

STUDENT SEXUAL OR GENDER-BASED HARASSMENT AND SEXUAL MISCONDUCT

POLICY SUMMARY

Northern Arizona University is committed to providing a safe learning and living environment for all students, regardless of a person's sex, sexual orientation, gender identity, or gender expression. To this end, the University prohibits sexual or gender-based harassment and sexual misconduct, defined herein to include sexual assault, domestic violence, dating violence, stalking (including cyber-stalking), indecent exposure, and sexual exploitation such as voyeurism, the non-consensual dissemination of illicit images or audio recordings of another's unclothed body or sexual activity, or causing the incapacitation of another for the purpose of compromising that person's ability to consent to sexual activity. Aiding, facilitating or encouraging another person to commit such acts, or retaliating against a person for reporting or participating in a disciplinary proceeding related to such misconduct, is also prohibited. The foregoing violations of University policy¹ are collectively referred to in this policy as "Prohibited Conduct."

REASON FOR THIS POLICY

The University adopts this policy and its accompanying disciplinary procedures to provide a fair and impartial process for all Parties in student conduct cases where sexual or gender-based harassment or sexual misconduct is alleged to have occurred.

ENTITIES AFFECTED BY THIS POLICY

- Division of Student Affairs
- Equity and Access Office
- Residence Life
- Intercollegiate Athletics
- Office of the Dean of Students
- University Hearing Board

WHO SHOULD KNOW THIS POLICY

- All Northern Arizona University students, faculty, and staff at all locations
- All Intercollegiate Athletics coaching staffs
- Assistant Vice President for Equity Compliance
- Dean of Students, Senior Associate Dean of Students
- Director, Equity and Access
- Executive Vice President and Chief of Staff
- Resident Assistants, Residence Hall Directors, and Graduate Assistants
- Student conduct staff
- Title IX Coordinator
- University Hearing Board chairs and members
- Vice President for Intercollegiate Athletics
- Vice President for Student Affairs

¹ See primarily Arizona Board of Regents, [Policy Number 5-308, Student Code of Conduct](#), revised June 2018 and Northern Arizona University, [Safe Working and Learning Environment Policy](#), revised May 2017.

DEFINITIONS

The definitions provided in the Arizona Board of Regents Policy Manual, Chapters 5-302 and 5-308(E) are applicable to this policy and its accompanying disciplinary procedures, except where otherwise indicated.

Prohibited Conduct: sexual assault, domestic violence, dating violence, stalking (including cyber-stalking), indecent exposure, and sexual exploitation such as voyeurism, the non-consensual dissemination of illicit images or audio recordings of another's unclothed body or sexual activity, or causing the incapacitation of another for the purpose of compromising that person's ability to consent to sexual activity, or aiding, facilitating or encouraging another person to commit such acts, or retaliating against a person for reporting or participating in a disciplinary proceeding related to such misconduct. Any instance of the foregoing may also constitute a violation of other University policies.²

POLICY

SECTION I. – APPLICABILITY

This policy and its accompanying disciplinary procedures apply to all students or student organizations alleged to have violated the University's rules that govern Prohibited Conduct. Students who engage in Prohibited Conduct may face disciplinary sanctions up to and including suspension or expulsion from the University. In cases of reported violations that involve both Prohibited Conduct and additional allegations that would otherwise be addressed according to the University's standard disciplinary procedures³, the entire matter will be resolved according to these supplemental procedures.

SECTION II. – REPORTING OPTIONS AND RESOURCES

The University strongly encourages anyone who experiences or becomes aware of an incident of Prohibited Conduct to immediately notify the University through one of the following reporting options.

By contacting the Office of the Dean of Students:

University Union (Building 30), Room 104
928-523-5181
Student.Life@nau.edu

Through the University's online reporting system (which also allows for anonymous reporting):

<http://nau.edu/reportit>

Students have the right to notify or decline to notify law enforcement of an act of Prohibited Conduct that may also be criminal in nature, and to file criminal and University complaints simultaneously, although neither is required. The University will support students in understanding, assessing, and pursuing these options. Students who wish to file a criminal complaint should contact law enforcement directly.

- Dial 911 in an emergency
- Northern Arizona University Police Department - 928-523-3611
- Flagstaff Police Department - 928-779-3646

A student may seek support or information from any of the following **confidential** resources without initiating an investigation by the University. Incidents reported to the following campus resources will remain strictly confidential, except in narrow circumstances as required by law, such as an imminent threat of harm to oneself or others. The University strongly encourages students to utilize these support resources, regardless of their desire for an investigation to occur.

² See primarily Arizona Board of Regents, [Policy Number 5-308, Student Code of Conduct](#), revised June 2015 and Northern Arizona University, [Safe Working and Learning Environment Policy](#), revised February 2016.

³ See Northern Arizona University, [Student Disciplinary Procedures](#), revised August 2017.

Victim Witness Services of Coconino County – NAU Office
Health and Learning Center (Building 25), Room 1513 (Inside the Health Promotion suite)
928-523-2225 (or 928-774-1414 after hours)

NAU Counseling Services - Campus Health Services
Health and Learning Center (Building 25), First Floor
928-523-2261
<http://nau.edu/counseling-services>

NAU Medical Services - Campus Health Services
Health and Learning Center (Building 25), First Floor
928-523-2131
<http://nau.edu/medical-services>

Students may receive information and support, regardless of whether they choose to make a criminal and/or a University complaint. For more information about resources and reporting options, visit:

<https://nau.edu/title-ix/>

SECTION III. – TITLE IX and the TITLE IX COORDINATOR

Title IX is the primary federal law that prohibits discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance, which includes Northern Arizona University and virtually all institutions of higher education in the United States. Under Title IX, sexual or gender-based harassment, which includes acts of sexual violence and other forms of sexual misconduct prohibited by this policy, is considered a form of prohibited sex discrimination. Title IX states:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activities receiving Federal assistance. (20 U.S.C. § 1681, et seq.)

The U.S. Department of Education's Office for Civil Rights enforces Title IX. Under Title IX and its implementing regulations, every educational institution must appoint a "Title IX Coordinator" who is charged with monitoring the institution's overall compliance with this important law. Northern Arizona University's Title IX Coordinator is:

Pam Heinonen
Director, Equity and Access Office
Old Main (Building 10), Room 113
928-523-9342
Pamela.Heinonen@nau.edu

The Title IX Coordinator is available to meet with any student to discuss this policy or its accompanying disciplinary procedures, the University's compliance with Title IX or its related obligations generally, whether the University is properly investigating a specific allegation of Prohibited Conduct, or whether the University is taking the required steps to eliminate a hostile environment. At Northern Arizona University, however, the Dean of Students is responsible for resolving individual student conduct cases that involve allegations of Prohibited Conduct (and for non-academic student discipline generally). Both Parties in such cases are encouraged, however, to contact the Title IX Coordinator with any questions or concerns regarding a decision by the Dean of Students involving remedial or interim protective measures and/or whether or not to initiate a formal investigation. Speaking with the Title IX Coordinator in this regard does not constitute a formal appeal of any decision by the Dean of Students.

SECTION IV. – GENERAL

- A. The University will promptly investigate and equitably resolve any report of Prohibited Conduct, to prevent its recurrence, eliminate any hostile environment, and remedy any lasting effects. When Prohibited Conduct by a student is alleged, the Office of the Dean of Students will inform and consult with the Equity and Access Office and the Title IX Coordinator.

- B. In response to allegations of Prohibited Conduct, the University may impose remedial or interim protective measures to address the safety and well-being of all Parties involved and the campus community at large. Such actions may include, but are not limited to, no-contact directives, removal from or relocation of University housing, mandatory changes to an academic schedule, or exclusion from campus locations. At the discretion of the Dean of Students, such remedial or interim protective measures may be permanently implemented absent a finding of responsibility for an alleged violation.
- C. At the discretion of the Dean of Students, and only with the consent of both parties, the University may use alternative dispute resolution processes such as mediation in addition to or in place of these disciplinary procedures, provided however, that mediation between a "Complainant" (the reporting Party) and the "Respondent" (the alleged perpetrator) shall not be used to resolve cases involving sexual assault.
- D. The University is committed to the privacy of individuals involved in allegations of Prohibited Conduct and will protect the Parties' privacy interests to the extent consistent with applicable law and policy. Information will only be shared with individuals who have a legitimate educational interest in the matter or as otherwise required by law.
- E. A request for anonymity or inaction by the reporting Party may hinder the University's ability to respond to a report of Prohibited Conduct. Moreover, the University is required by law to weigh such requests in the context of the University's duty to provide a safe and non-discriminatory environment. A Complainant will be notified if the University is unable to honor a request for anonymity or inaction due to an imperative to address the safety or well-being of another individual or the University community at large.
- F. Throughout the report resolution process, each Party may be assisted by an advisor, who may be an attorney, but who is not otherwise a Party or witness. Advisors may simply provide support in a manner that does not disrupt or unduly delay at any disciplinary proceeding, or may present the student's case at a disciplinary appeal hearing.
- G. The University will address reports of retaliation using the same processes and standards that apply to allegations of Prohibited Conduct. A Complainant or Respondent who has experienced retaliation should immediately notify the Office of the Dean of Students or the Equity and Access Office.
- H. The University will not pursue disciplinary action against Complainants or witnesses for disclosure of illegal personal consumption of drugs or alcohol when such disclosures are made in connection with a good faith report or investigation of sexual misconduct.
- I. In determining a finding of responsibility that a policy violation has occurred, the University will apply the "preponderance of the evidence" standard of proof. This means that based upon all available evidence, it is more likely than not that a violation has occurred.
- J. Members of the University community are expected to comply with any reasonable request to participate in the resolution of reports of Prohibited Conduct. If individuals decline to participate, the process will nonetheless proceed based upon the information available. A refusal to participate by a Party or witness will not prevent the imposition of sanctions.
- K. In the absence of extraordinary circumstances, the Office of the Dean of Students will seek to complete the report resolution process within sixty (60) calendar days (excluding official holidays and University closures). If doing so is not possible, the Dean of Students shall document the reasons and will within five business days notify the Title IX Coordinator and the Vice President for Student Affairs. This timeframe does not include the appeal process.
- L. The Complainant and Respondent will have an equal opportunity to participate in the disciplinary process and equal rights of appeal, including timely access to information, the right to present witnesses and evidence, to receive information about the process, and to submit written or make opening or closing statements at an appeal hearing. The Parties will have equal rights to explain, test and refute evidence.
- M. The prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of similar sexual misconduct by the Respondent either prior or after the alleged sexual misconduct may be deemed relevant to the

determination of responsibility for the alleged violation. Both Parties will be informed if evidence of prior or subsequent conduct is deemed relevant.

- N. The sexual history of a Complainant or Respondent will not be used to prove character or reputation. Questioning or evidence about a Complainant's prior sexual conduct with anyone other than the Respondent shall not be permitted. Evidence related to the sexual history of the Parties is generally not relevant to the determination of a sexual misconduct violation and will be considered only in limited circumstances. For example, if the existence of consent is at issue, the sexual history of the Parties with each other may be relevant. Even in the context of an intimate relationship, however, consent to one sexual act does not constitute consent to another sexual act. Both Parties will be informed if evidence of prior sexual history is deemed relevant.
- O. Student records generated during the investigative, determination, and appellate processes associated with the University's disciplinary processes are subject to the Family Educational Rights and Privacy Act.
- P. Disciplinary correspondence will be transmitted electronically on the day of issue to the affected Parties via their University email address. The University will deem such materials to have been delivered to and received by the intended recipient(s) on the day of transmission. The affected Parties are responsible for accessing their electronic communications in a timely manner.
- Q. These procedures will be used to resolve all cases of alleged student misconduct reported on or after this document's latest revision date, regardless of when the incident(s) occurred.
- R. Minor procedural deviations that do not materially affect the fairness, adequacy, impartiality or reliability of a disciplinary proceeding conducted under these procedures will not constitute grounds for challenging, annulling or overturning the outcome.
- S. The Dean of Students may place an administrative hold on a student's academic and other institutional records should the student refuse to respond to, or comply with, the procedures or sanctions imposed in accordance with this policy.

SECTION V. – VIOLATIONS OF LAW

For acts that constitute violations of law and University policy, students may be accountable to both civil authorities (city, county, state or federal) and to the University. Disciplinary action at the University may proceed before, during or after the pendency of criminal proceedings. The University's investigative and disciplinary processes are administrative in nature, are not legal proceedings, and are separate from and independent of any action taken by law enforcement. University disciplinary action will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced, or if a student has been found not guilty. In cases where a University policy violation may also constitute a crime, both those bringing and those facing such allegations of potentially criminal behavior may wish to obtain legal advice about how the student disciplinary process could affect any criminal case in which they are or may become involved.

SECTION VI. – OBLIGATION TO PROVIDE TRUTHFUL INFORMATION

As an allegation of Prohibited Conduct may result in severe consequences, the University takes the accuracy of information in the student disciplinary process very seriously. All participants in the student disciplinary process have an obligation to provide truthful information. Initiating a false report or otherwise providing false or misleading information in bad faith, falsifying or withholding evidence or inducing another person to do the same, or otherwise hindering an investigation with malicious intent, are strictly prohibited and subject to substantial disciplinary sanction up to and including suspension or expulsion. This provision does not apply to reports made or information provided in good faith, even if the information later proves to be faulty or the facts alleged in a report are not later substantiated.

RESPONSIBILITIES

Assistant Vice President for Equity Compliance: supervises the Title IX Coordinator and ensures that the University is meeting its Title IX obligations, and all other applicable legal and regulatory requirements.

Dean of Students: supervises the student disciplinary system, adjudicates student disciplinary cases not involving suspension or expulsion;

Executive Vice President and Chief of Staff: determines whether proper grounds exist and responds within ten (10) business days to requests for review or rehearing in cases involving suspension or expulsion.

Title IX Coordinator: serves as a resource for students regarding the University's Title IX obligations, this policy and its accompanying procedures, and all related matters; addresses concerns regarding remedial or interim protective actions or decisions regarding whether or not to initiate a formal investigation by consulting with the Office of the Dean of Students on disciplinary cases governed by this policy; ensures that the University meets its Title IX obligations.

Vice President for Student Affairs: supervises the student disciplinary process to ensure proper and equitable treatment of complainants, respondents, and other participants in disciplinary matters; supervises and receives recommendations from the University Hearing Board appellate process; adjudicates student appeals in disciplinary cases involving suspension or expulsion.

PROCEDURES

[Student Sexual or Gender-Based Harassment and Sexual Misconduct Disciplinary Procedures](#)

RELATED INFORMATION

Forms or Tools

[Northern Arizona University's Online Incident Reporting System](#)

Cross-References

[Arizona Board of Regents Policy 5-308, Student Code of Conduct](#)

[Northern Arizona University Safe Working and Learning Environment Policy](#)

[Northern Arizona University Student Disciplinary Procedures](#)

Sources

[Arizona Board of Regents Policy 1-119](#)

[Title IX of the Education Amendments of 1972 \(20 U.S.C. § 1681, *et seq.*\)](#)

[Title IX Implementing Regulations \(34 CFR Part 106\)](#)

APPENDIX*

[Title IX at Northern Arizona University](#)

[U.S. Department of Education, Office for Civil Rights Title IX Information and Guidance](#)

*Disclaimer: all documents, links, or other materials included in this policy's appendix are provided solely for the user's convenience and are not part of official University policy.