NEIU | NORTHEASTERN ILLINOIS UNIVERSITY

University Policy

Volume G1: Governance	**G1.8.1** **Grievance Procedures for Formal Complaints of Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation** **Effective Date:** 05/01/2025	**Responsible Office:** Title IX
Chapter:		**Responsible Officer:** President of the University

POLICY STATEMENT

The University's Policy Prohibiting Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation, (the "Policy") implements the University's prohibition on Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation Policy, and contains information on how to report Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation.

PURPOSE OF THE POLICY

This Grievance Procedure for Formal complaints of Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation Policy sets forth the University's processes for investigating and adjudicating allegations of Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation that fall under Title IX. Instances of Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation that fall outside of Title IX are adjudicated in accordance with the grievance procedures outlined in the University's Equal Opportunity and Nondiscrimination Policy (G1.7).

Such procedures are required and governed by (1) Title IX of the Education Amendments of 1972, which prohibits sex discrimination in any education program or activity receiving federal financial assistance, (2) Illinois Human Rights Act, 775 ILCS/5)[1], (3) the Violence Against Women Act of 1994 (as reauthorized), and (4) Title VII of the Civil Rights Act of 1964. This Grievance Procedure may be used by any member of the Northeastern Illinois University (the "University") community who is participating in or attempting to participate in the University's education program or a University-related activity. This procedure may also be used by any member of the University community who wishes to file a Formal complaint of Sexual Misconduct, Sexual Harassment, Sex Discrimination, and/or Retaliation as set forth in the Policy.

The University may modify these procedures at any time as deemed appropriate for compliance with applicable federal, state, and local laws and guidance.

WHO IS AFFECTED BY THIS POLICY

All persons who participate in the University's Education Programs or Activities, including board members, administrators, faculty, staff, other Employees, Students, volunteers, guests, and contractors.

[1] The Illinois Human Rights Act, 775 ILCS/5, in part, prohibits retaliation, and sexual harassment in employment and of students in educational institutions. Sexual orientation is a protected class in the Act. The Act defines sexual orientation as "actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth."

DEFINITIONS

For a list of Key Concepts and Definitions, please refer to Appendix A: Definitions.

REGULATIONS

City of Chicago's Sexual Harassment Ordinance (amending Chicago's Human Rights Ordinance)
Illinois Criminal Sexual Assault and Abuse Act, 720 ILCS 5/12-12, 720 ILCS 5/12. et seq. to 5/16. et seq.
Illinois Domestic Violence Act, 750 ILCS 60/
Illinois Human Rights Act, 775 ILCS 5/
Illinois Preventing Sexual Violence in Higher Education Act, 110 ILCS 155/1
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), 20 U.S.C.§ 1092(f)
Preventing Sexual Violence in Higher Education Act, Illinois Public Act 099-0426 Safe Homes Act, Public Act 094-1038
Sexual Assault Awareness Education, 110 ILCS 305/40
Sexual Assault Survivors Emergency Treatment Act (SASETA), 410 ILCS 70/
Title IX of the Education Amendments Act of 1972 (Title IX), Title 20 U.S.C. Sections 1681-1688 Title IX Regulations, 34 CFR Part 106
Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq., as amended Victims' Economic Security and Safety Act (VESSA), 820 ILCS 180/
325 ILCS 5/ Abused and Neglected Child Reporting Act

PROCEDURES

I. REPORTING PROHIBITED CONDUCT

Any person may report Sex Discrimination to the Title IX Coordinator. Reports may be made in person, by regular mail, telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. In-person reports must be made during normal business hours, but reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours. Reports can be made anonymously via the University's online system.

The name and contact information for the Title IX Coordinator is:

Kaitlin Atlas
Interim Title IX Coordinator
C-216
5500 N St. Louis Ave.
Chicago, IL 60625
773-442-5412
titleix@neiu.edu

In addition to reporting to the Title IX Coordinator, any person may report Sex Discrimination to any University Employee who must promptly forward such report of Sex Discrimination to the Title IX Coordinator. All Employees are expected to report allegations of Sex Discrimination to the Title IX Coordinator or appropriate officials immediately unless one of the exceptions set forth below applies.

The University recognizes that individuals who feel they have been victims of Sexual Assault, Dating Violence, Domestic Violence, or Stalking may require time and support in considering whether or how to participate in any University or law enforcement process. The University also recognizes that individuals who have been accused of Sexual Assault, Dating Violence, Domestic Violence, or Stalking may also

require support. There are confidential resources on campus and in the community available to any individual who needs support or assistance.

A. On-Campus Confidential Advisors

Individuals wishing to receive confidential assistance without making a report to the University may speak with the University's Confidential Advisor. This confidential resource is available to assist you and will not report your circumstances to the University without your permission unless otherwise required to do so by law (such as when the victim is a minor). A Confidential Advisor is available to **discuss incidents or accusations of Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation, including Sexual Assault, Dating Violence, Domestic Violence, or Stalking** with both Complainants and Respondents in confidence, and provide emotional support in a safe and confidential space.

Notwithstanding, when necessary, the on-campus Confidential Advisor will make a non-identifying report to the appropriate University personnel so that reported crimes can be included in the University's annual crime statistics disclosure. Disclosures to a Confidential Advisor will not trigger the University's investigation into an incident.

The University's Confidential Advisors receive forty hours (40) of initial training regarding Sexual Violence and participates in six (6) hours of annual continuing education thereafter. In addition to providing confidential counseling, the Confidential Advisors also provide emergency and ongoing support to individuals who have experienced or been accused of Sexual Assault, Dating Violence, Domestic Violence, or Stalking including:

- providing information regarding the individual's reporting options and possible outcomes, including making a report or a Complaint under this Policy and notifying local law enforcement;
- providing information about available resources and services, including but not limited to services available on campus and through community-based resources such as sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services and mental health services;
- providing information regarding orders of protection, no contact orders or similar lawful orders issued by the University or a criminal or civil court;
- an explanation of the individual's right to have privileged, confidential communications with the Confidential Advisor consistent with applicable law;
- upon request and as appropriate, providing assistance in contacting campus officials, community-based sexual assault crisis centers, campus security and/or local law enforcement; and/or
- upon request, providing assistance with securing Supportive Measures and accommodations.
  While Confidential Employees are not required to report potential Sex Discrimination to the Title IX Coordinator, Confidential Employees must:
  - explain their confidential status to any person who informs the Confidential Employee about potential Sex Discrimination, including the circumstances in which the Confidential Employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute Sex Discrimination.
  - provide such person with contact information for the Title IX Coordinator.
  - explain how the individual may make a complaint of Sex Discrimination directly to the Title IX Coordinator.
  - explain that the Title IX Coordinator may be able to offer and coordinate Supportive Measures, as well as initiate an Informal Resolution process or an investigation under the grievance procedures.

The provisions of this section notwithstanding, a Confidential Employee must comply with any applicable state or local law that requires the Confidential Employee to report certain conduct to a state

agency or local law enforcement, such as laws mandating the reporting of sexual abuse of minors, imminent threats of suicide or physical violence, or the abuse of the elderly or persons who are under a conservatorship.

From time to time, the University may host public awareness events regarding Sex Discrimination, whether such events occur in person on campus or through an online platform. When potential Sex Discrimination is disclosed in the context of a public awareness event, the University will not act on the information solely because of the disclosure at the public awareness event, unless the information reveals an immediate and serious threat to the health or safety of any person. However, the Title IX Coordinator will use information disclosed during a public awareness event to inform efforts to prevent Sex Discrimination, including by providing tailored training and education.

The Title IX Coordinator will monitor the University's Education Programs or Activities for any barriers to reporting potential Sex Discrimination and take steps reasonably calculated to address any such barriers.

Anyone who wishes to make a report of Prohibited Conduct under this Policy has the following reporting options:

1. Make a Formal complaint to the Title IX Coordinator and engage in the grievance procedure.
2. Report to NEIUPD or other police agency with jurisdiction over the conduct and pursue a criminal investigation. Reports may be made to NUPD in person or via telephone:

   Northeastern Police Department (Open 24/7)
   Address: 3701 W Bryn Mawr Ave, Chicago, IL 60646
   Emergency Phone: x4100, 911
   Non-Emergency Phone: (773) 442-4100

B. Considerations for Complainants Before They Report Sex Discrimination.

Pursuant to Title IX 2020 Amendments and this Policy, when the University has Actual Knowledge of potential Sexual Misconduct, Sexual Harassment, Sex Discrimination, and/or Retaliation under Title IX, the Title IX Coordinator or their designee *must* respond promptly by contacting the Complainant to discuss the availability of Supportive Measures and to explain to the Complainant the process for filing a formal complaint. Complainants who do not wish to make a formal complaint may still receive Supportive Measures. In the event that a Complainant does not wish to move forward with a Formal complaint, the Title IX Coordinator or their designee *may* sign and file a formal complaint on behalf of the University. For potential sexual misconduct, sexual harassment, sex discrimination, and/or retaliation outside of Title IX, the University may respond, using the investigatory procedures outlined herein, or via a referral to another relevant department, including Student Affairs and/or Human Resources, to address potential Policy violations involving non-Title IX sexual misconduct, sexual harassment, sex discrimination, and/or retaliation.

In order for the Complainant to make informed choices about reporting, they should be aware that all University Employees (except those listed as Confidential Resources) are Mandatory Reporter Employees. Mandatory Reporter Employees are required to report Prohibited Conduct to the Title IX Coordinator. *See* Section XV.1.

Some University resources and Employees, however, must maintain as Confidential what the Complainant tells them and are not required to report Sex Discrimination except in limited circumstances. *See* Section III. A. These Confidential Resources may offer options and resources without any obligation to inform an outside agency or a University official unless a Complainant has requested the information be shared.

Accordingly, Complainants may want to consider whether they want to share personally identifiable details with those who have a duty to report Sex Discrimination to the Title IX Coordinator or whether they would prefer to share only with those who must maintain Confidentiality.

II. SPECIAL ADVICE FOR INDIVIDUALS WHO HAVE EXPERIENCED SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING.

If you believe you are the victim of Sexual Assault, Domestic Violence, or Dating Violence, the University recommends the following:

- if the incident has just occurred, get to a safe place as soon as possible.
- contact law enforcement by calling 911.
- try to preserve all physical evidence related to the incident—avoid bathing, using the toilet, rinsing one's mouth, or changing clothes to facilitate the efficacy of a forensic examination. If it is necessary, put all clothing that was worn at the time of the incident in a paper bag, not a plastic one.
- do not launder or discard bedding or otherwise clean the area where the assault occurred – preserve for law enforcement.
- get medical attention and consider consenting to a forensic examination. Medical forensic examinations are available at no charge. A forensic examination may result in the collection of evidence that will be needed if you decide to make a report to police. Most local hospitals have forensic examination protocols and those that do not can refer you elsewhere. Take a full change of clothing, including shoes, for use after a medical examination.
- preserve all forms of electronic communication that occurred before, during, or after the assault.
- contact a trusted person, such as a friend or family member for support.
- talk with a professional licensed counselor, chaplain, or health care provider who can help explain options, give information, and provide emotional support.
- make a report to the Title IX Coordinator.
- explore potential avenues for investigation and determination under this Policy.

It is also important to take steps to preserve evidence in cases of Stalking, to the extent such evidence exists. Such evidence is more likely to be in the form of letters, emails, text messages, electronic images, and social media exchanges, rather than evidence of physical contact and violence. This type of non-physical evidence will also be useful in all types of Sex Discrimination investigations.

Once a report of Sexual Assault, Domestic Violence, Dating Violence, or Stalking is made, the victim has several options such as, but not limited to:

- obtaining Supportive Measures from the University.
- contacting their parents or a relative.
- seeking legal advice.
- seeking personal counseling.
- pursuing criminal or civil legal action against the perpetrator.
- submitting a Complaint to the Title IX Coordinator.
- requesting that no further action be taken.

The University's Police Department can also assist individuals in obtaining a personal protection order ("PPO") through civil courts. The University Police Department or local law enforcement can assist individuals in the following ways:

- providing information regarding orders of protection, no contact orders or similar lawful orders issued by the University or a criminal or civil court;

- providing an explanation of the individual's right to have privileged, confidential communications with the Confidential Advisor consistent with applicable law; and/or
- upon request and as appropriate, providing assistance in contacting campus officials, community-based sexual assault crisis centers, campus security and/or local law enforcement.

III. UNIVERSITY'S RESPONSE

Upon receiving a report of alleged Sex Discrimination, the Title IX Coordinator will promptly provide a Complainant with important information about options for filing a formal complaint of Sex Discrimination, or if applicable other appropriate grievance policy. The Title IX Coordinator will offer information about supportive measures that are available without regard to whether any grievance is filed.

A. Preliminary Assessment

Responding to allegations of Sex Discrimination. The Title IX Coordinator will conduct a preliminary assessment to determine:

- whether the conduct, as reported, falls or may fall within the scope of these grievance procedures (*see*, Section I); and
- whether the conduct, as reported, constitutes or may constitute Sexual Misconduct, Sexual Harassment, Sex Discrimination, and/or Retaliation.

If the Title IX Coordinator determines that the conduct reported does not and could not fall within the scope of these policies, and/or does not and could not constitute Sexual Misconduct, Sexual Harassment, Sex Discrimination, and/or Retaliation, even if investigated further, the Title IX Coordinator will close the matter and may notify the reporting party if doing so is consistent with FERPA. The Title IX Coordinator may refer the report to other University offices, as appropriate.

If the Title IX Coordinator determines that the conduct reported could fall within the scope of these policies, and/or could constitute Sex Discrimination, if investigated further, the Title IX Coordinator will proceed to contact the Complainant (*see* "Contacting the Complainant").

As part of the preliminary assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if it is not apparent from the Report.

B. Contacting the Complainant

If a Report is not closed as a result of the preliminary assessment (*see* "Preliminary Assessment") and the Complainant's identity is known, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures (*see* "Supportive Measures"); to discuss and consider the Complainant's wishes with respect to Supportive Measures; to inform the Complainant about the availability of Supportive Measures with or without making a complaint; to explain the process for making a formal complaint; and to advise the Complainant of the investigation and adjudication procedures set forth in these grievance procedures.

The Complainant will also be provided options for filing complaints with local law enforcement and information about resources that are available on campus and in the community.

AVAILABILITY OF SUPPORTIVE MEASURES

If a Report is not closed as a result of the preliminary assessment (see "Preliminary Assessment"), the Title IX Coordinator will offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to make a formal complaint.

Contemporaneously with the Respondent being notified of a formal complaint, the Title IX Coordinator will notify the Respondent of the availability of Supportive Measures for the Respondent, and the University will offer and make available Supportive Measures to the Respondent in the same manner in which it offers

and makes them available to the Complainant. In the event a Respondent requests Supportive Measures in advance of the initiation of a formal complaint, the University will offer and make available such Supportive Measures. Otherwise, contemporaneously with the Respondent being notified the University will also offer and make available Supportive Measures to the Respondent, if the Respondent requests such measures.

Either party may request that the Title IX Coordinator modify, augment, or terminate Supportive Measures, after their imposition, if circumstances have changed materially.

If a party affected by Supportive Measures qualifies as a person with a disability under applicable law, the Title IX Coordinator may consult, as appropriate, with the individual or office at the University designated to provide support to persons with disabilities to ensure that the University complies with relevant disability law in the implementation of Supportive Measures.

Supportive Measures are confidential and will not be disclosed to persons other than the party to whom the Supportive Measure pertains unless wider disclosure is necessary to provide the Supportive Measure. The University may inform a party of Supportive Measures provided to or imposed on the other party if necessary to restore or preserve that party's access to the University's Education Programs or Activities. Supportive Measures will be implemented in a manner that does not unreasonably burden either party.

At any time after receiving a report of Sex Discrimination, the Title IX Coordinator may remove a Student Respondent from one or more of the University's Education Programs or Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any Student or other individual arising from the allegations of Sex Discrimination justifies removal.

In the event the Title IX Coordinator imposes an interim removal, the Title IX Coordinator will provide notice of the removal in writing. The Title IX Coordinator must offer to meet with the Respondent within twenty-four hours and provide the Respondent an opportunity to challenge the interim removal.

In the case of a Respondent who is a non-student Employee (*e.g.*, administrator, faculty, or staff), and in its discretion, the University may place the Respondent on full or partial administrative leave at any time after receiving a report of Sex Discrimination, including during the pendency of the investigation and adjudication process (*see* "Investigation" and "Adjudication").

For all other Respondents, including volunteers, guests, and independent contractors, the University retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Sex Discrimination or otherwise.

IV. GRIEVANCE PROCESS GENERALLY

The grievance procedures for complaints of Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation are designed to provide the parties with an impartial investigation, decision-making, equitable resolution, and appellate process. When the Title IX Coordinator determines that a complaint potentially falls under the purview of Title IX Sexual Harassment, the Title IX Coordinator will follow the procedures described herein. When the Title IX Coordinator determines that a complaint falls under a definitions of Sexual Misconduct, Sexual Harassment, Sex-Based Discrimination, and/or Retaliation but does not meet the criteria for a complaint of Title IX Sexual Harassment, they will investigate the case, or refer the case to be investigated in accordance with the NEIU Equal Opportunity and Nondiscrimination policy (G1.7) and/or the Student Code of Conduct.

While individual proceedings may vary depending on specific facts and circumstances, a Title IX grievance process will follow the following format:

(A) an assessment of whether a complaint qualifies for resolution under this Policy;

(B) formal complaint;

(C) written Notice to Parties;
(D) Informal Resolution option for certain cases;
(E) investigation;
(F) parties' review and response to evidence;
(G) investigative report;
(H) live hearing administered by a Hearing Officer;
(I) determination;
(J) appeal (if applicable);
(K) sanctions and other remedies (if applicable).

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

Except for the questioning of witnesses during the hearing specified in "Hearing," the Advisor will play a passive role and is not permitted to communicate on behalf of a party, insist that communication flow through the Advisor, or communicate with the University about the matter without the party being included in the communication. In the event a party's Advisor of choice engages in material violation of the parameters specified in this section and "Hearing," the University may preclude the Advisor from further participation, in which case the party may select a new Advisor of their choice.

In the event a party is not able to secure an Advisor to attend the hearing specified in "Hearing," the University will provide the party an Advisor, without fee or charge, who will conduct questioning on behalf of the party at the hearing. The University will have sole discretion to select the Advisor it provides. The Advisor the University provides may be, but is not required to be, an attorney.

The University is not required to provide a party with an Advisor in any circumstance except where the party does not have an Advisor present at the hearing, and one is provided to conduct questioning on behalf of the party.

A. Initial Assessment and Supportive Measures

Promptly after receiving a report or Complaint alleging Sexual Harassment, the Title IX Coordinator will provide a copy of the Policy to the potential Complainant. The Title IX Coordinator will make a good faith effort to conduct a private meeting with the potential Complainant. At this meeting, the potential Complainant will be provided with information about resources, procedural options, and an opportunity to discuss the University's policy. The Title IX Coordinator will also discuss the availability of supportive measures to the potential Complainant and/or potential Respondent. A person is not required to file a formal complaint to be provided with Supportive Measures by the Title IX Coordinator. Supportive Measures may also be issued any time during, as well as after, the investigation, hearing, and appeals process.

B. Filing of Formal Complaint

A complaint must be signed by the Complainant or the Title IX Coordinator. The Title IX Coordinator is responsible for making the following determinations before proceeding with the investigation:

(1) did the conduct occur while the Complainant was participating in or attempting to participate in the University's Education Programs or Activities?
(2) did the University exercise substantial control over both the Respondent and the context in which the Sexual Harassment occurs?
(3) do the facts set forth by the potential Complainant, if substantiated, constitute a violation of the University's Sexual Misconduct Policy?

If the answer to any of these questions is no, the Title IX Office does not have the authority to resolve the complaint and the potential Complainant will be provided appropriate resources and may be referred to the appropriate office, as applicable, for the resolution of the complaint (determined on a case-by-case basis). If the answer to all of the questions is yes, the Title IX Coordinator has the authority to investigate and resolve the complaint. The Title IX Coordinator will typically investigate only written complaints received within six months of the alleged violation/s, but may investigate older allegations on a case-by-case basis.

This Title IX grievance procedure is initiated with a formal complaint of Sexual Misconduct, Sexual Harassment, Sex-Based Discrimination, and/or Retaliation. A formal complaint must be filed with the Title IX Coordinator (or designee, all of whom constitute the Title IX Coordinator for purposes of these grievance procedures). The formal complaint may be filed in person, by mail, or by electronic mail at any time of day, including during non-business hours, using the contact information listed for the Title IX Coordinator. Generally, a formal complaint should be filed as quickly as possible to facilitate the ability to gather facts and evidence; however, every formal complaint will be reviewed regardless of when an incident occurred. The formal complaint must (1) be signed by either the Complainant or Title IX Coordinator, (2) allege Title IX Sexual Misconduct, Sexual Harassment, Sex-Based Discrimination, and/or Retaliation against a Respondent, and (3) request an investigation.

Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or party during a grievance process and will comply with the requirements for Title IX personnel to be free from conflicts and bias.

In deference to the agency of alleged victims of Title IX Sexual Misconduct, Sexual Harassment, Sex-Based Discrimination, and/or Retaliation, the Title IX Coordinator will exercise the authority to make a Complaint only after careful consideration of multiple factors suggests there is an immediate and serious threat to the health or safety of the Complainant or other person or where not making a complaint would prevent the University from maintaining a non-discriminatory environment. Such factors to be considered include: (1) the Complainant's request not to proceed with initiation of a complaint; (2) the Complainant's reasonable safety concerns regarding initiation of a complaint; (3) the risk of additional Sex Discrimination; (4) the severity of the alleged Sex Discrimination, including whether the harassment, if established, would require the removal of the Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence; (5) the age and relationship of the parties involved; (6) whether the alleged perpetrator is an Employee; (7) the scope of the alleged Sex Discrimination, including information suggesting a pattern, ongoing Sex Discrimination , or Sex Discrimination alleged to have impacted multiple individuals; (8) the availability of evidence; and (9) whether the University could end the alleged Sex Discrimination and prevent its recurrence without initiating the investigation and adjudication procedures.

If the Title IX Coordinator makes a complaint, the Title IX Coordinator will strive to notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures.

If the Complainant or the Title IX Coordinator makes a complaint, the University will commence an investigation as set forth in these grievance procedures. In all cases where a formal complaint is made, the Complainant will be treated as a party, irrespective of the party's level of participation.

In a case where the Title IX Coordinator makes a formal complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the grievance procedures.

If the Title IX Coordinator elects not to make a formal complaint, and no other person makes a formal complaint, the Title IX Coordinator will still evaluate the need for and, if appropriate, implement other

prompt and effective steps to ensure that Sex Discrimination does not continue or recur in the University's Education Programs or Activities and to remedy its effects, if any.

The Title IX Coordinator may consolidate formal complaints as to allegations of Title IX Sexual Misconduct, Sexual Harassment, Sex-Based Discrimination, and/or Retaliation against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

In a case where the Complainant files a formal complaint, the Title IX Coordinator will evaluate the formal complaint and *must* dismiss it if the Title IX Coordinator determines:

- the conduct alleged in the formal complaint would not constitute Sexual Misconduct, Sexual Harassment, Sex-Based Discrimination, and/or Retaliation, even if proved; or
- The conduct alleged in the formal complaint falls outside the scope of the Policy specified in "Scope" (that is, because the alleged conduct did not occur in the University's Education Programs or Activities and/or the alleged conduct occurred outside the geographic boundaries of the United States).

The Title IX Coordinator *may* dismiss Formal Title IX complaint at any time during the Title IX process when:

- a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
- The Respondent is no longer enrolled in or employed by the recipient; or
- Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

In the event the Title IX Coordinator determines the formal complaint should be dismissed pursuant to this section, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal as specified in "Appeal." The Title IX Coordinator may refer the subject matter of the formal complaint to other University offices, as appropriate. A dismissal pursuant to this Section is presumptively a final determination for purposes of this Policy, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

The dismissal of a formal Title IX complaint does not mean that the specific facts and circumstances may not be pursued pursuant to a different University policy, as determined appropriate by the Title IX Coordinator or another University office.

After the Title IX Coordinator receives a formal complaint, the Title IX Coordinator will transmit a written notice to the Complainant and Respondent that includes:

- a copy of this Policy, whether in physical or electronic form.
- sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident (if known), the conduct alleged to constitute Sex Discrimination, and the date and location of the alleged incident, to the extent that information is available to the University.
- a statement that the Respondent is presumed not responsible for the alleged Sex Discrimination and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal.
- notifying the Complainant and Respondent of their right to be accompanied by an Advisor of their choice, as specified in "Advisor of Choice."

- notifying the Complainant and Respondent of their right to inspect and review evidence as specified in “Access to Evidence.”
- notifying the Complainant and Respondent of the University’s prohibitions on Retaliation and false statements specified in Sections “Bad Faith Complaints and False Information” and “Retaliation.”
- information about resources that are available on campus and in the community.

Should the University elect, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, the University will provide a supplemental written notice describing the additional allegations to be investigated. Similarly, if additional parties are identified in the course of the investigation, the University shall send a revised notice of allegations.

If there are legitimate concerns for the safety of any person because of providing the written notice of complaint, providing such written notice may be reasonably delayed to address the safety concern appropriately. Safety concerns that would justify delay of providing the written notice must be based on an individualized safety and risk analysis and not mere speculation or stereotypes. In any event, the written notice of formal complaint will be provided to a party sufficiently in advance of their initial investigative interview such that the party has sufficient time to prepare.

C. Informal Resolution

Informal Resolution is a voluntary process and the University may not require participation in Informal Resolution as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of Sexual Harassment. Similarly, the University may not require the parties to participate in an Informal Resolution process and may not offer Informal Resolution unless and until a formal complaint is filed. The University may, however, facilitate Informal Resolution at any time prior to reaching a determination regarding responsibility. The University will offer Informal Resolution to the parties in all cases, except those involving a Student Complainant and Employee Respondent or any case in which the Title IX Coordinator determines Informal Resolution is not appropriate due to safety concerns. Both parties will be provided information regarding the Informal Resolution process and any consequences from participating (including information about records that will be maintained or could be shared). If both parties provide written, voluntary consent, the Title IX Coordinator can refer the complaint for Informal Resolution without initiating the formal investigation and hearing procedures. Informal Resolution is available at any time in the investigation process at any time prior to reaching a determination regarding responsibility. If an Informal Resolution is reached, the Title IX Coordinator will document the details in writing to both parties and dismiss the complaint.

D. Investigation

If the Informal Resolution process is not available, if it ends unsuccessfully, or if it is declined by one or both parties, the Title IX coordinator will initiate the formal investigation procedures. The Title IX Coordinator will serve as the investigator in the formal investigation stage, unless a third-party is designated to conduct the investigation for good cause. The Title IX Coordinator will undertake an investigation to gather evidence relevant to the alleged Sex Discrimination, including inculpatory and exculpatory evidence. During the investigation, the investigator will provide advance written notice to a party of the date, time, location, participants, and purpose of all meetings and investigative interviews pertaining to that party, with sufficient time for the party to prepare to participate. The investigator will provide an equal opportunity for the parties to be interviewed, to identify witnesses (including fact and expert witnesses), and to present other inculpatory and exculpatory evidence. Notwithstanding the foregoing, the investigator retains discretion to limit the number of witness interviews the investigator conducts if the investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible under “inadmissible evidence and impermissible questioning.” The investigator will not restrict the ability of the parties to

gather and present relevant evidence on their own, but the University bears the burden of collecting evidence.

The Title IX coordinator's formal investigation will include interviewing the parties and relevant witnesses, and reviewing written statements, documents, records, and other communications as potential evidence. Students and Employees are expected to cooperate with the investigation process, regardless of their role (Complainant, Respondent, witness) both the Complainant and Respondent are entitled to the following:

- the right to have an Advisor of their choice accompany them to any meeting or proceeding, including the subsequent hearing.
- the opportunity to identify and propose witnesses who can provide information about the alleged conduct at issue (excluding character witnesses).
- the opportunity to submit evidence for consideration.

In addition, the University:

- holds the burden of proof and the burden of gathering evidence in an investigation;
- may not use records made or maintained by medical or mental health professionals without a party's voluntary, written consent;
- may encourage the parties to keep the investigation as confidential as possible, but may not prohibit the parties from discussing the allegations with others at the University;
- will treat both parties and all witnesses respectfully during the investigation process;
- will presume the Respondent to be not responsible for the allegations (in compliance with the Prohibiting Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation policy) unless and until the investigation, hearing, and, if applicable, appeal stages are completed and a Policy violation is found; and
- will provide regular updates by the Title IX Coordinator to both the Complainant and Respondent throughout the investigation, hearing, and potential appeal process.

E. Review of Directly Related Evidence

Prior to completion of the investigation report, the Title IX Coordinator will provide the parties with an opportunity to inspect, review, and respond to the directly related evidence obtained during the investigation that is directly related to the allegations. Directly related evidence is defined to include the evidence upon which the University does not intend to rely upon in reaching a determination regarding responsibility and Inculpatory or Exculpatory evidence, whether obtained from a party or other source. The Title IX Coordinator will send the parties and each party's Advisor evidence for review in electronic format. Each party will be provided five (5) business days from the date the evidence is sent to submit a written response to the Title IX Coordinator.

F. Investigative Report

The Title IX Coordinator will consider the evidence and any written responses to the evidence, and prepare the investigation report that fairly summarizes the relevant evidence. The investigation report shall include:

- the allegations of Sexual Misconduct, Sexual Harassment, Sex Discrimination, and/or Retaliation;
- a description of the procedural steps taken;
- a detailed account, but not a transcript, of the investigator's conversation with witnesses; and,
- copies of all directly related evidence submitted.

In all stages of the process, the preponderance of the evidence standard (*i.e.*, more likely than not) will be applied. The investigation report will be submitted to the parties and the Hearing Officer. A hearing will be scheduled as promptly as possible, but no sooner than ten calendar days after the parties receive

the investigation report. An Advisor for both the Complainant and Respondent is required for the hearing stage. Advisors will be provided by the University if needed by either or both parties for the hearing. Complainant and Respondent may use a different Advisor for the hearing than the one they used throughout the investigation process.

Although a written response to the Investigation Report is not required, a written response may be helpful. To the extent that parties submit a written response, these things are helpful to include.

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

- to the extent the party disagrees with the investigation report, any argument or commentary regarding such disagreement;
- any argument that evidence should be categorically excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of sexual history specified in "Sexual History," or for any other reason;
- a list of any witnesses that the party contends should be requested to attend the hearing pursuant to an attendance notice issued by the Hearing Officer;
- a list of any witnesses that the party intends to bring to the hearing without an attendance notice issued by the Hearing Officer;
- any objection that the party has to the University's hearing procedures;
- any request that the parties be separated physically during the pre-hearing conference and/or hearing;
- any other accommodations that the party seeks with respect to the pre-hearing conference and/or hearing;
- the name and contact information of the Advisor who will accompany the party at the pre-hearing conference and hearing;
- if the party does not have an Advisor who will accompany the party at the hearing, a request that the University provide an Advisor for purposes of conducting questioning as specified in "Hearing."

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

- argument regarding whether any of the allegations in the formal complaint are supported by a preponderance of the evidence; and
- argument regarding whether any of the allegations in the formal complaint constitute Prohibited Conduct under University Policy and/or Title IX.

G. Hearing Process

1. Administrative Adjudication Opt-In

After the investigator has sent the investigation report to the parties, the Title IX Coordinator will transmit to each party a notice advising the party of the two different adjudication processes specified in "Adjudication." The notice will explain that the hearing process specified in "Hearing Process" is the default process for adjudicating all formal complaints and will be utilized unless both parties voluntarily consent to administrative adjudication as specified in "Administrative Adjudication (Optional)" as a form of Informal Resolution. The notice will be accompanied by a written consent to administrative adjudication and will advise each party that, if both parties execute the written consent to administrative adjudication, then the administrative adjudication process will be used in lieu of the hearing process. Parties are urged to carefully review this Policy (including the entirety of "Adjudication"), consult with their Advisor, and consult with other persons as they deem appropriate (including an attorney) prior to consenting to administrative adjudication.

Each party will have three (3) days from transmittal of the notice specified in this section to return the signed written consent form to the Title IX Coordinator. If either party does not timely return the

signed written consent, that party will be deemed not to have consented to administrative adjudication and the formal complaint will be adjudicated pursuant to the hearing process.

In lieu of the hearing process, the parties may consent to have a formal complaint resolved by administrative adjudication as a form of Informal Resolution. Administrative adjudication is voluntary and must be consented to in writing by both parties and approved by the Title IX Coordinator as specified in the ”Adjudication Process Selection.” At any time prior to the issuance of the administrative officer’s determination, a party has the right to withdraw from administrative adjudication and request a live hearing as specified in “Hearing Process.”

If administrative adjudication is selected, the Title IX Coordinator will appoint an administrative officer. The Title IX Coordinator will see that the administrative adjudicator is provided a copy of the investigation report and a copy of all the evidence transmitted to the parties by the investigator.

The administrative officer will promptly send written notice to the parties notifying the parties of the administrative officer’s appointment; setting a deadline for the parties to submit any written response to the investigation report; and setting a date and time for each party to meet with the administrative officer separately. The administrative officer’s meetings with the parties will not be held any earlier than ten (10) days from the date of transmittal of the written notice specified in this paragraph.

After reviewing the parties’ written responses, the administrative officer will meet separately with each party to provide the party with an opportunity make any oral argument or commentary the party wishes to make and for the administrative officer to ask questions concerning the party’s written response, the investigative report, and/or the evidence collected during the investigation.

After meeting with each party, the administrative officer will objectively evaluate all relevant evidence, including both Inculpatory and Exculpatory Evidence and ensure that any credibility determinations made are not based on a person’s status as a Complainant, Respondent, or witness. The administrative officer will take care to exclude from consideration any evidence that the administrative officer determines should be ruled inadmissible based on the objections and arguments raised by the parties in their respective written responses to the investigation report. The administrative officer will resolve disputed facts using a preponderance of the evidence (that is, “more likely than not”) standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the Policy as alleged in the formal complaint.

Thereafter, the administrative officer will consult with any University official and the Title IX Coordinator, and will prepare and transmit a written decision in the manner as specified in “Administrative Officer Determination” which shall serve as a resolution for purposes of Informal Resolution.

Transmittal of the administrative officer’s written determination concludes the administrative adjudication.

Although the length of each administrative adjudication will vary depending on the totality of the circumstances, the University strives to issue the administrative officer’s determination within twenty-one (21) business days of the transmittal of the initiating written notice specified in this Section (“Administrative Adjudication

Other language in this Section (“Administrative Adjudication”) notwithstanding, Informal Resolution will not be permitted if the Respondent is a non-student Employee and Complainant is a Student.”).

2. Pre-Hearing Conference

Prior to the hearing, the Hearing Officer may, at their discretion, conduct a pre-hearing conference with the parties and their Advisors. The pre-hearing conference will be conducted live, with simultaneous and contemporaneous participation by the parties and their Advisors. By default, the pre-hearing conference will be conducted with the Hearing Officer, the parties, the Advisors, and other necessary University personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

In the Hearing Officer's discretion, the pre-hearing conference may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

During the pre-hearing conference, the Hearing Officer will discuss the hearing procedures with the parties; address matters raised in the parties' written responses to the investigation report, as the Hearing Officer deems appropriate; discuss whether any stipulations may be made to expedite the hearing; discuss the witnesses the parties have requested be served with notices of attendance and/or witnesses the parties plan to bring to the hearing without a notice of attendance; and resolve any other matters that the Hearing Officer determines, in the Hearing Officer's discretion, should be resolved before the hearing.

The pre-hearing conference is conducted at the Hearing Officer's discretion; the Hearing Officer may choose not to hold a pre-hearing conference.

3. Issuance of Notices of Attendance

After the pre-hearing conference, the Hearing Officer or Title IX Coordinator will transmit notices of attendance to any University Employee (including administrator, faculty, or staff) or Student whose attendance is requested at the hearing as a witness. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the Hearing Officer immediately if there is a material and unavoidable conflict. Witnesses are not required to participate.

The subject of an attendance notice should notify any manager, faculty member, coach, or other supervisor, as necessary, if attendance at the hearing will conflict with job duties, classes, or other obligations. All such managers, faculty members, coaches, and other supervisors are required to excuse the subject of the obligation, or provide some other accommodation, so that the subject may attend the hearing as specified in the notice.

The University will not issue a notice of attendance to any witness who is not an Employee or a Student, but parties may request the presence of third-party witnesses if they so wish, which may be granted by the Hearing Officer.

4. Hearing

The default process for adjudicating formal complaints is the hearing process specified in this Section ("Hearing"). The hearing process will be used to adjudicate all formal complaints unless both parties timely consent to administrative adjudication as specified in "Adjudication Process Selection."

A Hearing Officer (*i.e.*, decision-maker) will be appointed for each case. The role of the Hearing Officer is to review the information presented in the investigation report and to determine if the Respondent violated the University's Prohibiting Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation Policy, and, if so, to determine appropriate remedial measures or sanctions. The Hearing Officer will manage the live hearing, which will take place at a University location or remotely. At the request of either party, the University will provide for the hearing to occur

with the parties in separate rooms, with technology enabling the Hearing Officer to see and hear the party or witness answering. The audio or video recording begins at the start of the hearing.

The hearing will then proceed as follows:

- the Hearing Officer will explain how the hearing will proceed and address any questions.
- the Hearing Officer will permit the Complainant and the Respondent to each give an opening statement.
- the investigator or a designee will present a summary of the investigation. Relevant questions and follow-up questions are permitted by the Hearing Officer and each party's Advisor, including questions regarding bias.
- the Hearing Officer and Respondent's Advisor will have the chance to ask questions of Complainant. Relevant questions and follow-up questions are permitted, including those challenging credibility.
- the Hearing Officer and Complainant's Advisor will have the chance to ask questions of Respondent. Relevant questions and follow-up questions are permitted, including those challenging credibility.
- the Complainant and the Respondent may not directly cross examine one another.
- witnesses approved by the Hearing Officer will be presented for questioning. The University cannot compel the presence of witnesses. The Hearing Officer will permit each party's Advisor to ask any witnesses relevant questions and follow-up questions, including those challenging credibility. The Hearing Officer also may ask questions of any witness.
- before a Complainant, Respondent, Title IX Coordinator, or witness answers a question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Hearing Officer will make these determinations in accordance with Title IX (*e.g.*, limited admissibility of sexual history) and their judgment.
- the Hearing Officer will permit the Complainant and the Respondent to each give a closing statement.
- the Hearing Officer may order breaks as needed or upon requests from a party or witness during the hearing.

After these steps, the hearing is concluded and the audio or video recording will be turned off.

H. Written Determination

The Hearing Officer will prepare a written determination following the hearing and email it to the parties simultaneously. The written determination should be issued within seven (7) business days and will include each of the following:

- the allegations;
- a description of the procedural steps taken;
- findings of fact supporting the written determination;
- conclusions regarding applying the policy to the facts;
- a statement with rationale detailing the result of each allegation;
- an explanation of whether Respondent is found responsible for any policy violations;
- a description of remedial measures and/or sanctions; and
- the University's procedures and permissible bases for the Complainant and Respondent to appeal.

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

I. Appeals

Complainants and Respondents each have the right to appeal the Hearing Officer's written determination and/or the remedial measures or sanctions. Appeals must be made in writing (*via* letter or email) to the Appeal Officer within ten (10) business days from the date of receiving the written determination. Each party has the right to receive a copy of the other party's appeal and response. Five (5) business days will be allowed to submit a written response to the Appeal Officer addressing the other party's appeal. Cross appeals (appeals filed by both the Complainant and Respondent) are permitted.

The University official or designee receiving the appeal is referred to as the Appeal Officer. The following describes the assignment of Appeal Officers:

- For a case involving a Student Complainant and Student Respondent, the appeal will be made to the Vice President for Student Affairs or a designee.
- For a case involving an Employee Complainant and Employee Respondent, the appeal will be made to the Vice President for one of the areas in which the Employee works or a designee, to be determined by the University on a case-by-case basis.
- For a case involving an Employee Complainant and Student Respondent, the appeal will be made to the Vice President for the area in which the Employee works or a designee.
- For a case involving a Student Complainant and Employee Respondent, the appeal will be made to the Vice President for the area in which the Employee works or a designee.
- For all additional cases, including those involving third-party Complainants, the University will appoint a Vice President or a designee.

The following grounds are the only allowable bases for appeals: (1) there is an alleged procedural irregularity that affected the outcome; (2) new evidence is available that could affect the outcome; or (3) the Title IX Coordinator, investigator, or Hearing Officer had a conflict of interest or bias that affected the outcome.

The Appeal Officer's decision regarding the appeal will be issued in writing to the parties no more than sixty (60) calendar days from receipt of the appeal request. If both parties appeal, the sixty (60) calendar day deadline applies to each appeal separately. The appeals decision is final.

J. Sanctions and Other Remedies

In the event the Hearing Officer determines that the Respondent is responsible for violating this Policy, the Hearing Officer will, prior to issuing a written decision, consult with an appropriate University official with disciplinary authority over the Respondent and such official will determine any discipline to be imposed. The Hearing Officer will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing Support Measures or other remedies will be provided to the Complainant.

The imposition of remedial measures or sanctions, if recommended, will proceed in accordance with Illinois and federal statutes and relevant University policy, as well as applicable collective bargaining agreements, rules and regulations.

For Employees (including Student Employees), the following may be imposed:

- verbal warning;
- written warning;
- advisory letter;
- monitoring;
- campus access restrictions;

- required educational and prevention training;
- No-Contact Order;
- loss of University privileges;
- suspension with or without pay;
- probation;
- demotion;
- transfer;
- termination; and/or
- revocation of tenure or emeritus status.

For Students, the following may be imposed:

- verbal warning;
- written warning;
- advisory letter;
- monitoring;
- campus access restrictions;
- residence hall suspension or expulsion;
- required educational and prevention training;
- No-Contact Order;
- loss of University privileges;
- disciplinary suspension;
- expulsion; and/or
- degree revocation

For applicants, visitors, and third parties, the University may impose sanctions including, but not limited to prohibition from entering campus or other actions to prevent contact with the person suffering an incident of Sexual Harassment. A finding of a Sexual Misconduct Policy violation against an individual who is not a member of the University Community (i.e., not a Student or Employee) may result in sanctions ranging from a written warning to being banned from any University property, activities and/or programs, including the termination of any business contract with the University.

These foregoing remedial measures and sanctions are separate and distinct from those available to local law enforcement authorities, or those imposed by third-party employers (*e.g.*, by employers on vendor employees).

The University recognizes that Students who have consumed alcohol when they are not 21 years of age or who have been using illegal drugs may be hesitant to report Sexual Misconduct perpetrated against them or others. Therefore, the University will not take disciplinary action under its alcohol or drug policies against a student who discloses illegal alcohol or illegal drug use in the context of reporting Sexual Misconduct directed against them or another person. However, the University reserves the right to require counseling, education, or other preventative measures to help prevent alcohol or drug violations in the future. The University's commitment to amnesty in these situations does not prevent action by police or other legal authorities against an individual who has illegally consumed alcohol or drugs.

Any individual affected by or accused of violations under the Policy will have equal access to support and counseling services offered through the University. The University encourages any individual who has questions or concerns to seek support of University identified resources. The Title IX

Coordinator is available to provide information about the University's Policy and procedure and to provide assistance. A list of University identified resources is located at the following link:

https://www.neiu.edu/about/university-leadership/executive-team/legal-affairs-and-general-counsel/ethics-compliance-and-university-records/title-ix

The Title IX Coordinator, investigator, Hearing Officer, administrative officer, Appeal Officer, and Informal Resolution facilitator will be free of any material conflicts of interest or material bias. Any party who believes one or more of these University officials has a material conflict of interest or material bias must raise the concern promptly so that the University may evaluate the concern and find a substitute, if appropriate. The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal specified in "Appeal," or otherwise.

V. TIMING

If the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until a matter is fully resolved (including any appeal).

Hearings for possible violations that occur near or after the end of an academic term that are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the recipient and remain within the 60-90 business day goal for resolution.

VI. OBJECTIONS GENERALLY

Parties are expected to raise any objections, concerns, or complaints about the investigation, adjudication, and appeals process in a prompt and timely manner so that the University may evaluate the matter and address them, if appropriate.

VII. CONSTITUTIONAL RIGHTS AND ACADEMIC FREEDOM

The University will construe and apply this Policy consistent with the First Amendment to the U.S. Constitution and the principles of academic freedom specified in the faculty handbook. In no case will a Respondent be found to have committed a violation under this Policy based on expressive conduct that is protected by the First Amendment and/or the principles of academic freedom specified in the faculty handbook.

VIII. RELATIONSHIP WITH CRIMINAL PROCESS

This Policy sets forth the University's processes for responding to reports and formal complaints of Sex Discrimination. The University's processes are separate, distinct, and independent of any criminal processes. While the University may temporarily delay its processes under this Policy to avoid interfering with law enforcement efforts if requested by law enforcement, the University will otherwise apply this Policy and its processes without regard to the status or outcome of any criminal process.

IX. RECORDINGS

Wherever this Policy specifies that an audio or video recording will be made, the recording will be made only by the University and is considered property of the University, subject to any right of access that a party may have under this Policy, FERPA, and other applicable federal, state, or local laws. Only the University is permitted to make audio or video recordings under this Policy. The surreptitious recording of any meeting, interview, hearing, or other interaction contemplated under this Policy is strictly prohibited. Any party who wishes to transcribe a hearing by use of a transcriptionist must seek pre-approval from the Hearing Officer. For the purposes of these grievance procedures, AI-generated transcription is a type of recording.

X. VENDORS, CONTRACTORS AND THIRD PARTIES

The University does business with various vendors, contractors, and other third-parties who are not Students or Employees of the University. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under this Policy, the University retains its right to limit any vendor, contractor, or third-party's access to campus for any reason. And the University retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under this Policy.

XI. BAD FAITH COMPLAINTS AND FALSE INFORMATION

It is a violation of this Policy for any person to submit a report or formal complaint that the person knows, at the time the report or formal complaint is submitted, to be false or frivolous. It is also a violation of this Policy for any person to knowingly make a materially false statement during the course of an investigation, adjudication, or appeal under this Policy. Violations of this section are not subject to the investigation and adjudication processes in this Policy; instead, they will be addressed under the Student Code of Conduct in the case of Students and other University policies and standards, as applicable, for other persons.

XII. RETALIATION

It is a violation of this Policy to engage in Retaliation. Reports and formal complaints of Retaliation may be made in the manner specified in "Reporting Sex Discrimination," and "Formal Complaint." Any report or formal complaint of Retaliation will be processed under this Policy in the same manner as a report or formal complaint of Sex Discrimination, as the case may be. The University retains discretion to consolidate a formal complaint of Retaliation with a formal complaint of Sex Discrimination for investigation and/or adjudication purposes if the two formal complaints share a common nexus.

XIII. CONFIDENTIALITY

The University will keep confidential the identity of any individual who has made a report or formal complaint of Sex Discrimination or Retaliation including any Complainant, the identity of any individual who has been reported to be a perpetrator of Sex Discrimination or Retaliation including any Respondent, and the identity of any witness. The University will also maintain the confidentiality of its various records generated in response to reports and formal complaints, including, but not limited to, information concerning Supportive Measures, notices, investigation materials, adjudication records, and appeal records. Notwithstanding the foregoing, the University may reveal the identity of any person or the contents of any record if permitted by FERPA, if necessary to carry out the University's obligations under Title IX and its implementing regulations including the conduct of any investigation, adjudication, or appeal under this Policy or any subsequent judicial proceeding, or as otherwise required by law. Further, notwithstanding the University's general obligation to maintain confidentiality as specified herein, the parties to a report or formal complaint will be given access to investigation and adjudication materials in the circumstances specified in this Policy.

While the University will maintain confidentiality specified in this section, the University will not limit the ability of the parties to discuss the allegations at issue in a particular case. Parties are advised, however, that the manner in which they communicate about, or discuss a particular case, may constitute Sex Discrimination or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this Policy.

Note that certain types of conduct covered by this Policy are considered crimes for which the University must disclose crime statistics in its Annual Security Report that is provided to the campus community and available to the public. These disclosures will be made without including personally identifying information.

XIV. OTHER VIOLATIONS OF THIS POLICY

Alleged policy, other than violations falling under Title IX, will be subject to review under the Student Code of Conduct for Students, the faculty handbook for faculty, and applicable other University policies and

standards. Such complaints are resolved in accordance with the procedures described in the Northeastern Illinois University Equal Opportunity and Nondiscrimination policy (G1.7).

XV. SIGNATURES AND FORM OF CONSENT

For purposes of this Policy, either a physical signature or digital signature will be sufficient to satisfy any obligation that a document be signed. Where this Policy provides that written consent must be provided, consent in either physical or electronic form, containing a physical or digital signature, as the case may be, will suffice.

XVI. DEADLINES, TIME, NOTICES, AND METHOD OF TRANSMITTAL

Where this Policy specifies a period of days by which some act must be performed, the following method of calculation applies:

- exclude the day of the event that triggers the period;
- count every day, including intermediate Saturdays, Sundays, and legal holidays recognized by the Illinois State Legislature or federal government;
- include the last day of the period until 5:00 p.m. central time, but if the last day is a Saturday, Sunday, or legal holiday recognized by the Illinois State Legislature or federal government, the period continues to run until 5:00 p.m. central time on the next day that is not a Saturday, Sunday, or legal holiday recognized by the Illinois State Legislature or federal government.

All deadlines and other time periods specified in this Policy are subject to modification by the University where, in the University's sole discretion, good cause exists. Good cause may include, but is not limited to, the unavailability of parties or witnesses; the complexities of a given case; extended holidays or closures; sickness of the investigator, adjudicator, or the parties; the need to consult with the University's legal counsel; unforeseen weather events; and the like.

Any party who wishes to seek an extension of any deadline or other time period may do so by filing a request with the investigator, Hearing Officer, administrative officer, Appeal Officer, or Title IX Coordinator, as the case may be, depending on the phase of the process. Such request must state the extension sought and explain what good cause exists for the requested extension. The University officer resolving the request for extension may, but is not required to, give the other party an opportunity to object. Whether to grant such a requested extension will be in the sole discretion of the University.

The parties will be provided written notice of the modification of any deadline or time period specified in this policy, along with the reasons for the modification.

Where this Policy refers to notice being given to parties "simultaneously," notice will be deemed simultaneous if it is provided in relative proximity on the same day. It is not necessary that notice be provided at exactly the same hour and minute.

Unless otherwise specified in this Policy, the default method of transmission for all notices, reports, responses, and other forms of communication specified in this Policy will be email using University email addresses.

A party is deemed to have received notice upon transmittal of an email to their University email address. In the event notice is provided by posted mail, a party will be deemed to have received notice five (5) days after the notice in question is postmarked.

Any notice inviting or requiring a party or witness to attend a meeting, interview, or hearing will be provided with sufficient time for the party to prepare for the meeting, interview, or hearing as the case may be, and will include relevant details such as the date, time, location, purpose, and participants. Unless a specific number of days is specified elsewhere in this Policy, the sufficient time to be provided will be determined in the sole discretion of the University, considering all the facts and circumstances, including, but not limited

to, the nature of the meeting, interview, or hearing; the nature and complexity of the allegations at issue; the schedules of relevant University officials; approaching holidays or closures; and the number and length of extensions already granted.

XVII. OTHER FORMS OF DISCRIMINATION

This Policy applies only to Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation falling under Title IX. Complaints of other forms of discrimination and harassment are resolved in accordance with the procedures described in the NEIU Equal Opportunity and Nondiscrimination policy (G1.7).

XVIII. FACTS AND DETERMINATIONS BINDING

If a Complaint is dismissed or proceeds to a written decision of adjudication, and after any such dismissal or written decision is final, the facts and determinations made by the University are binding on the parties and may not be relitigated, challenged, or otherwise collaterally attacked by the parties in any other University process or procedure. Additionally, a Complainant may not file successive complaints under this Policy about the same incident or course of conduct, even if the Complainant alleges a new theory of Sex Discrimination arising from the same incident or course of conduct that was the subject of a prior written decision. Further, to the extent a complaint of Policy or Practice Discrimination has proceeded to a written decision, such written decision is binding on different Complainants with respect to the same Policy or Practice Discrimination, unless such different Complainant alleges materially different facts that could result in a different outcome.

XIX. OUTSIDE APPOINTMENTS, DUAL APPOINTMENTS, AND DELEGATIONS

The University, at its sole discretion, reserves the right to retain and appoint suitably qualified persons who are not University Employees to fulfill any function of the University under this Policy, including, but not limited to, the investigator, Hearing Officer, administrative officer, Informal Resolution officer, and/or Appeal Officer.

The University also retains discretion to appoint two or more persons to jointly fulfill the role of investigator, Hearing Officer, administrative officer, Informal Resolution officer, and/or Appeal Officer.

The functions assigned to a given University official under this Policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, Hearing Officer, administrative officer, Informal Resolution officer, and Appeal Officer, may, in the University's discretion, be delegated by such University official to any suitably qualified individual and such delegation may be recalled by the University at any time.

XX. DUAL STATUS PERSONS

Where an individual is both a Student and an Employee of the University, and to the extent the distinction between Student or Employee status is material for any standard, obligation, right, or process set forth in this Policy, the Title IX Coordinator will determine the individual's status for purposes of this Policy. Such determination shall be made after a fact-specific inquiry that includes consideration of relevant circumstances, including whether the individual's primary relationship to the University is to receive an education or to work, and in what capacity the person was acting (or failing to act) with regard to the events in question.

XXI. EXERCISE OF RIGHTS

The rights afforded to Complainants and Respondents throughout this Policy are personal to Complainants and Respondents and may not be exercised by a third-party unless the third-party has the legal right to act on the party's behalf. As a general rule, parents do not have the right to act on behalf of adult students and are not entitled to participate in the investigation and adjudication processes in this Policy unless they are acting in the role of an Advisor as described herein. If a Complaint alleges Policy or Practice Discrimination against the University itself, such that no individual person is a Respondent, the relevant department or

unit whose policy or practice is at issue may appoint an individual to represent the department or unit's interest and to act as a nominal Respondent in such individual's official capacity on behalf of the department or unit at issue within two (2) calendar days of a request by the Title IX Coordinator. When there are unresolved questions of who should respond on behalf of a department or unit, or if there is no response within two (2) calendar days, a representative will be appointed by the Provost (for academic departments) or the President (for all other departments and units).

XXII. RECORDKEEPING

The University will retain those records specified in 34 C.F.R. § 106.45(b)(10) for a period of seven (7) years after which point in time they may be destroyed, or continue to be retained, in the University's sole discretion. The records specified in 34 C.F.R. § 106.45(b)(10) will be made available for inspection, and/or published, to the extent required by 34 C.F.R. § 106.45(b)(10) and consistent with any other applicable federal or state law, including FERPA.

XXIII. DEFINITIONS

Words used in this Policy will have those meanings defined herein and if not defined herein or by University policy will be construed according to their plain and ordinary meaning.

XXIV. DISCRETION IN APPLICATION

The University retains discretion to interpret and apply this Policy in a manner that is not clearly unreasonable, even if the University's interpretation or application differs from the interpretation of the parties.

Despite the University's reasonable efforts to anticipate all eventualities in drafting this Policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the University retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this Policy and the hearing procedures referenced in "Hearing" are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the University retains discretion to revise this Policy and the hearing procedures at any time, and for any reason. The University may apply Policy revisions to an active case provided that doing so is not clearly unreasonable.

XXV. TRAINING

The University will ensure that University officials acting under this Policy, including but not limited to the Title IX Coordinator, investigators, Hearing Officers, administrative officers, Informal Resolution facilitators, University provided Advisors, and Decision-Makers (including appellate Decision-Makers) receive training in compliance with 34 C.F.R. § 106.45(b)(1)(iii) and any other applicable federal or state law.

XXVI. CHANGES IN THE LAW

In the event a change in controlling law conflicts with some provision of this Policy, necessitates the modification of some provision of this Policy, or mandates the inclusion of new provisions not already included, the University may immediately apply the Policy in a manner consistent with such controlling law, after providing written notice to the parties of the change in controlling law, even if the Policy has yet to be formally amended to address the change in controlling law.

APPENDICES

Appendix A: policy definitions

AUTHOR REFERENCE

Title IX of the Education Amendments Act of 1972 (Title IX)
Board of Trustees Governing Policies, Article II, Section 4: University Employees and Section 7: Students
University of Chicago Sexual Assault Policy
Northwestern University Policy on Sexual Misconduct
University of Illinois Sex -Based Misconduct Policy

HISTORY

April 2025: re-wrote policy based on changes to federal mandates
11/14/2024: updated links, phone numbers
02/14/2024: formatting changes, updated Confidential Advisor information and Title IX Coordinator contact phone number
10/03/2023: updated information and links
07/01/2022: revised to comply with the city of Chicago's amended Human Rights Ordinance
03/01/2022: made editorial changes and updated Confidential Advisor
11/02/2020: Interim status removed
08/14/2020: Converted to Interim Sexual Harassment Policy
03/05/2020: added definition of "visitor"
Policy Revision 10/18/2018
Administrative Memorandum No. 62 Equal Opportunity and Affirmative Action, General Policy Statement, Effective Dated 3/1/1999
Administrative Memorandum No. 63, Discrimination Grievance Procedure, Effective Dated 3/1/1999
Sexual Harassment policy E2.10, Effective Dated 5/17/2012, previously Administrative Memorandum No. 6 Policy on Sexual Harassment, Effective Dated 3/1/1999

RELATED POLICIES AND OTHER INFORMATIONAL MATERIAL

G1.8 Policy Prohibiting Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation
G1.7 Equal Opportunity and Nondiscrimination Policy
Notice of Rights and Options
E1.04.1 Nepotism and Personal Relationships
E1.04.2 Relationships between University Employees and Students

UNIVERSITY RESOURCES & REPORTING OPTIONS

Confidential

Confidential Advisor (students): Dr. Jennifer Knuepfer, (773) 442-4656 or via confidentialAdvisor@neiu.edu

Employee Assistance Program (employees): (773) 442-5202
University Ombuds (students and employees): (773) 442-4527
Student Counseling Services (students): (773) 442-4650
Student Health Services (students): (773) 442-5800

Non-confidential

University Police (students and employees): (773) 442-4100 (non-emergency), (773) 442-5511 (emergency)
Title IX (students and employees): (312) 526-1568
Dean of Students (students): (773) 442-4610
Office of Human Resources: (773) 442-5200

Angelina Pedroso Center for Diversity and Intercultural Affairs (students): (773) 442-5449
Behavioral Concerns Team (students and employees): BCT@neiu.edu

Off-Campus Resources

Carruthers Center for Inner City Studies, Insight Hospital and Medical Center (formerly Mercy Hospital & Medical Center), 2525. S Michigan Ave., Chicago, IL 60616, 312-567-2000,
El Centro, Community First Medical Center, 5645 W. Addison St., Chicago, IL 60634, (773) 282-7000
Main Campus, Swedish Covenant Hospital, 5145 N. California Ave., Chicago, IL 60625, (773) 878-8200
Advocate Illinois Masonic Medical Center Crisis Line: (773) 296-5380
Center on Halsted (serving LGBTQIA2S+ community): (773) 472-6469
Chicago Bar Association (legal services): 312-554-2000
Chicago Rape Crisis Hotline at YWCA (24 hrs., referrals, information, and counseling): 888-293-2080
Chicago Women's Health Center (gynecological care and counseling): (773) 935-6126
Illinois Coalition Against Sexual Assault (counseling/education/advocacy): (773) 275-8340
Resilience (formerly Rape Victims Advocates) 312-443-9603
LGBT Antiviolence Project – Center on Halsted (24 hrs., referrals/information/counseling): (773) 871-2273
(773) 871-2273
City of Chicago Division on Domestic Violence: (24 hrs., referrals, information): 877-863-6338
National Suicide Prevention Lifeline: 1-800-273-TALK (8255), en Español 1-888-628-9454

Abused and Neglected Child Reporting Act: All University personnel and volunteers are mandated reporters under ANCRA and, as such, are required to report all cases of suspected child abuse or neglect to the Department of Child and Family Services. Additional information about an employee's, volunteer's or contractor's responsibilities under ANCRA is available at:

nessie.uihr.uillinois.edu/pdf/Policy/EmployeePaperBasedTrainingANCRA.pdf nessie.uihr.uillinois.edu/pdf/Policy/FAQminorspolicy.pdf

The closest medical facilities where a medical forensic exam (*i.e.*, a "rape kit") can be conducted at no cost to the person who has experienced a sexual assault are as follows for each of Northeastern's locations:

- Carruthers Center for Inner City Studies, Insight Hospital and Medical Center (formerly Mercy Hospital & Medical Center), 2525. S Michigan Ave., Chicago, IL 60616, 312-567-2000,
- El Centro, Community First Medical Center, 5645 W. Addison St., Chicago, IL 60634, (773) 282-7000
- Main Campus, Swedish Covenant Hospital, 5145 N. California Ave., Chicago, IL 60625, (773) 878-8200

This Policy establishes prompt, fair, and impartial procedures for responding to every Sexual Harassment complaint so that problems can be identified and remedied internally. However, an individual has the right to contact the following state or federal agencies to file a formal complaint without Retaliation from the University:

Chicago Commission on Human Relations
740 N. Sedgwick, 4th Floor
Chicago, IL 60654
(312) 744-4111 | cchr@cityofchicago.org

U.S. Equal Employment Opportunity Commission (EEOC)
Chicago District Office
230 S. Dearborn St., Suite 1866
Chicago, IL 60604
(312) 872-9744
(866) 740-3953 (TTY)
https://publicportal.eeoc.gov/Portal/Login.aspx

Illinois Department of Human Rights
555 W. Monroe St., Suite 700
Chicago, IL 60601
(312) 814-6200
(866) 740-3953 (TTY)

An individual may file a sexual discrimination complaint online with the U.S. Department of Education's Office for Civil Rights (https://www2.ed.gov/about/offices/list/ocr/complaintintro.html) regarding an alleged violation of Title IX or call(800) 421-3481.

CONTACT INFORMATION

For questions about this policy please contact:

Official	Email	Telephone
Title IX Officer	titleix@neiu.edu	(773) 442-5412

DISCLAIMER

The University reserves the right to modify or amend sections of this policy at any time at its sole discretion. This policy remains in effect until such time as the Responsible Officer calls for review. Requests for exception to any portion of this policy, but not to the policy statement, must be presented in writing to the Responsible Officer.

APPENDIX A: DEFINITIONS

Actual Knowledge: Notice of Sexual Harassment or allegations of Sexual Harassment to the University's Title IX Coordinator, or any official of the University who has authority to institute corrective measures on behalf of the University. Any reasonable information of sex and gender-based harassment and discrimination, including Sexual Misconduct or allegations of such provided to a Title IX Coordinator, or any other Mandatory Reporter. Actual Knowledge would also include personal observation by an Employee of such conduct.

Advisor provides assistance to Complainants and Respondents in navigating the grievance procedures and conducting cross examination of the other party and witnesses during the hearing. An Advisor may be chosen by a party or appointed by the University. If a party does not have an Advisor present at the live hearing, the University will appoint an Advisor without fee or charge to that party to conduct cross-examination on behalf of that party. This Advisor differs from the **Confidential Advisor**, *See* definition below.

Appeal Officer or Appeal Decision-Maker is an official designated by the University to hears appeals filed by a Complainant or a Respondent relating to a Dismissal decision or a finding of Responsibility. The University may designate a senior administrator or third-party to serve as the Appeal Officer. The Appeal Officer has final decision-making authority over dismissal decisions and determinations of responsibility. The Appeal Officer or Appeal Decision-Maker shall not be the same person as the Decision-Maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator.

Complainant refers to an individual who is alleged to be the victim of conduct that could constitute Prohibited Conduct, and who was participating or attempting to participate in the University's Education Programs or Activities. A Complainant is a party to a formal complaint filed under this Policy, whether the formal complaint is filed by the Complainant or the Title IX Coordinator.

Confidential Advisor means a person who is employed or contracted by the University to provide emergency and ongoing support to student survivors of sexual violence with the training, duties, and responsibilities described in the Illinois Preventing Sexual Violence in Higher Education Act. For additional information about Confidential Advisors, ***see*** the grievance procedures for formal complaints involving Sex-Based Misconduct, Harassment or Discrimination.

Confidential Employee means an Employee of the University who is not required to report potential Sex Discrimination to the Title IX Coordinator because:

- the Employee's communications are privileged or confidential under federal or state law (e.g., attorneys, doctors and certain other medical providers, psychologists, and counselors). The Employee's status as confidential is limited to information received about Sexual Harassment and sex and gender-related identity harassment and discrimination while the Employee is functioning within the scope of their duties to which the privilege or confidentiality applies.
- the University has designated the Employee as a confidential resource for the purpose of providing services to persons in connection with Sexual Harassment and sex and gender-related identity harassment and discrimination —but if the Employee also has a role or duty not associated with providing these services, the Employee's status as confidential is limited to information received about Sex Discrimination in connection with providing these services.
- The Employee is conducting a University approved human subjects research study designed to gather information about Sexual Harassment and sex and gender-related identity harassment and discrimination —but the Employee's confidential status is limited to information received while conducting the study.

A list of Confidential Employees by position type is available here. Any employee designated as a Confidential Employee must explain to any person who informs the Confidential Employee of conduct that may reasonably constitute Sexual Harassment and/or discrimination under Title IX of their status as a Confidential Employee, including the circumstances in which they are not required to notify the Title IX Coordinator about conduct that reasonably may constitute Sex Discrimination, how to contact the Title IX Coordinator and how to make a

complaint of Sex Discrimination, and that the Title IX Coordinator may be able to offer and coordinate Supportive Measures, as well as initiate an Informal Resolution process or an investigation under the grievance procedures.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion may involve express or implied threats, intimidation, or physical force; coercion may also include administering a drug, intoxicant, or other substance with the intent to incapacitate prior to engaging in sexual activity.

Consent means freely given words or actions that a reasonable person in the position of the Respondent would understand as agreement to engage in the sexual conduct at issue. A person's lack of verbal or physical resistance or submission resulting from the use of threat of force does not constitute Consent. A person's manner of dress does not constitute Consent. A person's Consent to past sexual activity does not constitute Consent to future sexual activity. A person's Consent to engage in sexual activity with one person does not constitute Consent to engage in sexual activity with a different person. A person who is Incapacitated is not capable of giving Consent, and a person who is under the age of consent cannot Consent. Consent cannot be procured through Coercion. A person can withdraw Consent at any time. Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

Decision-Maker/Hearing Officer is a trained individual who reviews all relevant and directly related evidence including the investigation report and makes a decision regarding responsibility based on preponderance of the evidence as well as any applicable sanctions. The Decision-Maker/Hearing Officer shall facilitate the live hearing and afford each party the opportunity to cross-examine the other party and ask relevant questions of any witnesses.

Determination Letter: A letter provided by the Decision-Maker to the parties and their Advisors at the conclusion of the formal resolution process. This letter summarizes the allegations and applicable policies, the investigation, and the findings and sanctions as determined by the Decision-Maker.

Employee means a person who is paid wages to perform services for the University. Volunteers and independent contractors are not Employees.

Education Programs or Activities refers to locations, events, or circumstances in which the University exercises substantial control over both the Respondent and the context in which the alleged harassment occurs. This includes:

- Activity occurring under any of the operations of the University in the United States, including, but not limited to, in-person and online educational instruction, admissions, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs.
- Activity that occurs on campus or on other property owned or occupied by the University.
- Activity that occurs in a building owned or controlled by a student organization that is officially recognized by the University.

- Activity that is subject to the University's disciplinary authority.

Exculpatory Evidence is evidence that tends to show that the Respondent is not responsible for the alleged Prohibited Conduct.

FERPA refers to the Family Educational Rights and Privacy Act, which is a federal law governing the confidentiality of a Student's education records and a Student's right to access, review, and seek amendment of education records.

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and Coercion that is intended to overcome resistance or produce Consent (e.g., "Have sex with me or I'll hit you," which elicits the response, "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not Consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Incapacitated or **Incapacity** occurs when the Complainant is incapable of giving Consent to sexual activity due to their age, effect of drugs or alcohol consumption, medical condition or disability, or due to a state of unconsciousness or sleep.

Informal Resolution is a voluntary resolution option that enables the parties to resolve a formal complaint in a separate and distinct forum from the University's hearing process. The Informal Resolution process is applicable when (1) the Title IX Coordinator deems it appropriate, and (2) the parties voluntarily agree to resolve the matter through the Informal Resolution process.

Inculpatory Evidence is evidence that tends to show that the Respondent is responsible for the alleged Prohibited Conduct.

Mandatory Reporter: Any Employee given the duty of reporting actual notice of incidence of sex or gender-based harassment or discrimination, incidents of Sexual Misconduct or any other misconduct prohibited by this Policy. All NEIU Employees including graduate assistants are considered Mandatory Reporters (also referred to as "responsibility employees") with a few notable exceptions which are identified in this Policy.

On the Basis of Sex or **Sex-Based** includes on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, and gender expression.

Pregnancy or Related Conditions means, pregnancy, childbirth, or medical or common conditions related to pregnancy, childbirth, termination of pregnancy, or lactation.

Policy refers to the University's Policy Prohibiting Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation.

Policy or Practice Discrimination means a University policy, practice, or condition that has the effect of excluding or limiting a person from participating in the University's Education Programs or Activities on the basis of sex or that results in inequitable access to the University's Education Programs or Activities On the Basis of Sex except where such action is permitted by law.

Presumption of Non-Responsibility: A Respondent who is alleged to have engaged in Prohibited Conduct, as defined below, shall be presumed not responsible for the alleged Prohibited Conduct and that determinations about responsibility are made during the hearing process.

Prohibited Conduct: Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial, or sensitive subject matters protected by academic freedom.

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), the State of Illinois, and the City of Chicago regard Sexual Harassment as an unlawful discriminatory practice.

The section below describes the specific forms of legally prohibited harassment that are also prohibited under University policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of University policy, though Supportive Measures will be offered to those impacted. All offense definitions encompass actual and/or attempted offenses.

Acts of Sexual Harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Northeastern has adopted the following definitions of Sexual Harassment in order to address the unique environment of an academic community. Two definitions are required by federal law. While they overlap, they are not identical, and they each apply as noted. In all cases, a Respondent who is alleged to have engaged in conduct prohibited by this section shall be entitled to a presumption of non-responsibility until a determination of responsibility is reached during the hearing process.

Title VII/FHA Sexual Harassment applies to situations where an employee is subjected to workplace Sexual Harassment or where a situation involves a residential Complainant in University-provided housing:

a. unwelcome verbal, written, graphic, and/or physical conduct;
b. that is severe or pervasive and objectively offensive;
c. On the Basis of Sex/gender, that
d. unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

Title IX Sexual Harassment, as an umbrella category, includes the offenses of Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking. This definition applies to all formal complaints that fall within Title IX jurisdiction as determined by the Title IX Coordinator. Sexual Harassment includes conduct On the Basis of Sex (including on the basis of gender expression or sex stereotypes), or that is sexual in nature, that satisfies one or more of the following:

1) **Quid Pro Quo:**

a. an employee of the University,
b. implicitly or explicitly conditions the provision of an aid, benefit, or service of the University,
c. on an individual's participation in unwelcome sexual conduct.

2) **Sexual Harassment (Hostile Environment):**

a. unwelcome conduct,
b. determined by a reasonable person,
c. to be so severe, and,
d. pervasive, and,
e. objectively offensive,
f. that it effectively denies a complainant equal access to the recipient's education program or activity.

Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced. This definition is broad enough to potentially encompass forms of sex-based disparate treatment, even if not harassing in nature.

3) Any **specific offenses**, defined as:

a. **Sexual Assault** meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the federal bureau of investigation, including:

i. **Rape:**

1. 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,
2. without their Consent,
3. including instances where they are incapable of giving Consent because of age or because of temporary or permanent mental or physical incapacity.

ii. **Sodomy:**

1. Oral or anal sexual intercourse with a Complainant,
2. forcibly, and/or
3. against their will (non-consensually), or
4. not forcibly or against their will in instances in which the Complainant is incapable of giving Consent because of age or because of temporary or permanent mental or physical incapacity.

iii. **Sexual Assault with an Object:**

1. The use of an object or instrument to penetrate,
2. however slightly,
3. the genital or anal opening of the body of the complainant,
4. forcibly, and/or
5. against their will (non-consensually), or
6. not forcibly or against their will in instances in which the Complainant is incapable of giving Consent because of age or because of temporary or permanent mental or physical incapacity.

iv. **Fondling:**

1. The touching of the private body parts of the Complainant (buttocks, groin, breasts),
2. for the purpose of sexual gratification,
3. forcibly, and/or
4. against their will (non-consensually), or
5. not forcibly or against their will in instances in which the complainant is incapable of giving Consent because of age or because of temporary or permanent mental or physical incapacity.

v. **Statutory rape:**

1. Sexual intercourse with a Complainant;
2. who is under the statutory age of consent, which is 17 in Illinois, or
3. who is under the age of 18 if the Respondent is in a position of trust, authority, or supervision over the victim.

b. **Dating Violence** meaning violence committed by a person:

i. who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and

ii. where the existence of such a relationship shall be determined based on a consideration of the following factors:

1. the length of the relationship;
2. the type of relationship; and
3. the frequency of interaction between the persons involved in the relationship

iii. **Domestic Violence** meaning felony or misdemeanor crimes committed by a person who:

1. is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the district, or a person similarly situated to a spouse of the victim;
2. is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
3. shares a child in common with the victim; or
4. commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

iv. **Stalking** meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. fear for the person's safety or the safety of others; or
2. suffer substantial emotional distress.

Sex Discrimination means treating someone unfavorably because of their sex or gender, including based on sex stereotypes, sex characteristics, pregnancy or related conditions, and/or gender expression. Discrimination occurs when differential treatment of a person or person based on an individual's actual or perceived sex or gender:

1. excludes an individual's participation in;
2. denies an individual participation of; or
3. otherwise adversely affects a term or condition of an individual's participation in a University program or activity.

State of Illinois Sexual Harassment means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
3. such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

For the purposes of this definition, "working environment" is not limited to a physical location an employee is assigned to perform his or her duties.

City of Chicago Sexual Harassment means any

1. unwelcome sexual advances or unwelcome conduct of a sexual nature;
2. requests for sexual favors or conduct of a sexual nature when
    a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
    b. submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual; or
    c. such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; or
    d. sexual misconduct, which means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual's employment position.

The following is a non-exhaustive list of physical and non-physical behaviors that may be considered offensive and constitute sexual harassment: Touching an individual by massaging their back, neck or shoulders; hugging, kissing, patting, pinching, fondling, or touching/pulling an individual's clothing or hair; Physical gestures that imply a sexual act or sexual anatomy, touching oneself in a sexual manner; Brushing up against another person, or standing too close; Suggestive behavior such as "elevator eyes" (looking a person up and down), leering, staring, sexual gestures, whistling, catcalls, winking, throwing kisses, making kissing sounds, howling, groaning, or smacking/licking lips; Sexual comments or innuendoes about clothing, anatomy, appearance, or sexual jokes or stories, or playing or singing sexually suggestive songs; Discussions or inquiries about sexual fantasy, preferences, history, or sex life about self or others; Displaying pictures, objects, reading materials, or other materials that are sexually suggestive or demeaning. This includes any sexual materials on personal devices including a smartphone or tablet, or University-owned computers or devices shared in the workplace.

Sexual Misconduct an umbrella term encompassing Sexual Assault, Sexual Harassment, Stalking, Dating Violence and Domestic Violence and other forms of Sex Discrimination. Sexual Misconduct can occur in person or through e-mail, the internet, social media, or other technologies. In addition to the kinds of Sexual Misconduct described previously, Northeastern also prohibits other forms of Sexual Misconduct, including:

1. **Sexual Exploitation**: the use of another person's nudity or sexual activity without Consent for the purpose of sexual gratification, financial gain, personal benefit, personal advantage, or any other non-legitimate purpose. Sexual Exploitation includes, but is not limited to:
    - Without the knowledge and Consent of all participants, observing, recording, or photographing nudity or sexual activity of one or more persons in a location where there is a reasonable expectation of privacy, allowing another to observe, record, or photograph nudity or sexual activity of one or more persons, or otherwise distributing, posting, or otherwise sharing recordings, photographs, or other images of the nudity or sexual activity of one or more persons; or
    - Sending sexually explicit materials of another person without Consent of the recipient.
2. **Inappropriate Touching**: Non-consensual touching, kissing, hugging, or massaging, other than accidental or incidental touching;
3. **Indecent Exposure**: An exposure of the body done with intent to arouse or to satisfy the sexual desire of the person in a public place. For the purposes of this section, a "public place" is a location where the conduct may be reasonably expected to be observed by others. Breast feeding of infants is not an act of indecent exposure.
4. **Unwelcome Sexual Comments**: Unwelcome sexual innuendo or demeaning comments of a sexual nature, whether oral, written, or digital, including unwelcome or demeaning remarks about a person's actual or perceived sex or gender, and/or insults or threats based on an individual's actual or perceived sex, gender, sexual orientation, and/or gender identity.

5. **Force or Coercion**: Using Force or Coercion, including using a position of authority or trust, in furtherance of a sexual, romantic, or intimate interest.
6. **Sexual Violence**: Physical sexual acts attempted or perpetrated against a person's will or when a person is incapable of giving Consent.

Relevant Evidence is evidence of the allegations of Sex Discrimination and/or Sexual Harassment that are subject to investigation and adjudication as set forth in this Policy and that tends to prove or disprove the allegations. Questions are relevant when they seek evidence that may aid in showing whether the alleged Sex Discrimination occurred, and evidence is relevant when it may aid an adjudicator in determining whether the alleged Sex Discrimination occurred.

Respondent is an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment, Sex Discrimination, or Retaliation. A Respondent is a party within this Policy.

Report means an oral or written notification of alleged Sex Discrimination.

Retaliation means intimidation, threats, Coercion or discrimination against any person by the University, a Student, or an Employee or other person authorized by the University to provide aid, benefit or service under the University's Education Program or Activities, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Policy, including in an Informal Resolution process, in grievance procedures and in any other actions taken by the University under this Policy. Nothing in this definition or this Policy precludes the University from requiring an Employee or other person authorized by a University to provide aid, benefit or service under the University's Education Programs or Activities to participate as a witness in, or otherwise assist with, an investigation, proceeding or hearing under this Policy.

Student means a person who has gained admission to the University, whether or not they have matriculated.

Supportive Measures are non-disciplinary, non-punitive individualized measures offered, as appropriate, as reasonably available, without unreasonably burdening a party, and without fee or charge to the Complainant or Respondent before or after the filing of a formal complaint to (i) restore or preserve that party's access to the University's Education Programs or Activities, including measures that are designed to protect the safety of the parties or the University's educational environment, or (ii) provide support during the University's investigation and adjudication process under this Policy, including any Informal Resolution process. Examples of Supportive Measures that may be available depending on the facts of a particular matter include: counseling; extensions of deadlines and other academic adjustments; campus escort services; increased security and monitoring for certain areas of campus; restrictions on contact between parties; honoring an order of protection or no-contact order entered by a state civil or criminal court; leaves of absence; voluntary and involuntary changes to class, work, housing, dining, or extracurricular or any other activity; and training and education.

University Community means all persons who participate in the University's Education Programs or Activities, including board members, administrators, faculty, staff, other Employees, Students, volunteers, guests, and contractors.