

# Sexual Misconduct

<b>Policy Number:</b>	<b>Reserved for future use</b>
<b>Policy Link:</b>	<a href="http://policy.nku.edu/content/dam/policy/docs/a-through-z-policy-finder/Sexual%20Misconduct.pdf">http://policy.nku.edu/content/dam/policy/docs/a-through-z-policy-finder/Sexual%20Misconduct.pdf</a>
<b>Responsible Official:</b>	<b>Sr. Advisor to the President for Inclusive Excellence</b>
<b>Responsible Office:</b>	<b>Office of Inclusive Excellence</b>
<b>Effective date:</b>	<b>5/6/2015</b>
<b>Next review date:</b>	<b>5/2018</b>
<b>Supersedes policy dated:</b>	
<b>Approved by:</b>	President & Board of Regents

## I. Policy Statement

Northern Kentucky University is committed to fostering a safe and inclusive educational and work environment free from sexual misconduct, including sexual assault, non-consensual sexual contact, non-consensual sexual intercourse, sexual exploitation, sexual harassment, dating and intimate partner violence, relationship and domestic violence, stalking and gender-based bullying. Gender-based and sexual harassment, including sexual violence, are forms of sex discrimination in that they deny or limit an individual’s ability to participate in or benefit from university educational programs or activities and employment.

The university fosters a safe and inclusive educational and work environment by providing educational and preventative programs regarding sexual or gender-based harassment; encouraging reporting of incidents and providing prompt and equitable methods of investigation and resolution; making available appropriate and timely services; remedying any harm, and preventing its recurrence. Violations of this policy may result in corrective action up to, and including, termination for faculty and staff, or sanctions up to and including expulsion for students, as determined by the university.

Retaliation against an individual for raising an allegation of sexual or gender-based harassment, for cooperating in an investigation of a complaint, or for opposing discriminatory practices is prohibited. Submitting a complaint that is not in good faith or providing false or misleading information in any investigation of complaints is also prohibited.

Nothing in this policy shall be construed to abridge academic freedom and inquiry, principles of free speech, or the University’s educational mission.

Our current guidelines regarding personal relationships can be found in the [Ethical Principles and Code of Conduct](#) as well as the [faculty handbook](#).

## II. Reason for Policy

Northern Kentucky University is committed to fostering a safe and inclusive educational and work environment that is free from sexual misconduct and to ensuring our compliance with legal requirements.

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### III. Authority

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In addition to being a violation of university policy, sexual misconduct is prohibited by state and federal laws, including: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the University's educational programs or activities and work environment; relevant sections of the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment and Kentucky state laws and university policies that prohibit discrimination on the basis of sex.

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### IV. Entities Affected

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This policy applies to all members of the NKU community, including faculty, staff, students, guests and visitors whether the behavior occurs on or off-campus at university sponsored events. It also applies to all participants in academic, co-curricular, research, training, or other programs or activities sponsored by NKU on or off campus.

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### V. Non-Discrimination Statement

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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, state local laws and university policies. No retaliation shall be initiated against any person who makes a good faith report of a violation.

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### VI. Definitions

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**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, 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:** 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.

**Kentucky law (KRS §510.020) states:**

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 actors conduct.

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

- a) Less than sixteen (16) years old;
- b) An individual with an intellectual disability or suffering from a mental illness;
- c) Mentally incapacitated;
- d) Physically helpless; or
- e) 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.

***Dating Violence:*** Violence committed by a person –

A. who is or has been in a social relationship of a romantic or intimate nature with the victim; and  
B. where the existence of such a relationship shall be determined based on a consideration of the following factors:

1. the length of the relationship
2. the type of the relationship
3. the frequency of interaction between the persons involved in the relationship

***Domestic Violence:*** Domestic violence can be defined as a pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

**Kentucky law (KRS §403.720) defines domestic violence and abuse as:**

- (1) Physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple.
- (2) “Family member” means a spouse, including a former spouse, a grandparent, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim.
- (3) “Member of an unmarried couple” means each member of an unmarried couple which allegedly has a child in common, any children of that couple or a member of an unmarried couple who are living together or have formerly lived together.

***Incapacitation:*** Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). Incapacitation can be due to the use of drugs and/or alcohol, when a person is asleep or unconscious, or because of an intellectual or other disability that prevents an individual from having the capacity to give consent.

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- b) An individual with an intellectual disability or suffering from a mental illness;
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- d) Physically helpless; or
- e) 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.

***Individual with an Intellectual Disability:*** Under Kentucky law (**KRS §510.010**), this means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period as defined in KRS Chapter 202B.

***Intimidation:*** Implied threats or acts that cause an unreasonable fear of harm in another.

***Mental Illness:*** Under Kentucky law (**KRS §510.10**) this means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association.

***Relationship Violence:*** Acts, threats or a pattern of abusive behavior of a physical or sexual nature by one partner intended to control, intimidate, manipulate, humiliate, frighten, coerce or injure the other. These acts may be directed toward a spouse, an ex-spouse, a current or former boyfriend or girlfriend, or a current or former dating partner.

***Retaliation:*** Intimidating, threatening, coercing or in any way discriminating against an individual because that person has opposed any behavior prohibited under this policy or because that person has made a complaint or participated in an inquiry or investigation.

***Sexual Assault:*** Sexual assault can be defined as any type of sexual contact or behavior that occurs by force or without the other person's consent. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, child molestation, incest, fondling, and attempted rape. It includes sexual acts against people who are unable to consent either due to age or lack of capacity.

***Sexual Exploitation:*** Occurs when an individual takes non-consensual or abusive sexual advantage of another individual for his/her own advantage or benefit, or to benefit or advantage

anyone other than the individual being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples include, but are not limited to:

- Prostituting another individual;
- Non-consensual video or audio-taping of sexual activity;
- Going beyond the boundaries of consent (for example, allowing your friends to hide in the closet to watch you having consensual sex);
- Non-consensual distribution of photos, other images or information of an individual's sexual activity, intimate body parts or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information;
- Engaging in voyeurism;
- Knowingly transmitting an STI or HIV to another;
- Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

**Sexual Harassment:** Unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational program and/or activities or work environment, and is based on power differentials, the creation of a hostile environment or retaliation. All forms of sexual misconduct identified in this policy are also prohibited forms of sexual harassment.

There are three (3) types of sexual harassment.

- A. *Hostile Environment* – Includes any situation in which there is harassing conduct that is sufficiently severe, pervasive or persistent that it interferes with or denies educational benefits or opportunities or creates an intimidating hostile or offensive work environment. The determination of whether an environment is “hostile” must be based on the totality of the circumstances. The circumstances that contribute to creating a hostile environment include:
- Frequency of contact;
  - Nature and severity of conduct;
  - Whether the conduct was physically threatening;
  - Whether the conduct was humiliating;
  - The effect of the conduct on the alleged victim's mental or emotional state;
  - Whether the conduct was directed at more than one person;
  - Whether the conduct arose in the context of other discriminatory conduct;
  - Whether the conduct unreasonably interfered with the alleged victim's educational or work performance;
  - Whether the statement is a mere utterance of an epithet which engenders offense or offends by mere discourtesy or rudeness;
- B. *Quid Pro Quo* – Exists when there are:
- Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and
  - Submission to or rejection of such conduct results in adverse action

- C. *Retaliatory Harassment* – Any adverse action taken against a person because of the person’s participation in a complaint or investigation of discrimination or sexual misconduct.

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

- Attempting to coerce an unwilling person into a sexual relationship;
- Repeatedly subjecting a person to egregious, unwelcome sexual attention;
- Punishing someone for refusing to comply with a sexually-based request;
- Conditioning a benefit upon submitting to sexual advances;
- Sexual violence;
- Intimate partner violence;
- Stalking;
- Gender-based bullying
- Display or sharing of sexually graphic material, jokes or slurs

**Sexual Misconduct:** Any non-consensual act of a sexual nature which may or may not involve physical contact. This includes, but is not limited to, sexual assault (or attempts to commit sexual assault), sexual exploitation, stalking and dating and relationship violence.

**Stalking:** Stalking can be defined as a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to: feel fear or suffer substantial emotional distress.

**Kentucky law (KRS §508.130) defines stalking as:**

- (1) (a) To “stalk” means to engage in an intentional course of conduct:
  1. Directed at a specific person or persons;
  2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and
  3. Which serves no legitimate purpose.
- (b) The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.

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## VII. Reporting Sexual Misconduct

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Federal and state laws and university policy prohibit the taking of retaliatory measures against any individual who files a complaint in good faith.

Retaliation against an individual for raising an allegation of sexual or gender-based harassment, for cooperating in an investigation of such a complaint, or for opposing discriminatory practices is prohibited. Submitting a complaint that is not in good faith or providing false or misleading information in any investigation of complaints is also prohibited.

### **Students:**

If you are a student who believes you have been or are the victim of sexual harassment, including sexual assault, dating violence, domestic violence, stalking or other sexual misconduct, you may report such conduct or file a complaint under Title IX with the Deputy Title

IX Coordinator in the Dean of Students Office 859-572-5147. Complaints of student sexual misconduct are addressed by the [Code of Student Rights and Responsibilities](#).

### **Amnesty for Students Who Report Sexual Misconduct:**

The university recognizes that a student who is under the influence of alcohol and or drugs at the time of an incident may be hesitant to make a report because of a threat of disciplinary sanctions for her or his own violation of the Code of Student Rights and Responsibilities. A student who reports sexual misconduct, either as a complainant or third party witness will not face disciplinary charges under the Code of Student Rights and Responsibilities. Submitting a complaint that is not in good faith or providing false or misleading information in any investigation of complaints is prohibited.

### **Faculty/Staff:**

If you are a Faculty/Staff member who believes you have been or are the victim of sexual harassment, including sexual assault, dating violence, domestic violence, stalking or other sexual misconduct, you may contact Human Resources and file a complaint with the Deputy Title IX Coordinator for faculty and staff, who serves also as the Director of Employee Relations and EEO - 859-572-7600.

Disciplinary sanctions for any member of the university community engaging in such an act may include suspension or dismissal from the university, corrective action up to and including termination of university employment, referral for criminal investigation and prosecution under Kentucky law, and other remedial action.

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## **VIII. Contacts**

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In accordance with Title IX regulations, the university has designated Kathleen Roberts as the university's Title IX Coordinator. She is charged with monitoring compliance with these regulations. The Deputy Title IX Coordinators are responsible for investigating allegations of sexual misconduct.

### **Contact Information**

Title IX Coordinator  
Kathleen Roberts  
Senior Advisor to the President for Inclusive Excellence  
Lucas Administrative Center, room 834  
Highland Heights KY 41076  
Phone – 859-572-6630  
Email – [robertsk10@nku.edu](mailto:robertsk10@nku.edu)

Ann James, Associate Dean of Students & Deputy Title IX Coordinator for Students  
Office of the Dean of Students  
Student Union, room 301  
Highland Heights KY 41076  
Phone – 859-572-5147  
Email – [jamesa3@nku.edu](mailto:jamesa3@nku.edu)

Rachel Green

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

Lucas Administrative Center, room 723

Highland Heights KY 41076

Phone – 859-572-7600

Email – [greenr5@nku.edu](mailto:greenr5@nku.edu)

Leslie Fields, Associate Athletic Director for Compliance & Deputy Title IX Coordinator for Athletics

The Bank of Kentucky Center

Phone – 859-572-7572

Email - [fieldsl4@nku.edu](mailto:fieldsl4@nku.edu)

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## **IX. Resources**

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### ***NKU Resources***

#### **University Police**

**EMERGENCY CONTACT – 859-572-7777**

Non-Emergency Contact – 859-572-5500

Website – [University Police](#)

You can view NKU safety and security information by clicking below:

[Annual Campus Security Report](#)

[Daily Crime Log](#)

Email - [NKU Police](#)

#### **Norse Violence Prevention Program**

Dean of Students/Student Engagement

Student Union – third floor

Phone – 859-572-5685

Website - <http://nvp.nku.edu/>

#### **LGBTQ Programs & Services**

Student Union, room 309

Phone – 859-572-5835

Website - <http://lgbtq.nku.edu/>

#### **Health, Counseling and Student Wellness**

University Center, room 440

Phone – 859-572-5650

Email – [hcsw@nku.edu](mailto:hcsw@nku.edu)

Website - <http://hcsw.nku.edu/>

#### **Code of Student Rights and Responsibilities -**

<http://deanofstudents.nku.edu/policies/student-rights.html>

#### **Graduate Student Honor Code/Appeals Policy -**

<http://deanofstudents.nku.edu/policies/honor-code.html>

#### **Chase College of Law Honor Code -**

<http://chaselaw.nku.edu/content/dam/chaselaw/docs/students/handbook/Honor-Code%20Jan%202013.pdf>



**Employee Grievance Procedure -**

[http://hr.nku.edu/hrpolicies/employee\\_relations/grievance.html](http://hr.nku.edu/hrpolicies/employee_relations/grievance.html)

**Community Resources**

**Women’s Crisis Center**

Northern KY 24 Hour Crisis Line – 1-800-928-3335 or 859-491-3335

Website - <http://www.wccky.org/index.php>

Walk-In Locations	
<b>Covington:</b> 835 Madison Ave Covington KY 41011	<b>Maysville:</b> 111 East Third Street Maysville KY 41056
<b>Carrollton:</b> 440 Main Street, 3 <sup>rd</sup> . Floor Carrollton KY 41008	<b>Williamstown:</b> 141 North Main Street, Suite E Williamstown KY 41097
<b>Hebron:</b> 3580 Hargrave Drive Hebron KY 41048	<b>Vanceburg:</b> 283 Kentucky 59 Vanceburg KY 41179

**Kentucky Domestic Violence Association -** <http://www.kdva.org/>

**Kentucky Association Sexual Assault Programs, Inc. –** <http://www.kasap.org/>

**Ohio Domestic Violence Network -** <http://www.odvn.org/>

**Indiana Coalition Against Domestic Violence -** <http://www.icadvinc.org/>  
 Hotline – 1-800-332-7385

**National Resources**

**National Domestic Violence Hotline –** 1-800-799-SAFE (7233)

**National Sexual Assault Hotline –** 1-800-656-HOPE (4673)

**National Center on Domestic and Sexual Violence -** <http://www.ncdsv.org/>

**Not Alone ~Together Against Sexual Assault -** <https://www.notalone.gov/>

**GLBT National Help Center –** 1-888-843-4564  
<http://www.glbtnationalhelpcenter.org/>

**GLBTQ Domestic Violence Project –** 1-800-832-1901  
<http://www.glbtqdv.org/>

**RAINN – Rape, Abuse & Incest National Network -** <https://rainn.org/>

**Stalking Resource Center -** <http://www.victimsofcrime.org/our-programs/stalking-resource-center>

**Stalking Victims Sanctuary -** <http://stalkingvictims.com/>

**U.S. Dept. of Justice Office on Violence Against Women** - <http://www.justice.gov/ovw>

**Department of Education's Office of Civil Rights**

Phone – 1-800-421-3481

Website - [ocr@ed.gov](mailto:ocr@ed.gov).

You may complete an online complaint form at:

<http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

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## **X. Training**

Training is provided annually for students, faculty and staff through Haven, which is a program created by EverFi.

The training is web-based with a module specifically for students and a separate module for faculty and staff. Course information is provided via email to incoming freshman and transfer students in the summer before the fall semester. Any student who does not receive an email regarding Haven and wishes to take the course may contact the Dean of Students office for information. Faculty and staff may access the Haven module by click [here](#).

NKU also offers Green Dot Bystander Intervention training through our Norse Violence Prevention Center. Also provided are: Allied Zone training, Speak Out! Panels and TransAlly Training provided by our LGBTQ Programs & Services director.

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## **XI. Annual Security Report**

In accordance with the Federal Crime Awareness and Campus Security (Clery) Act of 1990 and the Kentucky Postsecondary Education Campus Security (Michael Minger) Act of 2000, NKU provides information relating to crime statistics to prospective students, matriculated students and employees.

You can access the Annual Campus Security Report for NKU by clicking [here](#).

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## **References and Related Materials**

References:

Related Policies:

Revision History: New Policy