexual Exploitation:** An act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person's sexuality. Examples of sexual exploitation include, but are not limited to, non-consensual observation of individuals who are undressed or engaging in sexual acts, non-consensual audio- or videotaping of sexual activity, prostituting another person, allowing others to observe a personal consensual sexual act without the knowledge or consent of all involved parties, and knowingly exposing an individual to a sexually transmitted infection without that individual's knowledge.

**Stalking as defined by Clery Act:** Intentional and repeated following OR harassing that would cause a reasonable person to feel alarmed OR that would cause a reasonable person to suffer emotional distress OR 2.Intentional and repeated uninvited presence at another person's: home, work place, school, or any other place which would cause a reasonable person to be alarmed OR would cause a reasonable person to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping or any other statutory criminal act to the victim OR any member of the victim's family OR any person with whom the victim is acquainted 34 CFR 668.46(a)(ii)

**Stalking as defined by Louisiana state law:** Stalking is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. Stalking shall include but not be limited to the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal, written or behaviorally implied threats of death, bodily injury, sexual assault, kidnaping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted. La. RS § 14:40.2(A) "Harassing" means the repeated pattern of verbal communications or nonverbal behavior without invitation which includes but is not limited to making telephone calls, transmitting electronic mail, sending messages via a third party, or sending letters or pictures. "Pattern of conduct" means a series of acts over a period of time, however short, evidencing an intent to inflict a continuity of emotional distress upon the person. Constitutionally protected activity is not included within the meaning of pattern of conduct. La. RS § 14:40.2(C)

**Domestic Violence definition in Clery Act:** Violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a current or former spouse or intimate partner or any other person from whom the Alleged Victim is protected under federal or Louisiana law. Felony or misdemeanor crime 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 in which the crime of violence occurred; or
- By any other person against an adult or youth victim 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

**Family violence definition in Louisiana law:** means any assault, battery, or other physical abuse which occurs between family or household members, who reside together or who formerly resided together. La. RS § 46.2121.1(2)

**Domestic abuse definition in Louisiana law:** Includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. La. RS 46:2132(3)

Dating Violence definition in Clery Act: Violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Alleged Victim. The existence of such a relationship will be determined based on a consideration of the length and type of relationship and the frequency of interaction.

**Dating Violence definition in Louisiana law:** "Dating violence" includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one dating partner against the other. La. RS § 46.2151(C) For purposes of this Section, "dating partner" means any person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (1) The length of the relationship.
- (2) The type of relationship.
- (3) The frequency of interaction between the persons involved in the relationship.

Although the following definitions are not defined by state and/or federal law, the following definitions shall also be used in institutional policy and in the implementation thereof by all Louisiana public postsecondary education institutions.

**Sexual Harassment:** Unwelcome conduct of a sexual nature when i) submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or education; ii) submission to or rejection of such conduct by a person is used as the basis for a decision affecting that person's employment or education; or iii) such conduct has the purpose or effect of unreasonably interfering with a person's employment or education, or creating an intimidating, hostile, or offensive employment or educational environment, and has no legitimate relationship to the subject matter of a course or academic research. Sexual Harassment also includes non-sexual harassment or discrimination of a person because of the person's sex and/or gender identity or gender expression stereotypes, including harassment based on the person's nonconformity with gender stereotypes. For purposes of this Policy, the various forms of prohibited Sexual Harassment are referred to as "Sexual Misconduct."

**Sexually Oriented Criminal Offense:** Any sexual assault offense as defined in La. R.S. 44:51 and any sexual abuse offense as defined in R.S. 14:403

**Retaliation:** Acts or attempted acts for the purpose of interfering with any report, investigation, or proceeding under this Policy, or as retribution or revenge against anyone who has reported Sexual Misconduct or Relationship Violence or who has participated (or is expected to participate) in any manner in an investigation, or proceeding under this Policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, or discrimination. Title IX prohibits Retaliation. For purposes of this Policy, an attempt requires a substantial step towards committing a violation.

**Consent:** Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Silence alone, without actions evidencing permission, does not demonstrate Consent. Consent must be knowing and voluntary. To give Consent, a person must be of legal age. Assent does not constitute Consent if obtained through Coercion or from an individual whom the Alleged

Offender knows or reasonably should know is Incapacitated. The responsibility of obtaining Consent rests with the person initiating sexual activity. Use of alcohol or drugs does not diminish one's responsibility to obtain Consent. Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of Consent has been expressed, the sexual activity must cease. Consent is automatically withdrawn by a person who is no longer capable of giving Consent. A current or previous consensual dating or sexual relationship between the Parties does not itself imply Consent or preclude a finding of responsibility.

**Incapacitation:** An individual is considered to be Incapacitated if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Being drunk or intoxicated can lead to Incapacitation; however, someone who is drunk or intoxicated is not necessarily Incapacitated, as Incapacitation is a state beyond drunkenness or intoxication. Individuals who are asleep, unresponsive or unconscious are Incapacitated. Other indicators that an individual may be Incapacitated include, but are not limited to, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.

**Coercion:** is the use of express or implied threats, intimidation, or physical force which places an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. Coercion also includes administering a drug, intoxicant, or similar substance with the intent to impair that person's ability to Consent prior to engaging in sexual activity.

## **PREVENTION AND AWARENESS**

Title IX coordinator, conduct officer, University police, residential life staff, campus counselors, health care professionals, confidential advisors, faculty and staff have received training concerning Title IX, Clery, VAWA, and state and local policies and procedures.

Educational programming for students is provided, including ongoing prevention and awareness campaigns, bystander intervention, and risk reduction in the area of sexual assault and harassment.

Additional educational information on sexual violence is available online to all Northwestern State students at [www.mystudentbody.com](http://www.mystudentbody.com) and is a requirement for all students in UNIV 1000 classes. Click REGISTER NOW to create your User Name. Enter in "demondays" as the school code. Create a unique username (up to 50 characters, including those used in email addresses) and password and enter them into the appropriate fields. The University Police Department also offers free presentations on the subject of personal safety with emphasis on precautions and reporting procedures. Arrangements for these programs can be made by contacting University Police at 357-5431. Additionally, educational literature is available at the following offices: Counseling and Career Services, 305 Student Union; Student Health Services, Infirmary Building; and University Police, Infirmary Building.

Additionally, Northwestern will administer a campus climate survey annually to their students with the intention of assessing campus safety and identify vulnerabilities. This will be coordinated by the BoR and institutions will be required to submit results of the survey to the BoR. Northwestern may supplement the statewide survey by collecting additional information that can be utilized to develop prevention and intervention strategies appropriate for its institution.

Northwestern State, in accordance with BoR and ULS Policy as well as best practices, has also established agreements with local law enforcement agencies that enhance the coordination of training, information sharing in investigations, evidence preservation, and responsibilities. A copy of the MOU describing these factors in detail is maintained in the office of the Title IX Coordinator.

### **PROCEDURES FOR RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS**

Any University student who believes that they have been the victim of sexual misconduct may seek to resolve the matter through an Informal Complaint process, outlined below, or the Sexual Misconduct Formal Complaint Resolution Process, outlined in Article VII and Appendix II of the Code of Conduct and published within the Student Handbook.

Director of Student Advocacy, Lori LeBlanc, Room 308, Friedman Student Union, (318) 357-5570, [leblancl@nsula.edu](mailto:leblancl@nsula.edu) is the designated Title IX Coordinator for students at Northwestern State University. Students are encouraged to seek assistance from the coordinator for all Title IX related Complaints. The Title IX Coordinator may appoint additional advocates for students during proceedings. The Title IX Coordinator will defer to the Student Conduct Officer during a formal complaint proceeding for the determination or disposition/sanctioning phase of the complaint process.

*Student Title IX Coordinator's Responsibilities Include:*

1. Notification and Education
2. Consultation, Investigation and Disposition
3. Assists in institutional compliance and acts as liaison to University Vice Presidents and President
4. Record Maintenance and Report

### **Sexual Misconduct Complaint Resolution**

Sexual Misconduct Complaints may involve a student complaint against another student, a member of the University community, or a member of a third party related to the University.

If the Complaint is an **Informal Complaint** or non-criminal in nature, and complainant and respondent understand and acknowledge the substance of the Complaint and the requested resolution, the Complaint may be resolved informally if appropriate. Physical conduct that may be criminal in nature may be inappropriate for Informal Resolution. An Informal Resolution may result in a written agreement, mediation, or other fair and equitable action deemed appropriate by the Title IX Coordinator, or designee, depending on the circumstances. If the Complainant

chooses to file an Informal Complaint, the Complainant has the right to end the informal process at any time and the right to pursue a formal complaint and/or take legal action. If there is an increased risk of an alleged perpetrator committing additional acts of violence, if there is involvement of a weapon, if the age of the students involved, or if other risk factors exist, the University may investigate and possibly pursue action which may compromise confidentiality.

### **Informal Complaint Resolution**

The Title IX Coordinator:

1. Receives the Complaint. The Title IX Coordinator may ask for written documentation.
2. Schedules a preliminary meeting with the Complainant to discuss allegations and the desired outcome.
3. May advise the student to obtain appropriate assistance such as counseling, assistance from a confidential advisor, or student advocate.
4. May interview others.
5. May issue no contact orders, although this is not a judicial finding.
6. Will determine whether the Complaint is valid, needs to be heard in another venue, or needs to move to formal resolution.
7. May schedule meetings with the Respondent as necessary or requested.
8. May schedule a meeting with the Respondent and Complainant if desired and acceptable by both parties. Such meetings are not appropriate in cases of sexual assault.
9. Will suggest remedies for both Complainant and Respondent to come to a fair and equitable resolution.
10. May provide written documentation of the resolution to both parties, copied to the Vice President of The Student Experience.
11. Will notify Complainant that if the informal resolution is not satisfactory, they may move to a **Formal Complaint process**.

A **Formal Complaint** is one where the facts or remedy may be disputed. A Formal Resolution will result in an Investigation, Determination of responsibility, and Sanctions if applicable. Depending on the seriousness of the offense, disciplinary sanctions may range from educational alternatives to expulsion. There are appeals available to both Complainant and Respondent, and the University will follow due process, respect confidentiality, and respect the rights of the Complainant and Respondent through the process and resolution. Formal Complaint processes are outlined as note4d below.

- **Student Sexual Misconduct Complaints against a University Employee, see Appendix II in the Student Code of Conduct**
- **Student Complaints against another student, see Article VII in the Student Code of Conduct.**

(See Article VII and Appendix II below; they are part of the Code of Conduct)

## **ARTICLE VII - SEXUAL MISCONDUCT FORMAL COMPLAINT RESOLUTION PROCEDURE**

### **SECTION 1.0 COMPLAINT FILED AGAINST A STUDENT**

- 1.1 Title IX Complaint Form should be completed and signed by either the Complainant or the Title IX Coordinator on behalf of the Complainant. This Complaint form can be supplemented with supporting documentation; however, in order to maintain privacy for all parties, a copy of the Formal Complaint is the only document which will be released to either party.
- 1.2 All other documentation will be made available to either party or their advisors upon request at a mutually agreeable time and location.
- 1.3 *Informal Resolution*: If the Complaint is an Informal Complaint or non-criminal in nature, and both complainant and respondent understand and acknowledge the substance of the Complaint and the requested resolution, the Complaint may be resolved informally if appropriate. Physical conduct that may be criminal in nature may be inappropriate for Informal Resolution. If the Complainant chooses to file an Informal Complaint, the Complainant must be notified of the right to end the informal process at any time and the right to pursue a Formal Complaint and/or take legal action.

### **SECTION 2.0 FORMAL COMPLAINT**

- 2.1 A Formal Complaint is one where the facts or remedy may be disputed. A Formal Resolution will result in an Investigation.
- 2.2 The Respondent will be called to a meeting with the **Student Conduct Officer** and informed of the Complaint.
- 2.3 The Respondent may be issued a preliminary directive to stay away from the Complainant as an interim measure, although this is not a judicial finding.
- 2.4 All efforts to maintain privacy and confidentiality will be made throughout the process.
- 2.5 Complainant and respondent will have access to documentation per the Code of Conduct.
- 2.6 Both parties may have advisors and/or advocates, including legal counsel, to support and assist them during the Investigation and Appeal stages of the process.
- 2.7 The Title IX Coordinator or the Vice President of Student Affairs may appoint a designee to serve on their behalf if appropriate.
- 2.8 All processes will consider, as part of its deliberations, whether the Determination will result in (a) bringing an end to the violation in question; (b) reasonably prevent a recurrence of a similar violation; and (c) remedy the effects of the violation on the Complainant and the University community.
- 2.9 General timelines for processes are listed below; although, in the event that the Investigation is not initiated within this timeframe, **the Student Conduct Officer, Title IX Coordinator, and/or**

University Police investigator, or appropriate designee, should document the reasons for any delay.

### **SECTION 3.0 PRELIMINARY INVESTIGATION and NOTIFICATION**

3.1 The preliminary Investigation is a review of the incident description, files history, facts, and patterns.

3.2 The Student Conduct Officer, or appropriate designee, will generally conduct the preliminary Investigation. If after the preliminary Investigation the Student Conduct Officer determines that the Complaint is properly handled through another Complaint mechanism, the Complaint will be routed accordingly.

3.3 The names of the Disciplinary Appeals Committee, who have been selected to review an Appeal, if any, will be provided to both complainant and respondent. An opportunity for either party to object to any member will be offered.

3.4 Both parties will be instructed not to conduct their own Investigation and to provide any relevant information, such as a list of potential witnesses to the Title IX Coordinator.

3.5 Instructions provided regarding the confidentiality of information.

3.6 Instructions provided as to how to review the files.

3.7 The timeline between the Formal Complaint and the Investigation to begin is generally five (5) University business days, excluding campus holidays/breaks (hereafter referred to as University Business Days).

### **SECTION 4.0 INVESTIGATION**

4.1 The Student Conduct Officer may conduct the Investigation, may designate an alternative trained investigator, or may ask for the assistance from another trained campus investigator, such as a University Police Investigator.

4.2 The investigator(s) will interview all individuals involved in the Complaint and compile documentation.

4.3 Efforts will be made to complete the Investigation within 21 University business days.

### **SECTION 5.0 COMPLAINT DETERMINATION**

5.1 The Student Conduct Officer, or appropriate designee, will receive all Investigation reports and will make a Determination as to whether specific violations of the Sexual Misconduct Policy occurred.

5.2 The decision will be substantiated using the preponderance of evidence standard.

5.3 A Determination can also be made that the allegations, while made in good faith, were not true.

5.4 The **Student Conduct Officer, or appropriate designee**, may contact either party to ask clarifying questions prior to making a Determination but is not required to do so.

5.5 Both complainant and respondent will be notified in writing regarding the decisions issued through the issuance of a Determination Letter with five (5) university business days. Determination Letter will include the decision and the sanction. See Article VIII Sanctions

5.6 The Determination Letter will include information about the appeals process, see sections 6 - 9 below. The Determination Letter will be copied to the Vice President of The Student Experience.

5.7 The **Student Conduct Officer, Title IX Coordinator, or appropriate designee**, will arrange for both parties to review documentation as requested. There is no deadline to request this opportunity.

## **SECTION 6.0 APPEALS**

6.1 Either party may Appeal. Appeals shall be in writing and provided to the next appellate, in the processes described below, within five (5) University business days of receipt of the Letter of Determination.

6.2 All Appeals should be limited to a party's belief that a procedural error occurred, that the Sanction was disproportionate to the violation, or that new substantial information, sufficient to alter a Determination or Sanction, is now available.

6.3 If either party submits a written Appeal of the Determination Letter, an Intent to Appeal Letter will be sent to both complainant and respondent by the appropriate appellate within two (2) University business days.

## **SECTION 7.0 APPEAL to Vice President of The Student Experience**

7.1 The initial Appeal will be heard by the Vice President of The Student Experience (VPSE).

7.2 The hearing with the VPSE will convene within seven (7) University business days of receiving notification of either party's request to Appeal.

7.3 An advisor, including legal counsel, may be present on behalf of either party. Such counsel may consult privately with but may not directly participate.

7.4 Parties will appear separately before the VPSE and provide a verbal statement as to why the previous decision should or should not be upheld. Verbal statements are limited to 15 minutes and no other individuals will be allowed to make statements on their behalf. Either party may send a written statement. Neither party is required to speak to the VPSE, or even attend, and will not be penalized for failing to participate in the Appeals process. If either party chooses not to submit a statement or appear before the VPSE, the VPSE will make the recommendation based on the information they have received. Upon timely request by either party, the University may be able to accommodate statements via electronic means in appropriate circumstance.

7.5 Both complainant and respondent shall have the opportunity to explain the reason for their appeal based on criteria stated in Section 6.2 above. The VPSE will have an opportunity to question both parties for clarification.

7.6 The VPSE will formulate a decision based upon a preponderance of evidence standard.

7.7 The VPSE will draft a recommendation to uphold or overturn the previous decision, in whole or in part. This decision should be made within five (5) University business days. Both parties will be notified in writing regarding the decisions issued through the issuance of a Determination Letter. The letter will include information that either party may Appeal, in writing, within five (5) University business days, to the Disciplinary Appeals Committee (DAC). The DAC Chair will be copied within the letter.

### **SECTION 8.0 APPEAL to Disciplinary Appeals Committee**

8.1 If either party submits a written Appeal of the Determination Letter at this stage in the process, an Intent to Appeal Letter will be sent to both complainant and respondent by the DAC Chair within two (2) University business days.

8.2 The hearing with the DAC will convene within seven (7) University business days of receiving notification of either party's request to Appeal. The **Student Conduct Officer, Title IX Coordinator** or the VPSE may assist the Chair of the DAC in scheduling meetings.

8.3 Hearing procedures will follow steps 7.3 - 7.7 above.

8.4. The DAC will draft a recommendation to uphold or overturn the previous decision, in whole or in part. This decision should be made within five (5) University business days. Complainant and respondent will be notified in writing regarding the decisions issued through the issuance of a Determination Letter. The letter will include information that either party may Appeal, in writing, within five (5) University business days, to the President. The President will be copied within the letter.

### **SECTION 9.0 Appeals to the President and Board of Supervisors.**

9.1 The President of the University will review the Disciplinary Appeals Committee report and will concur with the recommendation or will make a decision regarding the status of the Respondent. The president may elect to meet with parties or only review the evidence. The President's Office will issue Determination Letters to both complainant and respondent, within five (5) University business days, which will include a decision and information about the right to Appeal to the Board of Supervisors as noted in 9.2 below.

9.2 If the Sanction is one of suspension from the University for one academic year or if the Sanction is of greater severity, the Determination Letter will include the fact that the Respondent may Appeal the Sanction to the Board of Supervisors within 30 calendar days of the President's decision. This Appeal consists of an exhaustive examination of the procedures followed by the University in regard to due process and not the specific details of the grievance matter. The student grievance process does not provide the benefit of hearing by the student directly to the Board of Supervisors.

9.3 If the Respondent Appeals to the Board of Regents, the President will notify the Complainant within two (2) University business days of being notified of such Appeal.

### **SECTION 10.0 Transfer Student**

10.1 If a student accused of sexually oriented criminal offense seeks to transfer to another institution during an investigation, the University shall withhold the student's transcript until a Determination is made.

10.2 If a student is found responsible for a sexually oriented criminal offense and seeks to transfer to another institution, the University is required to communicate such a violation to the institution(s) to which the student is attempting to transfer.

### **Appendix II (Title IX) Student Grievance/Complaint Against NSU Employee Procedure** (See Faculty/Staff Handbook for a more detailed process (add link))

**Complaint filed against an NSU Employee** – The Employee Title IX Coordinator/Executive Director of Human Resources receives the complaint form or it may be provided by the Title IX Coordinator for Students.

The employee may be issued a preliminary directive to stay away from the student as an interim measure, although this is not a judicial finding. All efforts to maintain privacy and confidentiality will be made throughout the process. The NSU Sexual Misconduct Policy (see Student Handbook) will be followed at all times.

*Informal Resolution:* If the complaint is an informal complaint/grievance, and both parties understand and acknowledge the substance of the complaint and the requested resolution, the complaint may be resolved informally if appropriate. Physical conduct that may be criminal in nature may be inappropriate for informal resolution. An informal resolution may result in a written agreement depending on the circumstances.

**(1) Formal Resolution** – A Formal Complaint is one where the facts or remedy may be disputed. A formal resolution will result in an investigation. Both parties will have access to the documentation.

**(2) Preliminary Investigation and Notification** –

- a. If the Employee Title IX Coordinator/Executive Director of Human Resources, or designee, determines the complaint is appropriate to be handled through another complaint mechanism, the complaint will be routed as appropriate.
- b. The names of the Title IX Appeals Committee members who have been selected to review an appeal, if any, will be provided to both parties. An opportunity for either party to object to any member will be offered.
- c. Both parties instructed not to conduct their own investigation and to provide any relevant information such as a list of potential witnesses to the Employee Title IX Coordinator/Executive Director of Human Resources, or designee, will be provided.
- d. Instructions regarding privacy of information will be provided.

- e. Instructions provided as to how to review the files.
- f. The timeline between the formal complaint and the investigation to begin is generally two (2) University business days, excluding campus holidays/breaks (hereafter referred to as University Business Days).

**(3) Investigation**

- a. The Employee Title IX Coordinator/Executive Director of Human Resources may conduct the investigation, may designate an alternative investigator, or may ask for the assistance from another trained campus investigator, such as a University Police Investigator.
- b. The investigator(s) will interview all individuals involved in the complaint and compile documentation.
- c. Both parties may have advisors to support and assist them during the investigation, determination and appeal stages of the process.
- d. The investigator(s) should make all efforts to initiate the investigation within five (5) University business days of the decision to proceed with an investigation.
- e. Efforts will be made to complete the investigation within 21 University business days. Reasons for deviations from this timeline, such as difficulty accessing witnesses, should be documented in the report.

**4. Complaint Determination –**

- a. The Employee Title IX Coordinator/Executive Director of Human Resources, or designee, will receive the investigation reports and make a determination as to whether specific violations of the Sexual Misconduct Policy were or were not substantiated.
- b. The decision will be made using the preponderance of the evidence standard.
- c. Both parties will be notified in writing regarding the Complaint Determination through the issuance of a Determination Letter
- d. The Determination Letter will include the fact that either party also may appeal the determination, in writing.
- e. The Employee Title IX Coordinator/Executive Director of Human Resources will arrange for both parties to review documentation as requested. There is no deadline to request this opportunity.

**(5.) Appeals -**

- a. Either party may appeal. An appeal should be filed using the Appeal Form provided by the Employee Title IX Coordinator/Executive Director of Human Resources.
- b. Appeals should be limited to a party's belief that a procedural error occurred, that the sanction was disproportionate to the violation or that new substantial information, sufficient to alter the Employee Title IX Coordinator/Executive Director of Human Resources decision, is now available.
- c. The University President's designated Appeals Committee is the Council of Academic Officers. The Chief Academic Officer of the Council of Academic Officers will serve as Chair.
- d. A decision to Appeal must be presented by either party in writing within five (5) University business days.

- e. If neither party appeals the Determination Letter, the University President will receive a report from the Employee Title IX Coordinator/Executive Director of Human Resources with the sanctions and recommended sanctions.
- f. If either party submits a written appeal of the Determination Letter, the Appeals Committee members will convene a meeting and an **Appeal Letter** will be sent to both parties.
- g. The Appeals Committee will convene within seven (7) University business days, of receiving notification of either party's request to appeal the Determination Letter, or as soon thereafter as possible.
- h. The Appeals Committee will offer either or both parties the opportunity to address the Committee separately.
- i. An advisor, including legal counsel, may be present on behalf of either party. Such counsel may consult privately with and advise the parties during the proceedings but may not directly participate.
- j. Parties may appear before the Committee and provide a verbal statement as to why the decision of the Employee Title IX Coordinator/Executive Director of Human Resources should or should not be upheld. Verbal statements by the complainant or the respondent are limited to 15 minutes and no other individuals will be allowed to make statements on their behalf or in their stead. Either party may send a written statement. Neither party is required to speak to the Appeals Committee or even attend and will not be penalized for failing to participate in the Appeals process. If either the complainant or respondent chooses not to submit a statement or appear before the committee, the Appeals Committee will make the recommendation based on the information they have received. Upon timely request by either party, the University may be able to accommodate statements via electronic means in appropriate circumstance.
- k. The Appeals Committee will formulate a decision based upon a *preponderance of evidence* as to whether the Employee Title IX Coordinator/Executive Director of Human Resources or designee's determination was fair and proportionate to any violation. In addition, the Committee will consider, as part of its deliberations, whether the determination will result in (a) bringing an end to the violation in question; (b) reasonably prevent a recurrence of a similar violation; and (c) remedy the effects of the violation on the complainant and the University community.
- l. The Committee Chair will draft a recommendation to uphold or overturn the decision of the Employee Title IX Coordinator/Executive Director of Human Resources, or designee, in whole or in part. The Appeals Committee cannot recommend a greater sanction than the original. This decision should be done in five (5) University business days.
- m. The recommendation should be placed into writing and submitted to the University President.
- n. The University President will review the Appeal Committee's report and will either agree with the recommendation or will make different decision regarding the status of the employee. The University President can overturn a determination and can also make a decision that greater sanctions are warranted.
- o. The time period between the Appeals Committee meeting and the University President's review should typically be approximately one (1) week.
- p. Official notification to the parties will follow in a formal letter from the University President with a copy to the Title IX Coordinator, or designated representative.

**(6.) Sanctions –**

- a. Sanctions will be addressed as appropriate depending on the employee's classification and the particular case.
- b. Depending on the circumstance, the parties may or may not have the right to appeal to the University of Louisiana System Board of Supervisors (ULS).