

Northeastern State University – Human Resource Handbook Sexual Harassment and Title IX.

This policy supersedes ALL prior human resource handbook language on Sexual Harassment and Title IX policy and procedures.

HR 8.0 SEXUAL HARASSMENT POLICY

Northeastern State University affirms its commitment to ensuring a learning, working, and living environment for all employees, students, guests, third party vendors, and visitors which is fair, humane, and respectful - an environment which supports and rewards employee and student performance on the basis of relevant considerations such as ability and effort as well as promotes personal integrity, civility, and mutual respect free of discrimination on the basis of sex, which includes all forms of sexual harassment. Behaviors which inappropriately assert sexuality as relevant to employee or student performance are damaging to this environment. Sexual harassment by any member of the university community, including but not limited to students, faculty and staff (employees), guests, third party vendors, and visitors, is a violation of both law and the policy of the Regional University System of Oklahoma, and will not be tolerated. Sexual harassment is a particularly sensitive issue which may affect any member of the University community and as such will be dealt with promptly and confidentially by the University administration. The Board of Regents of the Regional University System of Oklahoma reserves the right to deal administratively with sexual harassment issues whenever it deems it appropriate to do so. This policy is specific to complaints involving employees. (RUSO policy 5.6 Sexual Relationship Policy)

HR 8.1 Definition of Sexual Harassment

All members of the campus community (students, employees, guests, and visitors) are expected to conduct themselves in a manner that does not infringe upon the rights of others. When an allegation of sexual harassment is brought to the attention of the institution, and a respondent is found to have violated this policy, sanctions will be used to reasonably ensure that such actions are never repeated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

NSU acknowledges that there may be some limitations regarding the ability to control or act against certain types of third parties, however, this should neither prohibit nor discourage individuals from filing a grievance about conduct of an individual who is not an NSU student or employee.

Sexual Harassment offenses include, but are not limited to:

1. Quid Pro Quo Sexual Assault
2. Domestic Violence
3. Dating Violence

4. Stalking

HR 8.2 Defining Sexual Harassment Offenses

Sexual Harassment consists of behaviors which are:

- a. unwelcome, verbal, nonverbal, or physical conduct of a sexual nature that is,
- b. severe, pervasive and objectively offensive (note: employees may also be subject to Title VII discrimination rules) denies or deprives a person equal access to NSU's educational program and/or activities, and is
- c. based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.

Examples include:

- unwelcome sexual advances
- requests for sexual favors
- acts of sexual violence
- attempts to coerce an unwilling person into a sexual relationship
- repeatedly subjecting a person to egregious, unwelcome sexual attention
- punishing a refusal to comply with a sexual based request
- making a benefit conditional upon submitting to sexual advances
- sexual violence
- intimate partner violence
- stalking
- sex-based bullying

Domestic Violence is a pattern of abusive behaviors and tactics used to inflict power and control over another person. This includes felony or misdemeanor crimes of violence committed by a current or former spouse/intimate partner of the victim.

- a. By a person with whom a person shares a child in common.
- b. By a person who is cohabitating with, or has cohabitated with the victim as a spouse/intimate partner.
- c. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime occurred.
- d. By any other person, against an adult or youth victim, who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime occurred.

Dating violence is violence committed by a person who is, or has been, in a social relationship of a romantic or intimate nature with the victim. And, the existence of such relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of the relationship, and/or the frequency of the interactions between the persons involved in the relationship.

Dating violence includes, but is not limited to: Sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under Domestic Violence.

Stalking is a pattern of behavior directed at as specific person that would cause a reasonable person to:

- a. Fear for one's safety or the safety of others
- b. Suffer substantial emotional distress

Examples include but are not limited to:

- 2 or more acts in which the stalker 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.

Applicable Definitions:

Affirmative Action Officer (AAO): is the person overseeing compliance with civil rights and discrimination laws governing employees at the university.

Complainant: an individual who alleges to be a victim of conduct that could constitute sexual harassment, who must be participating in, or attempting to participate in an educational program or activity of the school with which the formal complaint is filed. In all cases where the complainant is a student, the investigation, hearing, and appeal process will follow the student affairs process.

Consent: is the affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter which can be revoked at any time. Consent is sexual permission. In order to give effective consent, one must be of legal age. Consent is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity. Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. Previous relationships or prior consent cannot imply consent to future sexual acts. Individuals who consent to sex must be able to understand what they are doing. When alcohol or other drugs are being used, a person may be considered unable to give valid consent. Anything but a clear, knowing, and voluntary consent to any sexual activity is equivalent to a "no." Consent cannot be given by an individual who is asleep or is mentally or physically incapacitated either through the effect of drugs or alcohol or for any other reason or is under duress, threat, coercion, or force, or inferred under circumstances in which consent is not clear including, but not limited to, the absence of an individual saying "no" or "stop" or the existence of a prior or current relationship or sexual activity.

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.

Emergency Removal: occurs when it has been determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment; the respondent will be given the opportunity to immediately challenge the decision following removal.

Employee: A person working in a defined position for the university in exchange for remuneration in the form of wages paid through NSU payroll. NSU assigns, monitors, and evaluates the work performed by employees. The definition of employee includes all full time, part-time, temporary, seasonal, interim appointments, student workers through work study, and Graduate Assistantships. Employees are NOT considered those individuals defined as independent contractors paid as 1099 persons having a contractual relationship with the university. Employees are considered “mandatory reporters”.

Evidence: may include, but is not limited to documentary evidence: such as written statements or testimonies; electronic evidence: such as text messages, social media, photos, audio recordings, video recordings; and tangible/demonstrative evidence: drawings, models, and site visits.

Force: is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent (“Have sex with me or I’ll hit you. Okay, don’t hit me, I’ll do what you want.”).

Formal Complaint: is defined as a written document filed and signed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation. A formal complaint may be filed with the Title IX Coordinator using the provided contact information. A signed formal complaint is a document or electronic submission that contains the complainant’s physical or digital signature or otherwise indicates that the complainant is the person filing the formal complaint.

Preponderance of Evidence: a standard of proof requiring a greater than 50% chance that, based on all the reasonable evidence shown, the allegations are true; “50 plus a feather”.

Remedies: are required to be provided to a complainant when a respondent is found responsible, must be designed to maintain the complainant’s equal access to education and may include the same individualized services described as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

Respondent: any individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Retaliation: is any direct or indirect action taken against a person or organization as a response to their involvement or affiliation with the conduct, academic, legal, and/or administrative process. Any act of retaliation, threats, intimidation, coercion, discrimination, and bringing a code of conduct charge for actions that do not involve sexual harassment but arise from the same facts or circumstances as a formal grievance complaint, if the conduct charges are brought for the purpose of interfering with a person’s Title IX rights. Persons protected from retaliation in a Title IX complaint include complainant, testifying witnesses, persons who assisted, participated or refused to participate in any manner in the investigation, proceeding or hearing or appeal panel. Employees may be subject to disciplinary action up to and including termination for engaging in retaliatory acts.

Student(s): is/are all persons enrolled at the university both full and part time, pursuing undergraduate, graduate, or professional studies as well as student workers and graduate assistants. Persons who are not officially enrolled for a particular term but who have a relationship with the university are considered students. This definition includes, but is not limited to, incoming freshmen, transfer students, anyone participating in university sponsored programs or activities, persons who enroll in courses from time to time, and participants in third party programs (RUSO 4.4.3).

Supportive Measures: defined as individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

Title IX Coordinator: will assign claims involving employees to the Assistant Director of Human Resources as the designee of the Affirmative Action Officer. The Affirmative Action Officer is responsible for oversight of employee investigations and resolution of all reports of gender-based discrimination, sexual harassment, domestic violence, dating violence and stalking involving employees. The coordinator and the Assistant Director of Human Resources are trained in University policies and procedures as well as applicable laws.

University Business Day: University business days follow the university calendar and are typically Monday through Friday 8:00 AM - 5:00 PM Central Time. Closures due to inclement weather or other emergency do not constitute university business days.

Protection Against Retaliation

Retaliation is any materially adverse action that would dissuade a reasonable person from making or supporting a claim of harassment or discrimination. Retaliation violates the law and NSU's policy. Retaliation can be direct, such as changing an employee's work location, pay, or schedule, or for students, changing a grade or denying access to a program, or it can be indirect such as intimidating, threatening, or harassing an employee or student who has raised a claim or participated as a witness in an investigation. All parties to a concern are prohibited from engaging in retaliation or intimidating actions directly or through support persons.

However, intentionally making a false report or providing false information is grounds for discipline up to and including termination.

Relationship to Freedom of Expression

NSU is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental to the University, and this policy is not intended to stifle teaching methods or freedom of expression generally, nor will it be permitted to do so. However, sexual harassment is neither legally protected expression nor the proper exercise of academic freedom. It compromises the integrity of the University, its tradition of intellectual freedom and the trust placed in its members.

HR 8.3 Complaint Process

Offices Where a Complaint or Report May be Filed

NSU encourages employees who have experienced sexual harassment to report these offenses promptly to the Title IX Coordinator who will notify the Assistant Director and Director of Human Resources. Individuals wishing to pursue criminal complaints may also report to the NSU Police Department.

For Students:

Title IX Coordinator
Jamie Hall
Administration Building,
209 601 N. Grand Avenue
Tahlequah, OK 74464
titleix@nsuok.edu
918.444.2120

Deputy Title IX Coordinators
Joshua Rader
raderj@nsuok.edu
918.444.2260

Jamie Hall-West
westjl@nsuok.edu
918.444.3940

Broken Arrow
brokenarrow@nsuok.edu

Muskogee
muskogee@nsuok.edu

Human Resources:

Director of Human Resources and Affirmative Action Officer (AAO)
Jean Logue
Administration Building, 115
601 N. Grand Avenue
Tahlequah, OK 74464
humanresources@nsuok.edu
918.444.2230

Assistant Director Human Resources
Administration Building, 115
601 N. Grand Avenue
Tahlequah, OK 74464
humanresources@nsuok.edu
918.444.2230

Northeastern State University Police Department:

Tahlequah Campus

Business & Technology 101

Administration Building,

Lower Level

601 N. Grand Avenue

Tahlequah, OK 74464

918.444.2468

hawkreach@nsuok.edu

Muskogee Campus

918.444.5010

Broken Arrow Campus

3100 E. New Orleans

Broken Arrow, OK 74014

918.449.6248

Confidential Reporting

Hawkreach Counseling Services

918.444.2042 (Tahlequah &

Muskogee)

918.449.6131 (Broken Arrow)

Off-Campus Options

Student Advocate- 918.444.2042

Help in Crisis- 918.456.0673

WISH (Women in Safe Homes, Muskogee)- 918.682.7879

DVIS (Domestic Violence Intervention Services, Tulsa/Broken Arrow)- 918.743.5763

Online Reporting Option

Anyone may use the report a concern link, nsuok.edu/ReportConcern.aspx, to report any incidents or concerning behavior. These reports are submitted to the Behavioral Intervention Team (BIT) for review.

Guidance on Taking Immediate Action

In the event that sexual assault or violence occurred, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. (The decision to press charges does not have to be made at this time. However, following these procedures will help preserve this option for the future.) Complaining parties should not bathe, urinate, douche, brush teeth, or drink liquids. Clothes should not be changed; but if they are, bring all the original clothing to the hospital in a paper bag, as plastic bags may damage the evidence.

When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after the medical examination.

If you have been choked/strangled, we strongly encourage you to seek immediate medical attention.

All incidents of sexual harassment or retaliation, should be reported to the Title IX Coordinator. The Title IX Coordinator or AAO will provide for the adequate, reliable, and equitable investigations on all complaints.

HR 8.4 Sexual Harassment Grievance Procedures

In Title IX procedures, legal terms like “guilt, “innocence” and “burdens of proof” are not applicable, but NSU never assumes a student is in violation of NSU policy. Campus hearings consider the totality of all evidence available, from all relevant sources. NSU uses preponderance of evidence as its burden of proof. All Title IX complaints involving an employee will follow these procedures.

Before a formal complaint is filed, a complainant will be offered supportive measures. Should a formal complaint be filed, the respondent will also be offered supportive measures. These may include, but are not limited to:

- Modifications of living arrangements
- Modification of academic schedule
- Mutual non-communication agreement
- Modifications of student employment
- Counseling
- Health care referral

If allegations are made against the Title IX Coordinator, the HR director will initiate the process of investigating the complaint. Conversely, if allegations are made against the Director of Human Resources/AAO, the Title IX Coordinator along with the University’s General Counsel will investigate the complaint.

Grievance Procedure

General Requirements

In accordance with federal law, NSU will prescribe to a consistent, transparent process for resolving formal complaints of sexual harassment. This includes:

- Treating complainants equitably by providing remedies any time a respondent is found responsible.
- Treating respondents equitably by not imposing disciplinary sanctions without following the grievance procedure outlined in this policy. The respondent is always presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. Even a preemptive measure such as a properly implemented emergency removal does not mitigate this presumption.
- Requiring objective evaluation of all relevant evidence and avoiding credibility determinations based on a person's status as a complainant, respondent, or witness.
- Not restricting rights protected under the US Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX or Title VII.
- Affirming the complainant's wishes with respect to whether NSU investigates the incident, unless the Title IX coordinator and AAO decides to initiate an investigation over the complainant's wishes should such a decision be clearly reasonable due to the known circumstances.
- If the allegations in a formal complaint do not meet the definition of sexual harassment, or did not occur in the school's education program or activity against a person in the United States, federal law clarifies that NSU must dismiss such allegations for the purposes of Title IX but may still address the allegations in any manner the school deems appropriate under the university's own code of conduct as well as other federal or state laws governing discrimination such as Title VII.

NSU shall take reasonable steps to prevent the recurrence of sexual harassment or retaliation in any form. If the recurrence takes place, those responsible for such behavior may be subject to disciplinary and/or legal action.

Emergency Removal

NSU may, at its discretion, employ the use of emergency removals. NSU will undertake an individualized safety and risk assessment to determine if a respondent is an immediate threat to the physical health or safety of any employee arising from the allegations of sexual harassment. A respondent will be given the opportunity to immediately challenge the decision following removal (also known as a show-cause meeting).

Show-cause Meeting

Following an emergency removal from campus, a respondent wishing to challenge their removal must:

1. Request a meeting through the Office of Human Resources.
2. Prior to the scheduled meeting, provide written documentation supporting the claim for the emergency removal to be lifted.
3. Meetings may be conducted in-person or virtually, at the discretion of the conduct administrator.
4. Outcomes will be communicated to the student via email within 24 hours after the conclusion of the show-cause meeting.

Formal Complaint

Once a report of sexual harassment is made involving an employee, the Title IX Coordinator will assign the matter to the Assistant Director of Human resources who will offer supportive measures to the individual who is alleged to be the victim.

Next, the Title IX Coordinator will ask the alleged victim if they would like to submit a formal, signed, complaint.

If they choose not to submit a formal complaint, *see Special Provisions section of this document*.

If they choose to submit a signed formal complaint, the Title IX Coordinator will:

- Notify the respondent, in writing, of the allegations against them and the supportive measures available, *see notice of allegations*.
- Notify both complainant and respondent, in writing, of their right to choose an advisor of their choice. The university can and will provide an advisor to either party.

After the notice, an investigation of the report shall be pursued within ten (10) university business days.

To ensure a prompt and thorough investigation, the complainant should provide as much of the following information as possible:

- The name, department, and/or position of the person or persons allegedly causing the sexual harassment or retaliation;
- A description of the incident(s), including the date(s), location(s), and the presence of any witnesses;
- The names of other students or employees who might have been subject to the same or similar sexual harassment or retaliation;
- Any steps the complainant has taken to try to stop the sexual harassment or retaliation; and
- Any other information the complainant believes to be relevant to the sexual harassment, harassment, or retaliation.

Notice of Allegations

Upon receipt of a formal complaint, the Title IX Coordinator will provide a written notice to the respondent containing:

- notice of our grievance process (including informal resolution process)
- notice of the allegations of sexual harassment, including:
 - The identities of the parties involved in the incident, if known.
 - The conduct allegedly constituting sexual harassment
 - The date and location of the alleged incident, if known
 - A statement that the respondent is presumed not responsible for the alleged conduct
 - A statement that determination of responsibility is made at the conclusion of the grievance process
 - The ability to have an advisor of their choice
 - Information about reviewing evidence
 - Information pertaining to the conduct code in regards to knowingly making false statements or knowingly submitting false information during the grievance process.
 - Information regarding NSU's retaliation policy.
 - Information about the process for notification should additional allegations be made during the course of the grievance process.

Sufficient preparation time will be given to the parties before any initial interview.

Advisors

Parties may have an advisor present during any investigation meeting. The role of the advisor will be limited to being present only; the advisor will not be permitted to speak to anyone other than their advisee during any meeting, interview or hearing relevant to the investigation, with the exception of cross examination within the hearing setting. If the advisor is an attorney, the party shall notify the Title IX Coordinator that an attorney will be present at least two days prior to the meeting, interview or hearing.

8.5 Investigation

When a formal complaint is signed, a formal investigation will be conducted. The Title IX Coordinator will assign the case to the Assistant Director of Human Resources plus one other person. In the event, the complaint is against a faculty member, the additional investigator will be a member from Academic Affairs. All investigations will be conducted by at least two investigators who have received appropriate training approved by the Title IX Coordinator. The investigators must be free from conflicts of interest or bias for or against complainants or respondents. Investigators may include (but are not limited to) the Title IX Coordinator; other appropriate NSU faculty or staff; or contracted, external investigators. The investigation shall be concluded within a reasonable amount of time. The investigation will be conducted in a manner so that it is adequate, reliable, and impartial

The investigation may include but is not limited to, interviews of the parties involved, including witnesses, and the gathering of other relevant information.

All parties may present witnesses and other relevant inculpatory and exculpatory evidence for objective evaluation. The Title IX Coordinator will send evidence directly related to the allegations to the parties and their advisor prior to the final investigation report. Parties have 10 days to inspect, review, and respond to the evidence.

At any time during the investigation, the investigators may recommend supportive measures.

Investigation Report

Once a formal investigation is concluded, a written investigative report shall be submitted to the Title IX Coordinator who will provide it to the AAO. The investigation report is a written report describing the evidence gathered from the investigation with description of all the interviews and any other documents reviewed.

The Title IX Coordinator will determine whether further action is needed pursuant to NSU policy and/or state or federal law, and respond accordingly. If further action is deemed necessary resolution processes or disciplinary procedures will be initiated.

However, the Title IX Coordinator **must** dismiss formal complaints:

- of misconduct that do not meet the sexual harassment definition, and/or
- that did not occur within an NSU educational program or activity against a person in the US.

The Title IX Coordinator **may** dismiss a formal complaint:

- if a complainant desires to withdraw their formal complaint, and/or
- the respondent is no longer enrolled at NSU, and/or
- if NSU is unable to gather sufficient information to reach a determination.

After review, the Title IX Coordinator will send the parties and their advisors the investigation report. Parties will have 10 days to respond (in writing, emailed or signed and delivered to the Title IX Coordinator) should they choose to do so.

HR 8.6 Live Formal Hearings

If investigation findings indicate a potential Title IX policy violation, a live hearing with cross examination will be held. A minimum of two decision-makers (the AAO and one other) will be appointed by the Vice President of Administration and Finance who will schedule the live hearing. The Vice President of Administration and Finance shall appoint a committee of five members from the Affirmative Action Committee to serve on the grievance hearing committee: one member from faculty (two faculty members if a faculty is the claimant or respondent); one from the administrative ranks (two from administrative if the claimant or respondent is from administration; one member from classified ranks. Remaining members will be selected from the Affirmative Action Committee.

In all cases where the complainant is a student, the hearing will be conducted through the Student Affairs process.

All live formal hearings will be audio and/or audio-visual recorded.

Live hearings may be conducted with all parties physically present. However, at the request of either party or at the discretion of NSU, the institution will provide for the entire live hearing to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other. If a party does not have an advisor present at the live hearing, NSU will provide an advisor of NSU's choice.

Cross-examination is sensitive and must take place in a phased process. Each party's advisor is permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Before a complainant, respondent, or witness answers a question, the decision-makers must first determine whether the question is relevant. If the question is determined not to be relevant, decision-makers will then explain to the party's advisor asking the question why it is not relevant. The decision-makers may deem certain questions about a complainant's prior sexual behavior irrelevant unless offered to prove that someone other than the respondent committed the alleged misconduct. Unduly repetitive character witnesses or any other types of witnesses including expert witnesses can be limited at the discretion of the panel.

If a party or witness does not submit to cross-examination at the live hearing, the decision-makers must not rely on any statement of that party or witness in reaching a determination regarding responsibility.

The decision-makers must issue a written determination regarding responsibility. Written determination will be sent to the parties simultaneously. This determination will include:

- A reference to the policy(s) alleged to have been violated.
- A summary of the allegations.
- Findings of fact supporting the determination.
- Conclusions about whether the alleged conduct occurred.
- Rationale for the result as to each allegation.
- Any disciplinary sanctions imposed on the respondent; see faculty or staff handbooks as applicable.
- Whether remedies will be provided to the complainant.
- Procedural information on appeals for either party.

The decision-makers will draft a recommendation as to responsibility and sanctions to the Vice President of Administration and Finance within 10 business days of hearing closure. The Vice President of Administration and Finance shall render a decision as soon as possible.

HR 8.7 Appeal

Appeals by Staff

To request an appeal, of the live hearing outcome or the dismissal of a complaint, the employee must submit the reason for their appeal in writing (typed, not hand-written). The request may be signed, dated, and delivered to the AAO or may be emailed to the Office of Human Resources at humanresources@nsuok.edu *within 7 days following the date the outcome letter was sent*. Any email should be sent from the employee's NSU email account.

An appeal request allows a respondent or complainant the opportunity to bring forward concerns about whether NSU's policies and procedures were followed in the case in which they were a part. An appeal may be requested for one or more of the following:

- Procedural irregularity that may have affected the outcome, and/or
- Newly discovered evidence that may have affected the outcome (the new evidence must be included with the written appeal request), and/or
- Title IX personnel had a conflict of interest or bias that may have affected the outcome.

Failure to check or claim notice of correspondence from the university via email, postal service, or campus mail, may not constitute an acceptable reason for appeal. Dissatisfaction with the outcome is not, alone, sufficient reason for appeal.

The appeal is a procedural review of the record and will not involve a live hearing or the questioning of parties or witnesses. During the appeal process, records reviewed may include, but are not limited to: investigation reports, findings, sanctions assigned, the appeal request, and/or other procedural documents. Character references/letters of support will not be considered at the appeal. Any party wishing to provide a response to a submitted appeal has 7 days to do so. Responses should be submitted in writing to the conduct administrator (conduct@nsuok.edu). There will only be one appeal.

Appropriate parties shall be notified regarding the submission, denial, or acceptance, and outcome of an appeal, simultaneously, and within a reasonable time frame.

Appeals will be conducted as file review by the University President. The President may conclude the following:

- Return the case to the AAO for a new conduct conference and/or sanction.
- Reverse or modify the outcome and/or sanctions. Modification may include, reducing or increasing the severity of the original sanctions.
- Uphold the outcome and/or sanctions.

The Presidents appeal decisions are final when applicable to staff positions.

Appeals for Faculty

When faculty are either the claimant or respondent in the complaint, appeals of termination of tenured faculty will be heard by the Appellate Committee on Dismissal of Tenured Faculty Members per the

faculty handbook section 3.5.6. Likewise, a recommendation to immediately terminate an untenured faculty member will follow the same process.

In the event, a recommendation of an untenured faculty is not immediate, the President in conjunction with the Vice President of Academic Affairs will determine the dismissal date and process to follow while working with the AAO. The Academic Affairs Grievance Committee does not consider issues of dismissal of untenured faculty for cause or without cause as per the Faculty Handbook section 3.6.3

Informal Resolution

At the discretion of the Title IX Coordinator, informal resolution may be offered following a formal complaint. Informal resolution may include, but is not limited to, mediation or restorative justice measures. Both parties must give voluntary, informed, written consent to participate in an informal resolution process and may withdraw from the informal resolution process at any time prior to a resolution.

In cases where the facts are generally not in dispute, and the respondent expresses a willingness to accept responsibility for all charges in a case, with the informed consent of the complainant and the University, the hearing procedure will be waived. The parties will be provided the opportunity to submit a written statement to the Title IX Coordinator, for consideration in determining appropriate sanctions. The sanction decision will be made based on investigation information and the written statements, as well as any conduct history on the part of the respondent. Any appeal in an acceptance of responsibility resolution will be limited to the grounds that the sanction provided by the University is grossly inappropriate in light of the violations committed, or relevant aggravating and mitigating factors, and in consideration of applicable policy. Both the complainant and the respondent shall have the same right of appeal.

NOTE: An informal resolution process may not be offered or facilitated if the respondent is an employee (faculty or staff) of NSU and the complainant is a student.

Procedural Considerations

Jurisdiction

This policy applies to any allegation of sexual harassment against members of the NSU community on NSU property, in NSU programs, on land NSU leases or controls, or at events NSU sponsors. NSU may address off-campus or out-of-school harassment, including but not limited to public forums (Internet speech, Facebook, etc.), especially when those off-campus or out-of-school acts have a demonstrable and/or significant on-campus or in-school disruptive impact.

Confidentiality

Confidential reports may be made by contacting HawkReach Counseling Services and/or off-campus victim services providers (see contact information provided in this document). NSU Counselors and Victim's Advocate are available free of charge, and can be seen on an emergency basis.

All inquiries, complaints, and investigations are treated with discretion; however, information is revealed as law and policy require. Therefore, the identity of the complainant and any witnesses may be revealed to the person(s) accused of such misconduct.

Federal Statistical Reporting Obligations:

Certain campus officials (campus security officials) have a duty to report violations of this policy for federal statistical reporting purposes. All personally identifiable information is kept private, but statistical information must be passed along to the Clery Reporting Officer regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given), for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

Federal Timely Warning Reporting Obligations:

In accordance with Federal law, NSU administrators must issue timely warnings when incidents pose a substantial threat of bodily harm or danger to members of the campus community. NSU will make every effort to ensure that a victim'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 danger.

Cooperation with Law Enforcement

NSU will implement appropriate measures during a law enforcement agency's investigation to provide for the safety of the campus community and may cooperate with law enforcement to the extent of and in accordance with local, state, and federal law.

Records Maintenance

The final written report and all documentation contained in the investigation file should be turned over to the Title IX Coordinator and AAO. Records detailing the University's investigation into potential violations of this policy will be collected and maintained, including notes of interviews, copies of documents reviewed, and other relevant information. This record will be maintained by the Title IX Coordinator and AAO for a minimum period of 7 years. All hearings will be audio and/or audio-visual recorded.

Special Provisions

Distinct and Separate Process

The University may undertake a short delay to allow evidence collection when criminal charges on the basis of the same behaviors that invoke this process are being investigated by police or other law enforcement. University action will not be precluded on the grounds that civil or criminal charges involving the same incident have or have not been filed or that charges have been dismissed or reduced. The Civil Rights & Title IX Process is distinct from any criminal investigation and flows from the University's obligation under Title IX and other equity laws to ensure it is providing a safe and nondiscriminatory environment. If a complainant wishes to pursue criminal processes only and wants to waive any University response to the situation, they should make that request to the Title IX Coordinator

– and such requests will usually be respected unless the University must act independently to preserve the safety of the campus community from a threat or future violation of policy.

Good Samaritan/Limited Immunity

The welfare of students in our community is of paramount importance. Sometimes, students are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, as student who has been drinking underage might hesitate to help take a victim of sexual misconduct to NSU Police). NSU pursues a policy of limited immunity for students who offer help to others in need. While Student Conduct Code violations may not be overlooked, NSU will take into consideration the positive actions of those who offer their assistance to others.

Notification of Outcomes

In cases of arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property and kidnapping/abduction, NSU may publicly release the name of the employee found to be in violation of NSU policy as well as the nature of the violation and/or sanction(s) assigned.

Title IX Coordinator and AAO as Complainants

As necessary, the Title IX Coordinator and AAO reserves the right to initiate an employee conduct complaint, to serve as complainant, and to initiate conduct proceedings with or without a formal complaint.

HR 8.8 Sexual Relationship Policy (RUSO 5.6.2) effective January 11, 2013

Statement of Policy

Northeastern State University, in accordance with the Regional University System of Oklahoma, affirms its commitment to the fair exercise of academic and employment power and adequate protection of individuals with limited power. University employees, including administrators, faculty, coaches, extramural and intramural activities supervisors, graduate assistants, and staff should demonstrate respect for students as individuals and adhere to their proper roles as academic guides, counselors and facilitators. Employees must refrain from any exploitation of students and other employees. Such use of power to create sexual relationships will be dealt with promptly and confidentially by the university administration.

HR 8.8.1 Sexual Conduct with Students Prohibited

No employee (faculty or staff) shall engage knowingly or attempt knowingly to engage in consensual or non-consensual sexual conduct or dating with any student whom the employee supervises, acts as academic advisor for, or over whom the employee has any power to determine the student's grade; honors; discipline; research opportunity; scholarship opportunity; acceptance in a graduate or other program of study; participation in arts, athletic, or academic competition; work-study assignment; or other similar education-related matter. University employees' sexual liaisons with students in such situations exploit position, abuse power and fundamentally harm the academic relationship. Voluntary

intoxication with drugs, alcohol or other substances shall not negate knowledge.

HR 8.8.2 Sexual Conduct with Supervisee Prohibited

Supervisors' sexual liaisons with their supervisees may exploit position, abuse power and fundamentally harm the working environment. No supervisor may engage knowingly or attempt knowingly to engage in consensual or nonconsensual sexual conduct with any employee not his or her spouse, whom he or she supervises, directly or indirectly. Voluntary intoxication with drugs, alcohol or other substances shall not negate knowledge.

HR 8.8.3 Definition of Sexual Conduct

Sexual conduct includes, but is not limited to, any sex act, erotic touching, romantic flirtation, dating, conversation of a carnal nature, advance or proposition for sensual activity, erotically explicit joke, remark of a carnal nature describing a person's body or clothing, display of an erotic object or picture, and physical contact reasonably believed to be of a sensual or flirtatious manner.

Sexual conduct does not include reasonable use of delivery of bona fide lecture and/or instructional acts, statements, or materials.

HR 8.8.4 Sanctions

Sexual conduct with students or employees in violation of this policy will not be tolerated. Appropriate disciplinary action may include a range of actions up to and including dismissal and/or expulsion.

HR 8.8.5 Exceptions

Exceptions to sexual conduct prohibitions consistent with state and federal law may be granted in appropriate circumstances by the university president. The RUSO Board shall be notified of any such exceptions in a written, confidential personnel record at least one week prior to the next Board meeting. Exceptions involving presidents may be granted by the RUSO Board only.