

## **Discrimination, Harassment, and Sexual Misconduct Policy**

### **Policy Statement**

Policy Statement: Members of the NCC community, guests and visitors have the right to be free from sexual discrimination, harassment and misconduct. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. When an allegation of misconduct is brought to an appropriate administrator's attention, and a Respondent is found to have violated this policy, serious sanctions will be used to reasonably ensure that such actions are never repeated. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

Northampton Community College is committed to providing a learning, working and living environment that promotes personal integrity, civility and mutual respect in a place free of discrimination on the basis of sex; which includes all forms of sexual misconduct. Sex discrimination violates an individual's fundamental rights and personal dignity.

Northampton Community College considers sex discrimination in all its forms to be a serious offense. This policy refers to all forms of sex discrimination, including but not limited to: sexual harassment, sexual assault, sexual misconduct, sexual violence, domestic violence, dating violence and stalking by employees, currently enrolled students, or third parties.

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. To ensure compliance with Title IX and other federal and state civil rights laws, the College has developed policies and procedures that prohibit sex discrimination in all of its forms.

In accordance with Title VI and Title VII of the Civil Rights Act of 1964 and other applicable state and federal laws, Northampton Community College does not discriminate on the basis of race, color, age, gender, sexual orientation, gender identity, religion, national origin, veteran status, disability, genetic information, pregnancy or pregnancy-related medical conditions, or any other basis of prohibited discrimination in its programs and activities. This policy extends to employment, programs and admission to the College.

This policy applies to all faculty, staff, students, and visitors. It also governs student-on-student sexual discrimination, including sexual assault, occurring on campus and, in certain limited contexts, off campus.

Persons who experience discrimination, harassment, or sexual misconduct may respond to the experience in many different ways, including feeling confused, vulnerable, out of control, embarrassed,

angry, or depressed. The College provides a variety of resources to assist individuals who have experienced discrimination, harassment, or sexual misconduct to address the effects of the incident and to help them determine whether and how to make a formal complaint about the incident. Additional resource-related information can be found in Section VIII.

**All reports of discrimination, harassment, and/or retaliation shall be promptly made to the Title IX Coordinator as appropriate (or one of the designated Deputy Coordinators). Employees asserting claims of discrimination pursuant to Title VI, VII or ADA/504 must notify the Director of Human Resources of his/her complaint within five (5) Business days of having knowledge of the action(s) that gave rise to the complaint.**

Deputy Coordinators and/or Investigators will be appointed by the Title IX Coordinator in consultation with President's Cabinet as appropriate. Reporting responsibilities are described in Section III below for those individuals who become aware of incidents involving discrimination, harassment, or sexual misconduct. Additionally, a Reporter's options for reporting are addressed more specifically in Section IV below.

## **I. Prohibited Conduct**

### **A. Discrimination**

Northampton Community College adheres to all federal and state civil rights laws banning discrimination in public institutions of higher education, including, but not limited to, Title VI and Title VII of the Civil Rights Act of 1964. The College prohibits discrimination against any employee, applicant for employment, student or applicant for admission, and/or any beneficiary of a program or facility offered or provided by the College, on the basis of any protected class. Protected classes include: age, color, creed, disability, ethnicity, gender identity, genetic information, marital status, national origin, political affiliation, pregnancy, race, religion, sex, sexual orientation, veteran or military status, or any other protected category under applicable federal, state, or local law, including protections for those opposing discrimination or participating in any complaint process on campus or with other human rights agencies.

This policy covers discrimination in employment and in access to educational opportunities, programs, and/or College facilities. Discrimination is defined as adverse treatment of an individual based on that individual's membership in one or more of the protected groups listed above. Therefore, any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, housing and/or social access, benefits, and/or opportunities of any member of the campus community on the basis of their actual or perceived membership in the protected classes listed above is in violation of the College policy on discrimination. **All College employees shall report all suspected incidents of discrimination or harassment (see Section III. Reporting Responsibilities).** When brought to the attention of the College, any such discrimination will be appropriately remedied according to the procedures outlined in this policy.

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### **B1. Harassment**

This policy prohibits any form of harassment, including bias-related harassment, on the basis of actual or perceived membership in a protected class, by any member or group of the campus community, which unreasonably interferes with an individual's work or academic environment.

This environment may be created by verbal, written, graphic, threatening and/or physical conduct that is sufficiently severe, persistent, or pervasive so as to interfere with, limit, or deny the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits, or opportunities. Merely offensive conduct and/or harassment of a generic nature not on the basis of membership in a protected class may not result in a violation of this policy but may be addressed through education and/or other resolution methods.

### **B2. Sexual Harassment**

This policy prohibits any form of sexual harassment. Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following: (1) An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct; (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 College's education program or activity; or (3) "Sexual assault", "dating violence", "domestic violence" or "stalking" as defined below. Anyone experiencing sexual harassment in any College program is encouraged to report it online ([www.northampton.edu/reportit](http://www.northampton.edu/reportit)), to NCC's Title IX Coordinator or a Deputy Coordinator, or by methods identified in the Complaint Resolution Process Section (IV.A. Confidentiality and Reporting of Offenses).

Some examples of possible sexual harassment include:

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student complies with the request.
- A student repeatedly sends sexually oriented jokes on an e-mail list the student created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- Two supervisors frequently rate several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.

**Consensual Relationships** There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect.

Furthermore, circumstances may change, and conduct that was previously welcome may become

unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the faculty/staff handbooks. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are generally discouraged. Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical.

Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes community assistants and mentors and students over whom they have direct responsibility. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

### **C. Sexual Misconduct**

This policy prohibits any form of sexual misconduct. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation, and/or gender identity of those involved. The definition of consent below will be used in the interpretation and application of this policy:

**Consent.** Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent to a specific sexual contact (such as kissing or fondling) cannot be presumed to be consent for another specific sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. Silence or the absence of resistance alone is not consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Individuals can withdraw consent at any time during sexual activity by expressing in words or actions that they no longer want the act to continue, and, if that happens, the other person must stop immediately.

A person cannot consent if he or she is incapacitated. Under this policy, a person is incapacitated if he or she is disabled or deprived of ability to act or reason for one's self, is unable to understand what is happening, or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from taking of an incapacitating

substance. A person is incapacitated if the person is temporarily incapable of apprising or controlling the person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance; if a person is unable to communicate an unwillingness to act because the person is unconscious, asleep, or is otherwise physically limited; or if the person has a bodily impairment or handicap that substantially limits the person's ability to resist or flee.

An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. It is not an excuse that the Responding Party to a claim of sexual misconduct was intoxicated and, therefore, did not realize the other person's incapacity.

The following are types of prohibited sexual misconduct under this policy:

**a. Sexual Harassment (defined above)**

**b. Non-Consensual Sexual Intercourse**

Defined as any sexual penetration or intercourse (anal, oral, or vaginal) however slight with any object by a person upon another person that is without consent and/or by force.

Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation by mouth-to-genital contact or genital-to-mouth contact.

**c. Non-Consensual Sexual Contact**

Defined as any intentional sexual touching however slight with any object by a person upon another person that is without consent and/or by force.

Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual or any other bodily contact in a sexual manner.

**d. Sexual Exploitation**

Defined as taking non-consensual or abusive sexual advantage of another; and the conduct does not fall within the definitions of sexual harassment, non-consensual sexual intercourse, or non-consensual sexual contact. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person observed)
- Taking photographs, video recording, or audio recording of another in a sexual act or in any other private activity without the consent of all persons involved in the activity

- Exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity or disseminating sexual pictures without the photographed person's consent)
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infection
- Administering alcohol or drugs (such as "date rape" drugs) to another person without the person's knowledge or consent

#### **e. Relationship Violence**

Relationship violence includes domestic violence and dating violence which are defined as follows:

"Domestic violence" means felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or [domestic violence](#) laws of the jurisdiction receiving grant funding and, in the case of [victim services](#), includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or [technological abuse](#) that may or may not constitute criminal behavior, by a person who—

- (A) is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
- (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- (C) shares a child in common with the victim; or
- (D) commits acts against a [youth](#) or adult victim who is protected from those acts under the family or [domestic violence](#) laws of the jurisdiction.

"Dating violence" means violence committed by a person—

- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (B) 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.
- (iii) The frequency of interaction between the persons involved in the relationship.

#### **f. Stalking**

Defined as a course of conduct directed at a specific person that would cause a reasonable person to

fear for his or her safety or the safety of others or suffer substantial emotional distress. Examples include, but are not limited to:

- Sending multiple unwanted text messages, phone calls, or electronic communications
- Following, watching, photographing, or otherwise tracking an individual without his or her permission
- Sending unwelcome gifts, notes, or other items to another person

#### **D. Retaliation**

The College seeks to create an environment where its students and employees are free, without fear of reprisal, to use its procedures to determine if there has been a violation of their civil rights. Any act of retaliation will result in appropriate disciplinary action.

No person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or other federal, state, or local law, or College 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 under this policy. 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 constitutes retaliation. Retaliation against an individual for alleging a violation of their civil rights, supporting the Reporting Party, or for assisting in providing information relevant to a claim, is a serious violation of this policy. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator or Deputy Coordinators.

#### **E. Other Offenses**

This policy prohibits other offenses of a discriminatory, harassing, and/or retaliatory nature not included in the previous sections as follows:

- Intimidation, defined under this policy as implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class
- Hazing, defined under this policy as acts likely to cause physical or psychological harm or social ostracism to any person within the College community when related to the admission, initiation, joining, or any other group-affiliation activity on the basis of actual or perceived membership in a protected class.
- Bullying, defined under this policy as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally on the basis of actual or perceived membership in a protected class.
- Violation of any other College rule, when it is motivated by sex or gender or the actual or perceived membership of the victim in a protected class, may be pursued using this policy and process.

## **II. Scope/Jurisdiction/Application**

This policy applies to allegations of discrimination, harassment and/or retaliation that occur on College property or at College sponsored events within the United States, that are a part of the College educational mission and related activities, and is limited to locations, events, or circumstances over which the College exercised substantial control over both the Responding Party and the context in which the harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College. This policy may also apply to allegations of discrimination, harassment, and retaliation that occur off-campus or to actions online when the Title IX Coordinator or Deputy Coordinator determines that the off-campus or online conduct could have an on-campus impact or impact on the educational mission of the College.

Such impact includes:

- Any action that constitutes a criminal offense as defined by federal, state, or local law;
- Any situation where it appears that the Responding Party may present a danger or threat to the health or safety of self or others;
- Any situation that significantly impinges upon the rights, property, or achievements of others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests of the College.

## **III. Reporting Responsibilities**

All College employees who are aware of or witness discrimination, harassment, sexual misconduct, or retaliation are required to promptly report to the Title IX Coordinator or a Deputy Coordinator; or to the Director of Human Resources or his/her designee if the complaint relates to discrimination in employment. Any student who is aware of or who witnesses discrimination, harassment, sexual misconduct, or retaliation is encouraged to promptly report to the Title IX Coordinator or a Deputy Coordinator. All initial contacts will be treated with the maximum possible privacy: specific information on any complaint received by any party will be reported to the Title IX Coordinator or Deputy Coordinator, but, subject to the College's obligation to investigate and redress violations, every reasonable effort will be made to maintain the privacy of those initiating a report of a complaint. In all cases, the College will give consideration to the Reporting Party with respect to how the complaint is pursued but reserves the right, when necessary to protect the community, to investigate and pursue a resolution when an alleged victim chooses not to initiate or participate in a formal complaint.

Please note: This section addresses reporting obligations for members of our campus community who are made aware of potential violations of this policy. Methods for filing a complaint and the Complaint Resolution Process are detailed in Section IV. Additional resource-related information can be found in Section VIII.



### **A. Role of the Title IX Coordinator and Deputy Coordinators**

The Title IX Coordinator and Deputy Coordinators are charged with coordinating the College response to reports of misconduct under this policy. The Title IX Coordinator and Deputy Coordinators do not serve as advocates for either the Reporting or Responding Party but rather for all parties involved, thus the roles are to be neutral throughout the process. The Title IX Coordinator or Deputy Coordinators will explain to both parties the informal and formal processes outlined below and the provisions for confidentiality. Where appropriate, the Title IX Coordinator or Deputy Coordinators will provide to both parties information on options for obtaining advocacy, medical and counseling services, and making criminal reports, and will assist with providing information on other resources. The Title IX Coordinator and Deputy Coordinators will coordinate with other campus officials to take appropriate interim actions such as no contact orders, academic accommodations, and rearrangement of housing and work assignments.

For a roster of the Title IX Coordinator and Deputy Coordinators, please visit: [www.northampton.edu/titleix](http://www.northampton.edu/titleix)

### **B. Police Reporting**

In addition to required campus reporting, reports may also be made to the police and/or campus security, especially if a crime is or may be involved, by calling the following numbers:

- Emergency - 911
- Bethlehem Township Police (non-emergency number) 610-330-2200
- Pocono Township Police (non emergency number) 610-330-2200
- Bethlehem City Police (non-emergency number) 610-865-7187
- NCC Public Safety:
  - Bethlehem Campus (24 hrs.): 610-861-5588
  - Pocono Campus: 570-369-1911
  - Fowler: 484-390-3240

### **C. Federal Timely Warning Obligations**

Victims of sexual misconduct should be aware that College administrators must issue crime alerts for incidents reported to them that represent a serious or continuing threat to students or employees. The College will withhold a victim's name and other identifying information while providing enough information for community members to make safety decisions in light of the potential danger.

## **IV. Complaint Resolution Process**

The College will respond to any alleged violation of this policy received by the Title IX Coordinator or Deputy Coordinators. This section outlines ways in which offenses can be reported by individuals choosing to pursue complaint options. Additional resource-related information can be found in Section VIII.

## **A. Confidentiality and Reporting of Offenses**

Northampton Community College will make every effort to safeguard the identities of individuals who seek help and/or report discrimination, harassment, and/or retaliation. While steps are taken to protect the privacy of victims, the College may need to investigate an incident and take action once an allegation is known, whether or not the reporting individual chooses to pursue a complaint.

When a report is made, personally identifiable information (name of Reporting Party, name of Responding Party, etc.) may be initially withheld in cases where the victim is hesitant to come forward. Subsequently, campus officials may need additional information. The College's Title IX Coordinator or Deputy Coordinator will conduct an initial inquiry, looking for any sign of pattern, predation, violence, or threat. When such exists, institutional action may be required in an effort to ensure campus safety.

No employee should ever promise absolute confidentiality except those as described below in Section IV.A.2. Reports may be private, but not confidential, as described below in Section IV.A.3. Reports to police and/or Title IX officials do not obligate the Reporting Party to file any criminal or College conduct charges.

The College will not pursue disciplinary action for improper use of alcohol or other drugs against an alleged victim of sexual misconduct or against another student who shares information as either a witness to or as a reporter of sexual misconduct as long as the report is made in good faith. See "Good Samaritan Provision," Appendix 4.

Deliberately false and/or malicious accusations of discrimination, harassment, or retaliation, as opposed to complaints which, even if erroneous, are made in good faith, are just as serious an offense as discrimination, harassment, or retaliation and will be subject to appropriate disciplinary action.

### **Complaints and reports should be made as soon as possible after an incident.**

If the incident is an assault:

Report the incident:

- Local Police - Emergency - 911
- Bethlehem Township Police (non-emergency number) 610-759-2200
- Pocono Township Police (non-emergency number) 570-629-7323
- Bethlehem City Police (non-emergency number) 610-865-7187
- Campus Security
  - Bethlehem Campus (24 hrs.): 610-861-5588
  - Pocono Campus: 570-369-1911
  - Fowler: 484-390-3240

Seek immediate **medical attention**. Do not change clothing, shower, bathe, brush teeth or douche. Delay the above and going to the bathroom (if possible) until you are examined as this preserves evidence of the assault. Medical attention should be accessed at a local hospital.

- St Luke's Hospital/ Anderson Campus: 866-785-8537
- Lehigh Valley Hospital/ Muhlenberg: 610-402-8000
- St. Luke's Hospital/ Bethlehem Campus: 866-785-8537
- Lehigh Valley Hospital/ Pocono: 570-476-3367
- St. Luke's Hospital/Monroe Campus: 866-785-8537

Seek **emotional support**. It is important that you talk about this issue and that you tell someone you trust.

On campus you may contact:

Counseling Services: Bethlehem Campus: 610-322-6178, Pocono Campus: 570-369-1842

Health and Wellness Center staff: 610-861-5365

Residence Life staff: 610-861-5324

Off-campus you may contact:

- Crime Victims Council of the Lehigh Valley/Sexual Assault 24-hour hotline (Bethlehem): 610-437-6610
- Safe Monroe Hotline (Monroe): 570-421-4200
- North Penn Legal Services: 877-953-4250

Options for filing a report include:

1. **Anonymous and Third-Party Reporting** The Title IX Coordinator and Deputy Coordinators accept anonymous and third-party reports of conduct alleged to violate this policy and will follow up on such reports. The individual making the report is encouraged to provide as much detailed information as possible to allow the Title IX Coordinator or Deputy Coordinators to coordinate an investigation and respond as appropriate. The College may be limited in its ability to investigate an anonymous or third-party report unless sufficient information is provided.  
(See [northampton.edu/reportit](http://northampton.edu/reportit))
2. **Confidential Reporting** If a Reporting Party would like the details of an incident to be kept confidential, the Reporting Party may speak with counselors, health service providers, victim services advocates, domestic violence resources, local or state assistance agencies, or members of the clergy who are permitted by law to maintain confidentiality (except in extreme cases of immediacy of threat or danger or abuse of a minor). These sources may submit anonymous statistical information for timely warning and Clery Act purposes. If a Reporting Party is unsure of a resource's ability to maintain confidentiality, the Reporting Party is advised to ask them before

talking to them. NCC counselors for students and/or the Employee Assistance Program for employees are available to help free of charge and can be seen on an emergency basis.

3. **Private Reporting** Reports to College employees who are not confidential resources listed above in Section IV.A.2. should be treated with the maximum possible privacy. If a Reporting Party is unsure of a resource's ability to maintain privacy, the Reporting Party is advised to ask them before talking to them. The resource will be able to explain the resource's reporting obligations and help a Reporting Party make decisions about who is in the best position to help. If personally identifiable information is shared, it will be shared with as few people as possible under the circumstances and efforts will be made to protect privacy to the greatest extent reasonably possible.
4. **Formal Reporting** A Reporting Party is encouraged to speak to College officials, such as the Title IX Coordinator or Deputy Coordinators or NCC Public Safety, to make formal reports. A Reporting Party has the right, and can expect, to have reports taken seriously by the College when formally reported and to have those incidents investigated and properly resolved through these procedures or an informal resolution process. Formal reporting still affords privacy to the Reporting Party, to the extent reasonably possible, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigator(s), witnesses, the Responding Party, and a hearing board if deemed appropriate. The number of people with this knowledge will be kept as few as reasonably possible to preserve a Reporting Party's rights and privacy.
5. **Criminal Reporting** If someone is in immediate danger or is a victim of a crime, call 9-1-1. Some acts of discrimination and harassment may also be crimes, such as sexual assault or stalking. Allegations of criminal conduct should be reported to law enforcement even when it is not clear whether the conduct rises to the level of a crime. Regardless, law enforcement can assist with obtaining medical care, getting immediate law enforcement response and protection, connecting with victim advocate services and counseling support, initiating a criminal investigation as appropriate, and answering questions about the criminal process.

## **B. Informal Resolution Process**

Informal resolution is an alternative to the formal complaint resolution process after a formal complaint has been made to the Title IX Coordinator or respective Title IX Deputy Coordinators. The Title IX Coordinator will determine if informal resolution is appropriate, based on the willingness of the parties and the nature of the alleged conduct. Sanctions are generally not pursued as the result of an informal resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator will keep records of any resolution that is reached. The College reserves the right to cancel informal resolution if sufficient evidence suggests a formal investigation or other sanctions or remedies may be necessary and appropriate.

To pursue informal resolution, it is necessary to first make a formal complaint. Anyone participating in informal resolution can stop that process at any time and request to continue through the formal process.

Except in cases involving criminal activity and/or sexual assault, an employee or student alleging discrimination, harassment and/or retaliation against an employee under this policy is encouraged to consider an informal resolution. If it is appropriate, an attempt to facilitate an informal resolution of the matter will be made. In the event that an informal resolution is not reached, is not appropriate, or is not pursued, the student or employee who is alleging the discrimination, harassment, or retaliation may continue with the formal resolution process.

## **C. Formal Resolution Process**

### **1. Filing a Complaint**

Any individual who believes that this policy has been violated should contact the Title IX Coordinator or any Deputy Coordinator. The complainant or the individual making the report may electronically submit a formal complaint form available on the College website for purposes of reporting an incident or incidents in writing; however, verbal reports of an incident or incidents shall be accepted, documented and the procedures of this policy and the related grievance procedures followed.

#### **a. Complaint Intake**

Following receipt of notice or a complaint, the Title IX Coordinator or Deputy Coordinator will make an initial determination as to whether the information has merit to reasonably indicate there may have been a violation of College policy. After this Initial Inquiry step has been completed, if it appears a violation may have occurred, an investigation of the complaint will begin. If the complaint does not appear to allege a policy violation or if informal resolution is desired by the Reporting Party and appears appropriate given the nature of the alleged behavior, then the complaint does not proceed to investigation. An investigation will be pursued if there is sufficient information to suggest a policy violation, a pattern of misconduct, and/or a perceived threat of further harm to the community or any of its members may exist. Notwithstanding the above, if the conduct alleged in a formal complaint would not constitute sexual harassment even if proved, did not occur in the College's education program or activity, or did not occur against a person in the United States, then the complaint will be dismissed with regard to the alleged conduct.

#### **b. Supportive Measures**

The College will offer supportive measures to the parties upon notice of alleged discrimination, harassment, and/or retaliation and may take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest, or visitor who has violated this policy. Supportive measures are non-disciplinary, non-punitive individualized services offered to the parties as appropriate, as reasonably available and without fee or charge. Such measures are designed to preserve equal access to the College's education program or activity without unreasonably burdening the other party. Supportive measures include but are not limited to: no contact orders, no trespass notices, providing counseling and/or medical services, academic support, living arrangement adjustments, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, and referral to campus and community

resources.

The College may remove, on an emergency basis, a student or student organization or place an employee on administrative leave pending the completion of the investigation and procedures provided that there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations. Prior to any emergency removal, the College shall provide the student, student organization or employee with reasonable notice and an opportunity to challenge the decision immediately following the removal.

During a removal or administrative leave, a student or employee may be denied access to College housing and/or the College campus, facilities, computer network, resources and/or events, either entirely or with specific application. As determined by the appropriate administrative officer, this restriction includes classes and/or all other College activities or privileges for which the individual might otherwise be eligible. At the discretion of the appropriate administrative officer, alternative coursework options may be pursued to ensure as minimal an impact as possible on the Responding Student. At the discretion of the appropriate administrative officer, alternative employment/work options may be pursued to ensure as minimal an impact as possible on the Responding Employee.

## **2. Notice of Allegations**

At the onset of the investigation, the parties shall be provided with a written notice of allegations which includes the following (1) a copy of the College's grievance process as outlined in this policy; and (2) notice of the allegations of sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview; (3) a statement that the Responding Party is presumed not responsible for the alleged conduct; (4) a statement that the parties are entitled to an advisor of their choice; (5) statement the parties may inspect and review evidence; and (5) notice of any provisions in the Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process. If the Responding Party is an employee, the written notice will be copied to the employee's department head/director, dean, vice president, and president.

If, in the course of an investigation, the College decides to investigate allegations concerning the parties that are not included in the notice provided pursuant to this section, the College must provide notice of the additional allegations to the parties whose identities are known.

## **3. Investigation**

If a Reporting Party wishes to pursue a formal complaint or if the College determines an investigation is necessary, the Title IX Coordinator will assign an investigator, usually within five business days of determining that a complaint should proceed. Investigations will be thorough and impartial and will entail interviews with relevant parties and witnesses, and obtaining available evidence. Both the Reporting Party and the Responding Party will have the opportunity to present witnesses with information pertinent to the alleged sexual harassment, sexual misconduct or sexual assault, and any relevant information. The

investigator will document the proceedings. Every effort will be made to avoid conflict of interest (real or perceived) during the Investigation and overall Title IX process. The College aims to complete investigations within 120 days, which can be extended as necessary for reasonable cause by the Title IX Coordinator with notice to the parties. An Investigation may take longer when initial complaints fail to provide direct first-hand information. The College may undertake a short delay when criminal charges are being investigated. Reporting Parties will be informed, at regular intervals, of the status of the investigation. College action will continue regardless of the status of civil or criminal charges involving the same incident. A Reporting Party may proceed with both a criminal charge and a request for a College resolution simultaneously.

The Investigator shall prepare an Investigative Report which summarizes the investigation process and related evidence. Prior to completion of the investigative report, the College will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The parties will have ten (10) days to submit a written response to the evidence, which the Investigator will consider prior to completion of the investigative report.

Upon receipt of the final Investigative Report, the Title IX Coordinator will forward the report to the parties involved at least ten (10) days prior to a hearing. The Title IX Coordinator will also forward the report to the Title IX deputy overseeing the case, to prepare the Hearing Board for review.

#### **4. Hearings**

The College shall hold a live hearing for a determination of responsibility. At the conclusion of the hearing, the Decision Maker(s) shall determine if this policy has been violated by using a preponderance of the evidence standard. A finding of a policy violation by a preponderance of the evidence means that it is more likely than not that the policy violation occurred. If it is decided that no policy violation has occurred or that there is insufficient evidence, then the process will end, subject to the appeal process.

For full Live Hearing procedures, requirements and timelines, see the below link:

<https://www.northampton.edu/about/student-affairs/title-ix/>.

Following the hearing, the Decision Maker(s) shall issue a written determination regarding responsibility of the alleged conduct. The written determination shall be provided to the parties simultaneously. The Decision Maker shall also provide a copy of the written determination to the Title IX Coordinator. The determination will become final either on the date of notice of a written determination of the result of an appeal, if any, or, if no appeal is filed, the date on which an appeal would no longer be considered timely.

#### **5. Sanctions**

Sanctions will be issued by the Decision Maker(s) in consultation with the Title IX Coordinator. Factors considered when determining a sanction may include, but is not limited to:

- The nature of, severity of, and circumstances surrounding the violation
- The Responding Party's disciplinary history
- Previously founded complaints or allegations against the Responding Party involving similar conduct

- Any other information deemed relevant by the Title IX Coordinator
- The need to bring an end to the discrimination, harassment, and/or retaliation
- The need to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the victim and the community

**a. Student Sanctions**

For examples of the range of potential disciplinary sanctions against students, see the section of the Student Handbook entitled Disciplinary Actions.

**b. Employee Sanctions**

Sanctions for an employee who has violated this policy may include, but are not limited to, verbal or written warning, required counseling, training, demotion, reassignment, suspension, and termination.

## **6. Appeals**

Appeals of the written determination or from the College's dismissal of a formal complaint or any allegations therein, may be filed by the Reporting Party, the Responding Party or both. All requests for appeal considerations must be submitted in writing to the Title IX Coordinator within five business days of the date of the final written determination.

Appeals are limited to allegations of the following:

- A procedural error or omission occurred that significantly impacted the outcome.
- There is new evidence, unknown or unavailable during the investigation or at the time of dismissal, that could substantially impact the finding or sanction. A summary of this new evidence and its potential impact upon the investigation must be included in the appeal.
- The Title IX Coordinator, investigator(s) or decision maker(s) had a conflict of interest or bias for or against either party.

The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a finding and sanction/responsive action(s) are final. When a party requests an appeal, the other party (parties) will be notified in writing within five (5) calendar days of receipt of the appeal. Thereafter, non-appealing party shall have the opportunity to respond to the appeal in writing within five (5) days of being notified of the appeal.

For students: In cases involving student conduct, the Provost & Vice President for Academic and Student Affairs (or designee) will review the appeal request(s).

For employees: In cases involving employee conduct, the Chief Human Resources Officer (or designee) will review the appeal request(s).



Where the designee finds that at least one of the grounds for appeal is met, and proceeds with the appeal, additional principles governing the hearing of appeals include the following:

- The Title IX Coordinator shall provide written notice of the appeal to all parties within ten (10) business days from the date of the appeal review.
- The original determination will only be changed when there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings of the complaint. Appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the grounds for appeal.
- Sanctions will not be imposed pending the outcome of the appeal. Interim and/or protective actions may be imposed and/or continued as appropriate.
- The designee will render an appeal determination within ten business days of receiving the appeal to the Title IX Coordinator.
- All parties will be informed of whether the grounds for an appeal are accepted and the results of the appeal decision.
- Once an appeal is decided, the outcome is final: further appeals are not permitted under this policy.

## **7. Failure to Complete Sanctions**

All Responding Parties are expected to comply with conduct sanctions within the time frame specified in their written notice. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions and/or suspension, expulsion, and/or termination from the College. For students, failure to comply may result in transcript notation and/or a hold to prevent future registration.

## **V. Remedial Actions**

In addition to the supportive measures outlined in Section IV.C.1.b, the Title IX Coordinator (or designee) may provide remedial actions intended to address the short or long-term effects of harassment, discrimination, and/or retaliation. That is, remedial actions may be taken at the conclusion of the grievance process in addition to any actions that may have been taken on an interim basis, in order to redress harm to the Reporting Party and the community and to prevent further harassment or violations. Remedial actions may also be used when, in the judgment of the Title IX Coordinator (or designee), the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on campus of the Responding Party or the ongoing activity of a student organization whose behavior is in question.

These remedies may include referral to counseling and health services or to the Employee Assistance Program, altering the housing situation of a Responding Student, (or the Reporting Party, if desired), altering work arrangements, providing campus escorts, implementing contact limitations between the parties, or offering adjustments to academic deadlines and/or course schedules.

## **VI. Statement of Rights for Reporting and Responding Parties**

Both a Reporting Party and Responding Party will be afforded the following rights under this policy:

- To be treated with respect by College officials
- To take advantage of campus support resources (such as Counseling Services and College Health Services for students, or EAP services for employees)
- To experience a safe educational and work environment
- To have an advisor (students) or representative (employees) during this process
- To refuse to have an allegation resolved through informal procedures
- To be free from retaliation
- To have complaints heard in substantial accordance with these procedures
- To reasonable and necessary participation in the process

## **VII. Records**

In implementing this policy, records of all complaints, resolutions, and hearings will be kept by the Title IX Coordinator for a period of seven (7) years.

## **Appendix**

### **Good Samaritan**

The welfare of students in our community is of paramount importance. At times, students on and off-campus may need assistance. The College encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, as student who has been drinking underage might hesitate to help take a victim of sexual misconduct to the Campus security). The College pursues a policy of limited immunity for students who offer help to others in need. While policy violations cannot be overlooked, the College will provide educational options, rather than punishment, to those who offer their assistance to others in need.

### **Risk Reduction Tips**

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

- Know your sexual intentions and limits. You have the right to say “NO” to any unwanted sexual contact. If you are uncertain of what you want, ask your partner to respect your feelings.
- Communicate your limits firmly and directly. If you say “No,” say it like you mean it. Avoid giving mixed messages. Back up your words with a firm voice and clear body language. Do not assume

that someone will automatically know how you feel or will eventually “get the message” without you having to say anything.

- Remember that some people think that drinking, dressing provocatively, or going to your or your date’s room is saying you are willing to have sex. Be clear up front about your limits in such situations.
- Listen to your gut feelings. If you feel uncomfortable or think you might be at risk, leave the situation immediately and go to a safe place.
- Don’t be afraid to “make waves” if you feel threatened. If you feel you are being pressured or coerced into sexual activity, don’t hesitate to state your feelings and leave the situation.
- Attend large parties with friends you trust. Agree to “look out” for one another. Leave with the group, not alone. Avoid leaving with people that you don’t know very well.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON’T MAKE ASSUMPTIONS about consent; about someone’s sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don’t take advantage of someone’s drunkenness or drugged state, even if they did it to themselves.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don’t abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

### **Sexual Offense Educational Programming**

Because Northampton Community College recognizes sex discrimination in all its forms as important issues, the College offers annual educational programming to a variety of groups such as: staff, security,

Residence Life, Faculty, incoming students, resident and off-campus students and, members of student organizations.

Sex Discrimination educational programming may address matters such as: a definition of what constitutes sex discrimination, the causes of sex discrimination, myths involved with sex discrimination, prevention, the relationship between sex discrimination and alcohol use, what to do if you are assaulted, the nature of a rape examination, an explanation of the College sex discrimination policy, how to file charges within the College, its conduct system, and/or with the local police department, men's issues and sexual assault, and campus community resources to assist both the survivor and the accused.

### **Federal Enforcer**

The U.S. Department of Education, Office for Civil Rights (OCR) is the federal agency charged with enforcing compliance with Title IX. Individuals with complaints of this nature always have the right to file a formal complaint with the United States Department Education:

#### **Office for Civil Rights (OCR)**

400 Maryland Avenue, SW

Washington, DC 20202-1100

Customer Service Hotline #: 800.421.348

Facsimile: 202.453.6012

TDD#: 877.521.2172

Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Web: <http://www.ed.gov/ocr>