



Northern Illinois University

Sexual Misconduct Policy and Complaint Procedures

Last Revision Date: November 10, 2020

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I. Purpose

The mission of Northern Illinois University (“NIU” or “the university”) is to empower students through educational excellence and experiential learning as we pursue knowledge, share our research and artistry, and engage communities for the benefit of the region, state, nation and world. Pursuant to this mission, it is therefore crucial for the university to ensure that all members of its community have the right to learn and work in the safest possible academic environment and workplace and to be free from all forms of sexual misconduct. This is intended to be consistent with the preamble to the NIU constitution which declares, “Respect for the intrinsic dignity of each member of the university community, both by the university itself and by each member of that community, is the basic cornerstone governing all community activities.”

This policy governs the university’s response to sexual misconduct involving students, faculty and staff at the university. The goal of corresponding formal grievance procedures is to provide the individual subjected to sexual misconduct (the complainant) with as much control over the process as possible, while balancing the rights of the accused individual (the respondent) and the university’s obligation to protect its campus community.

Any student or university employee (including, but not limited to, faculty, supportive professional staff, civil service staff, extra help, and student employees) who is found to have engaged in conduct prohibited by this policy will be required to participate in appropriate corrective measures. Additionally, visitors, guests and third-parties are expected to conduct themselves in a manner that does not infringe on the rights of others.

Throughout these procedures, all persons involved should exercise discretion in receiving and transmitting information. All complaints and allegations filed in accordance with this policy will be examined in a fair and equitable manner and in accordance with applicable federal and state laws. As warranted by the facts of the situation and in coordination with the organizational areas involved, suitable corrective action will be implemented whenever sexual misconduct or retaliation for opposing conduct/behavior that is believed to be unlawful or a form of sexual misconduct occurs. All corrective action will be implemented in accordance with applicable procedural and substantive due process principles and personnel procedures as stated by this or other applicable university policies.

The procedures outlined in this document may proceed independent of any other university grievance or disciplinary procedure provided for elsewhere by the university including, but not limited to, faculty/staff university grievance process, nondiscrimination/harassment complaint process, grade appeal process, student conduct process, student grievance process and collective bargaining/union grievance processes. The procedures herein will also proceed independent of any criminal investigation. The university reserves the right to forward any sexual misconduct report or formal complaint to the appropriate law enforcement agency for review if there is a concern for the safety of the complainant or campus community. Where an act in violation of this policy occurs in addition to other acts that may violate other university policies, both bases for violations of university policies may be investigated and disciplined accordingly.

II. Policy

The university prohibits all students, faculty and staff from engaging in sexual misconduct. This prohibition is consistent with *Title IX of the Education Amendments of 1972*, 20 U.S.C. § 1681 *et seq.* ("Title IX"), which provides in part:

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 activity receiving federal financial assistance.

The United States' Department of Education has advised that sexual misconduct is a form of sex discrimination. This policy and procedure is consistent with Title IX and the implementing regulations, along with applicable state law, to include the *Illinois Preventing Sexual Violence in Higher Education Act*, 110 ILCS 155/1 *et seq.*, and the *Illinois State Officials and Employees Ethics Act*, 5 ILCS 430/1-5 *et seq.*, to the extent that state law does not conflict with federal laws and regulations.

Notice of Nondiscrimination

Academic and employment decisions based upon sex or gender and/or acts of sexual misconduct are forms of unlawful sex discrimination under Title IX and additional federal and state laws. Such decisions are prohibited under this and other policies of NIU. The university does not discriminate on the basis of sex, gender or gender identity in any phase of its educational or employment programs; the university is required by Title IX and other applicable laws not so to discriminate.

Retaliation Prohibited

No person may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by this policy or Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination for the purposes of interfering with any right or privilege secured by this policy constitutes retaliation.

Retaliation may occur even if no responsibility is found for the underlying complaint or investigation. Retaliation should be reported immediately to **Sarah Garner, Title IX Coordinator**, Ethics and Compliance Office, Health Services 230, 815-753-5560, TitleIXCoordinator@niu.edu.

Application of this Policy

This policy applies to all students, faculty, staff and third-parties, regardless of race, color, national origin, ancestry, sex, religion, age, physical or mental disability, marital status, veteran status, sexual orientation, gender identity, gender expression, political affiliation or any other factor unrelated to professional or educational qualifications.

This policy also applies to *all* sexual misconduct, whether it occurs in any academic, educational, extracurricular, athletic or other university program or activity, on- or off- campus, even if the sexual misconduct did not occur in the context of a university or education program or activity.

When the respondent is a member of the campus community, the formal grievance procedures outlined herein apply regardless of the status of the complainant, who may or may not be a member of the campus community.

If an employee's conduct does not meet the definition of sexual misconduct, as outlined herein, the university reserves the discretion to investigate the complaint pursuant to the procedures contained in the *Nondiscrimination, Harassment and Retaliation Policy and Procedures for Students, Faculty and Staff*. However, this policy serves primarily as the governing document for the Ethics and Compliance Office (ECO) to conduct investigations of sexual misconduct involving employees and students.

Athletics

NIU faculty, staff and students with questions concerning the application of Title IX to the university's intercollegiate athletic programs and activities may contact **Debra Boughton, Intercollegiate Athletics, Deputy Title IX Coordinator for Athletics**, 1525 W. Lincoln Highway, DeKalb, IL 60115, 815-753-9541, dboughton1@niu.edu.

Responsible Employees

All employees of the university, unless deemed confidential, are considered responsible employees and are required to report actual or suspected sexual misconduct to the Title IX Coordinator. This includes all faculty members, administrators (deans, department chairs, directors, vice presidents, etc.), community advisors (CAs), housing staff, faculty advisors, police officers, building service workers, dining hall employees and administrative professionals. If an employee is unsure whether they are a responsible employee, they are required to contact the Title IX Coordinator.

A responsible employee *must* report to the Title IX Coordinator all relevant details of sexual misconduct that they become aware of. This includes the names of the respondent (if known); the student or other person who experienced the sexual misconduct; others involved in what happened; as well as relevant facts including the date, time and location of the incident. If this information is not shared with or known by the responsible employee, it is not their duty or role to find out the information. Definitions of what constitutes sexual misconduct can be found in the *Prohibited Conduct – Defined* section of this policy. Reports can be made online at go.niu.edu/File-Misconduct.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as "Take Back the Night" marches or speak-outs, do not provide notice that must be reported to the Title IX Coordinator, unless the complainant clearly indicates that they desire a report to be made or seek a specific response from the university.

A report to the Title IX Coordinator may not automatically initiate a formal investigation. Rather, the purpose of this reporting obligation is to ensure that students and employees are aware of their rights and options to address what they may have experienced, including the ability to obtain advocacy and support services and file a formal complaint. Additionally, it is a mechanism to report potential forms of sexual misconduct to the Title IX Coordinator to provide them with information about the campus climate regarding sexual misconduct.

Before a person reveals information that they may wish to keep confidential, a responsible employee should make every effort to ensure that the person understands:

- (1) The employee's obligation to report to the Title IX Coordinator the information that the person shares regarding the incident, including the name of the individual(s) subjected to and those accused of engaging in sexual misconduct.
- (2) The person's ability to obtain confidential resources, including an advocate.
- (3) The person's rights and options to formally report what they experienced, including a complaint to the Title IX Coordinator or law enforcement.

A responsible employee's failure to report sexual misconduct to the Title IX Coordinator is considered a performance issue and may lead to discipline, up to and including suspension and termination.

Training and Education

In compliance with the *Illinois Preventing Sexual Violence in Higher Education Act* (110 ILCS 155) and *Illinois State Officials and Employee Ethics Act* (5 ILCS 430), all employees must complete annual sexual misconduct training. Such training should include, but is not limited to, this policy, effects of trauma on a survivor, consent, retaliation, reporting options, available support services, and strategies for bystander intervention and risk reduction.

Additional annual training on the issues related to sexual misconduct is provided to those involved in the receipt and resolution of sexual misconduct reports and complaints, including, but not limited to, coordinators, investigators, hearing officers, advisors, appeal agents, individuals who facilitate informal resolutions, confidential resources/advisors and law enforcement.

Child Abuse and Neglect

All staff and faculty are required by Illinois law (325 ILCS 5/4) to report suspected or known child abuse to the Illinois Department of Children and Family Services (DCFS). Accordingly, all employees of NIU must report suspected sexual misconduct perpetrated against those under the age of 18 to DCFS. The DCFS hotline is 800-252-2873. For additional information visit <https://www.niu.edu/publicsafety/resources/DCFS.shtml>.

III. Confidential Resources

Seeking assistance via confidential resources means that these resources will not provide notice of the incident to the university, an investigation into the matter will not result and the matter will remain confidential to the extent permissible by law. Conversations with confidential resources are not disclosed to others, including police or university officials.

Below is a list of confidential resources available to students and employees who have been subjected to sexual misconduct. A report or complaint is not necessary to utilize these resources.

NIU Confidential Advisor Andrea Drott: on-campus, free and for students
Center for Student Assistance, Campus Life 150, 815-753-8300

- Informs the student impacted by sexual misconduct of their choice of possible next steps regarding reporting options and possible outcomes, including the sexual misconduct process and notifying local law enforcement.
- Notifies the student of on- and off-campus resources and services available, including, but not limited to, student services available at NIU and through community-based resources, sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services, and mental health services.
- Informs the student of their rights and NIU's responsibilities regarding orders of protection, no contact orders or similar lawful orders issued by NIU or a criminal or civil court.
- Provides confidential services to and has privileged, confidential communications with students impacted by sexual misconduct.
- Upon the student's request and as appropriate, liaises with campus officials, community-based sexual assault crisis centers, or local law enforcement and, if requested, assists the student with contacting and reporting to campus officials, campus law enforcement, or local law enforcement.

- Upon the student's request, liaises with the necessary campus authorities to secure interim protective/supportive measures and accommodations for the student.

Note: The Confidential Advisor is designated to receive confidential reports for inclusion in the Annual Safety and Security Report, per the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), 20 U.S.C. § 1092. The identity of the reporting party will not be disclosed when making the report for inclusion purposes.

Safe Passage, off-campus, 24-hour, free for students and employees

Community-Based Sexual Assault and Domestic Violence Crisis Center, safepassagedv.org

Hotline: 815-756-5228; Text: 815-393-1995

- Provides confidential advocacy, including the ability to explain an individual's rights and options regarding reporting to the Title IX Coordinator and/or law enforcement.
- Assists individuals on how to request changes to off-campus living, transportation and working situations or protective measures, regardless of whether they choose to report the crime to campus police or local law enforcement.
- Trained legal advocates assist individuals with completing the paperwork necessary to obtain orders of protection and assist them as they navigate the legal system.
- Supports individuals when they arrive in the emergency department for medical evaluation and/or evidence collection.
- Provides confidential services to and has confidential communications with individuals impacted by sexual misconduct.

Employee Assistance Program, on-campus, free for employees

Holmes Student Center 7th Floor, 815-753-9191, go.niu.edu/eap

- Informs the employee of possible next steps regarding reporting options and possible outcomes, including the sexual misconduct formal grievance process and notifying local law enforcement.
- Notifies the employee of resources and services available, including, but not limited to, services available on campus and through community-based resources, sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services and mental health services.
- Informs the employee of their rights and NIU's responsibilities regarding orders of protection, campus no contact orders, or similar lawful orders issued by NIU or a criminal or civil court.
- Provides confidential services to and has privileged confidential communications with employees impacted by sexual misconduct.
- Upon the employee's request and as appropriate, liaises with campus officials, community-based sexual assault crisis centers or local law enforcement and, if requested, assists the employee with contacting and reporting to campus officials, campus law enforcement, or local law enforcement.
- Upon the employee's request, liaises with the necessary campus authorities to secure supportive measures for the survivor.

Evidence Collection

Collecting evidence may be necessary for criminal prosecution and may be helpful in obtaining an order of protection. It is recommended not to bathe, wash one's hands, use the restroom, drink, smoke, change clothing or brush one's teeth before seeking medical attention.

The nearest hospital to the DeKalb campus is **Northwestern Medicine Kishwaukee Hospital**, located at 1 Kishwaukee Hospital Drive, DeKalb, IL, 815-756-1521, www.nm.org/locations/kishwaukee-hospital. NIU Police

may provide transportation to the hospital. The hospital provides trained nurses to collect evidence at no cost for individuals who have been sexually assaulted or abused, pursuant to the *Illinois Sexual Assault Survivors Emergency Treatment Act*, 410 ILCS 70/7.5. Upon arrival at the hospital, an advocate from Safe Passage will be available to assist the individual in understanding what to expect and answering any questions they may have.

IV. Additional Resources

On-Campus Resources	Type of Services Available	Service Provider	Contact Information
Counseling / Mental Health	Counseling and Consultation	*NIU Counseling and Consultation Services	815-753-1206
	Counseling and Mental Health	*NIU Employee Assistance Program	815-753-9191 EmployeeAssistance@niu.edu
	Psychological Services	*NIU Psychological Services Center	815-753-0591
Health	Health Services	*NIU Student Health Clinic	815-753-1311
Advocacy and Advising	Advocacy and Advising	Center for Student Assistance	815-753-8300 StudentAssistance@niu.edu
Legal Assistance	Consultation, Advocacy and Court Representation Services	*NIU Students' Legal Assistance	815-753-1701 studentslegal@niu.edu
Visa and Immigration Assistance	International Student and Faculty Advising Services	NIU International Student and Scholar Services	815-753-1346 isfo@niu.edu
Student Financial Aid	Financial Aid	NIU Financial Aid and Scholarship Office	815-753-1395 finaid@niu.edu
Housing	Housing Assistance	Center for Student Assistance	815-753-8300 StudentAssistance@niu.edu
Other	Couple and Family Therapy	*NIU Couple and Family Therapy Clinic	815-753-1684 familytherapy@niu.edu
	Guidance on University Issues	*NIU Ombudsperson	815-753-1414 ombuds@niu.edu
	General Student Assistance	Center for Student Assistance	815-753-8300 StudentAssistance@niu.edu
	Student Disciplinary Matters (not sexual in nature)	Student Conduct	815-753-1571 Conduct@niu.edu
Off-Campus Resources	Type of Services Available	Service Provider	Contact Information
Counseling / Mental Health	Counseling and Other Essential Services	Family Service Agency	815-758-8616 info@fsadecalbcounty.org
	Emotional and Mental Health Services	*Northwestern Medicine Behavioral Health Services	815-756-1521
	Counseling	*Safe Passage	815-756-5228
Health	Hospital	Northwestern Medicine Kishwaukee Hospital	815-756-1521
Victim Advocacy	Victim Advocacy Services	*Safe Passage	815-756-5228
Legal Assistance	Legal Services	*Prairie State Legal Services	800-942-3940
	Legal Services	DeKalb County State's Attorney's Office	815-895-7164 DeKalbSAO@dekalbcounty.org
Visa and Immigration Assistance	Information Services	United States Immigration and Customs Enforcement Student and Exchange Visitor Program	703-603-3400 sevp@ice.dhs.gov
Student Financial Aid	Financial Aid	Federal Student Aid Office of the United States Department of Education	800-433-3243

Hotlines	Suicide	National Suicide Prevention Hotline	800-273-8255
	Domestic Violence	National Domestic Violence Hotline	800-799-7233
	Domestic Violence	State of Illinois Domestic Violence Hotline	877-863-6338
	Sexual Assault	National Sexual Assault Hotline	800-656-4673

*The service providers listed above with an asterisk are confidential.

Other resources available include:

icasa.org – Illinois Coalition Against Sexual Assault, State Sexual Assault Crisis Center

rainn.org—Rape, Abuse and Incest National Network

ovw.usdoj.gov/sexassault.htm—Department of Justice

V. Prohibited Conduct - Defined

Any student or employee found to have committed or to have attempted to commit the following forms of sexual misconduct is in violation of this policy and will be subjected to corrective action.

A. Dating violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, type of relationship, and frequency of interaction between the persons involved in the relationship. For the purposes of this definition—

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

Examples:

- A person that you regularly have sexual intercourse with slaps you across the face.
- A person that you frequently go on dates with shoves you during an argument.

B. Domestic violence

A felony or misdemeanor crime of violence committed—

- By a current or former spouse or intimate partner of the complainant;
- By a person with whom the complainant shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the complainant as a former or current spouse or intimate partner;
- By a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the State of Illinois;
- By any other person against an adult or youth complainant who is protected from that person’s acts under the domestic or family violence laws of the State of Illinois.

Examples:

- A person that you share a child with hits you with an object.
- Your partner that you live with grabs and pulls you by the hair.

C. Gender harassment

Unwelcome conduct on the basis of gender determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity.

Examples:

- Your roommate calls you derogatory names because of your gender-related appearance.
- A person repeatedly prevents you from using the restroom of the gender of which you identify.

D. Sexual assault

Any sexual act directed against another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent. Sexual assault also includes the following:

Rape—Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.

Sodomy—Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault With An Object—To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Fondling—The touching of the private body parts of another person (buttocks, anus, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Illinois law.

Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent of 17.

Examples:

- An individual inserts their penis into your vagina while you are incapacitated from alcohol consumption.
- Your roommate performs oral sex on you while you are asleep.
- An individual takes your hand and forces you to touch their genitals.

E. Sexual harassment: Quid Pro Quo

An employee conditions the provision of university aid, benefit, or service on an individual's participation in unwelcome sexual conduct.

Examples:

- A Teaching Assistant tells you that they will give you an "A" if you have sex with them.
- A coworker agreed to unlock the office if you sent them a naked picture.

- Your supervisor agreed to approve vacation time if you went on a romantic dinner with them.

F. Sexual harassment: Denial of Equal Access¹

Unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity.

Examples:

- Your roommate repeatedly shows you their penis without asking you, which causes you to avoid your room.
- A classmate non-consensually rubs your thigh during class while making sexually explicit comments, which causes you to become distracted and have your grades suffer.
- On multiple occasions, your coworker sends you pornographic videos while virtually meeting, which causes you to avoid meeting that that person.

G. Stalking

Engaging in a course of conduct directed at a specific person on the basis of their sex that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. Course of conduct means two or more acts in which a person directly, indirectly or through third parties: follows, monitors, observes, surveils, threatens, communicates to or about a person, or interferes with another's personal property. Substantial emotion distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

Examples:

- Your former partner showing up to your classes the entire week after the relationship ended causing you to be afraid of going to class.
- An individual follows you on-campus to areas that you frequently go to causing you to avoid those areas and have heightened anxiety.
- A classmate calling you and threatening to harm you if you do not go on a date with them causing you to be fearful that they will harm you.

Note: Definitions used by law enforcement for purposes of criminal investigation and prosecution may differ. Please consult with the respective law enforcement agency or advocate about what conduct constitutes a crime according to the Illinois Criminal Code.

VI. Reporting Options

File a Sexual Misconduct Report with the University

Any individual, regardless of their affiliation with the university, may file a sexual misconduct report. Responsible employees, as discussed under the *Responsible Employee* section, are required to promptly file a sexual misconduct report with the university.

¹ A complaint of sexual harassment filed using these procedures against an employee that does not meet this definition, but may meet the definition of sexual harassment as defined by *Title VII of the Civil Rights Act* will be processed under the university's *Nondiscrimination, Harassment and Retaliation Policy and Procedures for Students, Faculty and Staff* ("*Nondiscrimination Policy*"). Sexual harassment under the *Nondiscrimination Policy* occurs when the harassing behavior is so severe or pervasive that it unreasonably interferes with an employee's work or a student's performance, or creates a hostile, intimidating or offensive work/academic environment.

A report places the university on notice of what is alleged to have happened. A report does not necessarily trigger the university's formal grievance process/investigation. Rather, after a report is made, the identified complainant (victim) will be promptly contacted in order to receive information about their rights and options, including how to file a formal complaint with the university.

A report may be filed using one of the following options:

- File an electronic report located at go.niu.edu/File-Misconduct.
- Contact the Title IX Coordinator in-person, over the phone, or via email or mail to discuss what happened.

Additional documents may be submitted with the report (*e.g.*, police report, emails), but are not required.

The university expects that all sexual misconduct reports are submitted in good faith. All incidents of sexual misconduct will be taken seriously by the university when formally reported, and such incidents will be assessed in accordance with the procedures contained herein.

File a Formal Sexual Misconduct Complaint with the University

The individual that has been subjected to sexual misconduct (the complainant) has the right to file a formal sexual misconduct complaint. The formal complaint will trigger the university's formal grievance process/investigation.

A formal complaint may be filed using one of the following options:

- File an electronic formal complaint located at go.niu.edu/File-Misconduct.
- Contact the Title IX Coordinator in-person, over the phone, or via email or mail to discuss what happened.

The Title IX Coordinator also reserves the discretion to sign a formal complaint based on information contained within a report of sexual misconduct to initiate the university's formal grievance process. When the Title IX Coordinator signs the formal complaint, they do not become the complainant. The individual alleged to have been subjected to the sexual misconduct is the complainant. The complainant may designate an individual to serve as their proxy throughout the process to receive and respond to notices and documentation related to the investigation. The proxy, however, may not provide testimony or evidence on behalf of the complainant. The proxy may serve in the capacity of an advisor.

Additional documents may be submitted with the formal complaint (*e.g.*, police report, emails), but are not required.

All formal sexual misconduct complaints are assumed to be made in good faith. However, if the evidence establishes that the formal complaint was intentionally falsely made, corrective/disciplinary action will be taken, up to and including suspension, expulsion, or termination. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

For information on what to expect after a formal sexual misconduct complaint is filed, please see the *University Formal Grievance Process* section.

File a Police Report with Law Enforcement

Any individual may file a police report by contacting the following departments:

FOR AN EMERGENCY: Dial 911.

For incidents that occur on campus:

NIU Department of Police and Public Safety

395 Wirtz Drive
DeKalb, IL 60115
Nonemergency: 815-753-1212
niupd@niu.edu
niu.edu/publicsafety

For incidents that occur off campus:

DeKalb Police Department

700 West Lincoln Highway
DeKalb, IL 60115
Nonemergency: 815-748-8400
dekalb.police@cityofdekalb.com
cityofdekalb.com/184/Police-Department

For incidents that occur off-campus and outside of DeKalb, individuals are encouraged to contact the local police department in the city where the incident occurred.

Anyone who goes to the NIU Department of Police and Public Safety to report an incident will meet with a police officer to discuss the incident. The police officer will provide information related to available on- and off-campus services and resources. The police officer may also accompany individuals to the hospital for evidence gathering or provide transportation if it is otherwise unavailable. An official police report will then be generated. The police officer will notify the Title IX Coordinator that an instance of alleged sexual misconduct has occurred.

If the incident is determined to be criminal in nature, the police may continue to investigate the matter. After the investigation is complete, criminal charges may be brought against the respondent and the DeKalb County State's Attorney may become involved in the matter. A warrant for the respondent's arrest may be issued, if they were not already arrested.

A police report or formal criminal complaint are not considered formal complaints with the university. While the Title IX Coordinator or designee is advised of all police reports made to the NIU Department of Police and Public Safety involving alleged sexual misconduct, the Title IX Coordinator might not be informed of police reports from other police departments or law enforcement agencies.

Individuals may obtain assistance making a police report or complaint by contacting the **Confidential Advisor** at the **Center for Student Assistance**, 815-753-8300, or a **Safe Passage designee**, 815-756- 5228. See above *Confidential Resources* section for more information.

Amnesty

Amnesty aims to remove the barriers that may prevent an individual from reporting an incident of sexual misconduct or from participating as a witness in an investigation with the university. If an individual reports an incident of sexual misconduct, in good faith, or participates in an investigation as a witness, the Title IX Coordinator will not pursue disciplinary action for that individual for a separate university policy violation (such as underage drinking) that is revealed in the course of the report or formal grievance process. However, if the separate violation was egregious, including, but not limited to an action that places the health or safety of any other person at risk, amnesty may not be afforded by the Title IX Coordinator.

Reporting Confidentially and Anonymously

An individual may request to remain completely anonymous or that their name or details surrounding the incident not be disclosed during the investigation process, which is called a request for confidentiality. If a request of confidentiality is made, the Title IX Coordinator will determine if confidentiality can be afforded. Where there is a likelihood of further harm to the complainant and/or the campus community, confidentiality may not be honored. The Title IX Coordinator may also consult with appropriate university officials regarding the request for confidentiality.

When confidentiality of the complainant is maintained or the complainant's identity is unknown (*i.e.* anonymous), the university's ability to respond and take appropriate corrective action may be impeded. Nevertheless, the university will attempt to provide resources as provided herein, take steps to address the misconduct, remedy the effects and prevent its recurrence.

For the purposes of the *Clery Act* reporting and disclosures, no identifying information about the complainant or reporting person will be disclosed in publicly available recordkeeping, such as the Daily Crime Log, Timely Warning, or the Annual Security and Fire Safety Report (ASFSR).

Confidentiality of Information

The university will keep confidential the information contained within reports and complaints, including the identity of the reporting party, the complainant, the respondent, and any witnesses, except when disclosure is permitted under the *Family Educational Rights and Privacy Act (FERPA)*, as required by law, or to carry out the university's obligations under Title IX, including the university's formal grievance process.

VII. Supportive Measures

Supportive measures are non-disciplinary and non-punitive individualized services designed to restore or preserve equal access to the university's program or activity, or protect the safety of all parties or the education environment, or deter sexual harassment. They are reasonably available on a confidential basis to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures may include changes to academic, living, transportation and working situations that do not unreasonably burden the other party. Examples of supportive measures include the following:

- Academic: transfer to a different section of a class, or withdraw and take a class at another time.
- Living: moving to a different room or residence hall, issuance of a no-contact order
- Work: changing work hours or office locations
- Transportation: the ability to park in a different location, assisting the student or employee with a safety escort.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures, and will maintain as confidential any measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the Title IX Coordinator to provide the supportive measure. The university will act to ensure as minimal of an impact on the parties as possible when implementing supportive measures.

To request a supportive measure, contact the Title IX Coordinator in-person, over the phone, via email or mail. The request of a supportive measure does not initiate the university's formal grievance process.

The university is responsible for complying with external orders of protection, no-contact orders, restraining orders and similar lawful orders issued by a criminal, civil or tribal court. If a student or employee obtains a lawful order, it is recommended that they maintain a copy in their possession and provide the NIU Department of Police and Public Safety with a copy.

VIII. Emergency Removals and Administrative Leave

The university has the ability to remove a student-respondent from an education program or activity on an emergency basis when an individualized determination has been made that there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct. This includes the student-respondent's partial or entire removal from the university. The determination is decided by the Title IX Coordinator in conjunction with the Department of Police and Public Safety and Student Affairs. Other university officials may be consulted with when necessary as deemed by the Title IX Coordinator.

The student-respondent will be provided with notice that they are being removed, the scope of the removal, and an opportunity to challenge the decision immediately following their removal. An emergency removal may occur absent a formal grievance process. A decision to remove a student on an emergency basis is not a decision that a student has or has not engaged in a violation of this policy. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

The university has the ability to place an employee-respondent on administrative leave pending completion of the university's formal grievance process.

VII. University Formal Grievance Process

A formal complaint signed by the complainant or Title IX Coordinator will initiate the university's formal grievance process.

Statement of Time Frame Limitations

There is no explicit time in which a formal complaint must be filed. However, if the respondent is no longer a member of the campus community or significant time has passed, the ability to investigate, respond and provide remedies may be limited or impeded.

Notice

Upon receipt of a formal complaint, the complainant and respondent will receive notice that the university's formal grievance process has been initiated. The notice will include the allegations constituting the basis of the formal complaint, including the identities of the parties, details of the alleged conduct, and the date and location of the incident, if known. The notice will be amended and sent to both parties if additional information is alleged to have occurred that constitutes an additional violation of this policy.

Investigation

After both parties are notified of the formal complaint, and absent a dismissal or referral, an investigation will occur to the maximum extent possible. The university is responsible for gathering evidence, which will include separate interviews with the complainant, the respondent, and witnesses and collection of nontestimonial evidence, such as social media posts, photographs, etc. During the interview, the investigator will explain this policy and procedures and answer any questions. The person being interviewed will then be able to give their version of events, list the names of any potential witnesses (including fact and expert witnesses), and provide

both inculpatory and exculpatory evidence. The complainant and respondent may also suggest questions to the investigator(s) to be asked of the other party at the discretion of the investigator(s).

The following rules apply to all investigations:

- The investigation will be conducted consistent with this policy and transparent to the complainant and respondent. Promptness, fairness and impartiality to all individuals involved in an investigation is a priority.
- The respondent is presumed to be not responsible for the alleged conduct until a determination is made at the conclusion of the grievance process.
- The formal complaint will be investigated by the investigator(s) in a reasonably prompt timeframe, including the time to file and resolve an appeal and an informal resolution process, if applicable. The complainant and respondent will be notified of a temporary delay or limited extension of time for cause and the reason for the action. Good cause may include the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
- The complainant and respondent will receive periodic information and updates on the status of the investigation.
- The party's university-issued email address is the acceptable method of communication for notices and correspondence related to this policy.
- Parties, whose participation is invited or expected, will receive written notice of the date, time, location, participants, and purpose of all interviews and other meetings, with sufficient time for the party to prepare to participate.
- The use of alcohol or drugs by the complainant at the time of the incident may be considered for purposes of determining consent or memory *only* and will not form the basis for independent proceedings or discipline (see *Amnesty* section).
- The sexual history or sexual character of the complainant shall not be considered in any investigation unless such evidence is offered to prove that someone other than the respondent committed the conduct in question, or if the evidence concerns specific instances with the respondent and is offered to prove consent.
- Questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege will not be asked or gathered, unless the person holding such privilege has voluntarily waived the privilege in writing for purposes of the investigation.
- For alleged conduct that constitutes a violation of this policy in addition to a different university policy, the university reserves the discretion to conduct a joint investigation.
- No audio or video recording of any kind is permitted during the investigation.

At the conclusion of the investigation, the complainant, the respondent and their advisors, if any, will be provided with an Evidentiary Report which contains all the statements and evidence obtained during the investigation. Both parties will have an opportunity to provide a response to the Evidentiary Report. Responses will be incorporated into the final Investigative Report, which is provided to both parties and their advisors, if any, prior to any hearing.

The complainant or the respondent may request participation in an informal resolution pending completion of the investigation, or after reviewing the Evidentiary or Investigative Report. See *Informal Resolution* section for additional information on this process.

Role of Investigators

Investigators are neutral fact-finders. As such, investigators do not function as advocates or advisors for any of the involved parties. Investigators will, however, inform individuals about other university offices where they

may seek support, advocacy or advisement. Investigators will not have a conflict of interest or bias for or against the complainant or respondent. Investigators do not engage in policy analysis nor provide recommendations to the hearing officers.

Support Persons

The complainant and respondent may each have one support person present at any proceeding, other than the hearing, to provide support. A support person may be in addition to an advisor. Support persons may not speak on behalf of the party in any proceeding; however the complainant or respondent may consult with the support person during the proceeding. The involvement of a support person cannot result in an undue delay of the proceeding(s). Additionally, the support person must comply with the rules contained herein. Failure to comply with or engagement in behavior that is disruptive or harasses, intimidates, or abuses any party or witness, may result in their prohibition in future involvement in the process. Any individual who is participating in this capacity is expected to maintain the same level of privacy that is expressed throughout these procedures.

Individuals who may be a co-complainant, co-respondent, witness, hold a supervisory position over the complainant or respondent or be in a position that may suggest a conflict of interest may not serve as a support person.

The assigned investigator must be notified in writing in advance of the presence of a support person.

A support person is prohibited from attending any hearing, unless that person is required by law, such as a union representative, attorney, language interpretation, or providing an accommodation for a disability.

Advisors

The complainant or respondent may also have an advisor of their choice present during any stage of the formal grievance process. Advisors are responsible for attending a hearing, if any, with the party and for conducting cross-examination during the hearing; whereas, support persons are not permitted to attend a hearing or conduct cross-examination. The involvement of an advisor cannot result in an undue delay of the proceeding(s). Additionally, the advisor must comply with the rules contained herein. Failure to comply with or engagement in behavior that is disruptive or harasses, intimidates, or abuses any party or witness, may result in their prohibition in future involvement in the process. Any individual who is participating in this capacity is expected to maintain the same level of privacy that is expressed throughout these procedures. An advisor may be in addition to a support person during the formal grievance process.

An advisor is required if the grievance process results in a hearing. The identity of the advisor must be disclosed to the investigator prior to the hearing. Failure to provide notice of the identity of the selected advisor may result in the university appointing an advisor to that party.

Any advisor that a party selects is required to participate in a pre-hearing meeting prior to their attendance at a hearing. Failure of the selected advisor to attend the pre-hearing meeting will result in their disqualification from participating in the hearing and may result in the university appointing an advisor to that party.

The university maintains a group of trained advisors that are available to a party to serve as their advisor without a fee or charge for the limited purpose of conducting any questioning of the other party at a hearing. The names of university advisors will be provided to a party upon request and may only be available if the process results in a hearing.

The university cannot guarantee equal advisory rights. Meaning, if one party selects an advisor who is an attorney, but the other party does not or cannot afford an attorney, the university is not obligated to provide an attorney.

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the university.

Union Representation

If the complainant or respondent is a member of a union, they have the right to have union representation present throughout the formal grievance process. Union representation may be in addition to a support person and/or advisor. The assigned investigator must be notified in writing in advance of the presence of a union representative.

If the complainant and respondent are members of the same union, they may not be represented by the same union representative.

Decorum

All individuals who participate in the university's formal grievance process, including the complainant, respondent, support person(s), advisor(s), and witness(es) during the investigation and/or hearing, are required to conduct themselves in a manner consistent with this policy. As stated throughout this policy, individuals are not permitted to be disruptive or harass, intimidate, abuse, threaten, coerce, or discriminate against any individual involved in the formal grievance process, including conduct against the Title IX Coordinator, investigator(s), hearing officer, or appeal agents. Participants are also prohibited from providing a materially false statement in bad faith, knowingly submitting false information, persuading others not to participate in the formal grievance process (whether successful or not), and applying pressure to not fully cooperate. If a student or employee engages in any of the described conduct, they will be referred to the appropriate disciplinary process, including a charge under the *Student Code of Conduct* or progressive discipline.

Accommodations

NIU is committed to providing accessible grievance procedures. Any party or witness requiring an accommodation during the sexual misconduct process due to a disability should let the Title IX Coordinator know as soon as possible.

Informal Resolution

Where the facts alleged in a formal complaint are not contested, where the respondent has admitted or wishes to admit responsibility, or where both parties want to resolve the case without a completed investigation or hearing, the parties may participate in an informal resolution of the formal complaint that does not require a full investigation or hearing. The ultimate decision on whether informal resolution is available and appropriate, including the terms, rests with the Title IX Coordinator.

Informal resolution may occur after:

- (1) The complainant and respondent are provided written notice disclosing the allegations, circumstances under which resuming a formal complaint arising from the same allegation is precluded, the right to withdraw from the informal resolution process and resume the formal grievance process, and requirements resulting from participating in the informal resolution process such as record sharing and maintenance;
- (2) The complainant and respondent provide voluntary, written consent to the informal resolution; and

- (3) The conduct does not pertain to allegations that an employee has engaged in sexual misconduct against a student.

Informal resolution is only offered after a formal complaint is filed. If the complainant or respondent wishes to engage in informal resolution, the request should be made to the Title IX Coordinator prior to reaching a determination regarding responsibility.

The complainant or respondent is not permitted to appeal terms of the informal resolution which are agreed upon.

Dismissal or Referral

If the conduct alleged in the formal complaint does not constitute a violation of this policy, the evidence gathered during the investigation does not establish a violation of this policy, the respondent is no longer enrolled or employed by the university, or specific circumstances prevent the university from gathering evidence sufficient to reach a determination of responsibility, the Title IX Coordinator or designee reserves the right to dismiss the formal complaint or refer the matter to an applicable university policy. If the formal complaint is dismissed or referred, both parties will be notified in writing along with the reason why the formal complaint is being dismissed or referred.

Appeal of Dismissal or Referral

The complainant and respondent have a right to appeal the dismissal or referral on the following grounds:

- (1) Procedural irregularity that affected the outcome of the matter;
- (2) New evidence that was not reasonably available at the time of the determination regarding dismissal was made, that could affect the outcome of the matter;
- (3) The Title IX Coordinator or investigator had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and
- (4) The decision was significantly contrary, unsupported, and unreasonable to the weight of the evidence presented.

An appeal to a dismissal or referral must be made to the Executive Vice President and Provost, or designee, within five (5) calendar days of the written notification. Within two (2) calendar days after an appeal is received, the non-appealing party will be provided notice of the appeal and be provided the opportunity to submit a written statement in support of, or challenging, the dismissal or referral. The non-appealing party will be provided five (5) calendar days to submit a written statement. Thereafter, the Executive Vice President and Provost, or designee, will provide a written response simultaneously to both parties within five (5) calendar days after the decision is made.

Hearing

At the conclusion of the investigation and absent informal resolution, a hearing will be conducted to determine responsibility. The hearing will be held at least ten (10) calendar days after the parties and their advisors receive the Investigative Report.

Before the hearing is held, both parties and their advisors will separately meet with the Title IX Coordinator, or designee. During this meeting, the rules of the hearing will be discussed, the identity of the hearing officer will be disclosed, dates and times regarding availability for the hearing will be provided, and any other questions the parties or their advisors may have will be answered. The party's advisor must attend this meeting and failure to attend may result in their disqualification from participating in the hearing.

The hearing will be conducted by a neutral hearing officer, who is not the Title IX Coordinator or investigator(s). The complainant and respondent may request a substitution if the participation of that hearing officer poses a conflict of interest. Requests for substitutions must be made to the Title IX Coordinator within two (2) calendar days after receiving the hearing officer's identity.

The following rules apply to all hearings:

- The hearing will be conducted in real time, whether in-person or through electronic means in which the parties are able to simultaneously see and hear the party or the witness answering questions.
- The complainant and respondent are not permitted to directly ask questions of each other.
- The complainant and respondent must have an advisor present during the hearing. The advisor will conduct cross-examination of the parties and any witnesses. See *Advisors* section for information on advisors. If the complainant or respondent does not have an advisor present during the hearing, the university may reschedule the hearing and appoint an advisor to that party.
- The complainant and respondent are not permitted to make an opening or closing statement. The complainant, respondent, or any witnesses are only permitted to speak when the hearing officer allows them to do so.
- The hearing officer is permitted to ask the parties and any witnesses questions in follow-up to the Investigative Report. After the hearing officer has concluded asking questions of a participant, both parties' advisors will have an opportunity to conduct cross-examination of that individual.
- Only questions that are relevant may be asked of the parties and witnesses. The hearing officer is responsible for determining whether a question is relevant and will provide a reason why any question is excluded based on relevancy.
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to provide that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- Formal rules of evidence that apply in a civil or criminal court of law, except as expressly stated herein, are not applicable.
- If a party or witness does not submit to cross-examination (attending the live hearing and answering any relevant question asked of them by the hearing officer or a party's advisor), the hearing officer is not permitted to rely on any statement made of that party or witness in reaching a determination regarding responsibility. Statements include factual assertions made before or during the investigation or hearing.
- A determination of responsibility will not be made based solely on the absence of a party or witness from the hearing or refusal to answer cross-examination or other questions.
- The respondent is presumed to be not responsible for the alleged conduct until a determination is made at the conclusion of the hearing.
- The hearing will be audio recorded and made available to the parties for inspection and review. Requests to inspect and review the recording must be made to the Title IX Coordinator. No other party is permitted to record the hearing.
- All hearings conducted shall be closed to the public.
- Individuals who participate in a hearing, whether as the complainant, respondent, witness(es), or advisors, are not permitted to harass, threaten, intimidate, coerce or discriminate against any other participant of the hearing.
- Support person(s) are not permitted to attend a hearing, unless acting in the capacity of the party's advisor or as permitted by law.

- For purposes of sanctions, the hearing officer will have access to the respondent's prior disciplinary history with the university. The access will be provided to the hearing officer after a determination of whether this policy has been violated, and before sanctions have been determined.

At the conclusion of the hearing, the hearing officer will issue a written determination regarding responsibility. The determination will be made based on a preponderance of evidence, which is defined as whether it is more likely than not that the alleged conduct occurred and constitutes a violation of this policy evaluated from the perspective of a similarly situated reasonable person when considering the totality of the circumstances involved in the matter.

The hearing officer's written determination will be provided to the complainant and respondent separately and simultaneously within seven (7) calendar days of reaching a decision. The written determination will include the allegations contained within the notice, a description of the procedural steps taken from receipt of the formal complaint to conclusion of the hearing, a finding of facts supporting the determination, a conclusion regarding the application of this policy to the facts, a statement and rationale for the determination of responsibility, any sanctions imposed on the respondent, and remedies provided to the complainant.

The determination regarding responsibility becomes final either on the date that the appeal response is provided (if an appeal has been filed), or the date on which an appeal would no longer be considered timely. Sanctions will be in effect after the determination is final.

If a decision is made that no violation of policy has occurred, the university reserves the discretion to transfer the matter to an applicable university policy/process.

Appeal of Hearing Results

The complainant and respondent have a right to appeal the results of the hearing (to include a finding of responsibility and sanctions). One or more of the following grounds for appeal must be selected:

- (1) Procedural irregularity that affected the outcome of the matter;
- (2) New evidence that was not reasonably available at the time of the determination regarding responsibility was made, that could affect the outcome of the matter;
- (3) The Title IX Coordinator, investigator(s), or hearing officer had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter;
- (4) The outcome was significantly contrary, unsupported, and unreasonable to the weight of the evidence presented; and
- (5) The sanction is disproportionate to the violation.

An appeal of the hearing results must be made to the Executive Vice President and Provost, or designee, within five (5) calendar days of the written hearing results. Within two (2) calendar days after an appeal is received, the non-appealing party will be provided notice of the appeal and be provided the opportunity to submit a written statement in support of, or challenging, the hearing results. The non-appealing party will be provided five (5) calendar days to submit a written statement. Thereafter, the Executive Vice President and Provost or designee will provide a written response simultaneously to both parties within five (5) calendar days after the decision is made.

If the Executive Vice President and Provost, or designee, is the individual that rendered an appeal decision regarding dismissal or referral of a formal complaint, a different individual will be appointed to render an appeal decision regarding responsibility and sanctions.

Possible Sanctions

Any **student** found responsible for violating this policy may receive sanctions to include the following:

- Anger intervention assessment.
- Abuse intervention program.
- Banishment from part or all NIU property, functions, etc.
- Community service to NIU or the DeKalb community.
- Discretionary sanction-required work assignments, written assignments, service to NIU or other related discretionary assignments.
- Educational sanctions including, but not limited to, the completion of an educational assignment.
- Fines.
- Formal written warning.
- Loss of privileges (e.g., inability to have visitors/guests, etc.).
- Parental notification.
- Probation.
- Termination of residence hall contract.
- Relocation of residence hall assignment.
- Restitution.
- Restorative justice participation.
- Revocation of admission.
- Revocation of degree.
- Substance use intervention and education program.
- Training on sexual misconduct.
- University expulsion.
- University suspension.
- Withholding degree.

Any **employee** found responsible for violating this policy may receive corrective action to include the following:

- Letter of warning.
- Official reprimand.
- Referral to a required counseling program.
- Referral to university disciplinary process, to include tenure revocation.
- Suspension from employment with or without pay.
- Termination from employment.
- Training on sexual misconduct.
- Community service.

Any **third-party** (visitor, guest, contractor, subcontractor, vendor, partner or business affiliate) who engaged in sexual misconduct will receive a sanction ranging from a written warning to banishment from any university property, activities and/or programs, including the termination of any business contract with the university.

Possible Remedies

In addition to the supportive measures described in this document, the following remedies may be available to the complainant at the conclusion of an investigation or hearing resolution whether or not a respondent is found to be responsible:

- Mutual restrictions of contact (direct or indirect) between involved parties.

- Providing a campus escort to ensure that the complainant can move safely between classes/work and activities.
- Ensuring the complainant and respondent do not share classes, extracurricular activities or work space.
- Moving the respondent or complainant (if the complainant requests to be moved) to a different residence hall.
- Providing comprehensive, holistic individualized services including medical, counseling and academic support services such as tutoring.
- Arranging for the complainant to have extra time to complete, retake or withdraw from a class without an academic or financial penalty.
- Reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the sexual misconduct and the disciplinary action that the complainant may have received.
- Training or retraining university employees on responsibilities to address allegations of sexual misconduct.
- Developing and distributing materials on sexual misconduct.
- Conducting bystander intervention and sexual misconduct prevention programs with students and employees.
- Issuing policy statements or taking other steps that communicate that the university does not tolerate sexual misconduct and will respond to any incidents and to any student/employee who reports such incidents.
- Conducting, in conjunction with student leaders, a campus climate survey to assess the effectiveness of efforts to ensure that the university is free from sexual misconduct and using that information to inform future proactive steps that the school will take.
- Targeted training for a group of students or employees if the sexual misconduct created a hostile environment in a specific area.
- Any other remedy that the Title IX Coordinator may consider appropriate.

VIII. Title IX Coordinator and Deputy Title IX Coordinators

The role of the Title IX Coordinator is to manage, implement and administer this policy, including the enforcement of the formal grievance process provided herein, provide oversight to the sexual misconduct training programs, and ensuring the prompt and appropriate resolution of sexual misconduct complaints. Questions or concerns regarding sexual misconduct, Title IX, this policy, or other aspects of the university's commitment to equal opportunity may be directed to:

Sarah Garner, Title IX Coordinator, Ethics and Compliance Officer

Ethics and Compliance Office

Health Services 230

815-753-5560

TitleIXCoordinator@niu.edu

Inquiries/questions regarding Title IX may also be referred to:

Office for Civil Rights

U.S. Department of Education

Citigroup Center

500 W. Madison Street, Suite 1475

Chicago, IL 60661-4544

312-730-1560

OCR.Chicago@ed.gov

Questions and/or concerns may also be referred to the Deputy Title IX Coordinators listed below:

Vernese Edghill-Walden
Chief Diversity Officer
Deputy Title IX Coordinator for Training
Academic Diversity, Equity and Inclusion
Altgeld Hall 211
DeKalb, IL 60115
815-753-2638
vedghillwalden@niu.edu

Omar Ghrayeb
Vice Provost for Undergraduate Studies
Deputy Title IX Coordinator for Academic Affairs
Executive Vice President and Provost
Altgeld Hall 215
DeKalb, IL 60115
815-753-6922
oghrayeb@niu.edu

Debra Boughton
Athletic Associate Director, Business Affairs
Deputy Title IX Coordinator for Athletics
Intercollegiate Athletics
Convocation Center 200D
DeKalb, IL 60115
815-753-9541
boughton1@niu.edu

Jeanne Meyer
Director, Student Conduct
Deputy Title IX Coordinator for Student Conduct
Student Conduct
Campus Life Building 280
DeKalb, IL 60115
815-753-9286
jeanne@niu.edu

Lindsay Hatzis
Director of Investigations, Ethics and Compliance Office
Deputy Title IX Coordinator for Investigations
Ethics and Compliance Office
Health Services 229
DeKalb, IL 60115
815-753-1649
lhatzis@niu.edu

Dan Pedersen
Senior Director of Housing
Deputy Title IX Coordinator for Housing
Housing and Residential Services
Neptune 151
DeKalb, IL 60115
815-753-9651
dpedersen2@niu.edu

IX. External Agencies

At any time during the pendency of the above-described formal grievance process, investigation, hearing and/or appeal, students and employees with questions about Title IX or those who believe they have been subjected to sexual misconduct or retaliation may file a complaint with the **Office for Civil Rights (OCR)**:

Office for Civil Rights (Chicago Office)	312-730-1560
U.S. Department of Education	FAX 312-730-1576
Citigroup Center	TDD 800-877-8339
500 W. Madison Street, Suite 1475	OCR.Chicago@ed.gov
Chicago, IL 60661-4544	ed.gov/ocr

At any time during the pendency of the above-described formal grievance process, investigation, hearing or appeal, employees who believe they have been subjected to sexual misconduct or retaliation may file a complaint with the following agencies:

Illinois Department of Human Rights
100 West Randolph Street
10th Floor – Intake Unit
Chicago, Illinois 60601
312- 814-6200
TTY: 866-740 3953
illinois.gov/dhr

Equal Employment Opportunity Commission
Chicago District Office
500 West Madison Street, Suite 2000
Chicago, Illinois 60661
800-669-4000
TTY: 312-869-8001
eeoc.gov

Office of the Executive Inspector General for the Agencies of the Illinois Governor

69 West Washington Street, Suite 3400

Chicago, Illinois 60602

Phone: 312- 814-5600, 866- 814-1113 or 888-261-2734 (TTY)

Fax: 312- 814-5479

www.illinois.gov/oeig

Illinois Sexual Harassment & Discrimination Helpline: 877-236-7703

X. Related Definitions

- **Anonymous Complaint:** One where the identity of the complainant is not known.
- **Complainant:** Refers to the victim; a person who has been subjected to any of the conduct prohibited by this policy and/or person who files a formal complaint.
- **Coercion:** The use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice or attract another person to have sex. When a person makes clear a decision not to participate in a particular sexual act, a decision to stop or a decision to not go beyond a certain sexual interaction, continued pressure can be coercive. In evaluating whether coercion was used, the following factors will be considered; the frequency of the application of the pressure, the intensity of the pressure, the degree of isolation of the person being pressured and the duration of the pressure.
- **Consent:** Clear, unambiguous, informed, voluntary and freely given agreement between all participants to knowingly engage in sexual activity. Consent must demonstrate that all individuals understand, are aware of and agree to the “who” (same partners), “what” (same acts), “where” (same location), “when” (same time), and “how” (the same way and under the same conditions) of the sexual activity.

Consent must be mutually understandable by words or actions (i.e., a reasonable person would consider the words or actions to indicate mutual agreement to engage in the sexual activity). Consent is active and cannot be based on the absence of an affirmative statement or act of denial. Silence or lack of resistance does not constitute consent.

Consent cannot be given when a person is **incapacitated** (including but not limited to a person or someone with a **physical or mental disability** and/or level of intoxication that causes impairment resulting in incapacitation), asleep, or unconscious; and the respondent knew or should have known that the person was incapacitated, asleep, or unconscious.

Consent cannot be the result of force (violence, physical restraint or the presence of a weapon); threats (indications of intent to harm, whether direct or indirect); intimidation (extortion, menacing behavior, bullying); **coercion** (undue pressure); or fraud (misrepresentation or material omission about oneself or the situation in order to gain permission for sexual or intimate activity).

Seeking and receiving consent is the responsibility of the person(s) initiating the sexual act(s) regardless of whether the person initiating the act(s) is under the influence of drugs and/or alcohol.

Consent to any sexual act or prior consensual sexual activity between or with any party does not in and of itself constitute consent to any other sexual act. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.

Consent may be initially given but withdrawn at any time. Consent cannot be inferred by an individual's manner of dress, the giving or acceptance of gifts, the extension or acceptance of an invitation to go to a private room or location, or going on a date.

Consent must be given to engage in the act of sexual activity, and consent must also be given to any person who records or photographs any aspect of the sexual activity as well as third parties who wish to view the sexual activity either in person or via any electronic equipment, methods or devices.

The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

- **Day:** Calendar day between the hours of midnight and 11:59 p.m., inclusive of weekends and holidays.
- **Employee:** Person that receives compensation from the university for services performed. This includes civil service staff, supportive professional staff, faculty, instructors, graduate/teaching/research assistants, extra help, and student employees.
- **Formal complaint:** Document filed by the complainant that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the complaint, or document signed by the Title IX Coordinator.
- **Force:** The use of physical violence and/or otherwise physically imposing on another person to gain sexual access. Also includes threats, intimidation, implied threats, and coercion that overcome resistance or produce consent.
- **Incapacitation:** Level of intoxication due to drugs or alcohol (whether such use is voluntary or involuntary) that causes a physical or mental impairment; the lack of consciousness or being asleep; being involuntarily restrained; if any of the parties are under the age of 17; or if an individual otherwise cannot consent. If a person is known or reasonably should be known to be incapacitated, then any sexual activity with that person is without consent.

Generally, an incapacitated individual is incapable of recognizing what is occurring and is not able to recognize the nature of sexual activity or the extent of a sexual situation. Some ways in which a person can be incapacitated as a result of alcohol use may include, but is not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings or the inability to communicate for any reason. The individual may experience a blackout state in which they appear to be giving consent but does not actually have conscious awareness or the ability to consent.

- **Physical or Mental Disability:** "A physical or mental impairment that substantially limits one or more life activities of an individual such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading,

concentrating, thinking, communicating and working. This also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions." (*Americans with Disabilities Act*)

- **Proceeding:** All activities related to a noncriminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings and hearings. The proceeding does not include communications and meetings between officials and individuals concerning supportive measures to be provided to a complainant or respondent.
- **Reasonable Person:** Person under similar circumstances with similar identities.
- **Reporting party:** Individual that has submitted a report of sexual misconduct, if they are not the individual that has been subjected to sexual misconduct.
- **Respondent:** The alleged offender/accused; a person alleged to have engaged in any of the conduct prohibited by this policy.
- **Responsible Employee:** Any employee who is required to report sexual misconduct to the Title IX Coordinator.
- **Result:** Any initial, interim or final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institution.
- **Sexual Misconduct:** Umbrella term for one or more acts as defined as a violation of this policy. Sexual misconduct can occur among, between or to heterosexual, lesbian, gay, bisexual and transgender individuals.
- **Student:** Person admitted to the university and/or enrolled in any course (for credit or not for credit), or who is on campus for the purpose of enrolling in any course at the time of the alleged incident.
- **Title IX Coordinator:** Manages, implements and administers NIU's procedures which prohibit discrimination, including enforcement of sexual misconduct complaint procedures, sexual misconduct training programs and ensuring the prompt and appropriate resolution of sexual misconduct complaints.

NIU's Title IX Coordinator is Sarah Garner, Ethics and Compliance Office, Health Services 230, 815-753-5560, TitleIXCoordinator@niu.edu.