

Professional Concerns Committee

Minutes for March 4, 2021

Virtual Meeting (On Zoom Conferencing Software), 3:30 pm

Members in Attendance: S. Alexander, K. Code, W. Darnell, L. Dynan, J. Elliott, K. Fuegen, N. Grant, B. Green, J. Herman, J. Human, B. Karrick, M. King, , A. Miller, K. Munte, M. Nakamura, M. Providenti, H. Riffe, J. Rubleske, G. Sun, J. Washburn-Moses, M. Whitson

Guests in Attendance: J. Bloch, G.Hiles

Members Not in Attendance: L. Manchise, B. Mittal, G. Newell, K. Noyes, K. Yates

1. Call to Order, Adoption of the Agenda
 - a) The Meeting was called to order at 3:32pm. The agenda was adopted unanimously without changes.
2. Approval of the minutes from the February 4 meeting
 - a) Draft Minutes from PCC Meeting of February 18, 2021 were approved without dissent.
3. Chair's Report and Announcements
 - a) **Vaccinations:** NKU employees who live outside of KY cannot receive a vaccine in KY. People are required to show proof of residency at vaccine appointments. John Farrar (Faculty Senate President) and President Vaidya are working with Frankfort on this issue. The Governor may consider an exception for employees of state institutions that are near state borders or relaxing the residency requirements as supply increases. It could take 1 -3 weeks to find out. OH started 1C vaccinations but university employees are not included in OH's 1C (only 60+ years old and high risk individuals included in OH's Phase IC).

Faculty Senate authorized Faculty Senate Executive Committee to draft a resolution that all NKU employees should be eligible to be vaccinated in KY. Staff Congress may sign on, Student Government has signed on. A third of faculty and staff live outside KY. St. Elizabeth will probably set up a vaccination site on NKU's campus. No dates yet.

Fall 2021 schedule should look like fall 2019. Could be altered if COVID vaccine resistant variants emerge or if vaccines are delayed.

- b) **Paid Parental Leave:** Senate discussed Benefits Committee proposal that NKU faculty and staff eligible for FMLA would also be eligible for paid parental leave. Faculty would have 16 weeks. Estimated cost between \$75,000 and \$150,000 per year depending on how many people use the benefit. Paid parental leave does not currently include elder care but the proposal could be expanded.

- c) **New Programs Approved:** BA in Education, Culture and Society and an MS in Cyber Security. Changes made to General Education D1 regarding students using appropriate methods to draw a conclusion.
- d) **New Grading Scale:** VF (Vanishing Failure) grade approved. It will be optional and faculty will need to document last assignment, last log in. VF grades could effect a student's financial aid.
- e) **Pathway for student complaints:** K. Fuegen presented 2-pronged approach to Faculty Senate: 1) message to President and Provost that faculty would like to field complaints and 2) syllabus language to have students contact us directly. Faculty Senate President took this forward. Response: President and Provost do not want faculty to feel threatened by them following up on a student complaint. Hence they go through the chain of command rather than contacting faculty directly. They indicated some students don't know how to contact their professor and some faculty are unresponsive so students complain directly to the President. K. Fuegen also discussed this with President and Vice President of Student Government. VP of SGA will share this information at their next meeting so students are aware that faculty would like students to speak directly to them about course concerns.

Discussion/Comments: Currently there is no change in policy. While students or their parents don't know how collegial governance works, administrators should. It is an overstep to not refer the complaint at least back to the Department Chair. A suggestion was made to write language for administrators to use when referring complaints back down the chain. The idea is not to focus on the grievance process but to redirect the complaints.

Proposal: Put together a one page request for administrators to follow our preferred protocol.

Action: K. Fuegen will draft a one page statement to be considered by PCC. If approved it will be sent forward to President, Provost, and Deans.

- f) **No PCC meeting 4/1/21:** 3 PCC meetings remaining.

4. Old Business, discussion item: Proposed revisions to section 6 of Faculty Handbook

c) **Evaluations of faculty who have extended the probationary period:**

Not clear when someone who has an extension would go up for reappointment. If an extension is granted does one still go up for reappointment in the year of the extension? Or is the timing of reappointment postponed until the clock starts again? Answer: If you pause, no reappointment. Submit for reappointment when there is no pause.

Add language *"An application for reappointment will not be required in year(s) during which the RPT process is paused. [Suggested addition: But must be submitted in the following RPT year, once the probationary period resumes.] The candidate is*

expected to submit an application for reappointment in years 2 and 4 of the years they are participating in the RPT process."

Discussion/Suggestions: Submit application in the following fall after the pause? Say the candidate will enter a new "cycle" after the pause? People get three reviews, then tenure, regardless of the number of years? Candidates are required to submit for reappointment in years 2, 4, and 6 excluding the paused year? Don't count the paused year (don't think year 3 and 5, stay with 2 and 4, paused year not counted. Think second full year of service, etc. Year 2 and 4 of participating in the RPT process).

Delete sentence: *"The candidate may apply for a one year extension for the same event following the application process described below."* (redundant to following sentence.) No objections.

Added sentence: *"If an initial extension is granted, a reduction in productivity during the period of time addressed in the request should not prejudice a subsequent decision regarding the request for a second extension."* No objections.

Revised paragraph starting "Despite the pause" And ending "factor in the evaluation." No objections.

Action: K. Fuegen will adopt the changes to Section 6 in the shared document. In the next PCC meeting we will vote on the changes made in this meeting.

5. Old Business, discussion item: Proposed revisions to section 14 of Faculty Handbook (attached). We discussed a) and b) during our Feb. 4 meeting. We should review proposed changes to b) based on our earlier discussion and begin examining c).
 - b) What is the composition of peer review committees?

Suggestion: make it clear when we are referring to the "hearing committee" or the "advisory committee."

Can admins serve on this committee? PCC in previous discussion: No.

Who is an admin? Refer to Handbook 1.8.1.

Suggested revision for 14.2.2.2: Add *"Persons holding full-time administrative appointments, as defined in Section 1.8.1, are not eligible to serve on the peer review committees."*

Are Department Chairs or School Directors eligible? Answer: Conflict of interest would prevent a Chair from hearing a complaint from their own department. No objections or issues raised.

Suggestion: Add language from Research Misconduct Policy to Section 14.2.2.5 concerning conflict of interest?

Who defines "adversarial relationship"? Research Misconduct Policy language

could help here. Suggestion to cite the Research Misconduct section of the Handbook.

Action: K. Fuegen will incorporate the suggested changes into Section 14. In the next discussion we'll look at the procedure for filing the petition and options for filing electronically.

6. New Business, discussion item: Reconciling section 16.8 of Faculty Handbook with NKU Sexual Harassment policy approved last August.

Background: New regulations issued from the Dept. of Ed in May 2020 led to a revised Sexual Harassment Policy at NKU, effective in August 2020, discussed by PCC in fall 2020. The new policy is not consistent with the Handbook Section 16.8. The problem: some stuff in the Handbook doesn't just apply to faculty – the Sexual Harassment Policy applies to the entire university, not just the faculty.

There are a few approaches:

- a) Do nothing. Allow inconsistent policies to exist.
Problem: Example, a new faculty member believes they've been harassed by a student and refers to the Faculty Handbook for the process. But this process conflicts with university wide policy.
- b) Replace entire content of 16.8 with the following statement:
 - i. *Sexual Harassment policies and procedures are university-wide policies applying to all faculty, staff, and students and determined by federal law. Faculty should refer to NKU's Sexual Harassment policy posted on the NKU policy website - <https://inside.nku.edu/policy/policies/azlisting.html>.*
Problem: The Handbook language should not be brought into compliance with administrative practice. Do not open the door for others, not faculty, to write policy with the expectation that PCC will adopt what they are doing. Doing this could pressure PCC to revise the handbook when PCC is not inclined to do so.
- c) Replace portions of 16.8 (i.e., 16.8.7—formal process; 16.8.8--appeal process) with the following statements:
 - i. *The process for filing a formal complaint of sexual harassment is detailed in the NKU Sexual Harassment Policy posted on the NKU policy website - <https://inside.nku.edu/policy/policies/azlisting.html>.*
 - ii. *The process for appealing a determination resulting from a formal complaint of sexual harassment is detailed in the NKU Sexual Harassment Policy posted on the NKU policy website - <https://inside.nku.edu/policy/policies/azlisting.html>.*

How to proceed?

Discussion: A faculty process can be more stringent. The policy was put together quickly – suggestion made to take a wait and see approach for now.

7. Future Business

K. Munte: Visual Arts would like to address who is doing RPT/APR in SOTA.

8. The meeting adjourned at 4:49pm

Submitted,

M. Providenti, Secretary

14. GRIEVANCES

14.1. DEFINITION

For the purposes of this Handbook, there are two categories of grievances:

- Major issues concerning a faculty member's professional appointment that are heard by the peer review committees (Section 14.2 below), and
- All others (see Section 14.3 below, Complaint Process)

14.2. PEER REVIEW PROCESS

The Peer Review Process is confidential except as agreed to by the grievant faculty member and the University, through its appointed representatives, or as provided herein, or as may be required in a court of law.

14.2.1. MATTERS SUBJECT TO PEER REVIEW

Only the following matters, all of which affect a faculty member's professional employment at the University, may be appealed to or heard by the Peer Review Process:

- Denial of reappointment, promotion or tenure;
- Cases involving alleged illegal discrimination, except for cases of alleged sexual discrimination which are covered in Section 16.8, Sexual Harassment/Gender Discrimination, of this Handbook;
- Cases involving alleged violation of professional ethics and responsibilities, as set forth in Section 16.3, Professional Ethics and Responsibilities, in this Handbook;
- Termination for medical reasons, as set forth in Section 10.5, Termination for Medical Reasons, in this Handbook;
- Program reduction and faculty reassignment, as set forth in Section 10.6 in this Handbook;
- Termination for cause, as set forth in Section 10.8, Termination For Cause, in this Handbook; and
- Cases involving disagreement with a post-tenure review development plan, as set forth in Section 9.6.4 in this Handbook.

The Peer Review Process will deal with appeals and grievances of matters listed above only for persons who receive a faculty contract; no person who receives an administrative contract (e.g. director, dean, associate provost, vice president) may utilize the Peer Review Process.

Section 14.3, Complaint Process, applies to all other complaints, grievances and appeals by faculty members.

14.2.2. COMPOSITION OF PEER REVIEW COMMITTEES

14.2.2.1. MEMBERSHIP OF THE COMMITTEES

There shall be two peer review committees. The Peer Review Advisory Committee shall consist of five members and five alternate members. The Peer Review Hearing Committee shall consist of five members and five alternate members. Alternate members of either Peer Review Committee may be called upon to serve on the other Peer Review Committee; however, no alternate can serve on both Committees to hear the same case. If it is necessary to constitute a full committee, the Faculty Senate Executive Committee shall appoint members to serve until elected members replace them. Members will serve four-year terms beginning on July 1 of the initial year and extending through June 30 of the final year of service. If a

Commented [KF1]: Committees

Commented [KF2]: 16.2

hearing is in progress, Committee members are required to continue their service beyond June 30 of the final year until the hearing is concluded.

14.2.2.2. ELECTION OF THE COMMITTEE MEMBERS

The members of the Peer Review Committees will be elected at large by the full-time faculty of the University eligible to vote for Faculty Senators. The election shall be conducted by the Faculty Senate Elections Committee. Nominations shall be sought from all full-time faculty eligible to vote for Faculty Senators. Persons holding full-time administrative appointments, as defined in Section 1.8.1, are not eligible to serve on the peer review committees.

Commented [KF3]: “Full-time administrators with academic rank are members of the University administration who hold faculty rank in probationary or tenured positions. Such persons may be assigned teaching responsibilities. This provision is intended to encompass high-level administrators, e.g. the President, vice presidents, deans, and other similarly situated persons.”

Elections will be held according to the schedule of elections developed by the Elections Committee of the Faculty Senate. Members shall be elected by frequency of votes. In event of a tie, the matter will be settled by the Elections Committee, with the advice and consent of the affected individuals and the President of the Faculty Senate. Membership on the Peer Review Committees should be from a broad representation of the University faculty; therefore no Department will be represented by more than one faculty member on each Committee.

Commented [KF4]: Insert “or School”

Commented [KF5]: Should department chairs or school directors be eligible to serve on the committee, provided that they are in a different department/school than the grievant?

14.2.2.3. TERMS OF THE COMMITTEE MEMBERS

Members of the Peer Review Committees must be tenured full-time faculty. They shall serve staggered four-year terms (1 July to 30 June) to provide continuity of membership. The alternates will serve two-year terms (1 July to 30 June).

14.2.2.4. CHAIRS OF THE COMMITTEES

Each committee will elect a chair who shall serve for one year.

14.2.2.5. CONFLICT OF INTEREST

No member of either Peer Review Committee shall serve in the appeal or review of any matter arising from the department(s) of his/her appointment, in any case in which the member participated prior to referral to the Peer Review Committee on which the member participates, nor in any matter in which the member may legitimately be called as a witness. It is the responsibility of committee members to exclude themselves from participating on a committee in any proceeding in which they have a real or apparent ~~any other~~ conflict of interest. Prior to filing a petition, the grievant shall be given the opportunity to object in writing to the presence of any member of the Peer Review committees, based on conflict of interest. If the member does not recuse him- or herself, this fact shall be noted in the committee’s report.

Commented [KF6]: Should we define conflict of interest?
From research misconduct policy: A conflict of interest may include, but is not limited to, co-authorship on a paper or book a professional or personal relationship, professional or personal relationship or antagonism, financial ties, or contact regarding possible employment with either the respondent or the complainant.

Commented [KF7]: Insert “or school”

Commented [KF8]: Adapted from 16.7.4.3: formal investigation of research misconduct

14.2.3. PROCEDURE

14.2.3.1. FILING THE PETITION

Any faculty member wishing to initiate a review by the Peer Review Process must file with the provost one original and eight copies of a written petition. The provost shall retain the original and the eight copies should be sent to:

Commented [KF9]: Specify that electronic version is acceptable.

- Copies 1 – 5 shall go to the Chair of the Peer Review Committee,
- Copy 6 shall go to the dean of the college in which the faculty member resides,
- Copy 7 shall go to the department chair/school director in which the faculty member resides,
- Copy 8 shall go to either the chair of the Reappointment, Promotion and Tenure committee in the department in which the faculty member resides or other respondents to the grievance.

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Commented [KF11]: Insert "or school"

The petition must:

- Clearly state the nature of the grievances and any/all attempts that the faculty member has made to resolve the grievance(s); only those grievances listed in Section 14.2.1 of the Handbook can be investigated by the Peer Review Committees.
 - If the faculty member wishes to submit supporting documentation, one original and eight copies of the documentation must be included with the copies of the written petition to the provost. Although decisions regarding the inclusion of supporting documentation are the sole responsibility of the faculty member, the Peer Review Committees discourage the submission of documents unrelated to the specific grievance(s).
- Be filed within the time limits prescribed by the applicable section of this Handbook; for reappointment, promotion, and/or tenure decisions the time limit is fifteen (15) University working days of receipt of the notice from the provost (Section 3.2.13); if no time limit is prescribed elsewhere in this Handbook, the petition must be filed no later than 60 days of the date of the alleged grievous conduct; if a petition is filed after the prescribed time, it shall be dismissed.

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Commented [KF13]: section 3.2.14

14.2.3.2. WITHDRAWING THE PETITION

An aggrieved faculty member may withdraw a petition for Peer Review at any time prior to the completion of the Peer Review Process. The faculty member must file a written request with the provost asking that the petition be withdrawn. Withdrawal of the petition shall be effective on the date the written request is received in the office of the provost and all further consideration of the petition shall cease immediately.

14.2.4. PEER REVIEW ADVISORY COMMITTEE

14.2.4.1. INITIATING THE PROCESS

Within five (5) working days of receipt of a timely filed petition and any supporting documentation, the provost shall forward copies of the petition and any supporting documentation received from the faculty member to the Chair of the Peer Review Advisory Committee, the dean of the college in which the aggrieved faculty member resides, the department chair/school director, the chair of the Reappointment, Promotion and Tenure Committee of the grievant faculty member's department/school, and/or any other legitimate respondent to the grievance.

Commented [AM14]: Delete reworded with bullets below and additions

Within five (5) working days of receipt of a filed petition, the provost shall forward the copies of the petition and any supporting documentation received from the faculty member to:

- the dean of the college in which the faculty member resides,
- the department chair/school director,
- if the grievance is pertaining to tenure, promotion or reappointment, the chair of the Reappointment, Promotion and Tenure Committee
- and/or other respondents to the grievance.

The chair of the Peer Review Advisory Committee will provide each Advisory Committee member with copies of all correspondence.

14.2.4.2. THE COMMITTEE PROCESS

Upon receipt of a petition and any supporting documentation for peer review, the dean of the college in which the faculty member resides, the department chair/school director, the chair of the Reappointment, Promotion and Tenure Committee, and/or other respondents may each file a written response to the petition, including supporting evidence, with the Peer Review Advisory Committee within ten (10) University working days of receipt of the faculty member's documentation. Any respondent filing a written response to the petition shall provide the grievant with a copy of said response. The grievant faculty member may respond in writing within ten (10) University working days of receipt of the response(s) from the dean, department chair/school director, chair of the Reappointment, Promotion and Tenure Committee, and/or other respondents. The chair of the Peer Review Advisory Committee will notify, in writing, all the parties described above of their right to submit a response and will provide each Advisory Committee member with copies of all correspondence.

Normally the Peer Review Advisory Committee will meet no more than ten (10) University working days after receipt by the committee's chair of the petition and all of the responses described in the previous paragraph.

Within ten (10) University working days of receipt of the faculty member's documentation from the provost, those noted below have a right to submit a written response to the petition and to include supporting evidence. The written response should be sent to the provost within 10 University working days of receipt of the faculty member's documentation

1. the dean of the college in which the faculty member resides,
2. the department chair/school director,
3. if the grievance is pertaining to tenure, promotion or reappointment, the chair of the Reappointment, Promotion and Tenure Committee
4. and/or other respondents to the grievance.

Within ten (10) University working days of receipt of the above noted responses, the grievant faculty member may respond in writing.

No more than ten (10) University working days following the above noted responses, the chair of the Peer Review Advisory Committee will convene the meeting of the committee.

The chair of the Peer Review Advisory Committee will convene the meeting of the committee. A quorum of the committee shall consist of four of the five members. Alternate members may be used as necessary. Based upon the written information it has received, the committee members will determine whether a *prima facie* case for a hearing by the Peer Review Committee is presented. All committee members present shall vote. The committee's determination shall be conveyed in writing to the petitioning faculty

Commented [KF15]: If the grievant files the petition electronically (proposed change to 14.2.3.1), there is no need for the provost to forward copies to these parties. The parties will already have the petition.

Commented [KF16]: If the grievance does not pertain to tenure, promotion, or reappointment, then other respondents to the grievance

Commented [AM17]: Delete reordered with some additions

Commented [KF18]: Replace with "petition"

Commented [KF19]: In the paragraph above, the written response is sent to the Peer Review Advisory Committee.

Commented [KF20]: petition

member, to the president of Faculty Senate, and to the provost, all within three university working days of the committee's decision. If the Committee determines that no prima facie case was presented, the petition will be dismissed by the Committee, accompanied by written reasons explaining the committee's decision. If the committee determines that a prima facie case was presented, the case shall be returned to the provost for further action. If there is a tie vote, the grievant faculty member's petition shall be forwarded to the provost for further proceedings with a finding that a prima facie case is presented. The entire committee file and record, including the petition and all copies of written statements and documents, shall be forwarded to the provost. If the petition has been dismissed, there shall be no further peer review proceedings. The provost is responsible for safekeeping the record

STOP HERE

Below is what was drafted in April of 2020. Please read the note on page 4 before moving onto this section.

A quorum of the committee shall consist of four of the five members. In the case of a conflict of interest, alternate members may be used as necessary. All committee members present shall vote.

Based upon the written information received, the committee members will determine whether a prima facie case for a hearing by the Peer Review Committee is presented.

- If the Committee determines that no prima facie case was presented, the petition will be dismissed by the Committee. If the petition has been dismissed, there shall be no further peer review proceedings.
- If the committee determines that a prima facie case was presented or if there is a tie vote, the case shall be returned to the provost for further action per the procedure set forth in Section 14.2.4.3 Resolution by Negotiation

Within three (3) university working days of the committee's decision, the Committee will notify all parties of their determination in writing.

- the aggrieved faculty member
- the Chair of the Peer Review Advisory Committee,
- the dean of the college in which the aggrieved faculty member resides,
- the department chair/school director,
- and/or any other legitimate respondent to the appeal, including the chair of the Reappointment, Promotion and Tenure Committee if the grievance is pertaining to tenure, promotion or reappointment

The entire committee file and record, including the petition and all copies of written statements and documents, shall be forwarded to the provost. The provost is responsible for safekeeping the record.

14.2.4.3. RESOLUTION BY NEGOTIATION

In the event that the Peer Review Advisory Committee determined that a prima facie case was presented, the provost may review the entire record to determine whether the petition might be resolved by negotiation. The provost may consult with his/her staff, the deans of the University's colleges, and/or

Commented [AM21]: I worked on this section, but after reading 14.2.5.3. SCOPE OF REVIEW, 14.2.5.3.1. REAPPOINTMENT, PROMOTION AND/OR TENURE (page 7) I'm not sure that any of this applies to the RPT decision.

My question is this, if the scope of the decision is what is stated in 14.2.5.3.1 then if a prima facie is found, then shouldn't the RPT committee reconvene with the written decision of the committee?

Because if a prima facie is found, then isn't the committee operating outside the boundaries of the policy? Shouldn't the committee be directed to work within the boundaries of the policy?

If so, then it seems the Scope section should be within the committee process and the resolution by negotiation should only be included for the grievances that are not RPT decisions.

Commented [KF22R21]: Section 14.2.1 suggests that RPT matters fall under the purview of the peer review advisory committee, though this is not explicit.

Commented [KF23]: The chair will be aware of the committee's decision. Should the Faculty Senate president be notified? (See paragraph at bottom of page 4.)

Commented [KF24]: Omit "or"

other appropriate persons while making this decision. In that event the entire record may be reviewed by those consulted so that proper advice may be given.

If the provost determines that negotiation might resolve the matter, he/she or his/her designee shall negotiate with the grievant faculty member for the purpose of seeking a mutually agreeable settlement. If such a settlement is reached, it will be reduced to writing and signed by the provost and the faculty member. Such an agreement shall not become binding on either party until approved by the university president and Board of Regents, if required. Approval of the Board of Regents is required only as to matters that the Board of Regents must approve, such as reappointment, promotion and grant of tenure.

Commented [AM25]: Delete, reordered below and some changes/additions

In the event that the Peer Review Advisory Committee determined that a prima facie case was presented, the provost may review the entire record to determine whether the petition might be resolved by negotiation.

Commented [AM26]: Within how many days?

In making this decision, the provost shall consult with all parties below and ensure all parties have a copy of the entire record

- the aggrieved faculty member
- the Chair of the Peer Review Advisory Committee,
- the dean of the college in which the aggrieved faculty member resides,
- the department chair/school director,
- and/or any other legitimate respondent to the appeal, including the chair of the Reappointment, Promotion and Tenure Committee if the grievance is pertaining to tenure, promotion or reappointment

Commented [KF27]: Omit "or"

If the provost determines that negotiation might resolve the matter, he/she or his/her designee shall negotiate with all parties noted above for the purpose of seeking a mutually agreeable settlement.

- If such a settlement is reached, it will be reduced to writing and signed by the provost and the faculty member.
- Upon settlement, the provost shall notify in writing all parties to the grievance.

Commented [KF28]: This represents a departure from existing language: the provost negotiates only with the aggrieved faculty member (see page 5).

Such an agreement shall not become binding on either party until approved by the university president and Board of Regents, if required. Approval of the Board of Regents is required only as to matters that the Board of Regents must approve, such as reappointment, promotion and grant of tenure.

NO FURTHER EDITS

14.2.4.4. NON-RESOLUTION BY NEGOTIATION

If the petition for peer review is resolved by negotiation, there shall be no further peer review proceedings. If negotiation was not pursued by the provost or the matter was not successfully resolved by negotiation, the provost shall expeditiously forward the petition to the chair of the Peer Review Hearing Committee and to the president of Faculty Senate.

14.2.5. PEER REVIEW HEARING COMMITTEE

14.2.5.1. REPRESENTATION AT THE HEARING

The provost may designate him/herself, a dean of a college within the University, but not the college in which the grievant faculty member is assigned, or a department chair, but not the chair of the department

in which the grievant faculty member is assigned, to be the University representative before the Peer Review Hearing Committee.

14.2.5.2. TIMING OF THE HEARING

The Peer Review Hearing Committee shall proceed expeditiously to schedule a hearing and reach a decision.

14.2.5.3. SCOPE OF REVIEW

14.2.5.3.1. REAPPOINTMENT, PROMOTION AND/OR TENURE

When hearing a case involving denial of reappointment, promotion and/or tenure, the Peer Review Hearing Committee may receive evidence and consider only the following in order to determine whether or not the faculty member's rights have been violated:

- Whether or not the policies and procedures set forth in Sections 3, Evaluation; 4, Reappointment; 5, Promotion; 6, Tenure and/or 7, Appointment, Reappointment, Promotion, and Tenure for Librarians of this Handbook were correctly followed in reaching a decision affecting the faculty member's professional appointment;
- Whether or not the faculty matter received a reasonable opportunity to present his/her side of the matter at issue; and/or
- Whether or not the decision affecting the faculty member's professional appointment was made in a fair and/or reasonable manner, i.e. whether there was some rational basis to support the decision.

14.2.5.3.2. ILLEGAL DISCRIMINATION

When hearing a case involving alleged illegal discrimination (except cases of alleged sexual harassment/gender discrimination which are covered by different procedures and not within the purview or responsibility of the Hearing Committee), the Hearing Committee shall determine whether there was illegal discrimination which affected the decision from which the appeal is taken, and if there was illegal discrimination, make a recommendation for a remedy.

14.2.5.3.3. VIOLATION OF PROFESSIONAL ETHICS AND RESPONSIBILITIES

When hearing a case involving alleged violation of professional ethics and responsibilities, the Hearing Committee shall be guided by Section 16.2 of this Handbook. The Hearing Procedures provided below apply.

14.2.5.3.4. TERMINATION FOR CAUSE

When the Hearing Committee is hearing a case of termination for cause, the Committee shall be guided by Section 10.8, Termination for Cause. The Hearing Procedures provided below are modified in Section 10.8.

14.2.5.3.5. TERMINATION FOR MEDICAL REASONS

When the Hearing Committee is hearing a case of termination for medical reasons, the Committee shall be guided by Section 10.5, Termination for Medical Reasons. The Hearing Procedures provided below apply.

14.2.5.3.6. PROGRAM REDUCTION AND FACULTY REASSIGNMENT

When the Hearing Committee is hearing a case of program reduction and faculty reassignment, the Committee shall be guided by Section 10.6, Program Reduction and Faculty Reassignment. The Hearing Procedures provided below apply.

14.2.5.4. HEARING PROCEDURES

14.2.5.4.1. QUORUM

A quorum of the committee shall consist of four of the five members. Alternate members may be used as necessary.

14.2.5.4.2. PRIORITY

Hearings involving non-reappointment or termination shall be given preference over all other cases.

14.2.5.4.3. STATEMENT AND WITNESS LISTS

The committee must request a written statement of the grievant's case and a written list of witnesses. The University representative must be given an opportunity to respond with a written statement of the University's case and a written list of witnesses. These statements and witness lists must also be exchanged between the grievant and the University representative.

14.2.5.4.4. CLOSED HEARING

Hearings will be closed unless both the grievant faculty member and the University representative agree to an open hearing. That agreement must be in writing and signed by both the grievant faculty member and the University representative, and will be subject to approval by the provost and the University president.

14.2.5.4.5. ADVISORS

The grievant faculty member may bring a person, including an attorney, to serve as an advisor. This shall be at the grievant faculty member's expense. If the grievant faculty member intends to bring an advisor, that fact shall be communicated to the Hearing Committee and to the University representative within five university working days of the day on which the grievant faculty member is asked to give the committee a list of witnesses. If the grievant faculty member brings an advisor, the University representative may bring an advisor, including an attorney if the grievant's advisor is an attorney. Neither advisor may

address the Hearing Committee nor question any witness(es); the sole role of the advisor shall be to advise the person to whom they are the advisor.

14.2.5.4.6. FORM AND PROCEDURE

Hearings shall be non-adversarial in form and procedure. The committee shall seek to learn the truth. The rules of evidence binding upon courts of law are not to be observed; however, the committee shall seek to keep the evidence received pertinent to the issue(s) raised in the proceeding.

14.2.5.4.7. EVIDENCE AND WITNESSES

The grievant faculty member may present evidence and call witnesses and submit documentation, all of which must be pertinent to the issue(s) raised. Thereafter the University representative may present evidence and call witnesses and submit documentation, all of which must be pertinent to the issue(s) raised. The Committee may call any witness(es) and request any documentation it deems appropriate and pertinent to its investigation. The grievant, the University representative, and the committee shall all be given the opportunity to question each witness before that witness is excused.

14.2.5.4.8. HEARING TRANSCRIPT

A complete transcript of the hearing shall be made, including all written documents submitted by any person or witness. The transcript shall be reduced to writing.

14.2.5.5. DECISION OF THE COMMITTEE

Following completion of the hearing and upon receipt of the complete transcript, the Peer Review Hearing Committee shall promptly meet to deliberate and reach a decision. The decision shall be determined, following discussion, by simple majority vote, which may be by secret ballot, including the vote of the committee chair. A tie vote must be reconsidered. In the event the final committee vote is a tie vote, the grievant faculty member's petition shall be dismissed. The committee may make the recommendation(s) it deems appropriate, within the scope of its charge as stated above. The decision and recommendations shall be in writing. The decision and recommendation(s) must be based upon written findings of fact, which may be a separate document or included in the decision and recommendation(s).

14.2.5.6. COMMITTEE REPORT

The Peer Review Hearing Committee's written findings of fact, decision and recommendation(s) shall be delivered to the University president, to the president of Faculty Senate, and to the grievant faculty member within five (5) University working days of reaching its decision. The University president and faculty member shall each receive a copy of the complete transcript of the hearing, including all documents received in evidence.

14.2.5.7. PRESIDENT'S DECISION

If the matter does not have to be presented to the Board of Regents for a decision, then upon receipt of the written findings of fact, decision and recommendation(s) of the Peer Review Hearing Committee, the president shall make a decision. If the matter requires action by the Board of Regents, the president shall formulate a recommendation to the Board of Regents. In doing so, the President may consult with the provost and with the deans of the University's colleges, and in that event the provost and the deans may

have access to the complete transcript, documents received in evidence, and to the written findings of fact, decision and recommendation(s). The president shall communicate his/her decision or recommendation to the grievant faculty member, to the provost and to the Board of Regents.

14.2.5.8. BOARD OF REGENTS' DECISION

If the decision must be made by the Board of Regents, the president shall forward his/her recommendation and all previous recommendations pertaining to the hearing to the Board of Regents for final action. The Board of Regents shall deliberate the case and reach its decision. The Board of Regents shall communicate its decision to the president, the provost and to the faculty member, which may be through the president. The president shall implement the Board's decision.

14.3.

14.2.5.9. COMMUNICATION

In the event that the case provides instruction to any aspect of the University and its procedures, the president may provide a means for that instruction to be communicated to appropriate persons, with confidentiality of the Peer Review Process otherwise maintained.

14.2.5.10. KEEPING OF THE RECORD

The President is responsible for safekeeping the record.

COMPLAINT PROCESS

The following process will apply to all complaints other than those heard by the peer review committees and those not covered elsewhere in this Handbook.

14.3.1. PROCESS APPLICABILITY

A faculty member initiates the complaint process when a concern can no longer be resolved through informal discussion and is not governed by the peer review process.

14.3.2. COMPLAINT PROCESS PROCEDURE

The faculty member addresses the complaint in writing to his/her department chair, with copies to the appropriate dean and the provost. The complaint should identify clearly the nature of the concern and record any earlier attempts to resolve the complaint through discussion.

If the matter remains unresolved at the chair's level, the faculty member may address the complaint in writing to the appropriate dean with copies to the provost and the department chair.

If the matter remains unresolved at the dean's level, the faculty member may address the complaint in writing to the provost with copies to the department chair and the dean.

The provost or an associate or vice provost assigned at the provost's discretion will provide oversight throughout the complaint process and will ensure that careful consideration is given to the complaint at every level without prejudice to the complainant.

The department chair, the dean, and the provost are required to respond to the complainant in writing.

15.

14.3.3. COMPLAINT ADVISORY COMMITTEE

Each college shall elect one at-large member to serve on the Complaint Advisory Committee. The members shall serve staggered two-year terms. This election will be conducted by the Faculty Senate at the time of other Faculty Senate elections. Members of the Complaint Advisory Committee will be full-time tenured faculty.

The vice president of the Faculty Senate shall be responsible for calling the first meeting of the Committee, which will then choose a chair from among its elected members. The vice president of the Faculty Senate will also act as an alternate member of the Complaint Advisory Committee should one be needed because of illness or conflict of interest. The Complaint Advisory Committee may be called on to review any complaint and make recommendations to either the department chair or the dean during the procedure outlined in Section 14.3.2, above. If the complaint is addressed in writing to the provost, the provost is required to consult the Complaint Advisory Committee, which will then make recommendations in writing to the provost for resolution of the complaint. The provost and the Complaint Advisory Committee will work as expeditiously as possible to resolve the complaint promptly. The Complaint Advisory Committee shall be provided copies of the written complaint, all written correspondences of the administrator(s) and the complainant, and if the Committee considers it necessary, it may meet with the complainant and others mentioned in the complaint. The complainant and the vice president of Faculty Senate shall also receive a copy of the Complaint Advisory Committee's recommendations.

A member of the Complaint Advisory Committee may not hear a complaint if he/she is from the same department as the complainant. In this event, the vice president of the Faculty Senate will serve as alternate.

6. TENURE

6.1 DEFINITION OF TENURE

Tenure is the right of full-time faculty who hold academic rank to continuous full-time employment with the University without reduction in academic rank until separation from the University as defined in Section 10, Separation, of this Handbook, including such forms of separation as resignation, retirement, medical termination, program reduction, financial exigency, and termination for cause.

6.2 GRANT OF TENURE

Tenure at NKU is granted in accordance with the provisions of the laws of the Commonwealth of Kentucky and the Bylaws of the Board of Regents and is normally granted after satisfactory progress during an appropriate probationary period. Tenure may be granted only by the Board of Regents. Tenure is granted in the department(s)/school(s) to which the faculty member or administrator is assigned at the time tenure is granted, and can be granted only after formal review by that department's/school's RPT committee as specified in Section 3.2.

6.3 PURPOSE OF TENURE

The Board of Regents of NKU grants tenure to full-time faculty members in order to:

- Create an atmosphere favorable to academic freedom and responsibility;
- Provide faculty members reasonable expectation of security so that the University is able to attract and retain a competent faculty; and
- Promote institutional stability by creating a faculty with a strong, long-term commitment to the University.

6.4 ELIGIBILITY

Unless tenure is received with an initial appointment, only full-time, tenure-track faculty who hold probationary appointments are eligible to receive tenure. Non-tenure-track faculty are not eligible to receive tenure.

6.5 CRITERIA FOR TENURE DECISIONS

In order to be eligible for tenure, the faculty member must hold the appropriate terminal degree or its equivalent, and must be judged effective as a teacher, in scholarly and creative activity, and in institutional and public service. The criteria set forth in Section 3.1 and in the department/school and college RPT guidelines shall be applied to applications for grant of tenure.

6.6 PROCEDURE

The procedures specified in Section 3, Evaluation, apply to applications for grant of tenure.

6.7 TIME

Normally a faculty member will be considered for grant of tenure during the faculty member's sixth year of probationary appointment, including University-recognized credit for prior service, upon the faculty member's application. A faculty member may request grant of tenure in ~~an earlier year~~ a non-mandatory year, and they will be evaluated according to the criteria in Sections 6.5 and 3.1. ~~but only faculty of extraordinary merit may be approved for early grant of tenure.~~ Denial of ~~early tenure in a non-mandatory year~~ is not a basis for non-reappointment.

A faculty member may be allowed to pause the RPT process for up to two years and extend the probationary period under ~~some very limited~~ circumstances with or without taking a full or partial leave of absence by making a formal request to the department chair/school director.

Acceptable reasons for extending the probationary period include, ~~but are not limited to, the primary~~ care for a newborn or adopted child, care for an elder or dependent, serious and prolonged illness, or instances for the candidate or extended family that negatively impact performance. Other ~~exceptional~~ circumstances not mentioned above may be reviewed and the candidate awarded an extension if deemed appropriate by the Provost.

The RPT process may be paused and the probationary period may be extended in one-year increments. ~~An application for reappointment will not be required in a year during which the RPT process is paused.~~ The candidate may apply for a one-year extension for the same event following the application process described below. An individual may request to extend the RPT process for a second time (for a separate or the same reason than the first request), but the total extension during the probationary period may not exceed 2 years. ~~If an initial extension is granted, a reduction in productivity during the period of time addressed in the request should not prejudice a subsequent decision regarding the request for a second extension.~~

A formal request in writing must be given to the department chair/school director clearly stating reasons for pausing the RPT process. The application will then proceed to the Dean

Commented [JF1]: If a faculty member meets the published criteria before the mandatory end of the probationary period, it is unfair to have an additional "extraordinary merit" requirement for them. All faculty should be evaluated according to the same published criteria. If a faculty member can do that "early," we should celebrate not penalize.

Commented [JF2]: I'm not sure why or how we would evaluate this. Why do we care as long as the faculty member can justify extending the probationary period?

Commented [KF3]: Care for the employee's spouse, son, daughter, or parent who has a serious health condition is a qualifying reason for leave under the Family Medical Leave Act.
<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs28f.pdf>

Commented [KF4]: Vague.

Commented [KF5]: Implies that caring for children, parents, or oneself during illness is "exceptional."

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Commented [KF6]: Clarifies that faculty who have paused the clock are not required to seek reappointment during the year(s) of pause.

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Commented [KF8]: Approval of a request should not depend on the faculty member's productivity prior to the request.

and to the Provost. If possible, the request should occur substantially prior to the scheduled submission of the tenure application so that due consideration to the request may be given. Once the application has been submitted, the Chair/Director, Dean, and Provost are asked to review the request as expediently as possible with special regard for the RPT calendar.

~~Despite the pause of the RPT process and extension of the probationary period, candidates granted an extension are expected to meet only the criteria stated in Sections 6.5 and 3.1. University approved tenure policies and letters of appointment. The candidate will continue to participate in the annual review process for merit but not for tenure evaluation. The RPT evaluation following the exemption-extension should consider all work submitted by the candidate using the established criteria. The candidate's accomplishments over the extended probationary period should be evaluated as if they had been accomplished in the shorter standard probationary period. The additional time due to the extension should not be a factor in the evaluation.~~

Should a candidate be denied an extension of the probationary period by either the Chair/Director, Dean, or Provost, the appeals process shall follow the guidelines put forward in this Handbook, Section 14, Grievances, as defined in Section 14.3, Complaint Process.

In colleges where there is no department or school, the dean will function as department chair in these processes.

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Commented [JF9]: We should normalize the "pause the clock" process for all faculty as a matter of equity and support for faculty. No faculty member should be penalized for taking advantage of this benefit. Wording added to emphasize that all faculty should be evaluated according to the same published criteria.

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16.8. SEXUAL HARASSMENT/GENDER DISCRIMINATION

16.8.1. STATEMENT OF GENERAL POLICY

The University will not tolerate sexual harassment. In its policies and procedures the University seeks to deal effectively with the problem and to preserve the rights and privileges of all involved in cases of alleged sexual harassment.

16.8.2. DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, physical, or non-physical conduct of a sexual nature when submission to such conduct is a basis for employment or academic decision, or such conduct unreasonably affects an individual's status and well being by creating an intimidating, hostile, or offensive work or academic environment. The harasser may be faculty, staff, or a student.

Sexual harassment may be considered in these two major categories:

- The first type of harassment is the quid pro quo overt pressure by another person in the workplace for sexual favors.
- The second category of harassment is more subtle and by definition involves a cumulative effect that constitutes the harassment. Any single incident of this type might not be judged harassment, but continuation of the behavior creates an atmosphere that is uncomfortable and intimidating.

Sexual harassment is a form of sex discrimination and a violation of civil rights as covered under Title VII., 1964, Civil Rights Act, and Title IX., 1972, Educational Amendments. These federal acts protect the civil rights of employees and students in an educational institution. The University is, therefore, obligated to treat such complaints seriously.

16.8.3. PREVENTION

Prevention is the best method for eliminating sexual harassment. Every faculty member is encouraged to take all steps necessary to prevent sexual harassment from occurring such as by affirmatively raising the subject, expressing strong disapproval, and informing other faculty, staff, and students of their right to raise, and how to raise, the issue of sexual harassment.

16.8.4. LIMITATIONS OF THIS POLICY

This policy is limited to faculty members complaining of sexual harassment by another faculty member, a staff member, a student, or any other employee or affiliate of the University.

16.8.5. PROCEDURE FOR REPORTING SEXUAL HARASSMENT

A faculty member who believes he/she has been sexually harassed (hereinafter referred to as the complainant) may seek redress through these established informal and formal procedures. The overriding goal of these procedures is to provide a prompt, equitable, fair, and rights-preserving method of handling sexual harassment complaints. At all times and at all stages of the process, confidentiality and privacy of the parties and proceedings will be maintained. The University will seek to protect the reputations of all parties involved and will seek to protect all parties involved from retaliation. The University will also assure a fair procedure and a fair hearing before members of a panel who are without bias or prejudice.

All records of the alleged sexual harassment will be maintained in confidential files only in the Office of University Legal Services and General Counsel. During either the informal or the formal procedures for reporting sexual harassment, other members of the University community may be informed of the specifics of a complaint on a need-to-know basis. Such persons may include the university legal counsel, department chair/school director or academic dean.

16.8.6. INFORMAL PROCESS

If a faculty member experiences sexual harassment by another faculty member, a staff member, contractor, or a student, the faculty member (as complainant) has the right to report the incident to his/her chair or supervisor to determine what action might be appropriate. The complainant

should begin this informal process as promptly as possible after the alleged incident. If the complainant requests assistance in resolving the matter, the chair/director will explain the University's sexual harassment policy and procedures and also inform the complainant that he/she may have other possible rights and remedies external to the University. The chair/director will:

- Obtain from the complainant information on the specific nature of the complaint and the evidence that he/she has for making the complaint;
- Advise the complainant of all options available through this sexual harassment policy;
- Assist the complainant to clarify the resolution sought; and
- Review with university legal counsel any previous complaints that have been filed by the complainant or against the alleged harasser (hereinafter referred to as the respondent).

The chair/director will set up a confidential meeting with the respondent to inform him/her about the complaint.

The respondent has the option to request the presence of his/her immediate supervisor or another academic colleague. If the respondent is a student, he/she may request the presence of the associate to the vice president for student affairs and enrollment management or a representative from Student Government. If counsel is present for either party, the other may have counsel present too. The purposes of the meeting are:

- To inform the respondent of the details of the complaint;
- To obtain the respondent's comments concerning the complaint; and
- To attempt to reach a resolution of the complaint. Such resolutions may include, but are not limited to: an apology and assurance that the respondent's behavior toward the complainant will stop; a change in work assignments; or disciplinary action against the respondent.

If a resolution is obtained through the informal process, the chair/director will notify, in writing, both the complainant and the respondent. This notification must specify the actions necessary for the resolution of the complaint. If no resolution is obtained through this informal process, the chair/director will likewise notify, in writing, the complainant and respondent of this action. In either case, the chair/director must make this notification by certified mail within ten (10) working days of receiving the complainant's report of the alleged incident or incidents.

16.8.7. FORMAL PROCESS

If the informal process has not resolved the allegation of sexual harassment and the complainant wishes to proceed, he/she must file a formal written complaint within ten (10) working days after receiving written notification from the chair/director. A hearing panel will be formed to consider the complaint:

- Providing the respondent with a copy of the written complaint;
- Forming a three-member hearing panel to consider the complaint (Composition of the panel will depend on whether the respondent is a member of the faculty, staff, or a student. If the respondent is a faculty member, the panel will be chosen from among the members of the Peer Review Advisory Committee. If the respondent is a staff member, the panel will be composed of two faculty members from the faculty pool and one staff member chosen from the pool of staff that have agreed to serve on such a panel. If the respondent is a student, the panel will be chosen from the faculty pool and one student recommended by Student Government Association.);
- Convening the hearing panel and selecting a chair;
- Advising (in consultation with university legal counsel) the hearing panel of the characteristics of sexual harassment and of standards for identifying whether sexual harassment has occurred;
- Scheduling sessions of the hearing panel;
- Calling and scheduling all witnesses requested by the hearing panel;
- Assuring that a record is made of all proceedings;
- Assuring that all deadlines and procedures are followed by the hearing panel; and
- Dismissing the panel at the conclusion of the hearing.

The hearing panel will:

- Conduct an inquiry into the alleged sexual harassment incident(s). (The panel may request of university legal counsel records of previous complaints involving either the complainant or the respondent.);
- Make a determination of whether the allegation(s) are true or false and whether they constitute sexual harassment; and

- Prepare a written statement setting forth the determination and its basis.

If the hearing panel determines that the complainant has been sexually harassed, it may use any previous sexual harassment complaints documented by university legal counsel against the respondent as part of their basis for sanction. Available sanctions include, but are not limited to, reprimand, suspension without pay, and termination of employment.

Within fifteen (15) days the chair of the hearing panel will communicate the written statement of the determination to both the complainant and the respondent by certified mail and to the appropriate vice president. The appropriate vice president will have the ultimate decision to impose sanctions, including those recommended by the hearing panel. The appropriate vice president will insure that any written documents concerning the case are filed with university legal counsel.

16.8.8. APPEAL PROCESS

Either party may appeal an adverse determination or recommendation to the respondent's vice president. The appeal must be written, state the basis of the appeal, and be filed within ten (10) working days of receipt of the notification of the adverse determination or recommendation. The appropriate vice president will inform all other parties that an appeal has been made. The vice president will make a determination of the hearing panel's decision. The decision of the hearing panel will be affirmed unless there is insufficient evidence in the record to support it.

The appropriate vice president will notify the parties involved, in writing, by certified mail, of the determination within ten (10) working days of receipt of the appeal.

16.8.9. RESIDUAL RIGHTS AND PROCEDURAL COMMENTS

The rights of either party to file a grievance under the Faculty Handbook, Staff Handbook, or Student Handbook shall not be impaired by using the Sexual Harassment Policy and Procedure.

SEXUAL HARASSMENT

POLICY NUMBER: HYBR-SEXHARASS

POLICY TYPE: HYBRID

RESPONSIBLE OFFICIAL TITLE: CHIEF DIVERSITY, EQUITY, AND INCLUSION OFFICER

RESPONSIBLE OFFICE: TITLE IX COORDINATOR/OFFICE OF TITLE IX

EFFECTIVE DATE: 8/14/2020

NEXT REVIEW DATE: 2/14/2021

SUPERSEDES POLICY: SEXUAL MISCONDUCT – 5/6/2015

BOARD OF REGENTS REPORTING (CHECK ONE):

PRESIDENTIAL RECOMMENDATION (CONSENT AGENDA/VOTING ITEM):

PRESIDENTIAL REPORT (INFORMATION ONLY)

I. POLICY STATEMENT

Northern Kentucky University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from harassment and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, the University has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of sexual harassment or retaliation. The University values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

II. POLICY ON NONDISCRIMINATION

Northern Kentucky University does not discriminate based on national origin, race, color, age, gender, gender identity, gender expression, sexual orientation, religion, political affiliation, physical or mental disability, genetic information, pregnancy, and Uniform Services or veteran status in its educational programs and activities, employment, daily operations and admissions policies, in accordance with all applicable federal legislation, state laws and university policies. No retaliation shall be initiated against any person who makes a good faith report of a violation.

III. SCOPE AND AUTHORITY

The core purpose of this Policy is the prohibition of sexual harassment and retaliation. When an alleged violation of this Policy is reported, the allegations are subject to resolution using the University's Formal Grievance Process, as detailed in the Policy. The Northern Kentucky University community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this Policy.

This Policy is intended to comply with the Final Regulations under Title IX of the Education Amendments of 1972 released by the United States Department of Education on May 6th, 2020. Section 106.6(h) of the Final Rules provides: "To the extent of a conflict between State or local law and Title IX as implemented by §§ 106.30, 106.44, and 106.45, the obligation to comply with §§ 106.30, 106.44, and 106.45 is not obviated or alleviated by any State or local law." Therefore, tenured faculty and employees under contract are subject to the terms of their agreements only to the extent those agreements do not conflict with federal or state compliance obligations.

IV. DEFINITIONS

Advisor is a person chosen by a Party or appointed by the University to conduct cross-examination for the Party at the hearing, if any.

Complainant is an individual who is alleged to be the victim of either conduct that could be sexual harassment based on a protected class or retaliation for engaging in a protected activity.

Complaint (formal) is a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or retaliation for engaging in a protected activity against a Respondent and requesting that the University investigate the allegation.

Confidential Resource is an employee who may maintain confidentiality and is not expected to report actual or suspected sexual harassment or retaliation to NKU for the purpose of putting the university on Notice (*Note: those with Clery Act Campus Security Authority status must still fulfill their CSA obligations).

Business Day is a day when the University is open for normal business operations and is not tied to the academic calendar.

Education Program or Activity are locations, events, or circumstances where the University exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.

Final Determination is a conclusion by a preponderance of the evidence that the alleged conduct occurred and whether it did or did not violate this Policy.

Finding is a conclusion by a preponderance of the evidence that the conduct did or did not occur as alleged.

Formal Grievance Process is a method of formal resolution designated by the University to address conduct that falls within this Policy, and which complies with the requirements of 34 CFR Part 106.45.

Grievance Process Pool includes any Investigators, Hearing Decision-makers, Appeal Decision-makers, Sanctioning Panel members, and university-appointed Advisors who may perform any or all of these roles (though not at the same time or within the same case).

Hearing Decision-maker refers to the person or persons who have decision-making authority within the University's Formal Grievance process.

Investigator is the person or persons charged by the University with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

Notice means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct. (See also—*Report*).

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

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

Remedies are post-Finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's educational program.

Report means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct. (See also—*Notice*)

Respondent is an individual who has been alleged to be the perpetrator of conduct that could constitute harassment or retaliation for engaging in a protected activity.

Sanction is a consequence imposed by the University on a Respondent who is found to have violated this Policy.

Sanctioning Panel refers to the person or persons who have sanctioning authority within the University's Formal Grievance process.

Sexual Harassment is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.

Student – For the purpose of this Policy, the University defines “student” as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the University.

Title IX Coordinator is the official designated by the University to ensure compliance with Title IX and the University's Title IX program. References to the Coordinator throughout this Policy may also encompass a designee of the Coordinator for specific tasks.

Title IX Team refers to the Title IX Coordinator, Deputy Title IX Coordinators, and any member of the Grievance Process Pool.

V. TITLE IX COORDINATOR

Darryl Peal serves as the University's Title IX Coordinator and oversees implementation of this Policy. The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment and retaliation prohibited under this Policy. Whenever this Policy indicates “Title IX Coordinator” the University may substitute a trained designee in compliance with the Title IX Final Regulations.

INDEPENDENCE AND CONFLICT OF INTEREST

The Title IX Coordinator acts with independence 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 bias or conflict of interest by the Title IX Coordinator, or to report misconduct committed by the Title IX Coordinator, contact Northern Kentucky University President Ashish Vaidya (800 Lucas Administrative Center; president@nku.edu).

Concerns of bias or a potential conflict of interest, or reports of misconduct committed by any other Title IX Team member should be raised with the Title IX Coordinator or the Office of Legal Affairs.

VI TITLE IX AND OFFICIALS WITH AUTHORITY—CONTACT INFORMATION

Reports of alleged Policy violations or inquiries about or concerns regarding this Policy and procedures, may be made internally to:

OFFICE OF TITLE IX

Darryl Peal: Title IX Coordinator and Chief Diversity, Equity, and Inclusion Officer

Lucas Administrative Center 824

859-572-6630; peald1@nku.edu; <https://inside.nku.edu/titleix.html>

Angela Zippin: Title IX Investigator

University Center 330; 859-572-7669; zippina1@nku.edu

DEPUTY TITLE IX COORDINATORS

Bob Alston: Director of the Office of Student Conduct, Rights and Advocacy and Deputy Title IX Coordinator for Students

Student Union 301; 859-572-5147; alstonr1@nku.edu

Rachel Green, Director of Employee Relations and EEO and Deputy Title IX Coordinator for Staff & Faculty

Lucas Administrative Center 717; 859-572-7600; greenr5@nku.edu

Debbie Kirch, Associate Athletic Director for Compliance & SWA Deputy Title IX Coordinator for Athletics

BB&T Arena 133L; 859-572-5140; kirchd1@nku.edu

OFFICIALS WITH AUTHORITY

In addition to the Title IX Team members listed above, Officials with Authority (OWAs) to address and correct sexual harassment and/or retaliation may also receive reports on behalf of the University.

OWAs can be found in Human Resources; Student Conduct, Rights, and Advocacy; University Police; Legal Affairs; the Office of the Provost; the Office of the Vice President for Student Affairs; and the Board of Regents. Contact information for specific OWAs may be found on the Office of Title IX website: <https://inside.nku.edu/titleix/contact.html>.

VII. REPORTING SEXUAL HARASSMENT AND RETALIATION

All members of the Northern Kentucky University community are encouraged and empowered to report incidents of sexual harassment and/or retaliation to the Office of Title IX or any OWA. However, when a member of the University community becomes aware of such an incident, they may honor the Complainant's request not to have identifying information reported to the University. Trainings to foster campus awareness of reporting and support services are provided regularly and may be scheduled by contacting the Office of Title IX.

Athletics staff, coaches, administrators, and student-athletes are required to report any known or suspected sexual harassment (including sexual violence) to the Title IX Coordinator immediately.

Reports do not automatically initiate the university's obligation to investigate the allegation, but may place the University on Notice that sexual harassment and/or retaliation may be occurring. Reports can be made to a designated individual or online.

- Reports may be made in writing or verbally to the Title IX Coordinator, Title IX Investigator, Deputy Title IX Coordinator(s), or any Official with Authority at any time, including during non-business hours, in-person, by telephone, email, or US mail.
- Reports may also be made online, using the reporting form posted at: <https://inside.nku.edu/titleix> (File a Report).

Upon receiving a report of sexual harassment and/or retaliation, the Title IX Coordinator will contact the Complainant to offer supportive measures and determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.

Because reporting carries no obligation to initiate the Formal Grievance Process, the Complainant remains largely in control and should not be deterred from submitting a report which allows the University to provide supportive measures.

Reporting requirements under Title IX may be different than reporting requirements under other state and/or federal laws, such as the Clery Act. Please refer questions about other reporting obligations to the Office of Legal Affairs.

VIII. FORMAL COMPLAINT OF SEXUAL HARASSMENT AND/OR RETALIATION

The term “Formal Complaint” has a very specific definition within the Title IX Final Rules (See, 34 CFR 106.30(a)). A Formal Complaint is a document filed by a Complainant, or in rare circumstances—the Title IX Coordinator. A Formal Complaint requires a signed writing that alleges Policy violation(s) by Respondent(s) and requests that the University investigate the allegation(s). A Formal Complaint initiates the University’s Formal Grievance Process.

A written Formal Complaint may be filed with Title IX Coordinator in person, by email, US mail, or using the University’s online portal provided for this purpose found at <https://inside.nku.edu/titleix/report/formal-complaint>. A Complainant’s signature can be physical or digital, or otherwise indicate that the Complainant is the person filing the Complaint.

If a Complaint is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly. A Formal Complaint will also be referred to as a ‘Complaint’ in this Policy.

SUPPORTIVE MEASURES

The University will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged sexual harassment and/or retaliation. Supportive measures are available to all Parties without expense, even if no formal complaint has been filed.

Supportive measures are non-disciplinary, non-punitive individualized services offered when appropriate, as reasonably available, and without fee or charge to the Parties to restore or preserve access to the University’s Education Program or Activity, including measures designed to protect the safety of all Parties or the University’s educational environment, and/or deter sexual harassment and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the Parties upon receiving Notice via a Report or a Complaint. At the time that supportive measures are offered, the University will inform the Complainant, in writing, that they may file a Formal Complaint with the University either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University’s ability to provide the supportive measures. The University will act to ensure as minimal an academic impact on the Parties as possible. The University will implement measures in a way that does not unreasonably burden the other Party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Providing campus safety escorts
- Implementing contact limitations (University no contact orders) between the Parties.
Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.
- Recommendations for academic support, extensions of deadlines, or other course/program-related adjustments
- Class schedule modifications, withdrawals, or leaves of absence

- Campus trespass orders and/or Timely Warnings
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

EMERGENCY REMOVAL

The University can act to remove a Respondent entirely or partially from its Education Program or Activities 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. This risk analysis is performed by the Title IX Coordinator, who may utilize a Behavioral Intervention Team (BIT) made up of representatives from Health, Counseling, and Student Wellness; Human Resources; Legal Affairs; University Police; Student Conduct, Rights, and Advocacy; and other resources as appropriate. The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns.

In all cases in which an emergency removal is imposed, the student, employee, or, for student organizations, the organization's President and representative, will be given notice of the decision and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to give reason for why the removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested within five (5) business days of notice, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause 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 Title IX Coordinator has sole discretion under this Policy to implement or stay an emergency removal and to determine the conditions and duration. There is no appeal process for emergency removal decisions.

Violation of an emergency removal under this Policy will be grounds for discipline, which may include expulsion or termination.

Where the Respondent is a faculty or staff member, existing provisions for interim action are applicable.

PRIVACY

Every effort is made by the University to preserve the privacy of Reports and Complaints. Privacy means that information related to a Complaint will be shared with a limited number of the University's employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the University's response to Notice under this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with state open records law and federal law.

The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA). The privacy of employee records will be protected in accordance with Human Resources, Faculty Handbook, and other university policies. Some university records may be subject to release under Kentucky's Open Records Act if an exemption does not apply. The Office of Legal Affairs manages and responds to open records requests on behalf of the University.

JURISDICTION

This Policy applies only to the Education Program and Activities of Northern Kentucky University. Specifically, to conduct that takes place on NKU's campus or on property owned or controlled by the University, at University-sponsored events, or in buildings owned or controlled by the University's recognized student organizations. Further, the Respondent must be a member of the University community in order for this Policy to apply.

If the Respondent is unknown or is not a member of the University 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. Even when the Respondent is not a member of the University community, supportive measures, Remedies, and resources may be accessible to the Complainant.

Vendors serving the University through third-party contracts have agreed to comply with University policies. In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University property and/or events.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in connecting with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

TIME LIMITS ON REPORTING

There is no time limitation on providing Notice or filing a Complaint. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide Remedies may be more limited or impossible.

Acting on Reports or Complaints significantly impacted by the passage of time is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or Remedies, and/or engage in informal or formal action, as appropriate.

When a Complaint is affected by significant time delay, the University will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of Complaint.

ONLINE SEXUAL HARASSMENT AND/OR RETALIATION

Northern Kentucky University does not control external websites, social media, and other venues where harassing communications may occur. Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of the University's control (e.g., not on University networks, websites, or between University email accounts) will only be subject to this Policy when such online conduct can be shown to cause a substantial in-program disruption.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

IX. SEXUAL HARASSMENT PROHIBITED

Sexual harassment is not tolerated at Northern Kentucky University, and is regarded as an unlawful discriminatory practice by The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the Commonwealth of Kentucky.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual Harassment, as an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

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

- 1) Quid Pro Quo: An employee of the University conditions, implicitly or explicitly, the provision of an aid, benefit, or service of the University, on an individual's participation in unwelcome sexual conduct.
- 2) Sexual Harassment: Unwelcome conduct, determined by a reasonable person, to be so severe, and pervasive, and objectively offensive, that it effectively denies a person equal access to the University's Education Program or Activity.
- 3) Sexual Assault, defined as:
 - a) Sex Offenses, Forcible:
 - i) Any sexual act directed against another person,
 - ii) without the consent of the Complainant,
 - iii) including instances in which the Complainant is incapable of giving consent.
 - b) Forcible Rape:
 - i) Penetration,
 - ii) no matter how slight,
 - iii) of the vagina or anus with any body part or object, or
 - iv) oral penetration by a sex organ of another person,
 - v) without the consent of the Complainant.
 - c) Forcible Sodomy:
 - i) Oral or anal sexual intercourse with another person,
 - ii) forcibly,
 - iii) and/or against that person's will (non-consensually), or
 - iv) not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - d) Sexual Assault with an Object:
 - i) The use of an object or instrument to penetrate,
 - ii) however slightly,
 - iii) the genital or anal opening of the body of another person,
 - iv) forcibly,
 - v) and/or against that person's will (non-consensually),
 - vi) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - e) Forcible Fondling:
 - i) The touching of the private body parts of another person (buttocks, groin, breasts),
 - ii) for the purpose of sexual gratification,
 - iii) forcibly,
 - iv) and/or against that person's will (non-consensually),
 - v) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - f) Sex Offenses, Non-forcible:
 - i) Incest:
 - 1) Non-forcible sexual intercourse,
 - 2) between persons who are related to each other,
 - 3) within the degrees wherein marriage is prohibited by Kentucky law.

- ii) Statutory Rape:
 - 1) Non-forcible sexual intercourse,
 - 2) with a person who is under the statutory age of consent of sixteen (16) years old.
- 4) Dating Violence, defined as:
 - a) violence,
 - b) on the basis of sex,
 - c) committed by a person,
 - d) 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) Domestic Violence, defined as:
 - a) violence,
 - b) on the basis of sex,
 - c) committed by a current or former spouse or intimate partner of the Complainant,
 - d) by a person with whom the Complainant shares a child in common, or
 - i) by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
 - ii) by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Kentucky, or
 - iii) 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 Kentucky.
- 6) Stalking, defined as:
 - a) engaging in a course of conduct,
 - b) on the basis of sex,
 - c) directed at a specific person, that
 - i) would cause a reasonable person to fear for the person's safety, or
 - ii) the safety of others; or
 - iii) suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which 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.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

OTHER SEX-BASED PROHIBITED OFFENSES

In addition to the forms of sexual harassment described above, which fall within the coverage of Title IX, the University additionally prohibits Sexual Exploitation as a form of discrimination outside of Title IX when the act is based upon the Complainant's sex.

Sexual Exploitation is defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this Policy. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent, including the making or posting of revenge pornography
- Causing the incapacity of another person, or attempting to cause the incapacity of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity

Violation of any other University policies may constitute a Sex-Based Offense when a violation is motivated by sex, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

X. EXPLANATION OF TERMS RELATED TO SEXUAL HARASSMENT

Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent is clear, knowing, and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Verbal consent is not a requirement of this Policy; however, consent *may* be given by words as long as those words create mutually understandable clear permission regarding willingness to engage in sexual activity. Consent to any one form of sexual activity cannot alone imply consent to any other forms of sexual activity. Previous relationships or prior consent cannot imply consent to future sexual acts. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Kentucky law (KRS § 510.020) states that lack of consent results from:

- a) Forcible compulsion;
- b) Incapacity to consent; or
- c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

A person is deemed incapable of giving consent when he or she is:

- a) Less than sixteen (16) years old;
- b) Sixteen (16) or seventeen (17) years old and the actor is at least ten (10) years older than the victim at the time of the sexual act;
- c) An individual unable to communicate consent or lack of consent, or unable to understand the nature of the act or its consequences, due to an intellectual disability or a mental illness;
- d) Mentally incapacitated;
- e) Physically helpless; or
- f) Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or agency.

Domestic Violence: 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.

Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced.

Incapacity: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. A Respondent violates this Policy if they engage in sexual activity with a Complainant who is incapable of giving consent. Incapacity is determined through consideration of all relevant indicators of an individual's state and is not the same as mere intoxication and/or being drunk or high.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment. Incapacity occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).

Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

RETALIATION PROHIBITED

Retaliation is any adverse action a University community member takes against another community member for engaging in protected activities. Protected activity under this Policy includes good-faith reporting of an incident that may implicate this Policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Northern Kentucky University is prepared to take appropriate steps to protect individuals who are concerned that they may be subjected to retaliation.

COUNTERCLAIMS

The University is obligated to ensure that the grievance process is not abused for retaliatory purposes. The University permits the filing of counterclaims but uses an initial assessment to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the formal grievance procedures. Investigation of such claims may take place after resolution of the underlying initial allegation or be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are **not** made in good faith, they will be considered retaliatory and may constitute a violation of this Policy.

FALSE ALLEGATIONS AND EVIDENCE

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a Policy violation determination. Additionally, witnesses and Parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under University Policy.

CONFIDENTIAL RESOURCES

All members of the Northern Kentucky University community are encouraged and empowered to report actual or suspected sexual harassment or retaliation to appropriate officials immediately, though there are some limited exceptions.

On campus, some resources may maintain confidentiality and are not expected to report actual or suspected sexual harassment or retaliation. 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. Reporting sexual harassment to these offices does not place the University on Notice regarding potential misconduct.

Complainants that seek to keep the details of an incident confidential may speak with the following university resources:

- Professional counselors and health service providers in Health, Counseling, and Student Wellness
- Norse Violence Prevention staff members
- Employee Assistance Program providers

The above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order. Northern Kentucky University employees who are Confidential Resources will timely submit anonymous statistical information for Clery Act purposes.

WHEN A COMPLAINANT DOES NOT WISH TO PROCEED

If a Complainant 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, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the University proceeds when the Complainant does not wish to do so. The Title IX Coordinator may sign a Formal Complaint to

initiate a Formal Grievance Process based on results of a violence risk assessment which shows a compelling risk to health and/or safety that requires the University to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The University may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes. 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 executes the 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. When the University proceeds, the Complainant (or their Advisor) 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. Typically, when the Complainant chooses not to participate, an Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

The University's ability to remedy and respond to Notice 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.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the University to honor that request, the University will offer supportive measures and Remedies to the Complainant, but will not otherwise pursue formal action.

If the Complainant elects to 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 the University, and to have the incidents investigated and properly resolved through these procedures.

FEDERAL TIMELY WARNING OBLIGATIONS

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Northern Kentucky University must issue Timely Warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community. The University 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 the potential danger.

AMNESTY FOR COMPLAINANTS AND WITNESSES

It is in the best interests of the Northern Kentucky University community that Complainants choose to report misconduct to University officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process. To encourage reporting and participation in the process, the University maintains a policy of offering Parties and witnesses amnesty from minor policy violations related to the incident.

FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials, those deemed Campus Security Authorities, have a duty to report the following for federal statistical reporting purposes as required by the Clery Act. Nothing in this Policy changes that duty.

XI. FORMAL GRIEVANCE PROCESS FOR SEXUAL HARASSMENT ALLEGATIONS

OVERVIEW

Northern Kentucky University will utilize the following Formal Grievance Process when a Formal Complaint of a violation of the Policy is received by the Title IX Coordinator. The procedures below apply to all qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) and other sex-based offenses involving students, staff, administrators, or faculty members. All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through procedures described in the Code of Student Rights and Responsibilities, Grievance policy for staff, Faculty Handbook, and other applicable policies.

REPORT/COMPLAINT

Upon receipt of a Report or Complaint of an alleged violation of the Policy, the Title IX Coordinator will initiate a prompt initial assessment to determine the next steps the University needs to take. The Title IX Coordinator will offer supportive measures if the Complainant does not want to file a Formal Complaint; and/or initiate the Formal Grievance Process upon submission of a Formal Complaint.

The University uses the Formal Grievance Process to determine whether or not the Policy has been violated. If so, the University will promptly implement effective Remedies designed to ensure that it is not deliberately indifferent to sexual harassment or retaliation, their potential recurrence, or their effects.

INITIAL ASSESSMENT

Following receipt of a Report or a Complaint of an alleged violation of this Policy, the Title IX Coordinator will engage in a brief initial assessment to determine reasonable cause, whether any of the requirements for mandatory dismissal are present, and potential supportive measures. This an initial assessment is typically conducted within one to five business days. Additionally, this assessment will include contacting the Parties to offer supportive measures and determine if the Complainant wishes to make a Formal Complaint.

If the Complainant does not want to make a Formal Complaint but requests a supportive response, the Title IX Coordinator works with the Complainant to identify their wishes, assesses the request, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate a Formal Complaint later, if desired.

If the Complainant submits a Formal Complaint, the Title IX Coordinator will determine if the misconduct alleged falls within the scope of Title IX. If it does, the Title IX Coordinator will initiate the Formal Grievance Process.

If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the Complaint, if any), assesses which policies may apply, which resolution process is applicable, and will refer the matter accordingly. Please note that dismissing a Complaint under Title IX is procedural, and does not limit the University’s authority to address a Complaint with another appropriate University policy and process. Where Complaints are referred to other University processes, the Parties will be notified.

VIOLENCE RISK ASSESSMENT

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Title IX Behavioral Intervention Team (BIT) as part of the initial assessment. A VRA can aid in critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a Formal Complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether to permit a voluntary withdrawal by the Respondent;
- Assessment of appropriate sanctions/Remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning or Trespass order is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

DISMISSAL (MANDATORY AND DISCRETIONARY)

Dismissal requirements are mandated by the 2020 Title IX Final Regulations, 34 CFR §106.45. The University must dismiss a Formal Complaint if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the Formal Complaint would not constitute sexual harassment as defined in the Policy, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or
- 3) The University does not have control of the Respondent; and/or
- 4) The conduct did not occur against a person in the United States; and/or
- 5) At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in the Education Program or Activity of the University.

The University *may* dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the University; or
- 3) Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Upon any dismissal, mandatory or discretionary, the University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the Parties. This dismissal decision is appealable by either Party under the procedures for appeal below. A Complainant who decides to withdraw a Complaint may later request to reinstate it or refile it.

RIGHT TO AN ADVISOR

The Parties must each have an Advisor present with them at a hearing to conduct cross-examination. The Parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available. 'Eligible' means the Advisor does not have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. 'Available' means the Party cannot insist on an Advisor who simply doesn't have inclination or time to fulfill the role.

Choosing an Advisor who is also a witness in the process is permitted but creates potential for bias and conflict-of-interest. A Party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Hearing Decision-maker.

If a Party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any questioning of the other Party and witnesses. A Party who wishes to have a University-appointed Advisor conduct cross-examination on their behalf must notify the Title IX Coordinator at least five (5) business days before the hearing.

In addition to the hearing, at which an Advisor is required, the Parties have the opportunity to be accompanied to any other related meeting or proceeding by an individual of their choice for support, advice, and/or consultation. This individual may be, but is not required to be, the Advisor selected to conduct cross-examination at the hearing.

Advisors and Parties are expected to follow the requirements of the University's Title IX Advisor Guidance and Designation form available on the [Office of Title IX website](#). This document is required by this Policy and is incorporated herein.

FORMAL GRIEVANCE PROCESS

Grievance proceedings are private and not subject to Kentucky's Open Meetings Act. All persons present at any time during the grievance process are expected to maintain the privacy of the proceedings in accordance with University policy. Although there is an expectation of privacy around what Investigators share with Parties during interviews, the Parties have discretion to share their own knowledge and evidence with others if they so choose. The University encourages Parties to discuss any sharing of information with their Advisors before doing so.

The University resolves Complaints of sexual harassment through the Formal Grievance Process. However, the University reserves the right to develop and implement an informal resolution process in the future.

DISABILITIES ACCOMMODATIONS IN THE GRIEVANCE PROCESS

Northern Kentucky University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University's Formal Grievance Process.

Anyone needing such accommodations or support should contact the Office of Student Accessibility or ADA Coordinator, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

Students:

Office for Student Accessibility
Student Union, Suite 303
Hours: 8:15am - 4:30pm
Email: osa@nku.edu
Phone: (859) 572-5282

Employees:

ADA Coordinator
Office of Human Resources
Lucas Administrative Center 708
Email: greenr5@nku.edu
Phone: (859) 572-76000

GRIEVANCE PROCESS POOL

The Formal Grievance Process relies on a Pool of University community members and external resources ("the Pool") to carry out the process. The list of Pool members and a description of the Pool can be found at <https://inside.nku.edu/titleix/resources/pool.html>.

Pool Member Roles

Members of the Pool are trained annually, and can serve in each of the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to Complaints
- To act as an Advisor to the Parties
- To investigate Complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Hearing Decision-maker regarding the Complaint
- To serve as a Sanctioning Panel member after a Finding of responsibility
- To serve as an Appeal Decision-maker

Pool Appointment and Membership

The Title IX Coordinator, in consultation with the President and Vice Presidents, appoints members to the Pool to act with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the University can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

The Pool includes the Title IX Team and properly trained faculty, staff, and, where appropriate, students. Additionally, the University may utilize non-campus partners, who have been properly trained, to serve as Pool Members. Individuals who are interested in serving in the Pool are encouraged to contact the Title IX Coordinator.

Pool Member Training

The Pool members receive annual training based on their respective roles. This training includes, but is not limited to:

- The scope of the University's Sexual Harassment Policy and Procedures
- The definition of sexual harassment in the Title IX Final Regulations (See 34 CFR 106.30)
- How to conduct an investigation and grievance process including hearings and appeals
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence for Decision-makers
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence

Specific training is also provided for Appeal Decision-makers, intake personnel, and university-appointed Advisors. All University Pool members are required to attend these trainings annually. Training may be offered internally or proof of external training will be acceptable for contracted third-parties. The materials used to train all university members of the Pool are publicly posted here: <https://inside.nku.edu/titleix/resources/pool.html>.

FORMAL GRIEVANCE PROCESS: NOTICE OF INVESTIGATION AND ALLEGATIONS

The Title IX Coordinator will provide written notice of the investigation and allegations (the "NOIA") to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations, including the identities of the Parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known
- The specific policies implicated
- A description of the applicable procedures
- A statement that the University presumes the Respondent is not responsible for the alleged conduct
- A statement that determinations of responsibility are made at the conclusion of the grievance process and that the Parties may request, and will be given, an opportunity to inspect and review evidence collected in the investigation.
- A statement that Parties may have an advisor of their choice, who may be, but is not required to be, an attorney
- A statement informing the Parties that the University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Formal Grievance Process

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official University records, or emailed to the Parties' University email accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

GRIEVANCE PROCESS TIMELINE

All allegations are acted upon promptly by the University once it has received a Formal Complaint. Complaints will generally be resolved within 60-90 business days. However, exceptions and extenuating circumstances may arise that cause the process to take longer. The University will avoid undue delays within its control.

When the general timeframes for resolution outlined in the University's procedures are delayed, the University will provide written notice to the Parties of the delay, the general rationale for the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

ENSURING IMPARTIALITY AND PRESUMPTION OF NOT RESPONSIBLE

No individual materially involved in the administration of the Formal Grievance Process may have or demonstrate a conflict of interest or bias for or against a Party generally, or for or against a Complainant or Respondent specifically.

The Title IX Coordinator will vet the assigned Investigator to ensure impartiality by determining there are no actual or apparent conflicts of interest or disqualifying biases. The Parties may, at any time during the Formal Grievance Process, raise a concern regarding bias or conflict of interest. If raised, the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a Policy violation and evidence which supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The University operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a Policy violation by the applicable standard of proof. Further, the burden of collecting evidence and proving a violation of this Policy is on the University and is not the responsibility of either Party.

INVESTIGATION

Timeline

Investigations are completed expeditiously, normally within thirty to forty-five (30-45) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the investigation.

Delays in the Investigation Process and Interactions with Law Enforcement

The University may undertake a reasonable delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, public health emergencies, and/or accommodations for disabilities or health conditions.

The Investigator will communicate in writing the anticipated duration of the delay and reason to the Parties and provide the Parties with status updates if necessary. The University will promptly resume its investigation and grievance process as soon as feasible. During such a delay, the University will implement supportive measures as deemed appropriate.

University actions are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant Parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. The Investigator will provide regular status updates to the Parties throughout the investigation.

Parties will be provided clear, written notice before each and every interview or other meeting they are invited to or expected to attend. Such notice will date, time, location, participants invited, and the purpose of the interview or meeting.

Within the Investigation, all Parties have a full and fair opportunity, without restriction, to discuss allegations, suggest witnesses and questions, to present evidence and expert witnesses, and to fully review and respond to all evidence on the record.

Prior to the conclusion of the investigation, the Investigator will provide the Parties and their respective Advisors (if so desired by the Parties) a secured electronic or hard 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. The Parties may elect to waive the full ten (10) days.

The Investigator will incorporate relevant elements of the Parties written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator will then share with the Parties and their Advisors the final investigation report at least ten (10) business days prior to a hearing. The Parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Decision-maker at the hearing, and will be exchanged between each Party by the Decision-maker.

Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the Parties) who are students or employees of Northern Kentucky University are expected to cooperate with and participate in the University's investigation and grievance process.

While in-person interviews for Parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break, or personal/public health circumstances) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator determines that timeliness or efficiency dictate a need for remote interviewing. The University will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator, though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.

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.

Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the Parties; or 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.

Referral for Hearing

Once the final investigation report is shared with the Parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation, when the final investigation report is transmitted to the Parties and the Decision-maker, unless all Parties and the Decision-maker agree and the University is able to meet its hearing obligations under an expedited timeline.

The Title IX Coordinator will select an appropriate Decision-maker from the Pool depending on whether the Respondent is a faculty, staff, or a student. Allegations involving student-employees will be directed to an appropriate Decision-maker depending on the context of the alleged misconduct.

FORMAL HEARING PROCEDURES

Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Decision-maker will send notice of the hearing to the Parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the Parties located in separate rooms using technology that enables the Decision-maker and Parties to see and hear a Party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to the Decision-maker or member of the Sanctioning Panel on the basis of demonstrated bias or conflict of interest. This must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the Parties after the hearing.
- A statement that if any Party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the Party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker. For compelling reasons, the Decision-maker may reschedule the hearing.
- Notification that the Parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The Party must notify the Title IX Coordinator if they do not have an Advisor, and the University will appoint one. Each Party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker about the matter, unless they have been provided already.
- An invitation to each Party to submit to the Sanctioning Panel an impact statement pre-hearing that the Sanctioning Panel will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least five (5) business days prior to the hearing.

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 scheduled hearing. The University 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.

Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly. However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged Policy violation.

Pre-Hearing Preparation

Parties will receive the names of all persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report at least ten (10) business days prior to the scheduled hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator or have proffered a written statement or answered written questions, unless all Parties and the Decision-maker agree to the witness's participation in the hearing. The same is true for any evidence that is first offered at the hearing. If the Parties and Decision-maker do not agree to the admission of evidence newly offered at the hearing, the Decision-maker will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The Parties will be given the names of the Decision-maker and Sanctioning Panelists at least five (5) business days in advance of the hearing. All objections to any Decision-maker or Sanctioning Panelists must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two (2) days prior to the hearing. Decision-makers and Sanctioning Panelists will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Decision-maker and Sanctioning Panelists the list of names of all Parties, witnesses, and Advisors at least five (5) business days in advance of the hearing so that the Decision-maker and Sanctioning Panelists can determine if they can make an objective decision or if they must recuse themselves from the proceedings for bias or conflict of interest. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

Single Decision-maker

The University will designate a single Decision-maker to conduct the hearing. The Decision-maker will answer all questions of procedure. Those who have served as Investigators or Advisors may not serve as Decision-maker in the same matter. The Title IX Coordinator may not serve as a Decision-maker in any hearing but may serve as a hearing facilitator of the hearing if their previous role in the matter does not create a conflict of interest. Otherwise, a designee may fulfill the role of hearing facilitator. The hearing will convene at a date and time as coordinated by the Office of Title IX and properly noticed to the Parties.

Evidentiary Considerations in the Hearing

Any evidence that the Decision-maker determines is relevant and credible will be considered. The Decision-maker does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the Parties; or 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.

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

Conducting the Hearing

The Decision-maker explains the procedures and introduces the participants. Participants at the hearing will include the Decision-maker, the hearing facilitator, the Parties, Advisors to the Parties, any called witnesses, and anyone providing authorized accommodations or assistive services.

The Decision-maker and/or hearing facilitator then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, Party logistics, curation of documents, separation of the Parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. The hearing facilitator may attend to: logistics of rooms for various Parties/witnesses as they wait; flow of Parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

Investigator Presentation

While the Investigator is not typically a witness in a formal hearing, if requested by either Party, the Investigator will appear as a witness in the hearing and submit to cross-examination. The Investigator may be present during the entire hearing process, but not during deliberations. Neither the Parties nor the Decision-maker should ask the Investigator their opinions on credibility, recommended Findings, or determinations; the Investigators, Advisors, and Parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Decision-maker will direct that it be disregarded.

Testimony and Cross-examination

Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

After the Investigator presents their report, if requested, and are questioned, the Parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Decision-maker. The Parties/witnesses will submit to questioning by the Parties through their Advisors (“cross-examination”) and then by the Decision-maker if so needed.

Each question is subject to a relevance determination by the Decision-maker. The Advisor, who will remain seated during questioning, will pose the proposed question orally (orally is the default, but other means of submission may be permitted by the Decision-maker upon request if agreed to by all Parties and the Decision-maker or necessary as an accommodation), the proceeding will pause to allow the Decision-maker to consider it (and state it if it has not been stated aloud), and the Decision-maker will state whether the question will be permitted, disallowed, or rephrased.

The Decision-maker may invite explanations or persuasive statements regarding relevance with the Advisors, if the Decision-maker so chooses. The Decision-maker will then state their decision on the question for the record and advise the Party/witness to whom the question was directed, accordingly. The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

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. 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.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Decision-maker may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Decision-maker should not permit irrelevant questions that probe for bias.

Refusal to Submit to Cross-Examination and Inferences

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 participate in questioning, then the Decision-maker may not rely on any prior statement made by that Party or witness at the hearing (including those contained in the investigation 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.

If the Party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the Party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission.

The Decision-maker may not draw any inference solely from a Party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If a Party's Advisor of choice refuses to comply with the University's established rules of decorum for the hearing as detailed in the [Advisor Guidance and Designation Form](#), the University may require the Party to use a different Advisor which may be a University-appointed Advisor. If a University-appointed Advisor refuses to comply with the rules of decorum, the University may provide that Party with a different Advisor to conduct cross-examination on behalf of that Party.

Deliberation, Decision-making, and Standard of Proof

The Decision-maker will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the Policy violation(s) in question. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the Decision-maker, but is there only to facilitate procedurally, not to address the substance of the allegations.

The Decision-maker will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination of responsibility, rationale, the evidence used in support of its determination, the evidence disregarded, and credibility assessments.

This report typically should not exceed three (3) to five (5) pages in length and should be submitted to the Title IX Coordinator within fifteen (15) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the Parties.

Sanctioning for Finding of Responsible

When there is a Finding of responsibility on one or more of the allegations, the Title IX Coordinator will provide the written deliberation statement to a Sanctioning Panel. The composition of the Sanctioning Panel will be determined by the classification of the Respondent. The Sanctioning Panel for an enrolled student will consist of one faculty member, one staff member, and one student, in accordance with Kentucky law (KRS 164.370). The Sanctioning Panel for university

employees shall be convened as governed by existing disciplinary policies. Where this panel is used, the Title IX Coordinator will designate one member as the Chair.

The Sanctioning Panel will consider the written deliberation statement, previously submitted Party impact statements, and any pertinent discipline history to determine the appropriate sanctions in consultation with other appropriate administrators, as necessary.

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the sexual harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment and/or retaliation
- The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the community
- The impact on the Parties
- Any other information deemed relevant by the Panel

The Panel's sanctioning decision will be made in writing, will include the rationale for the sanction(s), and be delivered to the Title IX Coordinator within fifteen (15) business days of convening. The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested. The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

Student Sanctions

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation*: A written reprimand for violation of institutional Policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at Northern Kentucky University.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend University-sponsored events.
- *Withholding Diploma*: The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including University registration) for a specified period of time.

- *Other Actions:* In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

If a student is suspended or expelled from the University, they are not eligible for financial reimbursement.

Employee Sanctions

The following are sanctions that may be imposed upon employees singly or in combination as permitted by university policies and procedures governing employee discipline:

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Required Counseling
- Required Training or Education
- Probation
- Loss of Annual Pay Increase
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with pay
- Suspension without pay
- Termination
- *Other Actions:* In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

Final Determination

Having received the Decision-maker's deliberation statement, and the Sanctioning Panel's sanctioning decision if the Respondent was found responsible, the Title IX Coordinator will direct the Decision-maker to prepare a Final Determination. The Final Determination will be provided to the Parties and their Advisors by the Title IX Coordinator generally within fifteen (15) business days of receipt of the deliberation statement and/or sanction decision, if any. However, if circumstances require an extension, such extension will be communicated to the Parties.

The Final Determination will be provided to the Parties simultaneously, in writing, and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official University records, or emailed to the Parties' University-issued email account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Final Determination will identify the specific alleged violation including the Policy section and will contain a general description of the procedural steps taken by the University.

The Final Determination will also specify the Finding on each alleged Policy violation; the Findings of fact that support the determination; conclusions regarding the application of the relevant Policy to the facts at issue; a statement of, and rationale for, the result of each allegation; and any sanctions issued; and any Remedies provided to the Complainant designed to ensure access to the University's educational or employment program or activity. The Final Determination will only include information which the University is permitted to share according to state or federal law. Generally Remedies provided to the Complainant are not typically shared with the Respondent unless the Remedy directly relates to the Respondent.

The Final Determination will also include information detailing appeal rights and notice regarding when the determination is considered to be final. Any changes that occur prior to finalization will also be communicated in writing.

Hearing Recording

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

The Decision-maker, Sanctioning Panel, the Parties, their Advisors, and appropriate administrators of the University will be permitted to listen and/or view the recording in a controlled manner as 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.

Withdrawal or Resignation While Charges Pending

Students: If a student has an allegation pending for violation of the Policy, the University may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma. Should a student decide to not participate in the Formal Grievance Process, the process proceeds absent their participation to a reasonable resolution. If the student Respondent withdraws or takes a leave for a specified period of time (e.g., one semester or term), the Formal Grievance Process may continue remotely.

Employees: Should an employee Respondent resign with unresolved allegations pending, the Formal Grievance Process ends, as the University no longer has disciplinary jurisdiction over the resigned employee.

The University will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment and/or retaliation.

Appeals

Any Party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within five (5) business days of the delivery of the Final Determination.

A single Appeal Decision-maker will hear the appeal. The Appeal Decision-maker will not have any involvement in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

Grounds for Appeal

Appeals are limited to the following grounds:

- 1) Procedural irregularity that affected the outcome of the matter;
- 2) 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; and
- 3) The Title IX Coordinator, Investigator, Decision-maker, or Sanctioning Panel member 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.

If the Request for Appeal does not meet any of the grounds for appeal above, that request will be denied by the Appeal Decision-maker. The Parties and their Advisors will be notified in writing of the denial and the rationale.

If the Request for Appeal meets any of the grounds for appeal above, then the Appeal Decision-maker will notify the Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker.

The other Party and their Advisor, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker will be provided with the Request for Appeal with the approved grounds. Those responding are given ten (10) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Decision-maker to all Parties for review and comment.

The non-appealing Party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Decision-maker and either denied or approved. If approved, it will be forwarded to the Party who initially requested an appeal, the Investigator and/or original Decision-maker, as necessary, who will submit their responses in ten (10) business days, which will be circulated for review and comment by all Parties.

Neither Party may submit any new requests for appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and the Decision-maker will render a decision, generally within fifteen (15) business days, unless extended for good cause. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all Parties 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.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official institutional records, or emailed to the Parties' University-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

Sanctions Status during the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

The University may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

Appeal Considerations

The following must be considered by the Appeal Decision-maker when reviewing the appeal:

- Decisions on appeal are to be deferential to the original decision, making changes to the Finding only when there is clear error and to the sanction only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.

- An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the Finding and/or sanction.
- The Appeal Decision-maker may consult with the Title IX Coordinator or Legal Counsel on questions of procedure or rationale, for clarification, if needed.
- Appeals granted based on new evidence should normally be remanded to the original Investigator and/or Decision-maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- In rare cases where a procedural error cannot be cured by the original Decision-maker (as in cases of bias), the appeal may order a new hearing with a new Decision-maker.
- An order for a new hearing cannot be appealed. However, the outcome of a new hearing can be appealed on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.
- The decision of the Appeal Decision-maker is final unless further appeal is required by law or university policy.
 - Respondent students who are suspended or expelled may appeal to the Board of Regents on the grounds listed above. Appeals must be submitted in writing to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Appeal Outcome. The Board, or a subcommittee of the Board, will review the record and determine whether to approve, reject, or modify an earlier determination and/or sanctions imposed. The decision of the Board of Regents is final and the sanction(s) imposed will stand. The Board will inform the Title IX Coordinator of their decision in writing, and provide these findings and sanctions to the student/student organization in writing within ten (10) business days following the Board of Regents Meeting.
 - Employed Parties may file subsequent appeals as outlined in the Staff Grievance Policy, Faculty Handbook or other University policy.

LONG-TERM REMEDIES

Following the conclusion of the Formal Grievance Process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term Remedies with respect to the Parties and/or the campus community that are intended to stop the sexual harassment and/or retaliation, remedy the effects, and prevent reoccurrence.

These Remedies may include, but are not limited to:

- Referral to counseling and health services, including 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
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

RECORDKEEPING

Northern Kentucky University will maintain for a period of seven (7) years records of:

- 1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- 2) Any disciplinary sanctions imposed on the Respondent;
- 3) Any Remedies provided to the Complainant designed to restore or preserve equal access to the University's Education Program or Activity;
- 4) Any appeal and the appeal outcome;
- 5) Any Informal Resolution and the result;
- 6) All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. The University will make these training materials publicly available on the University's website; and
- 7) Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
 - a) The basis for all conclusions that the response was not deliberately indifferent;
 - b) Any measures designed to restore or preserve equal access to the University's Education Program or Activity; and
 - c) If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The University will also maintain any and all records in accordance with Kentucky's University Model Records Retention Schedule.

XII. EXTERNAL COMPLAINTS

Office for Civil Rights (OCR)

U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Office for Civil Rights - Philadelphia Office

U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: (215) 656-8541
FAX: (215) 656-8605
TDD: (800) 877-8339
Email: OCR.Philadelphia@ed.gov

Employees may file Title IX complaints with the Office for Civil Rights, U.S. Department of Education, in certain circumstances; or under Title VII with the Equal Employment Opportunity Commission (EEOC).

Equal Employment Opportunity Commission

Cincinnati Area Office
John W. Peck Federal Office Building
550 Main Street, 10th Floor
Cincinnati, OH 45202
Phone: (800) 669-4000
Fax: (513) 246-0218
TTY: (800) 669-6820
ASL Video Phone: (844) 234-5122

XIII. REVISION OF THIS POLICY AND PROCEDURES

This Policy is implemented on an interim basis for renewable six-month intervals. Should a court strike down, either temporarily or permanently, any terms or provisions of this Policy and/or related procedures, the University reserves the right to make immediate modifications to its policies and procedures that take effect upon publication on NKU's policy website.

Further, should any court strike any portion of the 2020 Title IX Regulations (34 CFR Part 106), or should an administration order them suspended or withdrawn, the University reserves the right to withdraw this interim Policy and procedures and immediately reinstate previous policies and/or procedures or revise them accordingly.

This Policy and related procedures supersede any previous policy addressing sexual harassment.

During the Formal Grievance Process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any Party, such as to accommodate summer schedules or correct an oversight in drafting.

If government laws or regulations change, or court decisions alter, the requirements in a way that impacts this Policy, this document will be construed to comply with the most recent government regulations or court holdings.

REFERENCES & FORMS

[Office of Title IX](#)

[Advisor Guidance and Designation Form](#)

[KRS 164.370](#)

[KRS 164.360](#)

[34 C.F.R. Part 106](#)

RELATED POLICIES

[Faculty Policies and Procedures Handbook](#)

[Department Chairs Handbook](#)

[Staff Grievance Policy](#)

[Code of Student Rights and Responsibilities](#)

[Disclosure of Campus Security & Crime Statistics](#)

REVISION HISTORY

REVISION TYPE	MONTH/YEAR APPROVED
Revision & Name Change	August 14, 2020
New Policy – Sexual Misconduct	May 6, 2015

SEXUAL HARASSMENT

PRESIDENTIAL APPROVAL

PRESIDENT	
Signature <i>A. K. Vaidya</i>	Date 8/14/2020
Ashish K. Vaidya	

BOARD OF REGENTS APPROVAL

BOARD OF REGENTS (IF FORWARDED BY PRESIDENT)	
<input type="checkbox"/> This policy was forwarded to the Board of Regents on the Presidential Report (information only) . Date of Board of Regents meeting at which this policy was reported: ____/____/____.	
<input checked="" type="checkbox"/> This policy was forwarded to the Board of Regents as a Presidential Recommendation (consent agenda/voting item) . <input checked="" type="checkbox"/> The Board of Regents approved this policy on <u>08</u> / <u>07</u> / <u>2020</u> . (Attach a copy of Board of Regents meeting minutes showing approval of policy.) <input type="checkbox"/> The Board of Regents rejected this policy on ____/____/____. (Attach a copy of Board of Regents meeting minutes showing rejection of policy.)	
VICE PRESIDENT & CHIEF STRATEGY OFFICER	
Signature <i>Bonita Brown</i>	Date 08/14/2020
Bonita J. Brown	