

Definitions

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

Certain words used in the Power Based Violence/Title IX Policy and its related procedures have defined meanings. These defined words are listed below for your reference.

Where starred (*), the terms listed herein are defined as stated in the Louisiana Board of Regents' Uniform Policy on Sexual Misconduct.

1. **Advisor:** is any individual who provides Complainant or Respondent support, guidance, or advice.
2. **Appellate/Appeal Committee:** is the designated person or group of individuals appointed by the Title IX Officials to make determinations of whether a Policy violation occurred, and if so, what steps will be followed, based on evidence presented during an Appeal Review.
3. **Appeal Review:** is a component of the Appeal process in which the appellate or appeals committee reviews evidence and makes a determination of whether a Policy error or bias occurred, or whether new evidence was not available at the time of the hearing and whether the new evidence could change the outcome of the hearing. If it is determined that any of these occurred, then next steps will be decided by the appellate or appeals committee.
4. **Coercion*:** is the use of express or implied threats, Intimidation, or physical force which places an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. Coercion also includes administering a drug, intoxicant, or similar substance with the intent to impair that person's ability to Consent prior to engaging in sexual activity.
5. **Complainant:** is an individual alleged to have been affected by Sexual Harassment or other Prohibited Sexual Conduct in violation of the Policy, regardless of whether a formal complaint has been filed.
6. **Confidential Advisor:** individuals designated, to the extent authorized under law, to provide confidential services to Complainants
 - a. The Confidential Advisor shall be authorized to advise a Complainant of, and provide written information regarding, both Complainant's rights and the

University's responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction or by the University.

b. The Confidential Advisor may, as appropriate, serve as a liaison between Complainant and the University or local law enforcement when directed to do so in writing by Complainant who has been fully and accurately informed about what procedures shall occur if information is shared, and assist Complainant in contacting and reporting to an Official with Authority, the Title IX Coordinator, or local law enforcement.

c. The Confidential Advisor shall not be obligated to report crimes to the University or law enforcement in a way that identifies Complainant or Respondent, unless otherwise required to do so by law. However, for the purpose of Clery reporting they will need to report the crime type and other non-identifying information.

7. **Consent***: Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Silence alone, without actions evidencing permission, does not demonstrate Consent. Consent must be knowing and voluntary. To give Consent, a person must be of legal age. Assent does not constitute Consent if obtained through Coercion or from an individual whom the Alleged Offender [herein, Respondent] knows or reasonably should know is Incapacitated. The responsibility of obtaining Consent rests with the person initiating sexual activity. Use of alcohol or drugs does not diminish one's responsibility to obtain Consent. Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of Consent has been expressed, the sexual activity must cease. Consent is automatically withdrawn by a person who is no longer capable of giving Consent. A current or previous consensual dating or sexual relationship between the parties does not itself imply Consent or preclude a finding of responsibility. Note: Consent is a voluntary agreement to engage in sexual activity. Consent to engage in sexual activity with one person does not imply Consent to engage in sexual activity with another. Coercion, force, or threat of either invalidates Consent.
8. **Consensual**: agreed to by mutual Consent.
9. **Campus Security Authority (CSA)***: a CSA is a person referred to as a campus security authority by the Clery Act. CSAs are a vital part of data collection for the

annual safety and security report. The Clery Act requires [the University] to provide an annual safety and security report. In addition to input from law enforcement, certain staff positions are designated as Campus Security Authorities (CSA) for the purpose of providing information for this report. CSAs are usually found in departments responsible for, but not limited to, student and campus activities, safety/security, discipline, housing, athletics, human resources or judicial proceedings. This designation also includes any individual who has been specified by [the University] to receive and report offenses. CSAs are responsible for reporting the number of crimes and incidents as described in the Clery Act that occur in their department to the [University] Police Department. These numbers are then included in the federally mandated Clery Report, which is distributed annually during the month of October.

10. Dating Violence*: is

a. **Dating Violence definition in Clery Act:** violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Alleged Victim. The existence of such a relationship will be determined based on a consideration of the length and type of relationship and the frequency of interaction.

b. **Dating Violence definition in Louisiana law:** Dating Violence includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one dating partner against the other. La. R.S. § 46.2151(C). For purposes of this Section, “dating partner” means any person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- i. The length of the relationship;
- ii. The type of relationship; and
- iii. The frequency of interaction between the people involved in the relationship.

11. Day: a calendar day.

12. Decision Maker/Hearing Panel: is an individual or a group of trained individuals who conduct the live hearing and issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct

occurred, rationale for the result as to each allegation, and any disciplinary sanctions and/or remedies.

13. Domestic Abuse*: is

a. **Domestic Abuse definition in Louisiana law:** includes but is not limited to physical or sexual abuse is an individual who must issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, and any disciplinary sanctions and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. La. R.S. 46:2132(3).

b. **Domestic Abuse as additionally defined by the University:** is abuse or violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person with whom the Complainant is cohabiting (or has cohabited) with, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Louisiana.

14. Domestic Violence*: is

Domestic Violence definition in Clery Act: violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a current or former spouse or intimate partner or any other person from whom the Alleged Victim [herein, Complainant] is protected under federal or Louisiana law. Felony or misdemeanor crime of violence committed:

a. By a current or former spouse or intimate partner of the victim;

b. By a person with whom the victim shares a child in common;

c. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or

d. Intimate partner;

e. By a person similarly situated to a spouse of the victim under the Domestic Violence or Family Violence laws of the jurisdiction in which the crime of violence occurred; or

f. By any other person against an adult or youth victim who is protected from

that person's acts under the Domestic Violence or Family Violence laws of the jurisdiction in which the crime of violence occurred.

15. **Finding:** is a conclusion decided by the preponderance of the evidence standard of proof that the alleged conduct did or did not violate policy.
16. **Formal Complaint:** is a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment and/or Prohibited Sexual Conduct against a Respondent and requesting that the University investigate the allegation of Sexual Harassment and/or Prohibited Sexual Conduct.
17. **Formal Resolution:** is an outcome of a report of a violation of Policy whereby the Complainant seeks a formal resolution; or the Title IX Coordinator determines that a Formal Resolution process is necessary after considering the safety of the university community.
18. **Family Violence*:** is
Family violence definition in Louisiana law: means any assault, battery, or other physical abuse which occurs between family or household members, who reside together or who formerly resided together. La. R.S. 46.2121.1(2).
19. **Fondling:** is the touching of the private body parts (including, but not limited to the groin, breast, buttocks, etc.) of another person for the purpose of sexual gratification, without the consent of that person, including instances where that person is incapable of giving consent because of his or her age or temporary or permanent mental incapacity.
20. **Informal Resolution:** is an outcome of a report willingly agreed to by both parties. It is a path designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preferences of both parties and the safety and welfare of the campus community. If an Informal Resolution involves either notification to or participation by Respondent. The Complainant and Respondent must agree to accept the resolution.
21. **Initial Assessment:** After a report of Prohibited Sexual Conduct, the initial determination made by the Title IX Coordinator of whether the alleged conduct would present a potential violation of the Policy and whether further action is warranted based on the alleged conduct.
22. **Investigation:** is an impartial ascertaining of the facts related to the allegations of Prohibited Sexual Conduct and Sexual Harassment, including interview of the

parties and witnesses, as well as gathering available documents and other evidence. The Investigation is conducted by a training Investigator which may or may not be the Title IX Coordinator.

23. Hostile Environment Caused by Sexual Harassment: includes any situation in which there is harassing conduct that is so severe, pervasive, and objectively offensive that it alters the conditions of employment or limits, interferes with, or denies educational benefits or opportunities. A Hostile Environment can be created by a one-time act that is severe (i.e., a Sexual Assault), or it can be created by repeated acts of less severity (i.e., Sexually Harassing comments made over a period of time). Examples of a Hostile Environment Caused by Sexual Harassment include, but are not limited to:

- a. Posting pictures of pornography;
- b. Consistently telling sexual jokes or stories where it can be overheard by others;
- c. Making sexually suggestive remarks about people within ear shot of others;
- d. Persisting in unwanted sexual attention; and
- e. Using derogatory terms with a sexual connotation.

24. Incapacitation*/Incapacitated: an individual is considered to be Incapacitated if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Being drunk or intoxicated can lead to Incapacitation; however, someone who is drunk or intoxicated is not necessarily Incapacitated, as Incapacitation is a state beyond drunkenness or intoxication. Individuals who are asleep, unresponsive, or unconscious are Incapacitated. Other indicators that an individual may be incapacitated include, but are not limited to, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.

25. Incest: is sexual intercourse between persons who are related to each other within the degrees where in marriage is prohibited by law.

26. Informal Resolution: a complaint resolution agreed to by both parties and approved by the Title IX Coordinator or Deputy Coordinator that occurs prior to a

formal hearing outcome being reached.

- 27. **Intimidation:** is to place another person in reasonable fear of harm through the use of threatening words and/or other conduct.
- 28. **Mandated Reporter/Mandatory Reporter:** is a University Employee who is required to report when a violation of the Sexual Harassment and other Prohibited Sexual Conduct Policy is observed or suspected. All University Employees are Mandatory Reporters. Generally, student workers are not considered Mandatory Reporters; however, graduate teaching assistants and housing resident assistants are considered Mandatory Reporters.
- 29. **Official with Authority** is an Employee of the University that can, in an employees' capacity, institute corrective measures on the University's behalf and would therefore have "actual knowledge" when made aware of potential Policy violations.
- 30. **Preponderance of the Evidence:** Meaning it is more likely than not that something did or did not occur.
- 31. **Process A:** means the signing of a Formal Complaint that results in an Informal Resolution or the Formal Hearing Process.
- 32. **Process B:** means the administrative resolution procedures that apply when Process A does not, as determined by the Title IX Coordinator. This could include a Student Conduct resolution.
- 33. **Prohibited Sexual Conduct:** is Sexual Misconduct, Sex Discrimination, Sexual Harassment, or Sexual Behavior Between Individuals in Certain Roles, which is prohibited by this Policy.
- 34. **Prehearing Meeting:** an informative meeting conducted by the Appeal Chair prior to the Appeal Hearing, held individually with each party and their Advisors; information received can include but are not limited to; (1) party, Advisor, and witness expectations (3) preparation of questions for the hearing (3) preponderance of the evidence standard, (4) timeframe for outcomes, (5) Request for Appeal information and (6) the hearing date, time, and platform.
- 35. **Quid Pro Quo:** An Institution's faculty or staff member/employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct. (example: grades)

36. **Rape:** is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of that person.
37. **Recipient:** refers to Northwestern State University.
38. **Reasonable Person:** is an average person with an ordinary degree of reason, prudence, care, foresight, or intelligence whose conduct, conclusion, or expectation is made in relation to similar circumstances or facts as the Complainant.
39. **Relevant Evidence:** is evidence that tends to prove (inculpatory) or disprove (exculpatory) and issue in the complaint.
40. **Remedies:** are post-Final Determination actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the Recipient's education program.
41. **Request for Appeal:** is the process by which the Complainant or Respondent may challenge the Hearing Outcome based on one or more of the three grounds.
42. **Respondent** *: is an individual who's conduct has been reported that could constitute Sexual Harassment and/or as an individual alleged to have engaged in Prohibited Sexual Conduct in violation of the Policy.
43. **Retaliation*/Retaliatory:** acts or attempted acts for the purpose of interfering with any report, investigation, or proceeding under this Policy, or as retribution or revenge against anyone who has reported Sexual Misconduct or Relationship Violence [or Prohibited Sexual Conduct] or who has participated or is expected to participate in any manner in an investigation or proceeding under this Policy. Prohibited Retaliatory acts include, but are not limited to, Intimidation, threats, Coercion, or discrimination. Title IX prohibits Retaliation.
44. **Sanction:** A consequence imposed on a Respondent who is found to have violated this policy.
45. **Sexual Assault as defined by the Clery Act:** an offense that meets the definition of Rape, Fondling, Incest, or Statutory Rape as used in the FBI's Uniform Crime Reporting program.
46. **Sexual Battery as defined by Louisiana State Law:** includes any act or offense under the provisions of LSA R.S. 14:41 to 14:43.1.

i. **Non-Consensual Sexual Intercourse:** having or attempting to have sexual intercourse, cunnilingus, or fellatio without Consent. Sexual intercourse is defined as anal or vaginal penetration by a penis, tongue, finger, or inanimate object.

ii. **Non-Consensual Sexual Contact:** Any intentional sexual touching, or attempted sexual touching, without Consent.

47. Sexual Behavior Between Individuals in Certain Roles: sexual advances, acts, or contact, whether Consensual or not, involving individuals where, by virtue of roles or position in the University, one individual is in a position of direct academic or supervisory authority (positions of power) with respect to the other are prohibited. These roles include, but are not limited to, the following examples:

- a. A faculty member and any student in his or her class;
- b. A faculty member and any undergraduate major in his or her department;
- c. A faculty member and any graduate student in a departmental program;
- d. A graduate assistant who has teaching or other classroom duties and all students in the class or classes that he or she teaches or assists;
- e. A departmental, college, or University administrator and any Employee in his/her chain of command;
- f. A laboratory supervisor and those using or working in his/her lab;
- g. A supervisor of civil service employees and his/her employee; or
- h. A department head and a staff member of his/her chain of command.

48. Sex Discrimination: is conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects the individual or group's employment or education on the basis of sex (including gender).

49. Sexual Exploitation*: an act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person's sexuality. Examples of Sexual Exploitation include, but are not limited to, non-Consensual observation of individuals who are undressed or engaging in sexual acts, non-Consensual audio- or videotaping of

sexual activity, prostituting another person, allowing others to observe a personal Consensual sexual act without the knowledge or Consent of all involved parties, and knowingly exposing an individual to a sexually transmitted infection without that individual's knowledge.

50. Sexual Harassment*: is conduct on the basis of sex that satisfies one or more of the following:

- (1) an [Employee] conditioning the provision of an aid, benefit, or service of the [University] on an individual's participation in unwelcome conduct of a sexual nature, whether verbal or physical;
- (2) 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; or
- (3) "sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30). Sexual Harassment also includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking. For purposes of this Policy, the various forms of prohibited Sexual Harassment are sometimes referred to as Prohibited Sexual Conduct.

51. Sexual Misconduct*: is a sexual act or contact of a sexual nature that occurs, regardless of personal relationship, without the Consent of the other person(s), or that occurs when the person(s) is unable to give Consent or whose Consent is coerced or obtained in a fraudulent manner. For the purpose of this Policy, Sexual Misconduct includes, but is not limited to, Sexual Assault, Sexual Abuse, Sexual Harassment, violence of a sexual nature, non-Consensual sexual intercourse, Sexual Exploitation, video voyeurism, contact of a sexual nature with an object, or the obtaining, posting or disclosure of intimate descriptions, photos, or videos without the express Consent of the persons depicted therein, as well as Dating Violence, Domestic Violence, and Stalking.

52. Stalking*: is:

- a. **Stalking as defined by Clery Act:** (1) intentional and repeated following OR harassing that would cause a Reasonable Person to feel alarmed OR that would cause a reasonable person to suffer emotional distress OR (2) Intentional and repeated uninvited presence at another person's: home, work place, school, or any other place which would cause a reasonable person to be alarmed OR would cause a reasonable person to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping or any other statutory criminal act to the victim OR any member of the victim's family

OR any person with whom the victim is acquainted. 34 CFR668.46(a).

b. **Stalking as defined by Louisiana state law:** is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. Stalking shall include but not be limited to the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal, written, or behaviorally implied threats of death, bodily injury, Sexual Assault, kidnaping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted. La. R.S. 14:40.2(A). "Harassing" means the repeated pattern of verbal communications or nonverbal behavior without invitation which includes but is not limited to making telephone calls, transmitting electronic mail, sending messages via a third party, or sending letters or pictures. "Pattern of conduct" means a series of acts over a period of time, however short, evidencing an intent to inflict a continuity of emotional distress upon the person. Constitutionally protected activity is not included within the meaning of pattern of conduct. La. R.S. 14:40.2(C).

c. **Stalking as defined by the University:** A Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for the person's safety or the safety of others or would cause that person to suffer Substantial Emotional Distress.

d. **Stalking as defined by Title IX:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to

- Fear for that person's safety or the safety of others;
- Suffer substantial emotional distress.
- For the purpose of this definition, **Course of Conduct** means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any actions, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

53. **Statutory Rape:** is sexual intercourse with a person who is younger than seventeen (17) years of age and is not a spouse of the Respondent.

54. **Substantial Emotional Distress:** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

55. Supportive Measures: Support Services including, but not limited to:

- A No-Contact Order
- Counseling Services, free of charge
- Police Escort
- Class Modifications
- Housing Modifications

56. Title IX Grievance Process: is the process by which complaints of Prohibited Sexual Conduct or Retaliation in violation of this Policy are made to the University and are addressed by the University through a formal or informal process (as appropriate).

57. Title IX Team/Process Pool: includes Investigators, Hearing Decision-Makers, Appeal Decision-makers, and Advisors who may perform any or all of these roles though not at the same time or with respect to the same complaint).

58. Work Product: Any document produced by the Northwestern State University team relating to a complaint or any part of the investigation or resolution process. It is prohibited for any party to share a Work Product in any manner.