

Northwestern State University Louisiana (updated September 29, 2015 per Johnson Edits, LLL)

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 parties of the outcome of a complaint

The Law Title IX of the Education Amendments of 1972:

<http://www.justice.gov/crt/cor/coord/titleixstat.php>

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 reporting of sex discrimination and sexual misconduct is 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.

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 also 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.

Students have two options:

1. Report to Frances Conine, Title IX Coordinator, Dean of Students, Room 309 Friedman Student Union (318) 357-5286; University Police (318) 357-5431; or Responsible Employee/Campus Security Authority (see definition below).
2. Confidential Disclosure to Campus Counselor (318) 357-5621 or Confidential Advisor (318) 357-5570

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, Frances Conine, Dean of Students, (318) 357-5286

Title IX Deputy Coordinator, Lori LeBlanc, Student Advocacy and Education, (318) 357-5570

Counseling and Career Services (318) 357-5621

Student Health Services (318) 357-5351

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
- Registered Nurses in Health Services (318) 357-5351
- Deputy Title IX Coordinator (318) 357-5570
- Campus Pastoral personnel, see Dean of Students NSU: Not Alone webpage listed below.

- Other Faculty and Staff Confidential Advisors, see Dean of Students NSU: Not Alone webpage listed below.

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

Responsible Employee & Campus Security Authorities (CSA): Northwestern State University Police and University personnel who have significant responsibility for student and campus activities are considered Responsible Employees and CSAs. Examples include, but are not limited to the following: academic deans; student affairs directors; residential life personnel; Greek life coordinators; athletic administrators, including directors, assistant directors and coaches; student activities coordinators and staff; student judicial officials; faculty and staff advisors to student organizations; student center building staff; student peer education advisors; and administrators at branch campuses. Examples of personnel who are not Responsible Employees or CSAs are instructors who only have classroom and office hour contacts with students, confidential advisors (student health care providers and campus counselors), and administrative support staff.

Sexual Assault Response Team (SART):

- Doug Prescott, Detective, University Police
- Frances Conine, Dean of Students & Title IX Coordinator
- Roni Biscoe, Director University Planning, Assessment, and EEO and Title IX Coordinator for Employees
- Rebecca Boone, Director Counseling and Career Services
- Jon Caliste, University Police
- Lori LeBlanc, Title IX Deputy Coordinator

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 or 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, kidnapping, 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, 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."

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 coordinators, 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 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.

PROCEDURES FOR RESOLUTION OF SEXUAL MISCONDUCT COMPLAINTS

Any University student, staff member, faculty member, administrator, or other member of the University community who believes that they have been the victim of sexual misconduct may seek to resolve the matter through the informal as well as the formal procedure described below. If a satisfactory resolution is not reached informally, the complainant may follow the formal complaint procedure. The complainant or respondent may move to the formal complaint procedure at any time.

The Dean of Students, Frances Watkins Conine, Room 309, Friedman Student Union, (318) 357-5286 is the designated Coordinator of Title IX (Sexual assault and harassment) for students at Northwestern State University. Students are encouraged to seek assistance from the Dean of Students for all Title IX related complaints.

Coordinator's Responsibilities Include:

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

If the conduct is criminal in nature, students are encouraged to immediately contact University Police at (318) 357-5431 or a Confidential Advisor at (318) 357-5570. The Director of EEO, (318) 357-6359, coordinates all Title IX complaints for University employees. These individuals can provide the student with information regarding reporting, requesting assistance, and the importance of preserving physical evidence.

When the Dean of Students functions in the Title IX Coordinator position, they may appoint additional advocates for students during proceedings.

INFORMAL COMPLAINT RESOLUTION

Informal Complaints may involve a student complaint against another student, a member of the University community, or a member of the University community against a student. Circumstances that suggest an increased risk of an alleged perpetrator committing additional acts of violence, involvement of a weapon, the age of the students involved, and other risk factors, compel the university to investigate and possibly pursue action which may identify the complaint.

1. Upon receiving an initial complaint, the Title IX Coordinator will schedule a preliminary meeting with the complainant to discuss the allegations and the desired outcomes of the complainant. The Title IX Coordinator may counsel the complainant concerning options. The Title IX Coordinator will provide assistance and resources.

2. The Title IX Coordinator may complete a Sexual Harassment Complaint Checklist (Form A), to determine whether further information is needed or request assistance from University Police to complete investigations

3.. In the event that the Title IX Coordinator determines that the complaint is not valid or not within the purview of the sexual misconduct policy and declines to pursue it further, that decision may be appealed to the immediate supervisor of the Dean of Students who will initiate the formal complaint procedure. The Title IX Coordinator may also advise that the process move to the formal proceedings. A complainant who chooses to file an informal complaint has a right to end the informal process at any time and the right to pursue the formal complaint and/or take legal action.

4. Assistance to complainants and respondents is available throughout the resolution process. A complainant who elects to not file a complaint or who has been subjected to sexual misconduct by an individual who is not within the jurisdiction of the University is also able to receive assistance. Assistance includes reasonably available options for changing academic, campus transportation, housing or working situations as well as honoring lawful protective or temporary restraining orders.

5. If the oral or written communication with the respondent is unacceptable or unsuccessful, the Title IX Coordinator may begin an informal hearing process in an effort to reach an agreeable disposition to both complainant and respondent. The informal hearing process might include:

a. Private hearing with the complainant

b. Private hearing with the respondent

c. If requested and acceptable, a private hearing with the respondent, the complainant and the Title IX Coordinator.

d. Confidential advisors designated by the University may assist students during the informal process.

6. The Title IX Coordinator shall normally complete his/her investigation and all efforts to arrive at an informal resolution within thirty (30) class days of receipt of the complaint, unless extraordinary circumstances dictate otherwise. When it is determined, as a result of the Title IX Coordinator's review, that an incident of sexual misconduct has in fact occurred, the Title IX Coordinator attempts to arrive at informal resolution shall be guided by concern to provide appropriate relief to the aggrieved party while sensitizing the person at fault to the effects of such behavior.

7. Upon completion of the review, the Title IX Coordinator will provide a report to both parties and the appropriate vice president communicating the findings of the informal process within 10 business days.

8. If Student Complainants want to proceed with their complaints, the Dean of Students will assist the student in initiating the formal complaint process.

FORMAL COMPLAINT PROCEDURES, i.e. ADMINISTRATION of the STUDENT CODE OF CONDUCT, Article V

If either party deems the informal proceedings inappropriate, for whatever reason, or if the matter is not resolved through the informal process, the Complainant or Respondent may initiate the formal complaint procedure.

If the Dean of Students is unable to resolve the complaint during the informal process, the formal complaint process will be initiated. Students are allowed to bring an advisor to a hearing. Confidential

advisors designated by the University may also assist students during any formal process. Additionally, students may request that the supervisor to the Dean of Students preside over formal hearings.

Student complaints against other students should follow the compliant procedure outlined in the Student Handbook, Article V.

All parties involved in the formal process are afforded due process as prescribed in the NSU Student Code of Conduct. Every complainant has the right to be notified of the time frame of the resolution of complaints. Every complainant has the right to be present at his or her case. Every complainant has the right for the case to be decided using a preponderance of evidence standard. Every complainant has a right to be notified in writing of the outcome of a complaint. All parties have a right to be informed of the outcome of disciplinary proceedings alleging a sex offense within 10 business days.

Depending on the seriousness of the offense, disciplinary sanctions may range from educational alternative to expulsion. The University can also issue Stay Away Orders to a student respondent at any stage in the process.

A student may appeal to the Board of Supervisors if the sanction is one of suspension from the university for a period of one academic year, or if the sanction is of greater severity. For appeals regarding less severe sanctions, the final appeal shall be at the university level. If the student chooses to appeal to the Board of Supervisors after all administrative procedures have been exhausted at the institutional level, the appeal must be within 30 calendar days of the institution's decision. The Board's review is limited to a determination of compliance with established and appropriate procedures at the institutional level. The student shall be notified of the Board's decision.

The Board of Supervisors conducts reviews of student appeals via materials provided by the student grievant and the university. It consists of an exhaustive examination of 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, per Article IV, section 6.7.

If a student accused of a sexually-oriented criminal offense seeks to transfer to another institution during an investigation, the University shall withhold the student's transcript until such investigation or adjudication is complete and a final decision has been made and shall inform the respondent of the University's obligation to withhold the transcript during the investigation.

If a student is found responsible for a sexually-oriented criminal offense upon the completion of such investigation and/or adjudication and seeks to transfer to another institution, the University is required to communicate such a violation with the institution(s) to which the student seeks to transfer or has transferred when officials become aware of the student's attempt to transfer.

Student complaints against the faculty, staff or other members of the University Community shall follow the Grievance procedures outlined in Appendix I of Northwestern State University Student Code of Conduct.