



Northern Illinois University

Title IX/Sexual Misconduct Policy and Complaint Procedures for Employees and Students

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I. PURPOSE

The mission of Northern Illinois University (NIU) is to promote excellence and engagement in teaching and learning, research and scholarship, creativity and artistry, and outreach and service. The university is a community of those whose varied functions, responsibilities and contributions are supportive of the instructional, research and service mission of the institution. Civil and professional interactions among all faculty, staff and students are essential to support that mission in an effective, efficient and ethical manner.

Pursuant to this mission of excellence, it is therefore crucial for the university to ensure that all members of its community have the right to learn and work in the safest possible community and environment, and to be free from all forms of sex discrimination. *Title IX of the Education Amendments of 1972*, 20 U.S.C. § 1681 *et seq.* provides in part, that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

Sex discrimination also includes sexual misconduct in the form of sexual harassment, sexual violence (rape, sexual assault and sexual abuse), domestic violence, dating violence, stalking and gender/sex-based harassment or discrimination; all of which represent conduct/behavior that is prohibited by this policy in accordance with Title IX. This policy also prohibits discrimination on the basis of pregnancy or related medical conditions.

All members of the university community, visitors and guests are expected to conduct themselves in a manner that does not infringe on the rights of others. In order to provide recourse for allegations of inappropriate treatment involving sexual misconduct by faculty, staff or students, the procedures contained within this policy will be used. This is intended to be consistent with the preamble to the NIU constitution which declares, "Respect for the intrinsic dignity of each member of the university community, both by the university itself and by each member of that community, is the basic cornerstone governing all community activities." The purpose of this policy is to comply with Title IX as advised by the Department of Education's Office of Civil Rights by providing clear guidance regarding the university's internal formal system of reporting, processing and adjudicating complaints of sexual misconduct.

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

An investigation of sexual misconduct may also result in a criminal investigation by the university, which is separate and apart from the standard university due process procedures contained within the complaint filing processes and procedures. Employment related matters or resolutions resulting from any employment discrimination or Title IX complaint will be conducted independent of any applicable criminal investigation. Student Conduct may conduct an independent review of any matter to determine if a separate student conduct violation occurred. Such a review would be conducted pursuant to the Student Code of Conduct to address violations outside of any alleged sexual misconduct.

II. POLICY

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. provides in part:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

NIU has jurisdiction over all Title IX/sexual misconduct complaints occurring at NIU or within the educational programs and activities that NIU offers.

Notice of Nondiscrimination

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

The university will not tolerate sex discrimination in the form of sexual misconduct. If the university knows or reasonably should know of possible sexual misconduct, a thorough, impartial and confidential investigation will be conducted in as prompt a manner as possible to determine if there has been a violation of this policy. If, as a result of that investigation, it is determined that any act of sexual misconduct has occurred, appropriate discipline will be imposed, and the university will take the necessary steps to address and stop the sexual misconduct, prevent its recurrence and remedy its effects.

Retaliation Prohibited

Retaliation against any individual who opposes what they believe to be discrimination on the basis of sex, gender, gender identity or in the form of sexual misconduct is prohibited by this policy. Any person who is found to have retaliated against another for making a complaint of sexual misconduct under Title IX, being a witness for purposes of any such investigation, or being otherwise involved in the complaint or investigative process (including the respondent), will be subject to discipline up to and including termination or expulsion, depending on the circumstances, even if no responsibility is found for the underlying basis of complaint or investigation. Retaliation should be reported immediately to **Sarah Garner, Title IX Coordinator**, Ethics and Compliance Office, Altgeld Hall 238A, 815-753-5560, titleixcoordinator@niu.edu.

Application of this Policy

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

This policy also applies to *all* conduct in any academic, educational, extracurricular, athletic or other university program and activity, whether those programs and activities occur in university facilities on or off campus. Even if the sexual misconduct did not occur in the context of an education program or activity, NIU will consider the effects of the off-campus sexual misconduct when evaluating whether there is a hostile environment on campus or in an off-campus education program or activity. Accordingly, the university will investigate all complaints regardless of where the alleged conduct occurred. Should the university become aware that any contractor, vendor, partner or other affiliate engages in sexual misconduct, it will take appropriate action, up to and including termination of the business relationship or partnership.

The university reserves the discretion to investigate a complaint involving an employee of the university pursuant to the procedures contained within the *Nondiscrimination/Harassment Policy and Complaint Procedures for Employees and Students*. However, this policy serves primarily as the governing document for Ethics and Compliance Office (ECO) to conduct investigations of sexual misconduct involving employees and students.

Pregnancy

The university prohibits discrimination against students, faculty and staff based on pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery from any of these conditions. For more information about pregnancy-related accommodations contact the Ethics and Compliance Office, Altgeld Hall 238A, 815-753-5560, titleix@niu.edu.

Athletics

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

Responsible Employees

The university is obligated to address acts of sexual misconduct of which a responsible employee knew or should have known occurred. A "responsible employee" is any employee who:

- 1) Has the authority to take action to address sexual misconduct.
- 2) Has been given the duty of reporting incidents of sexual misconduct or any other misconduct by students.
- 3) A student could reasonably believe has this authority or duty.

At NIU, "responsible employees" include faculty members, administrators (deans, department chairs, directors, vice presidents, etc.), community advisors (CAs), residence life administration, complex coordinators, hall directors, faculty advisors, police officers, building service workers, dining hall employees and administrative professionals in a supervisory capacity or who have regular interactions with students.

Reporting Obligations of Responsible Employees

A responsible employee *must* report to the Title IX Coordinator all relevant details about alleged sexual misconduct that the student or other person has shared and that the university will need to determine what occurred and resolve the situation. This includes the names of the alleged respondent (if known); the student or other person who experienced the alleged sexual misconduct; others involved in the alleged sexual misconduct; as well as relevant facts including the date, time and location of the incident. Additional definitions of terms can be found in a list at the end of this policy. Reports can be made online at go.niu.edu/FileTitleIX.

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

- 1) The employee's obligation to report the names of the alleged respondent and person involved in the alleged sexual misconduct, as well as relevant facts regarding the alleged incident (including date, time and location of the incident) to the Title IX Coordinator.
- 2) The person's option to request that the university maintain confidentiality, which an appropriate committee composed of Title IX Coordinator(s); Title IX investigator(s); a Confidential Advisor from Counseling and Consultation Services; and a representative from the NIU Department Police and Public Safety, when appropriate, may consider.

- 3) The person's ability to share the information confidentially with the confidential resources identified herein.

A responsible employee should provide the following information to a claimant:

- 1) The reporting obligations (discussed above) of the responsible employee.
- 2) Claimant's option to request confidentiality and available confidential resources, as provided herein.
- 3) Claimant's right to file a Title IX complaint with the university.
- 4) Claimant's right to report a crime to campus or local law enforcement.

Training and Education

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

Additional training is provided to those involved in the receipt and resolution of Title IX complaints, including, but not limited to, coordinators, investigators, resolution officers, hearing officers, appeal agents, confidential resources/advisors and law enforcement.

Child Abuse and Neglect

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

III. TITLE IX COORDINATOR(S)

The role of the Title IX Coordinator is to manage, implement and administer this policy, including the enforcement of Title IX complaint procedures contained within, Title IX training programs and ensuring the prompt and appropriate resolution of Title IX complaints. Questions or concerns regarding Title IX, this policy, or other aspects of the university's commitment to equal opportunity may be directed to:

Sarah Garner, Title IX Coordinator, Acting Ethics and Compliance Officer

Ethics and Compliance Office
Altgeld Hall 238A
815-753-5560
titleixcoordinator@niu.edu

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

Office for Civil Rights

U.S. Department of Education
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago, IL 60661-4544
312-730-1560
OCR.Chicago@ed.gov

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

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

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

Debra Boughton
Athletic Associate Director, Business Affairs
Deputy Title IX Coordinator for Athletics
Intercollegiate Athletics,
Convocation Center 200D
DeKalb, IL 60115
815-753-9541
dboughton1@niu.edu

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

IV. REPORTING OPTIONS

Addressing Sexual Misconduct

Any student or employee who witnesses or experiences what that person believes is a form of sexual misconduct as defined by this policy is strongly encouraged to, 1) File a Title IX complaint; 2) File a criminal complaint; or 3) File an anonymous/confidential complaint as described in this policy. Responsible employees, as discussed herein, are required to submit a report at go.niu.edu/FileTitleIX.

This policy also recognizes the ultimate decision of the individual who experienced sexual misconduct not to pursue any formal method of reporting sexual misconduct and/or to seek confidential counseling and assistance in lieu of these formal methods.

File a Title IX Complaint

Who May File a Title IX Complaint

Any university student, employee, third-party or bystander on any NIU campus, or those acting on another's behalf (for example, departments, parents or guardians), may file a Title IX complaint to report acts of sexual misconduct in the treatment of students, employees or third-parties. A Title IX complaint may also concern retaliation for filing a complaint or participating in an investigation relating to acts of sexual misconduct. The university expects that all Title IX complaints will be filed in good faith. All incidents of sexual misconduct will be taken seriously by the university when formally reported, and such incidents will be investigated and properly resolved in accordance with the procedures contained herein.

How to File a Title IX Complaint

A formal Title IX complaint can be filed utilizing one of the following options:

- **Contact a Title IX Coordinator:** Any Title IX Coordinator may be contacted for an appointment to discuss the nature of the complaint, during which the employee/student should be prepared to discuss all factual circumstances and information upon which the Title IX complaint is based. This

includes the names of the alleged respondent (if known), the student or other person(s) who experienced the alleged sexual misconduct, others involved in or witnesses to the alleged sexual misconduct, as well as relevant facts, including the date, time and location. The Title IX Coordinator will determine whether a Title IX investigation, further inquiry, follow-up or other resolution methods are warranted.

- **File an Electronic Report:** The employee or student may file a Title IX complaint by completing the online incident report, located at go.niu.edu/FileTitleIX. Within 12 hours after receiving an electronic report, the reporting party and identified victim will receive information about available rights and options to address the alleged sexual misconduct. This information will be sent to both individuals via the identified emails contained within the report.

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

What to Expect if a Title IX Complaint is Filed

If a formal Title IX complaint is filed, a preliminary review of the complaint will be conducted by the Title IX Coordinator or designee to determine if there are enough facts, evidence or information to warrant a Title IX investigation, further follow-up, inquiry or resolution. If necessary, the Title IX Coordinator or designee will conduct a meeting with the claimant in a confidential setting and provide the claimant with information regarding all available options.

The issue of confidentiality and retaliation will also be discussed with the claimant and information from Counseling and Consultation Services as well as other services that are available within the community will be provided. The claimant will have an opportunity to discuss the investigation process and ask questions regarding the possible outcomes and next steps within the process. The Title IX Coordinator or designee will review the facts of the alleged incident with the claimant and develop a list of witnesses who can provide information regarding the alleged incident. The claimant will also be provided with information on how to file a police report and information related to confidential counseling and advocacy services. An assessment of whether further involvement by the university police is warranted will also be performed by the Title IX Coordinator or designee.

File a Criminal Complaint

Who May File a Criminal Complaint

Any student, employee, third-party or bystander may file a criminal complaint (police report) by contacting the NIU Department of Police and Public Safety or the DeKalb Police Department. The NIU Department of Police and Public Safety will forward the report to the Title IX Coordinator or designee.

Note: A criminal complaint with campus police or the DeKalb Police Department can be filed at any time and is encouraged to occur in cases of sexual violence, including but not limited to incidents of rape, sexual assault, violent sexual stalking and/or sexual abuse.

How to File a Criminal Complaint

A police report may be filed utilizing the contact information listed below, **FOR AN EMERGENCY: Dial 911.**

For incidents that occur on campus:
NIU Department of Police and Public Safety
395 Wirtz Drive
DeKalb, IL 60115
Nonemergency: 815-753-1212
niupd@niu.edu
niu.edu/publicsafety

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

What to Expect if a Police Report is Filed

If you go to the NIU Department of Police and Public Safety, you can expect to meet with a full-time, sworn officer to discuss the incident, and an official police report will be generated. *The police report is **not** a formal complaint to the university and does not obligate you to take any further action.*

The police officer will make you aware of services available to you, both on- and off-campus, and will put you in contact with the Confidential Advisor or advocate from Counseling and Consultation Services or Safe Passage. The police officer may also accompany you to the hospital for evidence gathering, if you wish. Finally, the police officer will notify the Title IX Coordinator that an instance of sexual misconduct has occurred.

If it is a criminal matter, the police will then undertake an initial inquiry into the incident. When enough information is gathered, you may be asked to sign a criminal complaint, also known as filing charges. **You do not have to sign a complaint or file charges.**

If you do sign the complaint, the DeKalb County State's Attorney will become involved in the matter. A warrant for the respondent's arrest may be issued. Once the DeKalb County State's Attorney is involved, your continued cooperation in the matter will be between you and the State's Attorney's Office.

You may obtain assistance making any criminal report or complaint by contacting the **Confidential Advisor at Counseling and Consultation Services**, 815-753-1206, or a **Safe Passage designee**, 815-756- 5228. See *Confidential Resources* section for more information.

File an Anonymous/Confidential Complaint

Who Can Seek Confidential Counseling and Assistance

Any student, employee, third-party or bystander may request that the matter involving sexual misconduct remain confidential or anonymous as defined by this policy. Additionally, any student or employee may receive assistance with filing a Title IX complaint, submitting a police report or obtaining information regarding available counseling resources on campus and in the surrounding community.

What to Expect When Confidentiality is Requested

If a claimant chooses to remain completely anonymous and utilizes Confidential Resources, no complaint will be filed. If a claimant chooses to report an incident to any reporting entity on campus, but requests to remain confidential, the Title IX Coordinator will determine if confidentiality should be maintained. Where there is a likelihood of further harm to the claimant and/or the campus community, the request for confidentiality may not be honored.

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

Nothing in this provision prohibits the Title IX Coordinator from determining whether to maintain the request for confidentiality and/or from consulting with appropriate university officials as warranted by the facts of the case.

Amnesty Provision

Amnesty aims to remove the barriers that may prevent an individual from reporting an incident of sexual misconduct. If an individual reports an incident of sexual misconduct, in good faith, the reporting party will not receive disciplinary action for a separate university policy violation, such as underage drinking, that is revealed in the course of the report. However, if the separate violation was egregious, including, but not limited to an action that places the health or safety of any other person at risk, amnesty may be not afforded.

Right to Privacy

NIU will not disclose the identity of the victim or alleged offender, except as necessary, to resolve the complaint or to implement interim protective measures or when provided by state or federal law.

V. CONFIDENTIAL RESOURCES

The university and the DeKalb community provide confidential resources if you have suffered or been impacted by sexual misconduct. Services include confidential counseling and medical services, if needed. If you wish the sexual misconduct that you experienced be kept completely confidential, but need assistance, you can speak with any of the following persons or offices. **These resources will not provide notice to the university of the alleged sexual misconduct, an investigation into the matter will not result and the matter will remain confidential to the extent permissible by law. Conversations with confidential resources are not disclosed to others, including police or university officials.** A report or complaint is **not necessary** to utilize these resources:

Campus Resources

NIU Confidential Advisor (*for students*)
Counseling and Consultation Services
Campus Life Building 200
815-753-1206
go.niu.edu/advocacy

NIU Health Services

375 Wirtz Drive 815-753-1311
niu.edu/healthservices

NIU Office of the Ombudsperson

Holmes Student Center 601
815-753-1414
niu.edu/ombuds

Employee Assistance Program (*for employees*)

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

Community Resources

Northwestern Medicine Kishwaukee Hospital*

1 Kishwaukee Hospital Drive
DeKalb, IL 60115
815-756-1521

www.nm.org/locations/kishwaukee-hospital

*The hospital provides evidence collection in cases of sexual violence at no cost, pursuant to the Sexual Assault Survivors Emergency Treatment Act. Physical evidence may be necessary to prosecute the offender and be helpful in obtaining an order of protection. If possible, do not bathe, wash your hands, use the restroom, drink, smoke, change clothing or brush your teeth following an assault.

Safe Passage, Community-Based Sexual Assault and Domestic Violence Crisis Center

815-758-7922
safepassagedv.org

KishHealth Behavioral Health Services

12 Health Services Drive
Sycamore, IL 60178
815-756-4875

Crisis Line: 866-242-0111

www.nm.org/conditions-and-care-areas/behavioral-health

NIU Psychological Services Center
Psychology/Math Building 86
815-753-0591
niu.edu/psychology/resources/psc

NIU Couple and Family Therapy Clinic
Wirtz Hall 146
815-753-1684
chhs.niu.edu/clinics/couple-family-therapy

Illinois Coalition Against Sexual Assault (ICASA)
State Sexual Assault Crisis Center
217-753-4117
icasa.org

National Resources

Depression Crisis Hotline
630-482-9696

Suicide Prevention Lifeline
800-273-TALK (8255)

Rape, Abuse, and Incest National Network (RAINN)
800-656-HOPE (4673) rainn.org

VI. TITLE IX INVESTIGATION PROCESS AND PROCEDURES

The procedures outlined in this document may proceed independent of any other university grievance or disciplinary procedure provided for elsewhere by the university including, but not limited to, faculty/staff university grievance process, nondiscrimination/harassment complaint process, grade appeal process, student conduct process, student grievance process and collective bargaining/union grievance processes. The procedures herein will also proceed independent of any police investigation.

If the university knows (through the filing of a Title IX complaint) or reasonably should know of possible sexual misconduct, a fair and equitable investigation will be conducted in as prompt and timely of a manner as possible to determine if there has been a violation of this policy.

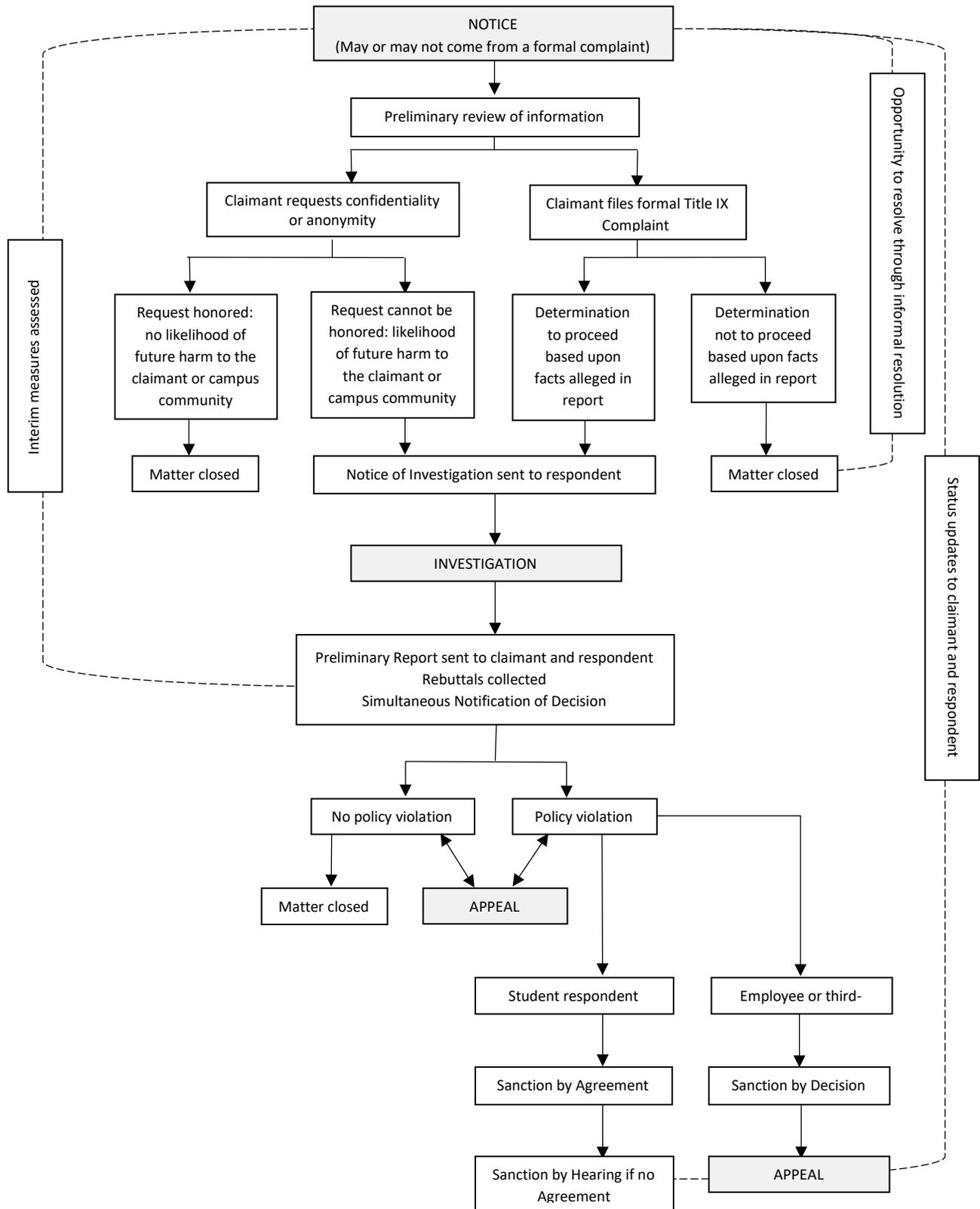
Where an act in violation of this policy occurs in addition to other acts that may violate university policy, both bases for violations of university policies will be investigated and disciplined accordingly.

In all cases, the final decision on whether, how and to what extent the university will conduct an investigation, and whether other measures will be taken in connection with any allegation of sexual misconduct, rests primarily within the discretion of the Title IX Coordinator or designee.

All reports and complaints of sexual misconduct are assumed to be made in good faith. However, if the evidence establishes that the report or complaint was intentionally falsely made, corrective action will be taken, up to and including termination of the employment or educational relationship.

Investigative Timeframe and Flowchart

The Title IX complaint will be investigated by the Title IX Investigator(s) in as prompt of a manner as possible. Generally, the university attempts to investigate a complaint within 60 days. However, circumstances may require a longer time-frame such as the extent of evidence and availability of parties. The following flowchart presents the steps of a Title IX Investigation:



Interim Protective Measures

The university reserves the right to take whatever interim measures deemed necessary to protect the rights and personal safety of the claimant, respondent or community members. Such measures include, but are not limited to; changes to academic, living, dining, transportation and working situations; obtaining and enforcing campus no contact orders; honoring an order of protection or no contact order entered by state civil or criminal court; providing a police escort between classes; and interim suspension/administrative paid leave from campus pending an investigation. The remedies provided in the *Remedies* section herein are also available as interim measures. The individual receiving an interim measure may appeal the interim measure to Student Conduct, who will consult with the Title IX Coordinator.

Voluntary Informal Resolution Mechanisms

If the investigator(s) believe the matter may be resolved by informal means, the investigator(s) may undertake to obtain such a result with the assistance of a third-party (mediator or counselor) for as long as both claimant and respondent consent to such methods. The claimant or respondent may end informal resolution mechanisms, and initiate a formal investigation at any point. The university reserves the right to ensure that any resolution is designed to stop problematic behavior.

***Note: Informal means of resolution may not available in cases of alleged sexual violence.**

Investigation Rules

The following rules apply to all Title IX investigations, resulting from the filing of a Title IX complaint or report as a result of an allegation of sexual misconduct:

- Any investigation will proceed independent of any criminal or other legal proceedings. Further, the university reserves the right to forward any Title IX complaint to the appropriate law enforcement agency for criminal investigation and/or charges if there a concern for the safety of the claimant or campus community.
- Fairness to all individuals involved with a Title IX complaint is a priority. Both the claimant and respondent to a Title IX complaint will be given a copy of these procedures and will have the opportunity to respond to all allegations.
- Any proceeding, meeting or hearing held to resolve complaint(s) of alleged violations(s) of this policy shall protect the privacy of the participating parties and witnesses.
- The claimant and respondent may each have another person present at any meeting to provide support. Support persons may act in an **advisory capacity only** and may not speak on behalf of the party in any proceeding. The involvement of a support person cannot result in an undue delay of the proceeding. Additionally, the support person must comply with rules in this policy. Failure to comply and/or engagement in behavior that harasses, intimidates or abuses any party may result in their prohibition from future involvement in the process.
- Every Title IX complaint will be investigated to the maximum extent possible.
- Any and all of the procedures outlined in this policy will proceed regardless of whether the claimant or respondent has withdrawn from and/or has otherwise been separated from the university, including the imposition of sanctions related to suspensions (for proven conduct).
- The claimant, regardless of their level of involvement in the resolution of the complaint, and respondent shall each have access to a meeting with the Title IX Investigator(s) during which, 1) The proceedings under this policy will be explained; 2) Any questions of either party will be answered; and 3) Each party will be given the opportunity to provide their version of events and witnesses on

their behalf. The claimant and respondent may also suggest questions to the Title IX investigator(s) and respond to the other party at the discretion of the investigator(s).

- The claimant and respondent will receive periodic information and updates on the status of the investigation. Email is an acceptable form of delivery.
- Claimant and respondent shall receive notice of the identity of any investigator(s). A sufficient number of individuals are trained to investigate or resolve Title IX complaints to allow for substitution in the case of a conflict of interest, recusal from a case and with no prior involvement in the initial determination or finding to hear any appeal brought by a party. If an investigator poses a conflict of interest, the claimant and respondent have the opportunity to request a substitution, and such request must be made to the Title IX Coordinator within two calendar days of such notice.
- The use of alcohol or drugs by claimant at the time of the incident will be considered for purposes of determining consent or memory *only* and will not form the basis for independent proceedings or discipline.
- The sexual history or sexual character of claimant shall not be presented in any investigation or hearing and may be considered as to respondent *only* if it establishes a pattern of complaints or behavior.
- At the conclusion of the investigation, the investigator(s) will weigh all evidence received throughout the course of the investigation and will issue findings on the basis of a preponderance of the evidence (*i.e.*, it is “more likely than not” that an act in violation of this policy has or has not occurred).
- Claimant and respondent will concurrently be notified in writing about the outcome of both the complaint and any appeal. Email is an acceptable form of delivery.
- If it is determined that a student has engaged in a violation of this policy, appropriate sanctions will be imposed by Student Conduct as outlined herein.
- Respondents found to have violated this policy will be given the opportunity to agree to an appropriate sanction (“sanction by agreement”) or to request a hearing by a hearing officer.
- Claimant will also receive notice of individual remedies available to the claimant, any sanctions imposed that directly relate to the claimant and other steps the university has or will take to eliminate the hostile environment. In sexual violence cases, the claimant will receive notice of any disciplinary sanction imposed on the responsible respondent, and whether those sanctions directly relate to the claimant.
- The respondent will not be notified of the individual remedies offered or provided to the claimant.
- Claimant and respondent have the right to appeal the sanctions as provided herein (see *Appeals*).
- At the conclusion of an investigation, regardless of the outcome, a Title IX Coordinator or designee shall review all evidence to determine whether claimant is entitled to any remedy under Title IX that may not have been provided for under the university’s procedures.

Appeal of Investigation Finding

Appeals of the investigator's decision may be made *only* on the following grounds:

- A material deviation from these procedures affected the outcome of the case.
- New and relevant information is available that was not available, with reasonable diligence and effort, at the time of the investigation that could reasonably affect the investigation finding(s).
- The outcome was significantly contrary, unsupported and unreasonable to the weight of the evidence presented.

The appeal must be sent to the executive vice president and provost and/or designee within five business days of receipt of the decision regarding the findings of the investigation. Appeals submitted after five business days will not be heard. Both the claimant and the respondent shall receive the appeal decision in writing within seven days after the conclusion of the review of findings.

Sanctions for Student Respondents

Upon completion of the investigation in cases involving a student respondent, if there is a finding of sexual misconduct, a Final Report of Findings will be forwarded to Student Conduct to determine the appropriate sanction(s). The Title IX Coordinator reserves the right to schedule individualized training and/or similar educational opportunities, including but not limited to, acts of community service for either party when there is no finding of sexual misconduct. Both the claimant and respondent will receive a Final Report of Findings simultaneously in writing and within seven days of a decision or sooner if required by state or federal law.

Sanction by Agreement *(for student respondents only)*

The resolution officer within Student Conduct will consult with the participating claimant, respondent, Title IX Coordinator (or designee) and other affected parties as appropriate to gather input on potential sanctions. Email is deemed an acceptable method of communication. Depending on the circumstances, the resolution officer may ask to meet with each party separately or invite them to submit statements for consideration. If a claimant or a respondent meets with the resolution officer, they may be accompanied by a support person.

If the respondent chooses not to participate in the Sanction by Agreement, the process will continue and sanctions may be implemented absent their input and/or participation.

The resolution officer will then prepare a proposed resolution agreement between the university and the respondent, informed by input from the respondent, the participating claimant and the Title IX Coordinator (or designee). The proposed agreement will be shared with the respondent and the participating claimant in a manner that honors due process and privacy considerations.

If the respondent accepts or fails to participate in the proposed agreement and the claimant does not object to it or fails to respond, the agreement will become binding, the respondent will be required to fulfill the sanctions included in the agreement and neither the claimant nor the respondent will be permitted to appeal the sanction.

Sanction by Hearing *(for student respondents only)*

If the respondent is a student, participates in the Sanction by Agreement and is unwilling to enter into an agreement, or if the claimant objects to the proposed agreement, the sanctions will be decided by a hearing officer in accordance with the hearing procedures of Student Conduct. The hearing officer will determine appropriate sanctions after a hearing. The hearing officer will not modify the findings of the investigative report and will address only what sanctions are appropriate at the hearing. The hearing officer's review will consist solely of, 1) Reviewing the investigative report, the proposed resolution agreement and any written objections to the proposed resolution agreement submitted by the claimant or respondent; 2) Consulting

with appropriate university officials, including the Title IX Coordinator or designee; and 3) Any witnesses or documents presented by respondent or a participating claimant. Witnesses and documents may be presented to the hearing officer as it relates to sanctions *only*.

The following rules will be followed during any sanction by hearing:

- Respondent and a participating claimant shall receive notice of the identity of the hearing officer, and shall have the opportunity to challenge the designation of the hearing officer for cause if such challenge is delivered within two business days of such notice.
- Respondent and a participating claimant may each have another person present at any hearing to provide support. Support persons may act in an *advisory capacity* only and may not speak on behalf of the party during the hearing. The involvement of a support person cannot result in an undue delay of the meeting. Additionally, the support person must comply with rules in this policy. Failure to comply and/or engagement in behavior that harasses, intimidates or abuses any party may result in their prohibition in future involvement in the process.
- A hearing may be held regardless of whether respondent or claimant has withdrawn from the university.
- Claimant and respondent are not required to attend any hearing.
- Claimant and respondent may not directly cross examine one another, but may, at the discretion and direction of the resolution officer, suggest questions to be posed by the hearing officer and respond to the other party.
- Respondent and claimant will each receive three business days' notice prior to the hearing of the other's evidence, including witnesses and documents to be used at said hearing. Failure to provide a witness list and copies of documentary evidence three business days prior to the hearing may result in the inability to present said witness or evidence.
- All questions directed to the claimant or respondent will only be asked by the hearing officer.
- Claimant and respondent may not be compelled to testify in the presence of the other party. If a party invokes this right, the party shall be allowed to testify or answer questions outside the direct physical presence of the other (*e.g.*, via telephone, behind a screen, etc.).
- All hearings conducted under this policy shall be closed to the public.

Possible Sanctions for Students

Any **student** found responsible for violating this policy may receive sanctions including, but not limited to, the following:

- Anger intervention assessment.
- Abuse intervention program.
- Banishment from all NIU property, functions, etc.
- Community service to NIU or the DeKalb community.
- Discretionary sanction-required work assignments, written assignments, service to NIU or other related discretionary assignments.
- Educational sanctions including, but not limited to, the completion of an educational assignment (*e.g.*, research paper, program presentation, etc.).

- Fines.
- Formal written warning.
- Loss of privileges (e.g., inability to have visitors/guests, etc.).
- No contact (direct or indirect) with the victim.
- Parental notification.
- Probation.
- Residence hall expulsion.
- Residence hall suspension.
- Restitution.
- Revocation of admission and/or degree.
- Substance use intervention and education program.
- Training on Title IX and sexual misconduct.
- University expulsion.
- University suspension.
- Withholding degree.

Student Respondent Appeal of Sanction

The sanction(s) may be appealed by either the claimant or respondent on the following grounds:

- A material deviation from these procedures affected the outcome of the case.
- New and relevant information is available that was not available, with reasonable diligence and effort, during the course or pendency of the investigation that could reasonably affect the investigation finding(s).
- The sanction(s) is/are disproportionate to the determined finding(s).

The appeals must be made within five business days of receipt of the decision regarding sanction(s) and must be to the associate vice president for Student Affairs and dean of students or designee.

Sanctions for Employee and Third-Party Respondents

Upon completion of the investigation in cases involving an NIU employee or third-party respondent, a Final Report of Findings and Recommendations will be forwarded to the division head or designee for review and implementation upon their discretion.

Sanction by Decision *(for employees and third-party respondents)*

The division head must review the Final Report of Findings and Recommendations to determine the appropriate level of corrective action. The Title IX Coordinator also reserves the right to consult with appropriate university officials regarding imposition of corrective action. To ensure fairness and consistency as well as compliance with the university's Title IX obligations, the division head and/or appropriate university official should consult with the Title IX Coordinator (or designee) regarding the facts of the case, proposed resolution and recommendations, and any written objections to the report of findings and recommendations. The division head or university official will then either adopt the proposed resolution agreement or modify the recommendations as needed.

Once a decision has been reached, reviewed and approved by the Title IX Coordinator or designee, the division head will issue a letter to the respondent and claimant sharing, in a manner appropriate to honor due process and privacy considerations, the corrective action that will be implemented. Any imposition of corrective action may be appealed in accordance with the Appeals section herein.

Possible Sanctions for Employees

Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the university reserves the right to impose different sanctions depending on the severity of the offense and/or offender history.

Any **employee** found responsible for violating this policy may receive corrective action including, but not limited to, the following:

- Letter of warning.
- Official reprimand.
- Referral to a required counseling program.
- Suspension from employment with pay.
- Suspension from employment without pay.
- Termination from employment.
- Training on Title IX and sexual misconduct.
- Community service.
- Any other sanction deemed appropriate by the Title IX Coordinator.

Any **third-party** (visitor, guest, contractor, subcontractor, vendor, partner or business affiliate) found responsible for violating this policy will receive a sanction 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.

Employee and Third-Party Respondent Appeal of Sanction

In cases where the respondent is an employee or third-party, the appeal of sanction(s)/corrective action may be directed to the senior administrator responsible for Human Resource Services within 10 business days from the date the corrective action is determined. Appeals may be made on the following grounds:

- A material deviation from these procedures affected the outcome of the case.
- New and relevant information is available that was not available, with reasonable diligence and effort, during the course or pendency of the investigation that could reasonably affect the investigation finding(s) or sanction(s).
- The sanction(s) is/are disproportionate to the determined finding(s).

Formal sanctions may become part of the offender's permanent employment record maintained by Human Resource Services.

Remedies

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

- Providing an effective escort to ensure that the claimant can move safely between classes and activities.
- Ensuring the claimant and respondent do not share classes, extracurricular activities or work space.
- Moving the respondent or claimant (if the claimant requests to be moved) to a different residence hall.
- Providing comprehensive, holistic individualized services including medical, counseling and academic support services such as tutoring.

- Arranging for the claimant to have extra time to complete, retake or withdraw from a class without an academic or financial penalty.
- Reviewing any disciplinary actions taken against the claimant to see if there is a causal connection between the sexual misconduct and the disciplinary action that claimant may have received.
- Training or retraining university employees on responsibilities to address allegations of sexual misconduct.
- Developing and distributing materials on sexual misconduct.
- Conducting bystander intervention and sexual violence prevention programs with students and employees.
- Issuing policy statements or taking other steps that clearly communicate that the university does not tolerate sexual misconduct and will respond to any incidents and to any student/employee who reports such incidents.
- Conducting, in conjunction with student leaders, a campus climate survey to assess the effectiveness of efforts to ensure that the university is free from sexual misconduct and using that information to inform future proactive steps that the school will take.
- Targeted training for a group of students if the sexual misconduct created a hostile environment in a specific area.
- Any other remedy that the Title IX Coordinator may consider appropriate.

VII. EXTERNAL AGENCIES

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

Office for Civil Rights (Chicago Office)

U.S. Department of Education

Citigroup Center

500 W. Madison Street, Suite 1475

Chicago, IL 60661-4544

312-730-1560

FAX 312-730-1576

TDD 800-877-8339

OCR.Chicago@ed.gov

ed.gov/ocr

At any time during the pendency of the above-described investigation and/or appeal, employees who believe they have been subjected to sexual misconduct or retaliation based thereon in violation of *Title VII of the Civil Rights Act*, 42 U.S.C. § 2000e *et seq.*, may file a complaint with the following agencies:

Illinois Department of Human Rights

100 West Randolph Street

10th Floor – Intake Unit

Chicago, Illinois 60601

312- 814-6200

TTY: 866-740 3953

illinois.gov/dhr

Equal Employment Opportunity Commission

Chicago District Office

500 West Madison Street, Suite 2000

Chicago, Illinois 60661

800-669-4000

TTY: 312-869-8001

eeoc.gov

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

69 West Washington Street

Suite 3400

Chicago, Illinois 60602

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

Fax: 312- 814-5479

www.illinois.gov/oeig

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

VIII. DEFINITIONS

- **Active:** Consent must take the form of clearly understandable words or actions that reveal one's expectations and agreement to engage in specific sexual activity. This means that silence, passivity, submission or the lack of verbal or physical resistance (including the lack of a “no”) should not—in and of themselves—be understood as consent. Consent cannot be inferred by an individual’s manner of dress, the giving or acceptance of gifts, the extension or acceptance of an invitation to go to a private room or location, or going on a date.
- **Anonymous Complaint:** One where the identity of the claimant is not known.
- **Claimant:** Refers to the alleged victim; a person who alleges to have been subjected to any of the conduct prohibited by this policy and/or person who files a formal complaint.
- **Coercion:** The use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice or attract another person to have sex. When a person makes clear a decision not to participate in a particular sexual act, a decision to stop or a decision to not go beyond a certain sexual interaction, continued pressure can be coercive. In evaluating whether coercion was used, the following factors will be considered; the frequency of the application of the pressure, the intensity of the pressure, the degree of isolation of the person being pressured and the duration of the pressure.
- **Confidential Complaint:** One where the name of the claimant is known, but does not want to file a complaint, pursue an investigation or to have their identity known.
- **Consent:** Clear, unambiguous, informed, **voluntary** and freely given agreement between all participants to **knowingly** engage in sexual activity. Consent must be mutually understandable by words or actions (i.e., a reasonable person would consider the words or actions to indicate mutual agreement to engage in the sexual activity). Consent is **active** and cannot be based on the absence of an affirmative statement or act of denial. Silence or lack of resistance does not constitute consent.

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

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

Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is **incapacitated** (including but not limited to a person or someone with a **physical or mental disability** and/or level of intoxication that causes impairment resulting in incapacitation), asleep, unconscious or under age. Consent cannot be given when it is the result of coercion, intimidation, **force** or threat of harm. The university prohibits any sexual activity that does not involve the consent of each individual.

Consent must be given to engage in the act of sexual activity, and consent should also be given to any person who records or photographs any aspect of the sexual encounter as well as third parties who wish to view the sexual activity either in person or via any electronic equipment, methods or devices. Any of these acts will be deemed to be sexual exploitation. Sexual exploitation includes but is not limited to the following acts:

- Sexual voyeurism or allowing others to witness or observe the sexual or intimate activity of another person without that person's full knowledge and consent.
- Indecent or lewd exposure or inducing another person to expose themselves when consent is not present.
- Recording any person engaged in sexual or intimate activity in a private space without that person's full knowledge and consent, even if the person recording the sexual or intimate activity is also engaged in the sexual activity.
- Distributing sexual or intimate information, images or recordings about another person without that person's full knowledge and consent.
- Recruiting, harboring, transporting, providing or obtaining another person for the purpose of sexual exploitation.
- Inducing incapacitation in another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct actually occurs.

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

- **Dating Violence:** 1) Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting (42 U.S. Code Section 13925 (a)(9) and (10)); or 2) Threatening to use physical, mental or emotional abuse to control another person who is in a dating relationship with the person (see 105 ILCS 110/3.10).

The existence of a dating relationship in items 1 or 2 above shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship.

- **Domestic Violence:** 1) A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate

partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred (42 U.S. Code Section 13925 (a)(8)); or 2) Physical abuse, harassment or intimidation of a dependent; interference with personal liberty or willful deprivation of a family or household member which includes spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage; persons who share or formerly shared a common dwelling; persons who have or allegedly have a child in common; and persons who share or allegedly share a blood relationship through a child (725 ILCS 5/112A-3; 750 ILCS 60/103).

- **Force:** The use of physical violence and/or otherwise physically imposing on another person to gain sexual access. Also includes threats, intimidation, implied threats and coercion that overcome resistance or produce consent.
- **Gender-based Harassment or Discrimination:** Acts of a verbal or nonverbal nature or physical aggression, intimidation or hostility based upon sex/gender or sex/gender-stereotyping (even if those acts do not involve conduct of a sexual nature) that is sufficiently serious to limit or deny the ability to participate in or benefit from the university's programs and activities or the terms and conditions of employment.
- **Incapacitation:** Physical or mental impairment due to drugs or alcohol (whether such use is voluntary or involuntary); the lack of consciousness or being asleep; being involuntarily restrained; if any of the parties are under the age of 17; or if an individual otherwise cannot consent. Generally, an incapacitated individual is incapable of recognizing what is occurring and is not able to recognize the nature of sexual activity or the extent of a sexual situation. Some ways in which a person can be incapacitated as a result of alcohol use may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings or the inability to communicate for any reason. The individual may experience a blackout state in which they appear to be giving consent but does not actually have conscious awareness or the ability to consent.
- **Intoxication:** When alcohol is involved, a person can be incapacitated due to intoxication. Therefore, individuals who engage in sexual activity of any kind must be aware of the other person's level of intoxication.
- **Knowingly:** Consent must demonstrate that all individuals understand, are aware of and agree to the "who" (same partners), "what" (same acts), "where" (same location), "when" (same time), and "how" (the same way and under the same conditions) of the sexual activity.
- **Physical and Mental Disability:** "A physical or mental impairment that substantially limits one or more life activities of an individual such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. This also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions." (Americans with Disabilities Act.)

- **Proceeding:** All activities related to a noncriminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings and hearings. Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.
- **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration of a sex organ of another person without consent.
- **Resolution Officer:** A representative from Student Conduct who will be appointed to facilitate the sanctioning process.
- **Respondent:** The alleged offender/accused; a person alleged to have engaged in any of the conduct prohibited by this policy.
- **Responsible Employee:** Any employee who:
 - Has the authority to take action to redress sexual violence.
 - Has been given the duty of reporting incidents of sexual violence or any other misconduct by students.
 - Anyone a student could reasonably believe has this authority or duty.
- **Result:** Any initial, interim or final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institution.
- **Retaliation:** Taking any adverse or hostile act; engaging in harassment and/or making an adverse employment/academic decision because an employee/student/third-party has opposed violations of this policy or other unlawful employment/academic practices by filing a complaint; and testifying, assisting or participating in an investigation, proceeding or hearing. Respondents are also protected from retaliation.
- **Sanction by Agreement:** A proposed resolution agreement between the university and the respondent, informed by input from the respondent, the claimant (if participating) and the university. There shall be no appeal of a Sanction by Agreement.
- **Sanction by Decision** (for employees and third parties only): The resolution officer will either adopt the proposed resolution agreement and impose the sanctions therein, or modify the sanctions as needed.
- **Sanction by Hearing** (for students only): A hearing officer shall, at the conclusion of a hearing, impose appropriate sanction(s) as provided herein.
- **Sexual Assault:** 1) Any nonconsensual sexual act proscribed by federal or Illinois law, including when the victim lacks capacity to consent. An offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI's UCR program (42 U.S. Code Section 13925 (a)(29)); or 2) An act of sexual penetration by the use of force or threat of force; or 3) An act of sexual penetration and the respondent knew that the claimant was unable to understand the nature of the act or was unable to give knowing consent; or 4) An act of sexual penetration with a claimant who was under 18 years of age when the act was committed and the respondent was a family member; or 5) An act of sexual penetration with a claimant who was at least 13 years of age but less than 18 years of age when the

act was committed and the respondent was 17 years of age or over and held a position of trust, authority or supervision in relation to the claimant.

- **Sex Discrimination:** Treating a person differently because of their sex in the terms and conditions of educational programs, activities and/or employment. *Example: A professor requires all male students in a class to do an extra assignment that is not required of female students.*
- **Sexual Exploitation:** Taking nonconsensual or abusive sexual advantage of another for one's own benefit.
- **Sexual Harassment:** Unwelcome verbal or physical conduct of a sexual nature (such as sexual advances or requests for sexual favors) sufficiently serious that it unreasonably interferes with or limits a person's ability to participate in or benefit from the university's educational programs, activities and/or employment. Sexual harassment may be based on a power differential; the creation of a hostile environment (reasonably severe conduct that is sufficiently pervasive to have the purpose or effect of unreasonably interfering with work or educational performance, or creating an intimidating, hostile or offensive working or educational environment); or retaliation.

The two types of sexual harassment are known as "quid pro quo" and "hostile environment." Quid pro quo is the Latin term meaning "this for that" and occurs when there is a demand for a sexual favor in exchange for some employment/academic benefit. Sexual harassment in the form of a hostile work and/or academic environment occurs when the harassing behavior unreasonably interferes with the employee/student work/academic performance and/or creates a hostile, intimidating or offensive work/academic environment.

In order for the conduct to be considered sexual harassment, the behavior must be:

- Unwanted and/or unwelcome.
- Sexual in nature and/or related to the sex or gender of the employee/student.
- Sufficiently severe or pervasive enough to alter the conditions of the employee/student employment or academic environment (when describing sexual harassment resulting from a hostile work/academic environment).

Examples of sexual harassment include, but are not limited to, the following:

- A professor insists that a student have sex with them in exchange for a good grade.
- A student repeatedly sends sexually oriented jokes in an email list they created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- A professor demands that students discuss their past sexual experiences, yet the conversation is not in any way germane to the class.
- A staff member repeatedly touches and makes sexually suggestive remarks to a student while the two are waiting at a stop for the school's shuttle bus, causing the student to walk long distances instead of taking the shuttle bus.
- One instance of rape and/or other acts of sexual violence.

Sexual harassment also includes harassment of a sexual nature directed at gay, lesbian or gender nonconforming persons that is sufficiently serious to limit or deny the ability to participate in or benefit from the university's educational and employment programs. Likewise, sexual harassment can occur where claimant and respondent are members of the same sex.

For purposes of this policy, stalking may also be a form of sexual harassment. For more information regarding sexual harassment, please consult the Nondiscrimination Policy and Complaint Procedures for Employees and Students.

- **Sexual Misconduct:** One or more acts of sex discrimination, sexual harassment, sexual violence, dating violence, domestic violence, stalking or gender-based harassment or discrimination. Sexual misconduct can occur among, between or to heterosexual, lesbian, gay, bisexual and transgender individuals.
- **Sexual Penetration:** Any contact, however slight, between the sex organ or anus of one person by an object, body part, sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person. Includes, but not limited to, cunnilingus, fellatio, anal penetration, and digital penetration.
- **Sexual Violence:** Nonconsensual sexual acts: Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the claimant's age, use of drugs or alcohol, or a disability that prevents the claimant from having the capacity to give consent). Conduct will be deemed sexual violence whether obtained by force or threat of force and whether completed or attempted. Sexual exploitation (taking nonconsensual or abusive sexual advantage of another for your own benefit) may also be considered a form of sexual violence, depending on the circumstances. *Examples: Rape, sexual assault, sexual abuse.*
- **Stalking:** 1) Knowingly engaging in a course of conduct directed at a specific person that would cause a reasonable person to, A) Fear for the person's safety or the safety of others; or B) Suffer substantial emotional distress. For the purposes of this definition: i) Course of conduct means two or more acts including, but not limited to, acts in which a person directly, indirectly or through third parties, by any action, method, device or means; follows, monitors, observes, surveils, threatens, communicates to or about a person, or interferes with a person's property; ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim; iii) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling; iv) Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting (42 U.S. Code Section 13925 (a)(30); or 2), A) Knowingly and without lawful justification, on at least two separate occasions, following another person or placing the person under surveillance or any combination thereof and, i) At any time transmitting a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed toward that person or a family member of that person, or (ii) Places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or of that person or a family member of that person; or, B) When, having been previously convicted of stalking another person, knowingly and without lawful justification on one occasion, i) Follows that same person or places that same person under surveillance; and, ii) Transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person (720 ILCS 5/12-7.3).

Stalking may be accomplished by physical act or electronic means, such as computer or cell phone.

- **Title IX Coordinator:** Manages, implements and administers NIU's procedures which prohibit discrimination, including enforcement of Title IX complaint procedures, Title IX training programs and ensuring the prompt and appropriate resolution of Title IX complaints.

NIU's Title IX Coordinator is Sarah Garner, Ethics and Compliance Office, Altgeld Hall 238A, 815-753-5560, titleixcoordinator@niu.edu.

- **Voluntary:** Consent must be freely given and cannot be the result of force (violence, physical restraint or the presence of a weapon); threats (indications of intent to harm, whether direct or indirect); intimidation (extortion, menacing behavior, bullying); coercion (undue pressure); or fraud (misrepresentation or material omission about oneself or the situation in order to gain permission for sexual or intimate activity).
- **Voyeurism:** The condition of one who derives sexual satisfaction from observing the sexual organs or acts of others, generally from a secret vantage point.

Portions of this document have been provided by *Revised Sexual Harassment Guidance*, U.S. Dept. of Education, Office for Civil Rights (January, 2001); *Illinois Preventing Sexual Violence in Higher Education Act* (110 ILCS 155); the *ATIXA Gender-Based and Sexual Misconduct Model Policy*, Sokolow, Lewis and Schuster, NCHERM & ATIXA, 2011; *Navigating Sexual Violence Issues Under OCR's 2011 Dear Colleague Letter*, Margolis Healy, 2011; *The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act* (20 U.S.C. §1092(f)), *Questions and Answers on Campus Sexual Misconduct*, U.S. Dept. of Educ., Office for Civil Rights (2017); and *The University of Michigan Student Sexual Misconduct Policy* (August, 2013).

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g) is a Federal law that protects the privacy of student education records.