

**Title:** Sexual and Gender-Based Misconduct Policy



**History:**

Date:	Action:
8/14/2020	Policy Approved as Interim Policy
8/26/2021	Revised Policy Approved

**Policy**

**Owner:** Title IX Coordinator, Title IX Office

**Stakeholder(s):** Staff Council Chair, Faculty Senate Chair, SGA President, Director of Human Resources, CGCS Director of Enrollment Management, VP of Student Affairs and Technology, AVP of Student Affairs and Assessment

**POLICY APPLICABILITY AND SCOPE**

This policy applies to faculty, staff, other employees and agents, students, and organizations receiving Norwich University funding, or that use the Norwich University name.

An individual who believes that he/she has been subjected to conduct that violates this policy is encouraged to file a complaint with the University. Such complaints will proceed independently from any additional criminal proceedings. University procedures and sanctions can be implemented regardless of when or if criminal charges are initiated or substantiated.

This policy applies to the education program and activities of Norwich University, to conduct that takes place on the campus or on property owned or controlled by the institution, at Norwich University-sponsored events, or in buildings owned or controlled by Norwich University's recognized student organizations.

This policy may also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to Norwich University's educational program or activities. The University may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial Norwich University interest. Regardless of where the conduct allegedly occurred, the University will review complaints to determine whether the alleged conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial Norwich University interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of the University.

If the Respondent is unknown or is not a member of the Norwich community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

## **POLICY STATEMENT AND PURPOSE**

### **STATEMENT OF INSTITUTIONAL PHILOSOPHY**

Norwich University is committed to creating and maintaining a community in which all persons who participate in University programs and activities can work and/or learn together in an atmosphere free of sexual or gender based harassment, discrimination or other misconduct, and the University does not tolerate sexual or gender based misconduct as defined under this policy. Such forms of misconduct are also prohibited by state and/or federal law. It is the intention of the University to take prompt action to prevent the reoccurrence of behaviors that violate this policy.

### **NOTICE OF NON-DISCRIMINATION**

Norwich University, in compliance with Title IV of the Civil Rights Act of 1964, Title IX of the Education amendment of 1972, and Section 504 of the Rehabilitation Act of 1973, does not discriminate on the basis of race, religion, color, national origin, age, sex, or physical handicap in any of its policies, practices, and procedures.

### **IMPARTIALITY AND CONFLICT-OF-INTEREST**

The Title IX Staff shall act with impartiality and authority free from bias and conflicts of interest. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving perceived bias or conflict of interest by the Title IX Coordinator, contact the Vice President for Student Affairs. Concerns regarding bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

## DEFINITIONS

### GENERAL DEFINITIONS

**Complainant** means an individual who believes that he or she has been subjected to sexual or gender based misconduct, or who is believed by another to have been subjected to such conduct. For ease of reference, the term “Complainant” will be used throughout this policy, whether or not such an individual chooses to file a complaint or participate in an investigation or resolution process.

**Complaint (formal)** means a document filed and signed (physically or electronically) by a Complainant or signed by the Title IX Coordinator alleging that a Respondent has violated the Sexual and Gender-Based Misconduct policy and/or engaged in retaliation for engaging in a protected activity, and requesting that the University investigate the allegations.

**Days** is considered a University business day for purposed of this policy. Weekends and University holidays are not considered a business day. University holidays can be found on the academic calendar.

**Mandated Reporter** means an employee of the University who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.

**Official with Authority (OWA)** means an employee of the University explicitly vested with the authority to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the University.

**Parties** include the Complainant(s) and Respondent(s), collectively

**Programs and Activities.** Conduct takes place within the University’s programs and activities when that conduct occurs: (1) in a location, at an event, or in a circumstance where the University exercises substantial control over both the respondent and the context in which the conduct occurs; or (2) in any building owned or controlled by a student organization recognized by the University. Conduct that occurs off campus in locations or at events with no connection to the University is unlikely to have occurred in a program or activity of the University.

**Reporter** means an individual who notifies the Title IX Office of a potential sexual or gender based misconduct incident. The Reporter does not have to be the affected party or be involved in the incident to file a report.

**Respondent** means an individual alleged to have violated this policy.

**Third Party Report** A person who is not a Mandatory Reporter, but who has information regarding someone else who has experienced sexual or gender based misconduct, is asked to report that information; a Mandatory Reporter is required to report such information. To make a third-party report, the individual should contact a member of the Title IX Office as soon as possible, or submit a Title IX reporting form as described below. Upon receipt of such information the Title IX staff will make preliminary inquiries, which may include contacting the alleged victim, to determine whether further action is warranted. If a concern about these forms of misconduct is reported to the Title IX Staff by someone other than the alleged victim, and the alleged victim is unwilling or unable to participate in an investigation, the Title IX Coordinator will make a determination of whether and/or how to proceed with a resolution based upon the information that is furnished. The Title IX Coordinator may need to proceed with an investigation if, for example, it is determined that there appears to be a compelling threat to the health and/or safety of the Norwich community.

**Title IX Coordinator** means the administrator who is identified and authorized as the Norwich University employee with primary responsibility for coordinating the University's efforts to comply with and carry out its responsibilities under Title IX. The Title IX Coordinator's responsibilities include overseeing the process for handling and responding to all complaints of possible sex discrimination, sexual harassment and sexual misconduct and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. The University's Title IX Coordinator also participates in the University's handling and response to complaints of domestic and/or dating violence, and stalking, as defined in this policy. The Title IX Coordinator or a trained deputy are available to meet with students and employees regarding these issues as needed.

While Title IX Coordinator is ultimately responsible for coordinating the University's compliance with Title IX, he or she may delegate duties as necessary and appropriate. Therefore, any reference regarding duties to be performed under this policy should be read as also including the Title IX Coordinator's "designee", as appropriate.

Norwich University's Title IX Coordinator is Danielle Slauzis. Her contact information is:

(802) 485-2144  
[dslauzis@norwich.edu](mailto:dslauzis@norwich.edu)  
Wise Campus Center 217  
Norwich University  
158 Harmon Drive  
Northfield VT 05663

**Title IX Team** Decision Makers, Appellates, the Deputy Title IX Coordinator(s) and Title IX Office staff is collectively known as the Title IX Team. These members are selected by the Title IX Coordinator in consultation with the Senior Vice President of Student Affairs and Technology and the Director of Human Resources. The Title IX Team is trained annually and that training is available for public review. The training received can be found at [www.norwich.edu/title-ix](http://www.norwich.edu/title-ix)

**Prohibited Conduct** The following are the definitions of Prohibited Conduct under the purview of this policy<sup>1</sup>:

This Policy prohibits the following forms of misconduct, collectively referred to throughout the policy as “Prohibited Conduct”:

**Sexual Harassment (Title IX and Non-Title IX)** (i.e., Quid Pro Quo Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual Assault, and Domestic Violence, Dating Violence and sex-based Stalking); and

**Sexual Misconduct** (i.e., Sexual Misconduct, Sex or Gender Based Discrimination, Sexual Exploitation as defined below, and Retaliation).

Specifically, Sexual Harassment and Sexual Misconduct are defined as follows for purposes of this policy:

## **Sexual Harassment**

### **A. Title IX Sexual Harassment**

Acts of sexual harassment as defined by regulations issued by the Department of Education in May 2020 (“May 2020 Title IX regulations”) may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Title IX Sexual Harassment as an umbrella category includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking on the basis of sex, defined as:

---

<sup>1</sup> The definitions of dating violence, domestic violence, sexual assault, and stalking used in this policy are consistent with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended effective 2014, and Title IX and May 2020 Title IX regulations. In its primary prevention and awareness programs for incoming students and new employees, as well as in its primary prevention and awareness programs for students and employees, the University will include the definitions of dating violence, domestic violence, sexual assault, and stalking under the criminal law of Vermont. However, the University utilizes its own definitions of these prohibited behaviors, which are consistent with the Clery Act and Title IX and the May 2020 Title IX regulations as set forth below, for purposes of this policy, and makes decisions regarding responsibility for violations of this Policy through its own procedures and standards of proof (i.e. by a preponderance of the evidence standard), not through the procedures or standards of proof employed in the criminal justice system.

Conduct on the basis of sex that satisfies one or more of the following:

1. **Title IX Quid Pro Quo Sexual Harassment:** An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
2. **Title IX Sexual Harassment:** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity, in a program or activity of the University in the United States; or
3. **Title IX Sexual Assault**, which is conduct defined as follows by the FBI NIBRS program definitions incorporated by reference into the May 2020 Title IX regulations, and which occurs in a program or activity of the University in the United States:
  - a. **Rape**<sup>2</sup>
    - i. The carnal knowledge of a person (i.e., penile-vaginal penetration), without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (it should be noted that either females or males could be complainants under this definition);
    - ii. Oral or anal sexual intercourse (i.e., penile penetration) with another person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
    - iii. To use an object or instrument (e.g., an inanimate object or body part other than a penis) to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - b. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (for purposes of this definition, "private body parts" includes breasts, buttocks, or genitals, whether clothed or unclothed);

---

<sup>2</sup> Both completed rape and attempted rape are prohibited by this policy.

- c. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Vermont law; or
  - d. **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent (which in Vermont is generally 16, but which is raised to 18 in circumstances where the Respondent is the younger person's guardian).
4. **Title IX Dating Violence**, defined as: violence, on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
- i. The existence of such a relationship shall be determined based on the Complainant'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. For the purposes of this definition—
  - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - iii. Dating violence does not include acts covered under the definition of domestic violence.
5. **Title IX Domestic Violence**<sup>3</sup>, defined as: violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the state of Vermont, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the state of Vermont
6. **Title IX Stalking**, defined as: engaging in a course of conduct, on the basis of sex, directed at a specific person, that would cause a reasonable person to fear for the person's safety, or the safety of others; or suffer substantial emotional distress. For the purposes of this definition - course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant. Substantial emotional distress

---

<sup>3</sup> To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

- B. Non-Title IX Sexual Harassment** is defined as conduct on the basis of sex that satisfies one or more of the following:
- 1. Non-Title IX Quid Pro Quo Sexual Harassment** is an individual conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct above that did not reportedly occur in a program or activity of the University in the United States.
  - 2. Non-Title IX Sexual Harassment** is Sexual Harassment as defined in the Title IX Sexual Harassment definition above that did not reportedly occur in a program or activity of the University in the United States.
  - 3. Non-Title IX Sexual Assault** is sexual assault (i.e., rape, fondling, incest or statutory rape) as defined in the Title IX Sexual Assault definition above that did not reportedly occur in a program or activity of the University in the United States, and attempts to commit such misconduct.
  - 4. Non-Title IX Domestic Violence** is domestic violence as defined in the Title IX Domestic Violence definition above that did not reportedly occur in a program or activity of the University in the United States.
  - 5. Non-Title IX Dating Violence** is dating violence as defined in the Title IX Dating Violence definition above that did not reportedly occur in a program or activity of the College in the United States.
  - 6. Non-Title IX Stalking** is stalking as defined in the Title IX Stalking definition above that did not reportedly occur in a program or activity of the College in the United States, or that otherwise fits within such definition of Stalking but does not fall within the Title IX Stalking definition because the reported conduct is not directed at the Complainant on the basis of sex.

**Sexual Misconduct** includes the following offenses:

- A. Sexual Misconduct** is unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature that does not meet the above definition of Title IX or Non-Title IX Sexual Harassment, when directly impacting the Complainant's employment, education, living environment, or participation in Norwich sponsored activities or programs.
- B. Sexual Exploitation** occurs through an act or omission to act that involves a member of the Norwich University community taking non-consensual, unjust, humiliating, or abusive sexual advantage of another, and that does not meet the definition of Title IX or Non-Title IX Sexual Harassment stated above. Examples of behavior that could constitute sexual exploitation include but are not limited to the following:
- Prostituting another person;

- Recording or capturing through any means images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nudity without that person's knowledge and consent;
- Distributing or sharing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nudity without that person's consent;
- Viewing another person's sexual activity, intimate body parts, or nudity in a place where that person would have a reasonable expectation of privacy, without that person's consent; or
- Engaging in sexual behavior with knowledge of an illness or disease (HIV or STD) that could be transmitted by the behavior, without disclosing that to the other person prior to the sexual relations.

**C. Sex or Gender Based Discrimination** occurs by treating someone unfavorably or different because of that person's sex, that does not fit the definition of Title IX or n Sexual Harassment stated above. This can include but is not limited to discrimination on the basis of sexual orientation, gender, gender identity, transgender status, or sex.

**D. Retaliation**

Retaliation means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing regarding Prohibited Conduct (including both Title IX Sexual Harassment and Non-Title IX Misconduct). Retaliation is strictly prohibited.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, constitute retaliation, as do any adverse action taken against a person because they have made a good faith report of Prohibited Conduct or participated in any proceeding under this Policy.

Retaliation may include intimidation, threats, coercion, harassment, or adverse employment or educational actions that would discourage a reasonable person from engaging in activity protected under this policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process under this policy does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility is not alone sufficient to establish that any party made a materially false statement in bad faith. The University will not engage in, and will investigate and address, reports of retaliatory conduct.

Any person who believes that he or she has been subjected to such Retaliation should report their concern to the Title IX Coordinator. Such reports will be handled under the Prompt and Equitable Grievance Procedure outlined below. Retaliation under this policy may be found whether or not the underlying complaint is ultimately found to have merit.

## **Consent**

Consent for sexual activity is clear indication, either through verbal or physical actions, that parties are willing and active participants in the sexual activity. Such authorization must be free of force, threat, intimidation or coercion, and must be given actively and knowingly in a state of mind that is conscious and rational and not compromised by alcohol or drug incapacitation. Only a person of legal age can consent.

Consent may be withdrawn by either party at any time. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout the stages of sexual activity. Once consent is withdrawn, the sexual activity must cease immediately, and all parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.

Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant.

Incapacitation due to alcohol or drugs is where an individual cannot make an informed and rational decision to engage in sexual activity because she/he lacks conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if she/he is asleep, unconscious or otherwise unaware that sexual activity is occurring.

Where alcohol or other drugs are involved, incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness or emotional volatility.

In evaluating whether a lack of consent due to incapacitation is present in a particular case, the University will use the objective standard of whether the Respondent knew or whether a sober, reasonable person in the Respondent's position should have been known, based on reasonably apparent indications of incapacitation, that the other person was incapacitated. A Respondent's own impairment or incapacitation will not be recognized as an excuse for their engaging in sexual contact without consent.

Consent must still be attained even if:

- the Respondent is someone known by the Complainant;
- the sexual misconduct happens on a date;
- either or both individuals have engaged in consensual sexual activity with each other previously;
- either or both individuals are under the influence of alcohol or other drugs;
- there was no weapon involved;
- there was no evidence of a struggle or resistance; or
- there are no other witnesses.

## **PROCEDURES**

### **1. CONTACT INFORMATION**

Anyone may seek advice, information, or guidance on sexual or gender based misconduct by contacting the Title IX Coordinator.

Title IX Coordinator: Danielle Slauzis, 802-485-2144, [dslauzis@norwich.edu](mailto:dslauzis@norwich.edu)

### **2. IMMEDIATE RESPONSES TO SEXUAL OR GENDER BASED MISCONDUCT COVERED BY THIS POLICY**

The University recognizes that Complainants can choose whether or not they wish to make a report of sexual or gender based misconduct covered by this policy. There may however be circumstances where the University decides to proceed with an investigation or disciplinary action where deemed necessary, despite the wishes of a Complainant.

Once an incident or complaint of sexual or gender based misconduct is reported to the Title IX Coordinator, he or she will inform the Complainant of the options of criminal prosecution, medical assistance, the use of this policy to file a complaint or report, and other information detailed below.

The Title IX Coordinator, Public Safety and/or other University personnel will assist the Complainant with these contacts if requested. In addition, confidential counseling, support services, academic assistance, future security, and alternative housing (for students) can be coordinated as appropriate through the Title IX Coordinator.

The University recognizes that making the decision to report often takes time. Nevertheless, pending the decision to report, students are strongly encouraged to take immediate steps to preserve all evidence that might support a future report. Such steps may include:

- Obtaining a forensic sexual assault examination (before 120 hours, but as soon as possible);

- Preserving any clothing, sheets or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
- Preserving any related electronic communications (e.g., text messages, emails, Facebook, Instagram, Snapchat or other social media posts, to the extent that they can be captured or preserved);
- Preserving any photographs (including photographs stored on smartphones and other devices); and
- Preserving any voice-mail messages and other physical, documentary and/or electronic data that might be helpful or relevant in an investigation.

Contact information for immediate response resources includes the following:

Norwich Public Safety: (802) 485-2525

Norwich Counseling and Wellness Center: (802) 485-2134

Title IX Coordinator: (802) 485-2144

Central Vermont Medical Center Emergency Department: (802) 371-4263

Sexual Assault Crisis Team (24-hour hotline): (802) 479-5577

Circle (24-hour hotline):(877) 543-9498

Northfield Police: (802) 485-9181

### **3. EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE**

#### **A. Emergency Removal in Title IX Sexual Harassment Cases**

The University can act to remove a Respondent entirely or partially from its education program or activities (including University employment) on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal.

In all cases in which an emergency removal is imposed, the Respondent will be given notice of the action and the option to request to meet (in person or virtually) with the Vice President for Student Affairs and Information Technology as soon thereafter as reasonably possible, to show cause why the order of removal should be revoked or modified.

When this meeting is not requested within 48 hours of an issuance of decision, objections to the emergency removal will be deemed waived.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Vice President for Student Affairs and Information Technology for the meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Vice President for Student Affairs and Information Technology has sole discretion

under this policy to implement or stay an emergency removal and to determine the conditions and duration of an emergency removal. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

As determined by the Title IX Coordinator, emergency actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee or terminating their employment, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, dismissing a student, and/or suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator and where deemed appropriate, alternative coursework options may be pursued to promote a Respondent's access to University academic programs.

## **B. Administrative Leave in Title IX Sexual Harassment Cases**

The University always maintains the discretion to place non-student employee Respondents on paid administrative leave during the pendency of an investigation and resolution process as outlined below. The University may also place a non-student employee Respondent on unpaid administrative leave during the pendency of an investigation and resolution process.

The University may place student-employee Respondents on administrative leave from their employment during the pendency of an investigation and resolution process where deemed appropriate as a Supportive Measure, under circumstances where it can do so without unreasonably burdening the student-employee Respondent.

## **C. Emergency or Interim Suspension, Administrative Leaves and Other Actions in Non-Title IX Sexual Misconduct Cases**

In cases that involve allegations of Sexual Misconduct (that is, Prohibited Conduct as defined by this policy that does not fall within the definition of Title IX Sexual Harassment), the University may at its discretion initiate emergency and/or interim suspensions of students and suspension or dismissal of employees in accordance with the University's other policies, procedures and practices, which include but are not limited to the University's employment at will policy.

## **4. REPORTING OPTIONS**

Norwich University encourages individuals to report incidents covered under this policy so that they can get the support they need, and so that the University can respond appropriately, while maintaining a safe and secure campus. Although strict confidentiality may not be guaranteed, in all cases the University will handle information in a sensitive manner and will endeavor to protect the privacy of individuals to the extent

it can do so consistent with its obligations to respond to reports of sexual or gender based misconduct.

This section is intended to inform students, faculty, staff, and covered third parties of the confidential and non-confidential reporting avenues available, so that they can make informed choices about where to go for assistance. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Non-Confidential resource can connect them with resources to report crimes and/or policy violations, and these employees will promptly pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action as provided in this policy.

### **A. Confidential Resources and Confidentiality**

If an individual would like to confidentially report an alleged violation of this policy, they should contact a confidential resource. A confidential resource is an individual who is legally and ethically bound to keep confidential all information shared with them in the course of providing counsel and support, except under the circumstances noted below.

In general, the law recognizes and protects the confidentiality of communications between a person seeking care and a medical or mental health professional, religious advisor or trained sexual assault advocate. The medical, mental health, and religious professionals (i.e., individuals acting in their religious professional capacity through the Chaplain's Office) at Norwich, respect and protect confidential communications from students, faculty, and staff to the extent they are legally able to do so.

These professionals may have to breach a confidence, however, when they perceive a serious risk of danger or threat to any person or property. In addition, medical and mental health professionals may be required by law to report certain crimes (e.g., allegations of sexual and/or physical abuse of a person under 18).

An individual who speaks to a confidential resource must understand that, if they want to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. However, confidential resources may assist the individual in receiving Supportive Measures and other forms of protection and support, such as victim advocacy; academic accommodations; disability, health or mental health services; and changes to living, working, or transportation arrangements, as described below.

- Norwich Counseling and Wellness Center- (802) 485-2134
- Mosaic (formerly Sexual Assault Crisis Team (SACT)) – (802) 479-5577
- Circle- (877) 543-9498

- Norwich Chaplain- (802) 485-2128
- Infirmary- (802) 485-2552

May 2020 Title IX regulations contemplate that certain information will generally be treated confidentially, except as qualified by statements in those regulations. For example, the regulations provide that universities must maintain as confidential any supportive measures provided to a complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the supportive measures. The regulations also provide that universities must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of the Title IX regulations, including the conduct of any investigation, hearing, or judicial proceeding arising under those regulations.

## **B. Reporting and Non-Confidential Resources**

Conduct prohibited by this policy may be reported by using any of the following options:

i.) By utilizing the online Reporting Form, which can be found at [www.norwich.edu/title-ix](http://www.norwich.edu/title-ix). Reporting via this online form allows the University to reach out to the Reporter or Complainant to request further information and offer Supportive Measures and information about resolution options, but it does not obligate a Complainant to participate in a resolution process. Norwich strives to respect a Complainant’s wishes regarding the pursuit of formal resolution procedures unless there appears to be, for example, a compelling threat to their or the community’s health and/or safety. The Complainant is largely in control and should not fear a loss of privacy by making a report that allows the University to discuss the matter with them and/or provide Supportive Measures.

ii.) Report to or file a formal complaint with the Title IX Coordinator. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed. Directly contact the TIX Coordinator by phone or email at the following contact information:

Title IX Coordinator: Danielle Slauzis, 802-485-2144, [dslauzis@norwich.edu](mailto:dslauzis@norwich.edu)

iii.) Reporting to a Mandatory Reporter

Non-confidential employees are deemed Mandatory Reporters for purposes of this policy. Mandatory Reporters include any administrator, supervisor, faculty member,

who does not have a statutory privilege of confidentiality by law, or who has not otherwise been designated as a Confidential Support Resource.

Non-confidential faculty or staff Mandatory Reporters who learn of an incident of sexual or gender based misconduct involving a student or employee are required to report that information to the Title IX Coordinator as soon as possible.

If a Mandatory Reporter interferes with a University investigation, that employee will be subject to disciplinary action up.

General inquiries to Norwich University officials about policies or procedures, and conversations in which the alleged perpetrator is not identified by name or by implication from the circumstances, would not constitute reports for purposes of this policy. These types of inquiries should nonetheless be directed to the Title IX Coordinator.

### **C. Disclosure to Mandatory Reporters**

When a Mandatory Reporter learns of an incident that could constitute sexual or gender based misconduct involving a student, faculty or staff member or covered third party, the Mandatory Reporter must report available information about the incident to the Title IX Coordinator as soon as possible.

Information reported to a Mandatory Reporter will be shared with others only to the extent necessary to respond to the situation and support the parties and in accordance with state and federal law.

### **D. When a Complainant Does Not Wish to Proceed/Requests Confidentiality**

If an individual discloses an incident of sexual or gender based misconduct to a Mandatory Reporter but does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, the University will make every effort to respect this request and will evaluate the request against its responsibility to provide a safe, non-discriminatory environment for all students, faculty and staff, including the reported Complainant. As noted below, there are times when the University may not be able to honor the individual's request. Further, if the University honors the request for confidentiality, the University's ability to appropriately investigate the incident and pursue disciplinary action against the alleged may be limited.

The University has designated its Title IX Coordinator as the individual responsible for evaluating requests for confidentiality, in consultation as necessary with other University officials such as individuals at the Public Safety Office and/or the University's Threat Assessment Team, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision could, for example, be based on the results of a violence risk assessment that indicates that there appears to be a compelling risk to health and/or safety and that requires the University to pursue formal action to protect the community.

Factors that may be considered in determining whether confidentiality should be maintained may include but are not limited to:

- I. The increased risk that the alleged perpetrator will commit additional acts of Prohibited Conduct or other violence, such as:
  - a. whether there have been other Prohibited Conduct complaints about the same alleged perpetrator;
  - b. whether the alleged perpetrator has a history of arrests or records from a prior institution indicating a history of violence;
  - c. whether the alleged perpetrator has threatened or discussed Prohibited Conduct or other violence against the individual or others;
  - d. whether the alleged Prohibited Conduct was allegedly committed by multiple alleged perpetrators;
  - e. circumstances that suggest there is an increased risk of future acts of Prohibited Conduct
- II. whether the alleged Prohibited Conduct was allegedly perpetrated or facilitated with a weapon; and
- III. whether the alleged victim is a minor.

The presence of one or more of these factors or other factors as deemed appropriate may prompt an investigation and adjudication under the University's policies and, if appropriate, result in disciplinary action. If none of these factors are present, the University will likely honor the individual's request for confidentiality.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator signs a written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

#### **E. If Confidentiality is Requested but Cannot be Maintained**

If the University determines that it cannot maintain an individual's request for confidentiality, the University will inform the reported Complainant prior to conducting an investigation (unless extenuating circumstances are present). Norwich will not require the reported Complainant to participate in any investigation or disciplinary proceeding. The Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. The University, will, however, provide certain notices to the

Complainant regarding the status of Title IX Sexual Harassment investigations, as required by the May 2020 Title IX regulations. If a Complainant chooses not to participate in a matter covered by the Title IX Sexual Harassment procedures outlined below, the University will appoint an Advisor to conduct, on behalf of the Complainant, cross-examination of the Respondent and any witnesses at any hearing held regarding the matter.

If when responding to reports of sexual or gender based misconduct the University determines it is obligated to take any action that would involve disclosing a reporting individual's and/or reported Complainant's identity to the Respondent, or to take an action from which the reporting individual's and/or reported Complainant's identity may be easily determined by the Respondent, the individual will be informed before the action is taken unless extenuating circumstances are present. If the individual requests that the Respondent be informed that they requested that there be no investigation or disciplinary action, the University will endeavor to honor this request and inform the Respondent that the University made the decision to investigate the matter.

The University will offer Supportive Measures as described below, when requested and reasonably available, that are designed to prevent and address retaliation against individuals whose requests for confidentiality have not been honored, and to respond to their needs for support, services, and accommodations.

Note that the University's ability to remedy and respond to a report may be limited if the Complainant does not want the University to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University's obligation to protect its community.

#### **F. When Confidentiality Can be Maintained**

If the University determines that it can respect the individual's request for confidentiality, the University will offer informal resolution options, supportive measures, and remedies below to the Complainant and the community to the extent possible where such measures are requested and reasonably available.

If the Complainant requests initially that the University take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by Norwich University, and to have the incidents investigated and properly resolved through these procedures.

#### **G. Disclosure During Internal Investigations and Adjudications**

Consistent with Title IX regulation-required confidentiality provisions described above, the University will handle information related to alleged violations of this policy with sensitivity and discretion. However, the University may need to disclose information relating to an incident (including the identity of parties, witnesses or others) to the extent

necessary to conduct a thorough, fair, and impartial investigation and adjudication process for all involved parties.

#### **H. Timely Warnings and Disclosure Required by Law**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), Norwich must issue timely warnings for incidents reported to them that pose a serious or ongoing threat to the campus community.

Norwich will ensure that a Complainant’s name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of any serious or ongoing threat.

Additionally, the University will not include the names of Complainants, Respondents, or other identifying information in publicly available reports that are compiled as required by the Clery Act.

#### **I. Disclosure to Law Enforcement**

In certain circumstances, the University may need to report an incident to law enforcement authorities. Such circumstances include, but are not limited to, incidents that warrant the undertaking of safety and security measures for the protection of the individual and/or the campus community, or situations in which there is clear and imminent danger and/or a weapon may be involved. Complainants may choose to notify authorities directly with or without the University’s assistance, or may choose not to notify such authorities.

### **5. SUPPORTIVE MEASURES**

Students and employees seeking services and/or accommodations in connection with issues related to potential Prohibited Conduct (collectively, “Supportive Measures”) should direct their request to a confidential resource or the Title IX Coordinator, as appropriate. Their request will be evaluated and responded to by the Title IX Coordinator or designee after consultation, as needed, with other Norwich University officials. As noted in the confidentiality section above, the University will maintain as confidential any Supportive Measures to the extent possible while allowing for implementation of such requests.

It is not necessary to file a formal complaint, participate in an adjudication process, or file a criminal complaint in order to request Supportive Measures from the University. Both Complainants and Respondents may request and receive Supportive Measures, which are non-disciplinary, non-punitive individualized services offered as appropriate, as available, without fee or charge. Supportive Measures may include but are not limited to:

- Mutual No Contact Orders restricting encounters and communications between the parties;
- Academic accommodations, including but not limited to deadline extensions, excused absences, incompletes, course changes or late drops, or other arrangements as appropriate;
- Residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate;
- Changing transportation, working arrangements, or providing other employment accommodations, as appropriate;
- Campus escort services and safety planning steps;
- Assisting the individual in accessing support services, including, as available, victim advocacy, academic support, counseling, disability, health or mental health services, visa and immigration assistance, student financial aid services, and legal assistance both on and off campus, as applicable;
- Informing the individual of the right to report a crime to local law enforcement and/or seek orders of protection, restraining orders, or relief from abuse orders from courts in the United States or courts outside of the United States as applicable, and providing assistance if the individual wishes to do so. Norwich University will also work with Complainants and others as appropriate to respect and implement the requirements of such orders on premises that it owns or controls, as necessary and appropriate.

## **6. PURSUING A CRIMINAL COMPLAINT**

In addition to, or instead of, Norwich University's processes, any student, employee or covered third party who wishes to report a complaint of sexual or gender based misconduct under this policy has the option to pursue criminal charges with local, state, or federal law enforcement agencies. The University will offer and upon request provide assistance to students, employees, and covered third parties in contacting law enforcement agencies. These options are available regardless of whether an individual chooses to file a complaint with the University. Individuals have the option to notify such agencies with or without assistance from the University.

In addition, individuals may also have the right to pursue orders of protection, restraining orders and/or relief from abuse orders from the court system. The University will respect such orders to the extent applicable. In addition, the University can also impose mutual No Contact Orders on students, employees, and third parties over whom it has some measure of control.

## **7. MEDICAL CARE AND EVIDENCE PRESERVATION**

Any individual who may be experiencing or has experienced sexual or gender based misconduct is encouraged to immediately seek any necessary medical care and to seek help from appropriate Norwich, law enforcement, and/or medical personnel, even if the

individual is uncertain about whether to ultimately pursue a complaint or criminal charges, or to seek a protective order.

It is important for individuals to preserve all possible evidence in case they decide at some point to file a report of any nature. Therefore, if at all possible, as noted above, they should refrain from changing clothes, showering or otherwise changing their physical state after an incident, until after consulting with medical and/or law enforcement personnel about how to best preserve evidence. They should also preserve any available electronic evidence related in any way to potential Prohibited Conduct, such as text messages, social media postings or messages, and audio and video recordings or photographs.

## **8. OTHER POLICY VIOLATIONS**

If the report of misconduct covered by this policy also involves a report of misconduct prohibited by other Norwich University policies, the other misconduct will be investigated to the extent that they are related to the allegations of misconduct prohibited by this policy. The University will determine at its discretion whether other policy violations allegedly committed in circumstances related to alleged Prohibited Conduct will be investigated and resolved in an investigation performed under this policy, which the University reserves the right to do, or will be addressed through separate procedures. Allegations of all misconduct that will be subject to investigation and adjudication in the procedures outlined in this policy will be included in the Notice of Allegations sent out to all parties.

## **9. AMNESTY**

The University's primary goal when responding to complaints of sexual and gender based misconduct involving students is safety, and to address the misconduct and prevent it from recurring. A student should not hesitate to report sexual misconduct due to a concern that the investigation process may indicate that he or she was under the influence of alcohol or drugs at the time of the incident. Amnesty for violations of University policies on the personal use of alcohol and drugs will be provided to parties and witnesses engaged in the resolution process as long as they are acting in good faith. However, the University may provide purely educational options with no official disciplinary finding.

Individuals should understand that the use of alcohol or drugs never makes them at fault for sexual misconduct, domestic or dating violence or misconduct, stalking, and/or related retaliation committed against them, nor does it mitigate accountability for committing these prohibited behaviors against another.

## **10. UNRELATED SEXUAL HISTORY**

Evidence about a Complainant's sexual predisposition or prior sexual behavior will not be considered in investigations and resolutions conducted under this policy, unless such

evidence about the Complainant's prior sexual behavior is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the evidence concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and is offered to prove consent. Further, information about sexual activity between either party and other individuals who are not involved in a case under review is not considered relevant to whether this policy was violated in the case under review, unless it establishes a relevant pattern of sexual or gender based misconduct.

## **11. PROVIDING FALSE INFORMATION**

Intentionally making a false report or providing false information in connection with a report, investigation or adjudication of a matter covered by this policy will not be tolerated. A Complainant whose factual allegations are truthful to the best of the Complainant's knowledge, but are not found by the University's process to substantiate a violation of this policy, has not provided false information within the meaning of these guidelines.

Students found to have intentionally provided false information will be subject to an Honor Violation Investigation for providing false information during the Sexual and Gender-Based Misconduct complaint resolution process.

## **12. RIGHT TO AN ADVISOR**

All parties are entitled to an Advisor of their choosing to guide and accompany them throughout a complaint resolution process. The Advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them. The University maintains a pool (non-attorney) advisors who are available to the parties that will be distributed through the intake process. No University official is required to serve as an Advisor if they do not choose to do so. Outside Advisors can request to be trained by the University.

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake, interviews, hearings, and appeals. The University cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford or choose not to select an attorney advisor, the University is not obligated to provide one.

All Advisors are subject to the same requirements, whether they are attorneys or not. Advisors are not permitted to speak for, represent, appear in lieu of anyone, address any other party other than the one they are advising, or otherwise actively participate directly in a meeting, interview, or other proceeding with an exception related to cross-examination during the Sexual Harassment procedure outlined below. Advisors may communicate with their advisee in a manner that is not disruptive to the meeting or proceeding at hand. For longer or more involved discussions, the parties and their

Advisors should ask for breaks to step out of meetings to allow for private conversation. Advisors may request to meet in advance of any interview or hearing with a member of the Title IX staff for the purpose of answering any general questions the Advisor may have about the process.

As outlined further below, under U.S. Department of Education regulations applicable to Title IX Sexual Harassment matters only, parties have a right to have cross-examination be conducted by Advisors on their behalf. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, the University will appoint an Advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own Advisor, but they may not proceed at a hearing without an Advisor. If the party's Advisor will not conduct cross-examination, the University will appoint an Advisor who will conduct cross-examination on behalf of the party, even if the advised party chooses not to participate personally in the hearing.

Advisors are expected to refrain from interference with the University investigation and resolution. Any Advisor who steps out of their role or causes a disruption during the resolution process will be warned that they are doing so. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the Advisor will be asked to leave the meeting. Subsequently, the Title IX Coordinator or Deputy Coordinator will determine whether or not the Advisor may be reinstated.

Parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process. The University provides a consent form that authorizes such sharing of documentation related to the allegations with their Advisor of choice.

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University. Advisors and parties may be asked to sign non-disclosure agreements accordingly. Additionally, communication regarding any resolution process will be directed towards the involved party, and will not be done through the Advisor except in circumstances in which the Title IX Coordinator or designee has granted an exception for special circumstances.

The University generally expects an Advisor to adjust their schedule to allow them to attend meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay. The University will make provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies when appropriate and available. A party may elect to change advisors during the process.

### **13. INVESTIGATION AND RESOLUTION PROCESS**

When information about an incident of sexual or gender based misconduct is brought to the attention of the Title IX Staff, he or she will promptly contact the Complainant to arrange an intake meeting. At a promptly-scheduled meeting and/or through initial communications with the Complainant, the Title IX Coordinator will: discuss and/or communicate about the availability of Supportive Measures as defined below; consider the Complainant's wishes with respect to Supportive Measures; inform the Complainant of the availability of Supportive Measures with or without the filing of a formal complaint; and explain to the Complainant the process for filing a formal complaint. The Title IX Coordinator may be excused from carrying out his/her duties under the policy in the event of a conflict of interest or other legitimate reason. In the absence of the Title IX Coordinator, the Deputy Title IX Coordinator will serve as the Acting Title IX Coordinator for purposes of the case.

The University operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until, through the applicable resolution process, the Respondent is determined to be responsible for a policy violation by a preponderance of the evidence.

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with University policy. While there is an expectation of privacy around what Investigators share with parties during interviews, the parties in Title IX Sexual Harassment cases are not restricted from discussing the allegations under or gathering relevant evidence. Parties in Sexual Misconduct cases investigated and resolved under this policy are not permitted to discuss the case with anyone but their Advisor or a confidential counselor. Parties in all cases must avoid engaging in Retaliation as defined above.

#### **A. Application to Employees**

This policy and below procedures apply only to student Complainant Sexual Harassment cases, student Complainant Sexual Misconduct cases and/or employee complainants only when the allegations fall within the jurisdiction of Title IX because the allegations, if proved, would constitute Title IX Sexual Harassment as defined above. When allegations involving an employee Complainant fall outside of Title IX jurisdiction, the complaint/report will be sent to Human Resources for processing under other applicable University policies.

When an employee of the University is a party to a Sexual Harassment (Title IX or Non-Title IX) or Sexual Misconduct case investigated and resolved through this policy and its procedures, a representative from Human Resources in addition to a Title IX staff member will be present in the intake meeting, and the Title IX Coordinator will coordinate with the Director of Human Resources throughout the grievance process to ensure that any obligations under other applicable laws and regulations are met. Employees who are parties in Title IX Sexual Harassment matters will receive all of (but

no more than) the rights that such employees must be provided under the May 2020 Title IX regulations, but all other aspects of their relationship with the University and the handling of the matter will be governed by the University's otherwise-applicable employment practices and policies.

## **B. Initial Meetings With the Title IX Staff**

### **i. Complainant**

Within five (5) days of receiving a report or formal complaint, the Title IX Coordinator will contact the Complainant to schedule an intake meeting. During the intake meeting, the Title IX Coordinator will do the following, as applicable:

- Provide in writing the Complainant's rights under the policy;
- Provide in writing instructions to access the policy;
- Provide a resource folder;
- Provide in writing information regarding support resources on campus including but not limited to mental health services, health services, and victim advocacy;
- Discuss confidentiality standards and concerns;
- Discuss the University's policy on Retaliation, and the potential consequences for Retaliation;
- Consider the Complainant's wishes with respect to Supportive Measures and determine if any Supportive Measures need to be put in place, including but not limited to academic accommodations, No Contact orders, or housing accommodations, with or without filing a complaint;
- Provide in writing information about the importance of preserving relevant evidence or documentation;
- Provide in writing information about potential resolution processes, including informal and formal resolutions;
- Explain the steps in a formal grievance process;
- Explain the right to an Advisor
- Learn of the Complainant's desire for resolution.

### **ii. Respondent**

If the Complainant submits a Formal Complaint, or if the Title IX Coordinator determines that the University must investigate a report, the Title IX Coordinator will send the Respondent a Notice of Allegations and Investigation. Included in the NOAI will be a meeting time with the Title IX Coordinator, and the following information:

- Information about the University's formal and informal resolution processes;
- A statement of the allegations of behavior potentially constituting Prohibited Conduct, including sufficient details known at the time and with sufficient time to prepare a response before any initial post-intake interview. Sufficient details include the identities of the parties involved in the incident, if known,

the conduct allegedly constituting Prohibited Conduct, and the date and location of the alleged incident, if known;

- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Information regarding the University's presumption of good faith reporting and a summary of the University's false information policy (stated above);
- Notification that parties may have an Advisor of their choice, who may be, but is not required to be, an attorney;
- Notification of existing counseling, health and mental health services available on campus and/or in the community; and
- Notification that taking any retaliatory action (directly or through others) against any person because they are involved in the investigation is prohibited and will be considered a separate violation of University policy.

In Sexual Harassment cases, the notice will also notify parties that they may inspect and review evidence during the investigation and resolution process, as provided below.

If in the course of an investigation the University decides to investigate allegations about any party that are not included in the notice described above, it will provide notice of the additional allegations to the parties whose identities are known.

At the initial meeting, the Title IX Coordinator will do the following, as applicable:

- Provide details of the complaint filed, including if possible, the name of the Complainant and the date, location, and nature of the alleged misconduct;
- Provide in writing the Respondent's rights under the policy;
- Provide a resource folder;
- Provide in writing instructions on how to access the policy;
- Provide in writing information regarding support services including but not limited to mental health and health services;
- Provide in writing the University's procedures for resolution of the complaint;
- Explain the steps in a formal Title IX investigation;
- Explain the right to an Advisor;
- Discuss confidentiality standards and concerns;
- Discuss the University's policy on Retaliation, and the potential consequences for Retaliation;
- Inform the Respondent of any Supportive Measures that have been put in place with the Complainant that directly affect the Respondent and determine whether the Respondent desires any Supportive Measures
- Learn of the Respondent's willingness to engage in an Informal Resolution

### **C. Violence Risk Assessment**

The Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted as part of an initial assessment or otherwise in connection with a report, investigation or resolution process. A VRA can aid in several determinations, including but not limited to determinations regarding:

- Emergency removal of a Respondent on the basis of an immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint even if that is not requested by a Complainant;
- Whether reported circumstances may involve a pattern of Prohibited Conduct and/or climate-related issues;
- Whether reported circumstances may involve potential predatory conduct and/or grooming behaviors;
- Whether it is appropriate to try to resolve a complaint through informal resolution, and what modality may be most successful and appropriate;
- Whether a No-Trespass Order is needed.

#### **D. Dismissal for Title IX Purposes**

When a Complainant requests an investigation, the Title IX Coordinator will promptly upon receipt of a formal complaint:

- 1) determine whether the conduct alleged would, if proved, constitute Title IX Sexual Harassment (i.e., *Quid Pro Quo* Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual Assault, or Domestic Violence, Dating Violence or sex-based Stalking) as defined in the Title IX Sexual Harassment definition stated above;
- 2) determine whether the conduct allegedly occurred in the University's education program or activity;
- 3) determine whether the conduct allegedly occurred in the United States; and
- 4) determine whether at the time the formal complaint was made, the complainant was participating or attempting to participate in a University program or activity.

If a formal complaint of conduct that would, if proved, satisfy all four of these elements and constitute Title IX Sexual Harassment as defined in this policy is filed by a Complainant or signed by the Title IX Coordinator, it will be investigated and resolved through the procedures applicable to Title IX Sexual Harassment matters as outlined below.

The University will, as noted above, investigate alleged Title IX Sexual Harassment when a Complainant submits a signed or electronically-submitted formal complaint to the Title IX Coordinator and requests an investigation. The Title IX Coordinator may also choose at their discretion to sign a formal complaint and initiate an investigation, even if the Complainant chooses not to do so. Again, in cases where the Complainant does not wish to submit a formal complaint but the Title IX Coordinator decides in their discretion to sign a complaint and initiate an investigation and resolution process, the Title IX Coordinator will not be a Complainant or otherwise a party to the matter.

If some but not all of the conduct alleged in the complaint satisfies all four of these elements and a formal complaint is received from a Complainant or signed by the Title IX Coordinator, the University will address the entire matter through the procedures applicable to Title IX Sexual Harassment matters as outlined below (that is, it will as required by federal regulations follow Title IX Sexual Harassment procedures to address the alleged Title IX Sexual Harassment, and it may, to promote efficiency, choose to follow Title IX Sexual Harassment procedures to address Non-Title IX Sexual Harassment and Sexual Misconduct and other non-Title IX alleged misconduct in such mixed cases, so that all related misconduct may be addressed through one investigation and resolution process).

If it appears based upon initial review or upon information gathered during an investigation that the matter does not satisfy and/or no longer satisfies all 4 of these elements, the University will, as required by the May 2020 Title IX regulations, dismiss the matter for purposes of the Title IX, and will process it under the appropriate procedures outlined here or in other University procedures, as deemed appropriate by the University. Investigation and resolution of a matter that does not fall within the definition of Title IX Sexual Harassment may be pursued, dismissed altogether, or transferred to another University process, as deemed appropriate in the University's discretion and/or as appropriate under applicable law.

Even if the initial allegations of a matter fall within the definition of Title IX Sexual Harassment, the University may (but is not required to) dismiss a formal complaint or any allegations therein if at any time during the investigation or resolution process:

- 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 at or employed by the University; or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If a formal complaint is dismissed by the University under the circumstances described above, the University will simultaneously provide to the parties written notice (by electronic or other means) of the dismissal and the reasons for the dismissal, and notice of the parties' opportunity to appeal such dismissal through the Title IX Sexual Harassment appeal procedures outlined below.

If the Respondent is a student and an employee, the Title IX Coordinator will determine which procedures apply based upon the facts and circumstances, such as whether the Respondent's status as a student or an employee predominates in the context of the Prohibited Conduct. If a student-employee is found to have engaged in Prohibited Conduct, the student-employee may be subject to sanctions both in connection with their employment, and in connection with their student status, as appropriate under these and other applicable procedures.

## **E. Resolution of Reports Without a Formal Process**

Reports that fall within the scope of this policy may be resolved without a formal investigation and resolution process, in one of two circumstances, as follows:

1. When the parties resolve the matter through an alternate resolution mechanism; or
2. When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process.

### **i. Alternate Resolution**

Alternate Resolution is a voluntary and remedies-based resolution that does not involve taking disciplinary action against a Respondent. The aim of Alternate Resolution is not to determine whether there was intent to engage in conduct in violation of this policy, but rather to ensure that the alleged offending behavior ceases and that the matter is resolved promptly at the appropriate level. Mediation or other informal resolution processes are permitted but the University will not require the parties to engage in an alternate resolution process. It is not necessary to pursue Alternate Resolution first in order to pursue a Formal Resolution Process, and any party participating in Alternate Resolution can stop the process at any time prior to completion and begin or resume the Formal Resolution Process. Alternate Resolution is not available for allegations of Title IX Sexual Harassment unless a Formal Complaint has been filed.

The University may facilitate an Alternate Resolution process at any time prior to reaching a determination regarding responsibility. Prior to facilitating Alternate Resolution, the University will provide the parties with written notice of: the allegations; the requirements of the alternate resolution process including the circumstances under which the University precludes the parties from resuming a formal complaint arising from the same allegations (on this point, the University generally permits parties to withdraw from the alternate resolution process and initiate or re-initiate a formal investigation and resolution process at any time before the alternate resolution process is completed and any alternate resolution is agreed to in writing by the parties); and any consequences resulting from participating in the Alternate Resolution process, including information regarding any records that will be maintained or shared by the University. The notice will also state that the parties have the right to be accompanied by an advisor.

The University will obtain voluntary, written confirmation that all parties wish to resolve the matter through Alternate Resolution before proceeding and will not pressure the parties to participate in Alternate Resolution. The University will not offer or facilitate an alternate

resolution process to resolve allegations that an employee engaged in Title IX Sexual Harassment of a student. Upon successful resolution of a matter through Alternate Resolution, all parties who have participated in the Alternate Resolution process will be provided with a Notice of Completion of Alternate Resolution, which will state the terms of the resolution and all parties' agreement to those terms.

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Any violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is or was needed;
- Complaint complexity;
- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

If at any point during an Alternate Resolution process, either the Complainant or the Respondent communicates dissatisfaction with the process and the Title IX Coordinator deems it appropriate, the Title IX Coordinator can terminate the informal resolution and initiate or re-initiate a formal investigation and resolution process.

The Title IX Coordinator has the discretion to make the ultimate determination of whether Alternate Resolution is available or whether a particular proposed resolution agreement resolves the matter appropriately. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Once parties have agreed upon and signed a written Alternate Resolution agreement, the formal resolution option is no longer available with respect to the allegations resolved in the Alternate Resolution agreement. Results of complaints resolved by Alternate Resolution are not appealable.

## **ii. Respondent Accepts Responsibility**

A Respondent may, after receiving written notice of the allegations and their rights to request Supportive Measures and participate in a formal resolution process as detailed above, accept responsibility for all or part of the alleged policy violations at any point during a resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether an alternate resolution can be used to resolve the matter. If so, the matter will proceed to Alternate Resolution and the parties will receive all of the notices and procedural rights outlined in the Alternate Resolution process above.

If a Respondent, after receiving written notice of the allegations and their rights to request Supportive Measures and participate in a formal resolution process as detailed above, indicates and confirms in writing that they wish to accept responsibility and any sanctions deemed appropriate by the University, the Director of Student Conduct will determine appropriate sanctions. The parties will receive notice simultaneously of the sanctions. No appeal of the finding of responsibility or sanctions will be available in such circumstances.

## **F. Formal Investigation**

The University may consolidate formal complaints as to allegations of Sexual Harassment and/or Sexual Misconduct 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 of such Prohibited Conduct 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.

Unless specifically provided otherwise below, the following procedures will apply generally to cases involving allegations of Sexual Harassment and Sexual Misconduct.

1. The Title IX Coordinator will assign or retain an Investigator. A notice of investigator letter will be sent to both the Complainant and the Respondent. In this letter the full name of the Investigator will be provided to the parties. Each party will have 48 hours to object to the Investigator's appointment on the grounds that the Investigator has a bias for or against Complainants or Respondents generally or a particular Complainant or Respondent, or has a conflict of interest. Objections must be made in writing and sent to the Title IX Coordinator, who will decide whether or not to appoint an alternate Investigator. This process will be repeated until an Investigator is selected. After this objection timeframe passes, all relevant information to the case will be transferred to the appointed Investigator.
2. It is expected that the Investigator will strive to complete his or her initial draft report on the case within ninety (90) days of receipt of the formal complaint, although the investigation may take longer depending on the complexity of the case, the availability and number of witnesses, timing issues (such as intervening semester breaks), or for other good causes. If the timeframe for the investigation is extended for good cause, the Title IX Coordinator will provide written notice to the parties regarding the extension and the reasons for the extension. The Investigator is authorized to contact any and all individuals, without limitation. The Investigator is authorized to access relevant records, including personnel, grievance and student records, except those deemed confidential or privileged by law.
3. The Complainant and Respondent will be asked to identify all witnesses with

whom they wish the Investigator to speak and questions they wish the Investigator(s) to ask of the other party and witnesses. The Investigator will interview those witnesses who are believed by the Investigator to have first-hand knowledge of the incident or otherwise relevant information. The Investigator is not otherwise required to interview any particular witness, even if identified by one of the parties, though the Investigator will include in their investigative report a rationale for why they did not interview a particular witness identified by one of the parties.

4. Both parties will be provided with timely notice of any hearing, investigative interview or other meeting related to this process that they are invited to or expected to attend. This will include written notice of the date, time location, participants, and purpose of such a hearing, investigative interview or meeting, with sufficient time for the party to prepare to participate. The Title IX Coordinator will schedule all meetings in conjunction with the party's academic course schedule to ensure that neither the Complainant nor Respondent miss classes due to a meeting related to this process. Meeting times will be included in notifications sent by the Title IX Coordinator, at least 24 hours prior to the scheduled meeting. If a party is unable to attend the pre-scheduled meeting they must notify the Title IX Coordinator with the reasoning for the conflict and set up a new meeting time.
5. Prior to the conclusion of the investigation, the Title IX Coordinator will provide the parties and their respective Advisors (if so desired by the parties) a secured electronic copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. Any responses should be submitted to the Title IX Coordinator within this 10 day period. The Title IX Coordinator will make any party's response available to any other party for review.
6. The Investigator will consider the parties' comments, if any, and incorporate relevant elements of the parties' written responses into the final investigation report as deemed appropriate at the investigator's discretion, include any additional relevant evidence, make any necessary revisions, and finalize the report.
7. At the conclusion of the investigation, the Investigator will send the final investigative report to the Title IX Coordinator.
8. The final investigative report created by the Investigator will fairly summarize relevant evidence and include as exhibits evidentiary materials as deemed appropriate by the Investigator. The investigator will not offer recommendations regarding whether or not the policy was violated. At least 10 calendar days prior to the hearing referenced below, the University will send to each party and the

party's Advisor, if any, the final investigative report and exhibits in an electronic format or a hard copy, for their review and written response as detailed below.

## **G. Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the Investigator elects to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

## **H. Evidentiary Considerations in the Investigation**

Investigations will not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent; or 4) information protected under a legally recognized privilege (such as, for example, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), unless the person holding the privilege has waived the privilege..

## **I. Formal Resolution Procedures**

Norwich University utilizes two separate formal resolution procedures to resolve allegations that fall within the scope of this policy. For allegations that, if true, would constitute Sexual Harassment as defined in this policy, the University utilizes a formal grievance process (known as a Formal Hearing Resolution Procedure) that complies with the 2020 Title IX Regulations, 34 CFR Part 106.45. If such an allegation is present, all allegations, including allegations other than Title IX Sexual Harassment, may be processed in the same Formal Hearing Procedure, as noted above, at the discretion of the University.

For all other Prohibited Conduct that falls within the scope of this policy, the Prompt and Equitable Grievance Procedure applies.

Both procedures are preceded by a formal investigation as outlined above.

### **i. Formal Hearing Resolution Procedure**

- 1.) As noted above, upon receipt of the final investigative report, the Title IX Coordinator will send to both the Complainant and Respondent and their

Advisors<sup>4</sup>, the final investigative report and exhibits in an electronic format or a hard copy, for their review and written response. Written responses may address, among other things, the parties' arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant, and/or that evidence identified as directly related but not relevant by the Investigator should be considered relevant. Any written response a party wishes to provide must be submitted to the Title IX Coordinator within 10 days of receiving the final investigative report and exhibits. The final investigative report and the parties' written responses, if any, will be provided to the hearing officer in advance of the hearing, and all directly-related evidence provided to the parties and their Advisors for review during the investigation will be made available at the hearing for use by the parties and their Advisors, including for purposes of cross-examination. Deadlines for parties' review of information and submission of comments may be extended upon request for good cause, at the discretion of the Title IX Coordinator or their designee.

- 2.) Once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing and appoint a Decision Maker<sup>5</sup>. Each party will have 48 hours to object to the Decision Maker's appointment on the grounds that the Decision Maker is biased for or against Complainants or Respondents generally or a particular Complainant or Respondent, or has a conflict of interest. Objections must be made in writing and sent to the Title IX Coordinator, who will decide whether or not to appoint an alternate Decision Maker. This process will be repeated until a Decision Maker is selected. After the objection timeframe passes, all relevant information to the case will be transferred to the appointed Decision Maker.
- 3.) The Decision Maker will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator may be argued to be relevant. The Decision Maker will rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist the parties in their preparation for the hearing. The Decision Maker may consult with the Title IX Coordinator, or ask the Title IX Coordinator to attend pre-hearing meetings.
- 4.) The Decision Maker, after any necessary consultation with the parties, Investigator and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report (including both relevant and directly related, but not

---

<sup>4</sup> In cases involving allegations of Title IX Sexual Harassment, the University will provide an advisor if a party does not have one.

<sup>5</sup> The Title IX Coordinator will select the appropriate Decision-maker(s) depending on whether the Respondent is an employee or a student.

relevant, evidence) to the parties at least ten (10) business days prior to the hearing.

- 5.) Prior to the hearing, the parties should submit to the Decision Maker a statement that identifies the facts that they dispute. The Decision Maker will share with all parties the other party's statement or statements, which will be the focus of the hearing. Facts that are undisputed by all parties may be relied upon by the Decision Maker even if they are not directly discussed in the hearing, so long as all individuals who made out-of-hearing statements relied upon submit to cross-examination at the hearing, as outlined below.
- 6.) The parties may also submit the questions or topics they wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing.
- 7.) Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered at the hearing. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent; or 4) information protected under a legally recognized privilege (such as, for example, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), unless the person holding the privilege has waived the privilege.
- 8.) At the hearing, the Decision Maker has the authority to hear and make determinations on all allegations of Sexual Harassment and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with those aforementioned allegations, even though those collateral allegations may not specifically fall within the Sexual and Gender-Based Misconduct Policy.
- 9.) Ordinarily, but subject to the discretion of the Decision Maker, hearings will open with a statement from the parties (but not their Advisors), followed by questioning of the parties by the Decision Maker. For cases of Title IX Sexual Harassment, each party's Advisor will then be permitted to ask cross-examination questions of the other party. Witnesses will similarly be questioned first by the Decision Maker, and then, in cases involving allegations of Title IX Sexual Harassment, by

the parties' Advisors. Advisors will not be permitted to make opening or closing statements, or to participate actively in the hearing other than through their posing of cross-examination questions. For cases that do not involve allegations of Title IX Sexual Harassment, parties may submit the questions they would like asked of other parties or witnesses to the Decision Maker, but their advisors will not be allowed to cross-examine other parties or witnesses.

- 10.) All questions are subject to a relevance determination by the Decision Maker. During a hearing on allegations of Title IX Sexual Harassment, the Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Decision Maker upon request or agreed to by the parties and the Decision Maker), the proceeding will pause to allow the Decision Maker to consider it, and the Decision Maker will determine whether the question will be permitted, disallowed, or rephrased.<sup>6</sup> The Decision Maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.
- 11.) If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to respond to relevant cross-examination questions posed by an Advisor, then the Decision Maker may not rely on any prior statement made by that party or witness (including those contained in the investigative report) in the ultimate determination of responsibility. The Decision Maker must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.<sup>7</sup>
- 12.) The Decision-maker will determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof (that is, whether the evidence considered establishes that it is "more likely than not" that the policy was violated) is used.
- 13.) Within five (5) business days the Decision Maker will then prepare and deliver to the Title IX Coordinator a written Notice of Outcome regarding whether the Respondent is or is not responsible for the policy violation(s) in question. The Notice of Outcome will include:

---

<sup>6</sup> The Decision Maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Decision Maker has final say on all questions and determinations of relevance, subject to any appeal. The Decision Maker may consult with legal counsel on any questions of admissibility. The Decision Maker may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Decision Maker has ruled on a question.

<sup>7</sup> This evidence rule applies only to allegations of Title IX Sexual Harassment. For allegations that have been dismissed for the purposes of Title IX or for cases that involve allegations of Non-Title IX Sexual Harassment, Sexual Misconduct, or other violations of University policies, the Decision Maker may consider any prior statement of a party regardless of whether or not they submit to cross examination/answer questions during the hearing.

- Identification of the section(s) of the University's Title IX Sexual Harassment policy alleged to have been violated;
- A description of the procedural steps taken from the receipt of the complaint through the determination, including but not limited to, as applicable, any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of definitions of sexual harassment in the University's Title IX Sexual Harassment Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility and, where necessary and in collaboration with the sanctioning officer, a statement regarding any sanctions and the rationale therefor; and
- Identification of the University's procedures and permissible bases for the Complainant and Respondent to appeal (as outlined below). The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely. The determination will also notify the parties whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant, but will not provide details about any such remedies. If sanctions are necessary, they will be assigned in accordance with the Sanctions section below.

14.) In cases where the Decision Maker determines that the Respondent is responsible for a policy violation, the Title IX Coordinator will share the Decision Maker's determination with the appropriate personnel who will assign sanctions<sup>8</sup>.

15.) The Title IX Coordinator will share the Notice of Outcome with the parties simultaneously.

The time periods prescribed in this procedure for actions by the Title IX Coordinator or the Investigator are intended not as rigid rules, but rather as guidelines to which all are expected to adhere in good faith to the extent practicable. The Title IX Coordinator may exercise reasonable discretion to extend deadlines when he or she

---

<sup>8</sup> For employee respondents, this is the Director of Human Resources and for student respondents this is the Director of Student Conduct.

considers that action necessary or appropriate, and will provide notice to the parties if that occurs.

Parties may request investigative updates at any time throughout the process.

### **Introduction of new evidence or witnesses at the hearing**

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator, unless all parties and the Decision Maker's assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Decision Maker do not assent to the admission of relevant evidence newly offered at the hearing, the Decision Maker has the discretion to delay the hearing and instruct that the investigation needs to be re-opened to include that evidence.

### **Alternative Hearing Participation Options**

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing.

The Title IX Coordinator or their designee can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

### **Recording Hearings**

Hearings are recorded by the University for purpose of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

### **ii. Prompt and Equitable Formal Grievance Procedure (For Resolution of Sexual Misconduct Cases)**

- 1.) Upon receipt of the final investigative report, the Title IX Coordinator will make available to the Complainant, the Respondent and their Advisors a copy of the report and any exhibits for their review.
- 2.) The parties will have five (5) days to review the investigative report and exhibits and to respond in writing. Both parties may request to meet with the Title IX Coordinator

to elaborate on their response or to ask any clarifying questions of the report. The additional information from these writing responses and individual meetings with the Title IX Coordinator will be added to the investigative report as an addendum to the report, as deemed appropriate by the Title IX Coordinator. Such meetings will be audio-recorded, and the parties and their Advisors will be permitted a timely and equal opportunity to review the audio-recording under conditions proscribed by the Title IX Coordinator (which will not permit the copying of the audio recording)

- 3.) Using the investigative report, its exhibits, and any addendum, the Title IX Coordinator will review all evidence and facts and make a determination regarding whether or not the Respondent is responsible for a policy violation. In determining whether a violation of the policy occurred, the Title IX Coordinator must conclude that misconduct in violation of this policy has been proven by a preponderance of evidence; i.e., that it was more likely than not that misconduct in violation of this policy occurred.
- 4.) The Title IX Coordinator will determine whether or not a violation of the policy has occurred and refer the finding to the appropriate office to determine what sanctions will be imposed, if applicable<sup>9</sup>. Substantiated prior complaints may not be used to substantiate the current complaint; however, substantiated prior complaints may be considered by the Investigator and/or the Title IX Coordinator to the extent relevant in assessing the credibility of the person accused, ascertaining if a pattern of conduct exists. Prior conduct determinations may also be considered by the sanctioning officer to determine what level of disciplinary action is appropriate, where applicable.
- 5.) The Title IX Coordinator will simultaneously notify the Complainant and the Respondent in writing of the outcome of the investigation within five (5) days of the final addendums being added to the report, which will include the rationale for the result and any sanctions.
- 6.) This Notice of Outcome will include: a statement detailing the determination, rationale, the evidence relied upon to support of its determination, the rationale for any sanctions, and a description of or citation to the procedures for the parties to appeal.

The time periods prescribed in this procedure for actions by the Title IX Coordinator or the Investigator are intended not as rigid rules, but rather as guidelines to which all are expected to adhere in good faith to the extent practicable. The Title IX Coordinator may exercise reasonable discretion to extend deadlines when he or she considers that action necessary or appropriate, and will provide notice to the parties if that occurs.

Parties may request investigative updates at any time throughout the process.

## **J. Appeal Process**

---

<sup>9</sup> For employee respondents, the sanctioning officer is the Director of Human Resources and for student respondents this is the Director of Student Conduct.

Both parties shall have the right to appeal the Title IX Coordinator's dismissal of a formal complaint for Title IX purposes or the outcome of a formal resolution process, based on the following grounds

- The introduction of new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- That the evidence was/was not sufficient to support a policy violation;
- The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter;
- There was a procedural irregularity that affected the outcome of the matter; and/or
- The sanctions were not appropriate to the violation.

Appeals must be submitted in writing to the Title IX Coordinator within five (5) business days of receipt of the notification of the decision. An appeal will not be considered if submitted after the allotted 5 days have elapsed. The other party will be notified of the appeal and the grounds the appeal was filed under. Any sanctions imposed in the Notice of Outcome are stayed during the appeal process.

The appellate authority may consult with individuals as deemed necessary in order to reach his/her decision. The appellate authority will communicate his/her decision to the Complainant and Respondent in writing within five (5) days of the date of the appeal with a copy to the Title IX Coordinator.

#### **i. Appeal Procedures**

Any party may appeal a determination regarding responsibility under the grounds set forth in Sexual and Gender-Based Misconduct Policy. Supportive measures may be continued or reinstated by the Title IX Coordinator during the appeal process, subject to the Supportive Measure procedures outlined above. If no appeal is filed, or an appeal is not timely, the original finding will stand, effective on the date the appeal period expires. The appeal procedures herein are implemented equally for all parties.

1. Upon delivery of the Notice of Outcome, both parties may submit an appeal to the Title IX Coordinator within 5 business days. Following receipt of a Notice of Dismissal for the Purposes of Title IX, the parties may submit an appeal to the Title IX Coordinator within 5 business days.
2. An appeal must articulate the specific ground(s) for the appeal and provide a statement and/or evidence in support of or challenging the responsibility determination or dismissal decision.
3. The Title IX Coordinator will promptly confirm receipt of the appeal and notify the other party of the filing of the appeal by distributing a written Notice of Appeal to both parties.

4. The Title IX Coordinator will determine if the appeal is timely. If the appeal is timely, the Title IX Coordinator will:
  - a. Appoint an Appeal Officer to decide the appeal. The Appeal Officer is independent of the previous process, including from any dismissal appeal that may have been heard earlier in the process.
  - b. Provide the identity and contact information for the Appeal Officer to the parties.
  - c. If both parties submit appeals (i.e., cross-appeals or counter-appeals), the same Appeal Officer will decide both appeals individually, but contemporaneously. The same Appeal Officer will decide any appeals arising from the same facts and circumstances.
5. The parties shall have 24 hours to object to the appointment of the Appeal Officer, in writing, on bases of perceived bias or conflict of interest.
  - i. The bases of objection must be articulated in writing.
  - ii. The Title IX Coordinator has the sole authority to determine whether to replace the Appeal Officer and that decision is final.
6. When the selection of the Appeal Officer is final, the Title IX Coordinator will provide the appeal to the Appeal Officer.
7. The parties are entitled to an advisor during the appeal process.
8. The Appeal Officer will review the appeal and determine whether it articulates a valid ground or grounds for appeal pursuant to the Appeals section of the Sexual and Gender-Based Misconduct Policy.
9. If an appeal does not articulate a valid ground or grounds for appeal, the Appeal Officer will dismiss the appeal, in writing, for failing to articulate a valid ground for appeal. The Appeal Officer will communicate the dismissal decision to the parties simultaneously.
10. If the Appeal Officer determines the appealing party has articulated valid grounds for appeal, the Appeal Officer will notify the parties simultaneously.
11. Following this notification, the non-appealing party has 2 business days to submit a written response to the appeal to the Appeal Officer, which will be provided to the appealing party.
12. An appeal of a determination on responsibility is not a review of the entire matter; rather, it is an objective review of the written documentation related to the investigatory and hearing processes and record of the Hearing, along with the appeal-related submissions authorized herein.
13. The Appeal Officer is to defer to the original findings and determination, remanding only when there is clear reason to do so, and modifying the outcome and sanction(s) only when there is a compelling justification to do so.
14. The Appeal Officer may take one of three possible actions on appeal:
  - a. Dismiss the appeal for failure to meet the grounds of appeal, upholding the initial outcome and sanction(s), if applicable.
  - b. Remand to the original investigator or hearing panel with specific instructions on the remanded issue(s).

- c. Modify the outcome and/or sanction with a rationale supporting the modification.
15. Within five (5) days of the date of the appeal, a Notice of Appeal Outcome will be sent to all parties and the Title IX Coordinator simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law.
16. The Appeals Officer's decision is final and there are no further appeal options.
17. If a sanction is imposed, the Title IX Coordinator will coordinate the implementation of the sanction. The Title IX Coordinator will also coordinate and implement the remedies owed to the Complainant and implement any other long-term support measures, as necessary.

## **K. Sanctions**

If it is determined that this policy has been violated, sanctions will be reasonably calculated to attempt to prevent reoccurrence and promote or restore the Complainant's equal access to the University's education programs and activities. Prior violations of University policy and sanctions will be taken into consideration in determining appropriate sanctions. Sanctions for violations of this policy range from reprimand through expulsion/termination. Sanctions may include, but are not limited to, any of the following:

- change of job or class assignment (e.g., removing a person from being in a position to retaliate or further affect the complainant);
- writing a letter of apology to the Complainant;
- mandatory attendance at an appropriate educational class, program, or training;
- written reprimand or other form of discipline documented in writing;
- relevant community service;
- prohibiting a student from holding office or participating in student activities, including sports, for a specified time;
- transferring a student to different housing or banning him or her from University housing facilities;
- disciplinary probation;
- suspension;
- change in or limitation of job duties;
- referral to another University process for the determination of an employee Respondent's employment status, as required under other applicable staff or faculty procedures; or
- termination or dismissal.

In addition to the above-listed potential sanctions, a Respondent, or any other party, may at any time be referred to other University disciplinary processes because of information obtained from the complaint resolution process. Non-disciplinary measures as deemed appropriate in the discretion of the University (including but not limited to no-contact orders or housing relocation) may be implemented, even in cases where a policy violation was not found.

## **L. Remedies**

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, prevent reoccurrence, and promote or restore the Complainant's equal access to University programs and activities.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the University to the Respondent to ensure no effective denial of educational access.

The University will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the University's ability to provide these services.

## **17. EDUCATION, COMMUNICATION AND TRAINING**

All students and employees within our campus community deserve to feel safe and supported. Norwich University prohibits the crimes of dating violence, domestic violence, sexual assault, and

stalking and works year-round to provide you with education, tools, and resources to recognize concerning or harmful behaviors and strategies for intervening or to help others get the support they need.

As part of these efforts, Norwich University provides primary prevention and awareness campaigns for all incoming students and new employees as well as ongoing prevention and awareness campaigns for all students and employees.

These programs are comprehensive, intentional, and integrated programs, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking.

Norwich University considers our own unique campus when designing these programs, to ensure they are:

- Culturally relevant
- Inclusive of diverse communities and identities
- Sustainable, so the programs can continue to benefit our campus community
- Responsive to community needs; and
- Informed by research or assessed for value, effectiveness or outcome

The University also considers environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels, so that we can address actual issues that may influence how or if violence is occurring within our own community and how the programs can meet our collective needs.

All of the programs will reinforce that dating violence, domestic violence, sexual assault, and stalking is unacceptable (and prohibited) within our campus community. These programs will:

- Address how we define these terms under University policy.
- Address the definitions of dating violence, domestic violence, sexual assault, and stalking within our jurisdiction.
- Discuss safe and positive options for bystander intervention. This is an important part of our prevention philosophy on our campus, so you can also find some of these strategies listed below.
- Share information on risk reduction, options that work to decrease perpetration and bystander inaction and increase empowerment for victims of these crimes. The goal is to promote safety overall and help our institution address any conditions that might facilitate violence within our own community.
- Give you more information about the University disciplinary process

## **A. Primary Prevention and Awareness**

<b>PRIMARY PREVENTION</b>	<b>AWARENESS</b>
<p>Primary prevention programs are those that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.</p> <p>In the descriptions of our programs below, you'll get a sense of what programs focus on these ideas and encourage you and your peers to intervene if appropriate.</p>	<p>Awareness programs are programs that are community-wide (anyone can access) or audience-specific (targeted towards a certain segment of our community or students or employees specifically) that increase your knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.</p> <p>Our awareness programs may address primary prevention specifically, but may also raise your own knowledge about these types of crimes and how they can impact a campus community.</p>

## **B. Bystander Intervention**

Bystander intervention involves safe and positive options that might be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking.

*Bystander intervention includes:*

- Recognizing situations of potential harm
- Understanding institutional structures and cultural conditions that facilitate violence;
- Overcoming barriers to intervening;
- Identifying safe and effective intervention options; and
- Taking action to intervene.

You'll learn more about these options in the programs described below, but here are a few strategies for bystander intervention to consider:

*Safety is Your Top Priority*

Before jumping into a potentially dangerous situation, be smart and think about your own safety.

Ask yourself these questions:

- How can I keep myself safe in this situation?
- What are all the options available?
- Who else might be able to assist me?
- Aside from safety in numbers, you may have more influence on the situation when you work together with someone else or even several people.

*The 3 "D"s of Bystander Intervention*

Remember the 3 "D"s in your role as an active bystander:

- Direct: Directly confront the inappropriate behavior
- Distract: Draw away or divert attention.

- Delegate: Reach out to someone else for help, like Public Safety or the Police.

#### *Examples of Bystander Intervention*

- Direct: Point out threatening or inappropriate behavior in a safe, respectful manner.
- Distract: Make up an excuse to help the friend get away from someone who might pose danger (Let's go dance!)
- Delegate: Alert a bartender or party host that someone has had too much to drink.

### **C. Risk Reduction**

Risk reduction refers to tools/strategies/behaviors/options that decrease perpetration and bystander inaction and promote victim empowerment.

Notice that our definition of risk reduction includes giving bystanders tools to overcome barriers that might lead them not to intervene, so all the tips provided above are not just bystander intervention, but can also be considered risk reduction. It is up to us as a community to look out for one another and create the safe environment all our students and employees deserve.

While victim-blaming is never appropriate, and Norwich fully recognizes that only those who commit sexual misconduct are responsible for their actions, the institution provides the suggestions that follow to help individuals reduce their risk of being victimized and their risks of committing acts of sexual misconduct.

#### *Reducing the Risk of Victimization*

- Make any limits/boundaries you have known as early as possible
- Clearly and firmly articulate consent or lack of consent
- Remove yourself, if possible, from an aggressor's physical presence
- Reach out for help, either from a person who is physically nearby or by calling someone. People around you may be waiting for a signal that you need help
- Take affirmative responsibility for your alcohol and/or drug consumption. Alcohol and drugs can increase your vulnerability to sexual victimization
- Look out for your friends, and ask them to look out for you. Respect them, and ask them to respect you, but be willing to challenge each other about high risk choices

#### *Reducing the Risk of Being Accused of Sexual Misconduct*

- Show your potential partner respect if you are in a position of initiating sexual behavior
- If a potential partner says "no," accept it and don't push. If you want a "yes," ask for it, and don't proceed without clear permission
- Clearly communicate your intentions to your potential sexual partner, and give them a chance to share their intentions/boundaries with you
- Respect personal boundaries. If you are unsure what is okay in any interaction, ask
- Avoid ambiguity. Don't make assumptions about consent, about whether someone is attracted to you, how far you can go with that person, or if the individual is physically and mentally able to consent. If you have questions, or are unclear, you don't have consent.
- Don't take advantage of the fact that some may be under the influence of drugs or alcohol, even if that person chose to become that way. Others' loss of control does not put you in control
- Be on the lookout for mixed messages. That should be a clear indication to stop and talk about what your potential partner wants or doesn't want to happen. That person may be undecided about how far to go with you, or you may have misread a previous signal.

- Respect the timeline for sexual behaviors with which others are comfortable, and understand that they are entitled to change their minds
- Recognize that, even if you don't think you are intimidating in any way, your potential partner may be intimidated by or fearful of you, perhaps because of your sex, size, social capital, or a position of power or authority you might hold
- Don't assume that someone's silence or passivity is an indication of consent. Pay attention to verbal and non-verbal signals to avoid misreading intentions
- Understand that consent to one type of sexual behavior does not automatically grant consent to other types of sexual behaviors. If you are unsure, stop and ask.
- Understand that exerting power and control over another through sex is unacceptable conduct.

As you can see from some of the tips and information we've included above, we stress in our programming the need for consent and respecting a partner's boundaries at all times, especially when engaging in sexual activity, not pressuring others to consume alcohol or any other harmful behaviors; and reinforcing resources within the community to access safe rides or other safety support.

#### D. Programs Offered

Below is information on the programs we offer – we hope we'll see you at some of them this year. For more information on some of these offerings, or to request a training or program, email or call the University's Title IX Coordinator at [dslauzis@norwich.edu](mailto:dslauzis@norwich.edu) or (802) 485 2144.

<b>PROGRAM NAME/DESCRIPTION</b>	<b>WHO IS IT FOR?</b>	<b>WHEN/HOW CAN I ACCESS IT?</b>
<b>Title IX Refresher</b> – Review University policy and procedures around sexual and gender based misconduct, including defining dating violence, domestic violence, sexual assault, and stalking, and reviewing University jurisdiction, reporting options, resolution procedures, and risk reduction behaviors.	Students	At the start of every academic year  This training is also hosted for student staff members (Resident Assistants and Corps Leaders) at the start of the academic year.
<b>Intro to Title IX</b> - Review University policy and procedures around sexual and gender based misconduct, including defining dating violence, domestic violence, sexual assault, and stalking, and reviewing University jurisdiction, reporting options, resolution procedures, and risk reduction behaviors.	First Year Students	During Fall and Spring Orientation

<b>PROGRAM NAME/DESCRIPTION</b>	<b>WHO IS IT FOR?</b>	<b>WHEN/HOW CAN I ACCESS IT?</b>
<b>Intervene</b> - this program goes over different scenarios and helps participants think through how they would respond to those scenarios, and reviews the resources and support services available to help a bystander who wants to intervene.	Students/Staff/Faculty	Students: Early spring semester for civilian students, throughout the year at Friday and Tuesday afternoon trainings for corps of cadets
<b>Implicit Bias Training</b> – Understand how implicit bias and unconscious beliefs can impact our actions and who we see as a victim and as perpetrator, and have tools to be impartial and compassionate upstanders.	Staff/Faculty	At staff retreat/on demand
<b>Preventing, Recognizing, and Reporting Sexual Misconduct Training</b> - Review and define dating violence, domestic violence, sexual assault, and stalking, focusing on understanding their prevalence in society and identifying warning signs. Review University jurisdiction, reporting options and requirements, resolution procedures, and risk reduction behaviors.	Staff/Faculty	Online course assigned in the Fall Semester every year
<b>Sex Signals</b> – this program uses humor to go over topics like consent, safe and healthy sexual interactions, and how to help your peers who might be in an unsafe situation.	First Year Students	Fall Orientation
<b>Ongoing Tips</b> – the LEAP Instagram account regularly posts information about supportive resources, consent, and ongoing programs.	Students/Staff/Faculty	Ongoing online

In addition to the above programs that are offered every year, the University also hosts a variety of other prevention and awareness programs throughout the year. These programs change from year to year to best address the needs of the community, but have include the following in the past:

- Ask the Sexpert – a program focused on creating a safe space to ask a licensed sexologist questions about safe sexual practices
- Healthy Relationships – Partnering with Washington County’s local advocacy agency to offer a program that focuses on how to build a healthy relationship, and what to do if you are in an unhealthy relationship
- My Stalking Story – bringing in speakers to share their experience with stalking and resources available to help
- Responding to a Crisis and Knowing your Resources – Legal and law enforcement experts share tips for keeping yourself safe, and how to safely intervene in dangerous situations
- Cyber Security – A program geared towards helping people learn safe online habits, and what to do if you are being harassed online
- SafeZone Training – Training geared towards raising awareness around LGBTQIA+ topics, resources, and support services, and providing tools to be allies.
- Intervene: Distracted Driving Edition
- A Call to Men – unpacking masculinity and understanding how men can help end toxic expectations around what it means to be a man

## **18. QUESTIONS, NOTICE, AND SUPERSEDING OF PRIOR POLICIES**

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made to the Title IX Coordinator.

This policy is subject to change to comply with changes in relevant laws or University operating procedures. If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This policy supersedes all previous Norwich University policies and procedures that covered some or all of the areas addressed in this policy.