



National University of Health Sciences

General Policies

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President

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Maintaining a safe environment is the responsibility of all members of the National University of Health Sciences (NUHS) community. NUHS is committed to providing equal access to educational and employment opportunities regardless of race, color, religion, sex, pregnancy, gender, sexual orientation, age, national origin, citizenship status, genetic information, marital status, parental status, disability, status as a veteran, or any other status protected by state and/or federal law. This policy applies to all NUHS students, employees and third party vendors, as well as NUHS visitors, guests, patients and clients. Although there is no geographical limitation to invoking this policy, sexual misconduct that is alleged to have occurred at a significant distance from NUHS may be more difficult to investigate. Additionally, with respect to any complaint (a) by a person who is not a member of the NUHS community, and (b) relating to Non-University conduct, NUHS reserves the right to determine, in its sole discretion, whether the conduct described in the complaint constitutes a sufficient risk to the NUHS community to warrant further action (i.e., security alert, protective orders, etc).

Sexual harassment is defined as conduct on the basis of sex which jeopardizes equal access to education that Title IX is designed to protect. Any instance of quid pro quo harassment by a school's employee; any unwelcomed conduct that a reasonable person would find so severe and pervasive and objectively offensive that it denies a person equal education access; and instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

NUHS is committed to fostering a community that promotes prompt reporting of all types of sexual misconduct and the timely and fair resolution of sexual misconduct complaints. An attempt to commit an act identified in this policy as well as assisting, willfully encouraging or facilitating the occurrence of any such act, may also be considered a violation of this policy.

Table of Contents

PURPOSE.....	1
Notice of Nondiscrimination.....	1
JURISDICTION OF SEXUAL MISCONDUCT	2
Under Title IX Regulations.....	2
Under NUHS Policy	2
Responding to Sexual Misconduct Allegations.....	2
Preserving Evidence/Seeking Medical Attention.....	3
Presumption of Responsibility and the Standard of Proof.....	3
Advisors.....	3
Decorum of Formal Grievance Process	4
Accommodations	4
Informal Resolution.....	4
Amnesty and Rape Shield Protections for Complainants	5
Bystander Intervention	5
Retaliation Prohibited	5
SUPPORTIVE MEASURES	5
EMERGENCY REMOVALS AND ADMINISTRATIVE LEAVE	5
PROHIBITED SEXUAL CONDUCT	5
Sexual Misconduct Covered Under Title IX Final Regulations.....	5
Sexual Misconduct Covered Under NUHS Policy (<u>Not</u> Covered by Title IX)	8
REPORTING OPTIONS	9
Filing a Sexual Misconduct <u>Report</u> with the University	9
Filing a Sexual Misconduct <u>Formal Complaint</u> with the University	9
Filing a Police Report with Law Enforcement.....	10
Employee Responsibility for Reporting Sexual Misconduct.....	10
Reporting Sexual Misconduct Confidentially or Anonymously	11
The Confidentiality of Information	11
Mandatory Reporting: Child or Elder Abuse and Neglect.....	11
Dismissal of a Formal Sexual Misconduct Complaint	11
Appeal of a Dismissed Formal Sexual Misconduct Complaint	12
THE FORMAL GRIEVANCE PROCESS.....	12
Time Frame for Completion.....	12
Written Notice of Allegations	12
Role of Investigator.....	13
The Investigation.....	13
Review of the Evidence	14
Pre-Hearing Meeting	14
Formal Hearing.....	15
Equal Appeal Rights	177
Possible Sanctions	17
Possible Remedies.....	18
TITLE IX COORDINATOR AND DEPUTY COORDINATORS	19

Training and Education.....	19
EXTERNAL AGENCIES	19
RELATED DEFINITIONS: INCLUDING STATE LAWS	21
ADDITIONAL RESOURCES.....	24

PURPOSE

The US Department of Education (DOE) issued legally binding amended regulations on May 6, 2020 governing how institutions that receive federal funding under Title IX of the Education Amendments of 1972 (Title IX) must respond to allegations of sexual misconduct, including sexual harassment (the Final Regulations).

The Final Regulations have changed significantly from previous guidance in 2011 and 2014 in that they:

- provide a narrower definition of sexual harassment;
- limit the circumstances in which covered institutions are legally obligated to address or respond to allegations of sexual misconduct;
- mandate an initial response to all complaints of sexual misconduct of which covered institutions actually are aware;
- require a presumption of innocence for all individuals accused of sexual misconduct;
- require equal access to all evidence relevant to the allegations;
- permit institutions to choose the standard of evidence that will be applied, as long as it is the same standard used in all matters;
- prohibit the single investigator model; and
- require live formal hearings with cross-examination by someone other than the parties.

The Final Regulations create significant changes in the way higher education institutions must respond to complaints of sexual misconduct. While some aspects of the Final Regulations narrow or limit the situations where covered institutions are legally obligated to respond, other aspects implement new, expanded, or revised procedural requirements. Additionally, the US Department of Education has made clear through these Final Regulations that the policies and procedures described throughout this document apply to complaints regarding **both** students and employees.

Institutions may no longer use a “single investigator model,” i.e., where one official is tasked with investigating, adjudicating, and issuing disciplinary measures. Instead, the Final Regulations require three separate officials to work through separate facets of a single Title IX complaint process:

1. A *Title IX coordinator*, who receives reports of sexual misconduct;
2. An *investigator* to gather facts and interview parties and witnesses; and
3. A *decision maker* to determine findings, sanctions, and remedies for the parties.

This policy governs the university’s response to sexual misconduct involving students, faculty and staff on the premises of the National University of Health Sciences. The procedures outlined in this document may be applied independent of any other university grievance or disciplinary procedure provided for elsewhere by the university or during any criminal investigation. The university reserves the right to forward any sexual misconduct report or formal complaint to the appropriate law enforcement agency for review if there is a concern for the safety of the complainant, respondent, or campus community.

Notice of Nondiscrimination

Academic and employment decisions based upon sex or gender and/or acts of sexual misconduct are forms of unlawful sex discrimination under Title IX and additional federal and state laws. Such decisions are prohibited under this and other policies of NUHS. The university does not discriminate on the basis of race, color, national origin, ancestry, sex, religion, age, physical or mental disability, marital status, veteran status, sexual orientation, gender identity, gender expression, political affiliation or any other factor unrelated to professional or educational qualifications in any phase of its educational or employment programs.

JURISDICTION OF SEXUAL MISCONDUCT

Under Title IX Regulations

Final Regulations amending Title IX civil rights legislation assumed the full force of law on May 6, 2020. The Regulations redefined sexual harassment and broadened the scope of actions covered by Title IX to include sexual assault, domestic violence, dating violence, and stalking. (See: Prohibited Conduct, pg. 7). At the same time, the Final Regulations narrowed the scope of an institution's ability to respond to allegations of sexual harassment to the following conditions: (1) when it has "actual knowledge" of sexual harassment; (2) when it happens at a university-sanctioned event, i.e., within an NUHS educational program or activity; (3) when it occurs on a campus within the United States.

If the conduct alleged by the complainant . . .

- would not constitute sexual harassment even if proved,
- did not occur against a person in the United States, or
- did not occur within a university program or activity.

Then the misconduct, described within the complaint, falls outside the scope of Title IX jurisdiction.

However, that does not preclude an institution from pursuing sexual misconduct violations that fall outside the scope of Title IX under the university's code of conduct. § 106.45(b)(3).

Under NUHS Policy

Title IX Final Regulations stipulate: "*Institutions may continue to address harassing conduct that does not meet the Section 106.30 definition of sexual harassment.*" Thus, the Final Regulations make it clear that nothing prevents a college or university from addressing sexual misconduct complaints that occur outside the federal jurisdiction of Title IX. When addressing sexual misconduct ***not covered by Title IX***, an institution may apply the same grievance procedure that is required under Title IX or its own grievance process as set forth in the institution's policies and procedures.

As a consequence, when sexual misconduct allegations do not meet the threshold of a Title IX violation, NUHS reserves the right to determine in its sole discretion, whether the sexual conduct described in a complaint constitutes a sufficient risk to the NUHS community to warrant further administrative action as a potential violation of NUHS policies that prohibit sexual misconduct, e.g., as described within the *NUHS Code of Student Conduct, Faculty Handbook or Employee Handbook*. NUHS is committed to fostering a safe learning community that promotes prompt reporting of all types of sexual misconduct and the timely and fair resolution of sexual misconduct complaints. An attempt to commit any act identified in this policy or any other policy prohibiting other forms of behavioral misconduct; as well as assisting, willfully encouraging or facilitating similar acts, shall be considered an actionable violation of university policy.

Responding to Sexual Misconduct Allegations

Under the Final Regulations, "actual knowledge" is notice by means of, among other things, witnessing or hearing about sexual harassment from a complainant or third party (bystander or anonymous) or receiving a written or verbal complaint about sexual harassment or sexual harassment allegations. While actual knowledge may not trigger the obligation to investigate (discussed below), it does trigger the obligation to "promptly" respond in a manner that is not "deliberately indifferent." Under the Final Regulations, an institution cannot be held liable for failing to respond to known allegations of sexual harassment unless it acts with "deliberate indifference," defined as actions that are "clearly unreasonable in light of the known circumstances."

At a minimum, the covered institution's Title IX coordinator must promptly do the following:

- Contact the complainant confidentially to offer and discuss available supportive measures.
- Inform complainant of supportive measures, regardless of whether a formal complaint is filed.
- Consider the complainant's wishes with respect to supportive measures.

- Explain to the complainant the process for filing a formal complaint.
- Contact the respondent, who also must be offered supportive measures.
- If supportive measures are not provided to the complainant, document why and explain why not providing such measures is not deliberately indifferent.

The deliberate indifference standard is also applied to an institution's decision to investigate. Under the Final Regulations, the university is obligated to initiate a grievance process only when a complaint is filed, or a Title IX coordinator signs a "formal complaint" alleging sexual harassment against a respondent and requesting that the institution investigate. According to the D.O.E., an institution should consider the complainant's wishes regarding whether to pursue an investigation, but if an investigation is necessary for safety reasons or if failing to conduct an investigation would be deliberately indifferent, Title IX coordinators may sign a complaint to initiate an investigation.

Preserving Evidence/Seeking Medical Attention

Preserving evidence may be necessary for criminal prosecution and may be helpful in obtaining an order of protection. It is recommended not to bathe, wash one's hands, use the restroom, drink, smoke, change clothing or brush one's teeth before seeking medical attention. Additional advice from sexual assault hotlines:

- Write down all the details you can recall about the attack and the attacker.
- Do not change or destroy clothing – your clothes are also evidence.
- If the assault took place in your home, do not rearrange and/or clean up anything
- Seek medical attention. Ask the hospital to conduct a rape exam, test for STD's and pregnancy, and, if you think you were drugged, collect a urine sample for analysis.

NUHS urges anyone who has been sexually assaulted to seek university support as soon as possible to minimize and treat physical harm, obtain assistance with processing the unique and complex emotional aftermath, get help in preserving evidence, and to understand the options for pressing charges. Even for someone who does not wish to report the event to the police or pursue disciplinary action, seeking medical attention as soon as possible is important. A person that has been sexually assaulted has the right to a medical forensic examination (known as a SANE exam) free of charge at a local health facility.

Presumption of Responsibility and the Standard of Proof

Pursuant to the Final Regulations, from the outset of an investigation, a complainant should not be considered any more credible than a respondent and, in fact, a respondent must be presumed not responsible until the conclusion of the grievance process.

NUHS evaluates evidence of alleged sexual misconduct under a "preponderance of evidence" standard. This is the same standard applied to all claims - whether it involves employees, staff or students. A preponderance of the evidence means that the information shows that it is "more likely than not" (greater than 50%) that the respondent violated the policy. In the context of a hearing, the respondent will be found to be responsible for the alleged sexual misconduct if the relevant hearing committee or hearing officer concludes that such sexual misconduct "more likely than not" occurred based upon careful review of all information presented. In making the determination, the committee/officer shall carefully consider all of the evidence presented and follow the procedures stated in this policy in order to ensure as fair of a hearing as possible for all parties.

Advisors

An advisor is a person, identified by the complainant or respondent, to accompany him/her through the formal grievance process. An advisor is required if the grievance process results in a formal hearing. Advisors shall conduct cross-examinations on behalf of each party. The identity of the advisor must be disclosed to the

investigator prior to the hearing. Failure to provide notice of the identity of the selected advisor may result in the university appointing another advisor to that party. If one party selects an advisor who is an attorney, but the other party does not or cannot afford an attorney, the university is not obligated to provide an attorney.

The complainant and respondent may also have an advisor of their choice present during any stage of the formal grievance process. Advisors are responsible for attending a hearing, if any, with the party and for conducting cross-examination during the hearing. The involvement of an advisor cannot result in an undue delay of the proceeding(s). Additionally, the advisor must comply with the rules contained herein. Failure to comply with or engagement in behavior that is disruptive or harasses, intimidates, or abuses any party or witness, may result in being barred from future involvement in the process.

Any advisor that a party selects is required to participate in a ***pre-hearing meeting*** prior to their attendance at the formal hearing. Failure of the selected advisor to attend the ***pre-hearing meeting*** or formal hearing will result in their disqualification from participating in the hearing and may result in the university appointing another advisor to that party. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the university.

Decorum of Formal Grievance Process

All individuals who participate in the university's formal grievance process, including the complainant, respondent, support person(s), advisor(s), and witness(s) during the investigation and/or hearing, are required to conduct themselves in a manner consistent with this policy. As stated throughout this policy, individuals are not permitted to be disruptive or harass, intimidate, abuse, threaten, coerce, or discriminate against any individual involved in the formal grievance process, including conduct against the Title IX Coordinator, investigator(s), hearing officer, or appeal agents.

Participants are also prohibited from providing a materially false statement in bad faith, knowingly submitting false information, persuading others not to participate in the formal grievance process (whether successful or not), and applying pressure to not fully cooperate. If a student or employee engages in any of the described misconduct, they will be referred to the appropriate supervisor for possible disciplinary charges under the *Code of Student Conduct* or the *Employee or Staff Handbook*.

Accommodations

NUHS is committed to providing accessible grievance procedures. Any party or witness requiring an accommodation during the sexual misconduct process due to a disability should let the Title IX Coordinator know as soon as possible.

Informal Resolution

Where the facts alleged in a formal complaint are not contested, where the respondent has admitted or wishes to admit responsibility, or where both parties want to resolve the case without a completed investigation or hearing, the parties may participate in an informal resolution of the formal complaint that does not require a full investigation or hearing. The ultimate decision on whether informal resolution is available and appropriate, including the terms, rests with the Title IX Coordinator.

Informal resolution may occur after:

1. The complainant and respondent are provided written notice disclosing the allegations, circumstances under which resuming a formal complaint arising from the same allegation is precluded, the right to withdraw from the informal resolution process and resume the formal grievance process, and requirements resulting from participating in the informal resolution process such as record sharing and

maintenance;

2. The complainant and respondent provide voluntary, written consent to the informal resolution; and
3. The conduct does not pertain to allegations that an employee has engaged in sexual misconduct against a student.

Informal resolution is only offered *after* a formal complaint is filed. If the complainant or respondent wishes to engage in informal resolution, the request should be made in writing to the Title IX Coordinator prior to reaching a determination regarding responsibility. The complainant or respondent is not permitted to appeal terms of the informal resolution which are agreed upon.

Amnesty and Rape Shield Protections for Complainants

Amnesty aims to remove the barriers that may prevent an individual from reporting an incident of sexual misconduct or from participating as a witness in an investigation with the university. If an individual reports an incident of sexual misconduct, in good faith, or participates in an investigation as a witness, the Title IX Coordinator will not pursue disciplinary action for that individual for a separate university policy violation (such as underage drinking) that is revealed in the course of the report or formal grievance process. However, if the separate violation was egregious, including, but not limited to an action that places the health or safety of any other person at risk, amnesty may not be afforded by the Title IX Coordinator.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, 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.

Bystander Intervention

Bystanders play an integral role in helping assist the NUHS community in maintaining a safe academic and productive working environment. NUHS encourages any bystander to first ensure his/her own safety before assisting in any situation. Often times, the most productive step a bystander can undertake is to call 911. Bystanders to an act of alleged sexual misconduct are encouraged to immediately make a report to the Title IX Coordinator, so the complaint can be investigated.

Retaliation Prohibited

No person may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by this policy or Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination for the purposes of interfering with any right or privilege secured by this policy constitutes retaliation. The university must keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, or as required by law, or as necessary to carry out a Title IX proceeding.

Retaliation may occur even if no responsibility is found for the underlying complaint or investigation. Retaliation should be reported immediately to **Tracy McHugh, Title IX Coordinator**, Office of the VP for Administrative Services 630-889-6607, TMcHugh@NUHS.edu.

PROHIBITED SEXUAL CONDUCT

Sexual Misconduct Covered Under Title IX Final Regulations

Title IX defines sexual harassment as conduct on the basis of sex that satisfies one or more of the following:

1. Quid pro quo harassment, i.e., conditioning any education/employment opportunity, aid, or benefit on the granting of sexual favors; or
2. Hostile education/employment environment, i.e., unwelcome conduct determined by a reasonable

- person to be so severe, pervasive, and objectively offensive as to effectively deny a person equal access to an education/employment program or activity; or
3. Sexual assault (as defined by the *Clery Act*) or dating violence, domestic violence, or stalking (each as defined by the *Violence Against Women Act - VAWA*).

Sexual harassment: Quid Pro Quo

An employee conditions the provision of university aid, benefit, or service on an individual's participation in unwelcome sexual conduct. Examples:

- A Teaching Assistant tells you that they will give you an "A" if you have sex with them.
- A coworker agreed to unlock the office if you sent them a naked picture.
- Your supervisor agreed to approve vacation time if you went on a romantic dinner with them.

Sexual harassment: Denial of Equal Access

Unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity. Examples:

- Your roommate repeatedly shows you their penis without asking you, which causes you to avoid your room.
- A classmate non-consensually rubs your thigh during class while making sexually explicit comments, which causes you to become distracted and have your grades suffer.
- On multiple occasions, your coworker sends you pornographic videos while virtually meeting, which causes you to avoid meeting that person.

Gender harassment

Unwelcome conduct on the basis of gender determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity. Examples:

- Your roommate calls you derogatory names because of your gender-related appearance.
- A person repeatedly prevents you from using the restroom of the gender of which you identify.

Sexual assault (as defined by the *Clery Act*)

Any sexual act directed against another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent. Sexual assault also includes the following:

Rape—Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.

Sodomy—Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault With An Object—To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Fondling—The touching of the private body parts of another person (buttocks, anus, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Incest—Non-forcible sexual intercourse between persons who are related to each other within the

degrees wherein marriage is prohibited by state law.

Statutory Rape—Non-forcible sexual intercourse with a person who is under the statutory age of consent of 17. Examples:

- A person inserts their penis into your vagina while you are incapacitated from alcohol consumption.
- Your roommate performs oral sex on you while you are asleep.
- An individual takes your hand and forces you to touch their genitals.

Dating violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, type of relationship, and frequency of interaction between the persons involved in the relationship. For the purposes of this definition—

- 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 the definition of domestic violence.

Examples:

- A person that you regularly have sexual intercourse with slaps you across the face.
- A person that you frequently go on dates with shoves you during an argument.

Domestic violence

A felony or misdemeanor crime of violence committed—

- By a current or former spouse or intimate partner of the complainant;
- By a person with whom the complainant shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the complainant as a former or current spouse or intimate partner;
- By a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the State of Illinois or Florida – see *Related Definitions* section;
- 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 the State of Illinois or Florida – see *Related Definitions* section.

Examples:

- A person that you share a child with hits you with an object.
- Your partner that you live with grabs and pulls you by the hair.

Stalking

Engaging in a course of conduct directed at a specific person on the basis of their sex that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. Course of conduct means two or more acts in which a person directly, indirectly or through third parties: follows, monitors, observes, surveils, threatens, communicates to or about a person, or interferes with another's personal property. Substantial emotion distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

Examples:

- Your former partner showing up to your classes the entire week after the relationship ended causing you to be afraid of going to class.
- An individual follows you on-campus to areas that you frequently go to causing you to avoid those areas and have heightened anxiety.
- A classmate calling you and threatening to harm you if you do not go on a date with them causing you to be fearful that they will harm you.

Sexual Misconduct Covered Under NUHS Policy (Not Covered by Title IX)

NUHS defines sexual misconduct in more inclusive terms than the more narrowly construed terms set forth under Title IX Final Regulations of 2020. NUHS defines sexual misconduct as a broad term encompassing a range of behaviors including rape, attempted rape, sexual battery, attempted sexual battery, sexual assault, intimate partner violence, stalking, cyber-stalking, sexual exploitation, sexual harassment, non-consensual sexual intercourse, and non-consensual conduct in which a person deliberately touches, fondles, pinches, grabs, etc., another person (of either sex) in an intimate area or body part (including genitalia, groin, breast or buttocks, or clothing covering any of these areas), voyeurism, possession of child pornography, public indecency, and/or knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection (including HIV), and any other non-consensual conduct of a sexual nature that has the purpose or effect of threatening, intimidating, or coercing a person or persons.

Sexual misconduct that violates NUHS policy may also be subject to criminal prosecution. NUHS is committed to fostering a community that promotes prompt reporting of all types of sexual misconduct and the timely and fair resolution of sexual misconduct complaints. When the respondent is a member of the campus community, the formal grievance procedures outlined above apply regardless of the status of the complainant, who may or may not be a member of the campus community. If the complaint does not meet the federal definition of sexual harassment, as outlined herein, the university reserves the right to investigate the complaint as a potential violation of NUHS policies that prohibits sexual misconduct as described within the *NUHS Code of Student Conduct*, or the *Faculty or Employee Handbook*.

Note: Definitions used by law enforcement for purposes of criminal investigation and prosecution may differ. Please consult RELATED DEFINITIONS (page 23) to review the individual state statute definitions to see what constitutes sexual harassment/assault under the Illinois or Florida Criminal Code.

REPORTING OPTIONS

Filing a Sexual Misconduct Report with the University

Any individual, regardless of their affiliation with the university, may file a sexual misconduct report. Employees, as discussed under the *Employee Responsibility for Reporting Sexual Misconduct* section, are required to promptly file a sexual misconduct report with the university Title IX Coordinator.

This report places the university on notice of what is alleged to have happened. It does not necessarily trigger the university's formal grievance process/investigation. Rather, after a report is made, the identified complainant (victim) will be promptly contacted in order to receive information about their rights and options, including how to file a formal complaint with the university.

A report may be filed using one of the following options:

- File an electronic report located at <https://www.nuhs.edu/student-services/support-services/complaints/student-complaint-form/>
- Contact the Title IX Coordinator in-person, over the phone, or via email or postal mail to discuss what happened.
- Additional documents may be submitted with the report (e.g., police report, emails), but are not required.

The university expects that all sexual misconduct reports are submitted in good faith. All incidents of sexual misconduct will be taken seriously by the university when formally reported, and such incidents will be assessed in accordance with the procedures contained herein.

Filing a Sexual Misconduct Formal Complaint with the University

The individual that has been subjected to sexual misconduct (the complainant) has the right to file a formal sexual misconduct complaint. The formal complaint will trigger the university's formal grievance process/investigation.

A formal complaint may be filed using one of the following options:

- File an electronic formal complaint at <https://www.nuhs.edu/student-services/support-services/complaints/student-complaint-form/>
- Contact the Title IX Coordinator in-person, over the phone, or via email or postal mail to discuss what happened.
- Additional documents may be submitted with the report (e.g., police report, emails), but are not required.

The Title IX Coordinator also reserves the discretion to sign a formal complaint based on information contained within a report of sexual misconduct to initiate the university's formal grievance process. When the Title IX Coordinator signs the formal complaint, they do not become the complainant. The individual alleged to have been subjected to the sexual misconduct is the complainant. The complainant may designate an individual to serve as their proxy throughout the process to receive and respond to notices and documentation related to the investigation. The proxy, however, may not provide testimony or evidence on behalf of the complainant. The proxy may serve in the capacity of an advisor.

All formal sexual misconduct complaints are assumed to be made in good faith. However, if the evidence establishes that the formal complaint was intentionally falsified, corrective/disciplinary action will be taken, up to and including suspension, expulsion, or 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.

Filing a Police Report with Law Enforcement

Any individual may file a police report by contacting the following departments:

For incidents that occur on campus:

Illinois

Security Cell Phone - (630) 927-9957

Security Office - (630) 889-6683

Security from on campus phone - ext. 311

Florida

Security Office - (727) 791-2560

Security from on campus phone - ext. 2560

For incidents that occur off campus:

Illinois

Lombard Police - (630) 620-5955

Florida

St. Petersburg Police - (727) 893-7780

Pinellas Park Police - (727) 541-0758

Anyone who goes to the local Police Department to report an incident will meet with a police officer to discuss the incident. The police officer may also accompany individuals to the hospital for evidence gathering or provide transportation if it is otherwise unavailable. An official police report will then be generated. The police officer will notify the Title IX Coordinator that an instance of alleged sexual misconduct has occurred.

If the incident is determined to be criminal in nature, the police may continue to investigate the matter. After the investigation is complete, criminal charges may be brought against the respondent. A warrant for the respondent's arrest may be issued, if they were not already arrested. A police report or formal criminal complaint are not considered formal complaints with the university. While the Title IX Coordinator or designee should be advised of all police reports made to the Police Department, it is advisable for the complainant to keep the Title IX Coordinator informed.

Individuals may obtain assistance making a police report or complaint by contacting the **NUHS Office of Student Services (IL or FL)**.

Employee Responsibility for Reporting Sexual Misconduct

All employees of the university are required to report actual or suspected sexual misconduct to the Title IX Coordinator. Employees *must* report (via email, online form, or in person) to the Title IX Coordinator all relevant details of sexual misconduct that they become aware of. This includes the names of the respondent (if known); the student or other person who experienced the sexual misconduct; others involved in what happened; as well as relevant facts including the date, time and location of the incident. If this information is not shared with or known by the employee, it is not their duty or role to find out the information. Definitions of what constitutes sexual misconduct can be found in the *Prohibited Conduct – Defined* section of this policy.

A report to the Title IX Coordinator may not automatically initiate a formal investigation. Rather, the purpose of this reporting obligation is to ensure that students and employees are aware of their rights and options to address what they may have experienced or witnessed, including the ability to obtain advocacy and support services and file a formal complaint. Additionally, it is a mechanism to report potential forms of sexual misconduct to the Title IX Coordinator to provide them with information about the campus climate regarding sexual misconduct.

Before a person reveals information that they may wish to keep confidential, an employee should make every effort to ensure that the person understands:

- a. The employee's obligation to report to the Title IX Coordinator the information that the person shares regarding the incident, including the name of the individual(s) subjected to and those accused of engaging in sexual misconduct.

- b. The person's ability to obtain confidential resources, including an advocate.
- c. The person's rights and options to formally report what they experienced or witnessed, including a complaint to the Title IX Coordinator or law enforcement.

An employee's failure to report sexual misconduct to the Title IX Coordinator is considered a performance issue and may lead to discipline, up to and including disciplinary action and termination.

Reporting Sexual Misconduct Confidentially or Anonymously

An individual may request to remain completely anonymous or that their name or details surrounding the incident not be disclosed during the investigation process, which is called a request for confidentiality. If a request of confidentiality is made, the Title IX Coordinator will determine if confidentiality can be afforded. Where there is a likelihood of further harm to the complainant and/or the campus community, confidentiality may not be honored. The Title IX Coordinator may also consult with appropriate university officials regarding the request for confidentiality.

When confidentiality of the complainant is maintained or the complainant's identity is unknown (*i.e.* anonymous), the university's ability to respond and take appropriate corrective action may be impeded. Nevertheless, the university will attempt to provide resources as provided herein, take steps to address the misconduct, remedy the effects and prevent its recurrence.

For the purposes of the *Clergy Act* reporting and disclosures, no identifying information about the complainant or reporting person will be disclosed in publicly available recordkeeping, such as the Daily Crime Log, Timely Warning, or the Annual Security and Fire Safety Report (ASFSR).

CONFIDENTIALITY VS. PRIVACY	
Can provide confidentiality	Can provide privacy
<ul style="list-style-type: none"> • NUHS Title IX Coordinator • Mental Health Counselor • Clergy 	<ul style="list-style-type: none"> • NUHS Title IX Deputy Coordinator • NUHS Security Officers • Mandatory Reports

The Confidentiality of Information

The university will keep confidential the information contained within reports and complaints, including the identity of the reporting party, the complainant, the respondent, and any witnesses, except when disclosure is permitted under the *Family Educational Rights and Privacy Act* (FERPA), as required by law, or to carry out the university's obligations under Title IX, including the NUHS formal grievance process.

Mandatory Reporting: Child or Elder Abuse and Neglect

All staff and faculty are required by state law to report suspected or known child or elder abuse to the Illinois or Florida Department of Children and Family Services (DCFS). Accordingly, all employees of NUHS must report known or suspected child or elder abuse, neglect, abandonment or sexual misconduct to DCFS. DCFS hotline & online report address in:

Illinois is 800-252-2873 <https://dcfsonlinereporting.dcf.illinois.gov/>.

Florida is 800-962-2873 - <https://reportabuse.dcf.state.fl.us/>.

Dismissal of a Formal Sexual Misconduct Complaint

If the conduct alleged in the formal complaint does not constitute a violation of federal law or NUHS policy, or the evidence gathered during the investigation does not establish a violation of federal law or NUHS policy, or the respondent is no longer enrolled or employed by the university, or specific circumstances prevent the university from gathering evidence sufficient to reach a determination of responsibility, then

the Title IX Coordinator or designee reserves the right to dismiss the formal complaint or refer the matter to an applicable university policy. If the formal complaint is dismissed or referred, both parties will be notified in writing along with the reasoning to support the action.

Appeal of a Dismissed Formal Sexual Misconduct Complaint

The complainant and respondent have a right to appeal the dismissal or referral of a formal complaint on the following grounds:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time of the determination regarding dismissal was made, that could affect the outcome of the matter;
3. The Title IX Coordinator or investigator had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and
4. The decision was significantly contrary, unsupported, and unreasonable to the weight of the evidence presented.

An appeal to a dismissal or referral must be made to the Title IX Coordinator, within five (5) calendar days of the written notification. Within two (2) calendar days after an appeal is received, the non-appealing party will be provided notice of the appeal and be provided the opportunity to submit a written statement in support of, or challenging, the dismissal or referral. The non-appealing party will be provided five (5) calendar days to submit a written statement. Thereafter, the Title IX Coordinator or designee, will provide a written response simultaneously to both parties within five (5) calendar days after the decision is made.

THE FORMAL GRIEVANCE PROCESS

A formal complaint signed by the complainant or Title IX Coordinator will initiate the university's formal grievance process. Covered institutions no longer can use a "single investigator model," i.e., where one official is tasked with investigating, adjudicating, and issuing disciplinary measures against respondents. Instead, the Final Regulations require three separate officials to work through separate facets of a single Title IX complaint process:

1. A Title IX coordinator, who receives reports of sexual misconduct;
2. An investigator to gather facts and interview parties and witnesses; and
3. A decision maker to determine findings, sanctions, and remedies for the parties.

Time Frame for Completion

Covered institutions must conclude the grievance process, including informal resolution processes and filing and resolving appeals, within a "reasonably prompt time frame," with "[t]emporary delays and limited extensions . . . permitted only for good cause."

Written Notice of Allegations

Upon receipt of a formal complaint, the covered institution must provide to all known parties written notice that:

- provides sufficient detail of the allegations (including the identities of the parties, the conduct allegedly constituting sexual harassment, and the date and location of the alleged conduct) with sufficient time to prepare for an initial interview;
- explains the grievance process, including any informal resolution process;
- states that the respondent is presumed not responsible and a determination regarding responsibility will be made at the conclusion of the grievance process;

- states that all parties may have an advisor of their choice & may inspect and review evidence; and
- informs the parties of any provision in the institution's code of conduct or other policies that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

Role of Investigator

Investigators are neutral fact-finders. As such, investigators do not function as advocates or advisors for any of the involved parties. Investigators will, however, inform individuals about other university offices where they may seek support, advocacy or advisement. Investigators will not have a conflict of interest or bias for or against the complainant or respondent. Investigators do not engage in policy analysis nor provide recommendations to the hearing officers.

The Investigation

After both parties are notified of the formal complaint, and absent a dismissal or referral, an investigation will occur to the maximum extent possible. The university is responsible for gathering evidence, which will include separate interviews with the complainant, the respondent, and witnesses and collection of nontestimonial evidence, such as social media posts, photographs, etc. During the interview, the investigator will explain this policy and procedures and answer any questions. The person being interviewed will then be able to give their version of events, list the names of any potential witnesses (including fact and expert witnesses), and provide both inculpatory and exculpatory evidence. (Exculpatory evidence is evidence favorable to the respondent that exonerates or tends to exonerate the respondent of guilt. It is the opposite of inculpatory evidence.) The complainant and respondent may also suggest questions to the investigator(s) to be asked of the other party at the discretion of the investigator(s).

Pursuant to the Final Regulations, which direct the way in which formal complaints must be investigated, covered institutions must do the following:

- Ensure that the burden of proof and burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the covered institution, not on the parties.
- Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations, even if it is evidence upon which the covered institution does not intend to rely in reaching a determination.
- Provide an equal opportunity for the parties to present witnesses and evidence, including fact and expert witnesses and other inculpatory (evidence favorable to the complainant) and exculpatory (evidence favorable to the respondent) evidence.
- Ensure that any party's ability to discuss the allegations and/or to gather and present relevant evidence is not restricted.
- Provide the parties with the same opportunities to have others present during any investigation-related meeting or proceeding.
- Provide written notice, with sufficient time to prepare, to any party whose participation is invited or expected of the date, time, location, participants, and purpose of all hearings, investigative interviews, and/or other meetings.
- Prepare an investigative report that fairly summarizes relevant evidence. (*See Review of Evidence*)

Also, the following rules apply to the permissible inclusion of evidence in sexual misconduct investigations:

- The use of alcohol or drugs by the complainant at the time of the incident may be considered for purposes of determining consent or memory only and will not form the basis for independent proceedings or discipline (see Amnesty section).
- The sexual history or sexual character of the complainant shall not be considered in any

investigation unless such evidence is offered to prove that someone other than the respondent committed the conduct in question, or if the evidence concerns specific instances with the respondent and is offered to prove consent.

- Questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege will not be asked or gathered, unless the person holding such privilege has voluntarily waived the privilege in writing for purposes of the investigation.
- For alleged conduct that constitutes a violation of this policy in addition to a different university policy, the university reserves the discretion to conduct a joint investigation.

Review of the Evidence

Institutions now are required, before concluding the investigation, to provide the parties and their advisors equal opportunity to inspect and review any evidence obtained during the investigation that is directly related to the allegations in the formal complaint—even if the institution will not rely on that evidence in reaching a conclusion. *Additionally, all parties must be given **at least 10 days** to submit a written response to the proffered evidence, which the investigator must consider prior to completing the investigative report.*

At the conclusion of the investigation, the investigator must draft a report fairly summarizing relevant evidence. The investigator must provide the report to all parties and their advisors for their review and written response **at least 10 days** before a hearing or time of determination.

The complainant or the respondent may request participation in an informal resolution pending completion of the investigation, or after reviewing the Investigation Report. See *Informal Resolution* section for additional information on this process.

Pre-Hearing Meeting

The Final Regulations allow for the institution to convene a pre-hearing meeting before the formal hearing is held. Since these new procedures call for each parties' advisor to conduct a cross-examination of the other party and any witnesses appearing on their behalf, the pre-hearing meeting is structured to help each party prepare in advance for the procedural process, topics covered, and relevant issues to be addressed within the hearing. Generally, the pre-hearing meeting will be used to:

- Meet the parties and their advisors in advance;
- Cover the structure and flow of the hearing with the parties and their advisors;
- Review the rules and decorum expected, emphasizing what behaviors will and will not be allowed;
- Conduct a preliminary review of the questions to be asked during cross-examination;
- Explain applicable rules of evidence and admissibility;
- Rule on relevance of cross-examination questions in advance. If a question is deemed to not be relevant, the chair will formally document the rationale for that decision;
- Rule on any pre-hearing efforts by parties to have evidence from the investigation declared irrelevant;
- Explain to both parties and their advisors that in reaching a determination regarding responsibility, the decision-maker may consider statements (statements include *factual* assertions made before or during the investigation or hearing) made by the parties and witnesses such as emails or text exchanges between the parties leading up to the alleged sexual harassment (that satisfy the regulation's relevance rules), regardless of whether the parties or witnesses submit to cross-examination at the live hearing. The decision-maker may also consider police reports, Sexual Assault Nurse Examiner (SANE) documents, medical reports, and other documents even if those documents contain statements of a party or witness who is not cross-examined at the live hearing.
- Clarify what materials/exhibits will be needed/available during the hearing and how they will be distributed;

- Go over any technology logistics for the hearing, and clarify how the parties will communicate remotely with their advisors during the hearing;
- Answer any questions the parties/advisors may have.

The Title IX Coordinator and the University Official designated to preside over the formal hearing will be present and meet separately with each party (and their advisor). The party's advisor must attend the pre-hearing meeting and failure to attend may result in their disqualification from participating in the hearing.

The hearing official is a neutral hearing officer, who is not the Title IX Coordinator nor the investigator(s). If the complainant or respondent wish to challenge the participation of the hearing official assigned to chair the hearing on the basis of a conflict of interest or bias, either party may petition the Title IX Coordinator, in writing, within two (2) calendar days of the pre-hearing meeting.

Formal Hearing

At the conclusion of the investigation and absent informal resolution, a hearing will be conducted to determine responsibility. The hearing will be held at least ten (10) calendar days after the parties and their advisors receive the Investigative Report.

The following rules apply to all formal hearings:

- The hearing will be conducted in real time, whether in-person or through electronic means in which the parties are able to simultaneously see and hear the party or the witness answering questions.
- The complainant and respondent are not permitted to directly ask questions of each other.
- The complainant and respondent must have an advisor present during the hearing. The advisor will conduct cross-examination of the parties and any witnesses. See Advisors section for information on advisors. If the complainant or respondent does not have an advisor present during the hearing, the university may reschedule the hearing and appoint an advisor to that party.
- The complainant and respondent are not permitted to make an opening or closing statement. The complainant, respondent, or any witnesses are only permitted to speak when the hearing officer allows them to do so.
- The hearing officer is permitted to ask the parties and any witnesses questions in follow-up to the Investigative Report. After the hearing officer has concluded asking questions of a participant, both parties' advisors will have an opportunity to conduct cross-examination of that individual.
- Only questions that are relevant may be asked of the parties and witnesses. The hearing officer is responsible for determining whether a question is relevant and will provide a reason why any question is excluded based on relevancy.
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to provide 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.
- Formal rules of evidence that apply in a civil or criminal court of law, except as expressly stated herein, are not applicable.
- In reaching a determination regarding responsibility, the decision-maker may consider statements (statements include *factual* assertions made before or during the investigation or hearing) made by the parties and witnesses such as emails or text exchanges between the parties leading up to the alleged sexual harassment (that satisfy the regulation's relevance rules), regardless of whether the parties or witnesses submit to cross-examination at the live hearing. The decision-maker may

also consider police reports, Sexual Assault Nurse Examiner (SANE) documents, medical reports, and other documents even if those documents contain statements of a party or witness who is not cross-examined at the live hearing.

- A determination of responsibility will not be made based solely on the absence of a party or witness from the hearing or refusal to answer cross-examination or other questions.
- The respondent is presumed to be not responsible for the alleged conduct until a determination is made at the conclusion of the hearing.
- The hearing will be audio recorded and made available to the parties for inspection and review. Requests to inspect and review the recording must be made to the Title IX Coordinator. No other party is permitted to record the hearing.
- All hearings conducted shall be closed to the public.
- Individuals who participate in a hearing, whether as the complainant, respondent, witness(s), or advisors, are not permitted to harass, threaten, intimidate, coerce or discriminate against any other participant of the hearing.
- For purposes of sanctions, the hearing officer will have access to the respondent's prior disciplinary history with the university. The access will be provided to the hearing officer after a determination of whether this policy has been violated, and before sanctions have been determined.

At the conclusion of the hearing, the hearing officer (decision maker) will issue a written determination regarding responsibility. The determination will be made based on a preponderance of evidence, which is defined as whether it is more likely than not that the alleged conduct occurred and constitutes a violation of this policy evaluated from the perspective of a similarly situated reasonable person when considering the totality of the circumstances involved in the matter.

The hearing officer's written determination will be provided to the complainant and respondent separately and simultaneously within seven (7) calendar days of reaching a decision. The written determination will include the allegations contained within the notice, a description of the procedural steps taken from receipt of the formal complaint to conclusion of the hearing, a finding of facts supporting the determination, a conclusion regarding the application of this policy to the facts, a statement and rationale for the determination of responsibility, any sanctions imposed on the respondent, and remedies provided to the complainant.

The determination regarding responsibility becomes final either on the date that the appeal response is provided (if an appeal has been filed), or the date on which an appeal would no longer be considered timely. Sanctions will be in effect after the determination is final.

If a decision is made that no violation of policy has occurred, the university reserves the discretion to transfer the matter to an applicable university policy/process.

Equal Appeal Rights

The complainant and respondent have a right to appeal the results of the hearing (to include a finding of responsibility and sanctions). One or more of the following grounds for appeal must be selected:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time of the determination regarding responsibility was made, that could affect the outcome of the matter;
3. The Title IX Coordinator, investigator(s), or hearing officer had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter;
4. The outcome was significantly contrary, unsupported, and unreasonable to the weight of the evidence presented; and
5. The sanction is disproportionate to the violation.

An appeal of the hearing results must be made to the Vice President for Academic Services within five (5) calendar days of the written hearing results. Within two (2) calendar days after an appeal is received, the non-appealing party will be provided notice of the appeal and be provided the opportunity to submit a written statement in support of, or challenging, the hearing results. The non-appealing party will be provided five (5) calendar days to submit a written statement. Thereafter, the Vice President for Academic Services will provide a written response simultaneously to both parties within five (5) calendar days after the decision is made.

If the Vice President for Academic Services or designee, is the individual that rendered an appeal decision regarding dismissal or referral of a formal complaint, a different individual will be appointed to render an appeal decision regarding responsibility and sanctions.

Possible Sanctions

Any student found responsible for violating this policy may receive sanctions to include the following:

- Anger intervention assessment.
- Abuse intervention program.
- Banishment from part or all NUHS property, functions, etc.
- Community service to NUHS or the Pinellas Park/Lombard community.
- Discretionary sanction-required work assignments, written assignments, service to NUHS or other related discretionary assignments.
- Educational sanctions including, but not limited to, the completion of an educational assignment.
- Fines.
- Formal written warning.
- Loss of privileges (e.g., inability to have visitors/guests, etc.).
- Parental notification.
- Probation.
- Termination of residence hall contract.
- Relocation of residence hall assignment.
- Restitution.
- Restorative justice participation.
- Revocation of admission.
- Revocation of degree.
- Substance use intervention and education program.
- Training on sexual misconduct.
- University expulsion.

- University suspension.
- Withholding degree.

Any **employee** found responsible for violating this policy may receive corrective action to include the following:

- Letter of warning.
- Official reprimand.
- Referral to a required counseling program.
- Referral to university disciplinary process, to include tenure revocation.
- Suspension from employment with or without pay.
- Termination from employment.
- Training on sexual misconduct.
- Community service.

Any **third-party** (visitor, guest, contractor, subcontractor, vendor, partner or business affiliate) who engaged in sexual misconduct will receive a sanction ranging from a written warning to banishment from any university property, activities and/or programs, including the termination of any business contract with the university.

Possible Remedies

In addition to the supportive measures described in this document, the following remedies may be available to the complainant at the conclusion of an investigation or hearing resolution whether or not a respondent is found to be responsible:

- Mutual restrictions of contact (direct or indirect) between involved parties.
- Providing a campus escort to ensure that the complainant can move safely between classes/work and activities.
- Ensuring the complainant and respondent do not share classes, extracurricular activities or work space.
- Moving the respondent or complainant (if the complainant requests to be moved) to a different residence hall.
- Providing comprehensive, holistic individualized services including medical, counseling and academic support services such as tutoring.
- Arranging for the complainant to have extra time to complete, retake or withdraw from a class without an academic or financial penalty.
- Reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the sexual misconduct and the disciplinary action that the complainant may have received.
- Training or retraining university employees on responsibilities to address allegations of sexual misconduct.
- Developing and distributing materials on sexual misconduct.
- Conducting bystander intervention and sexual misconduct prevention programs with students and employees.
- Issuing policy statements or taking other steps that communicate that the university does not tolerate sexual misconduct and will respond to any incidents and to any student/employee who reports such incidents.
- Conducting, in conjunction with student leaders, a campus climate survey to assess the effectiveness of efforts to ensure that the university is free from sexual misconduct and using that information to inform future proactive steps that the school will take.
- Targeted training for a group of students or employees if the sexual misconduct created a hostile environment in a specific area.

- Any other remedy that the Title IX Coordinator may consider appropriate.

TITLE IX COORDINATOR AND DEPUTY COORDINATORS

The role of the Title IX Coordinator is to manage, implement and administer this policy, including the enforcement of the formal grievance process provided herein, provide oversight to the sexual misconduct training programs, and ensuring the prompt and appropriate resolution of sexual misconduct complaints. Questions or concerns regarding sexual misconduct, Title IX, this policy, or other aspects of the university's commitment to equal opportunity may be directed to:

Tracy McHugh, Title IX Coordinator
VP for Administrative Services (*Illinois Site*)
Phone: (630) 889-6607 Email: tmchugh@nuhs.edu
Office: Janse Hall 151 floor, Room 106

Questions and/or concerns may also be referred to a Deputy Title IX Coordinator listed below:

Pam Jones
Florida Site Coordinator (*Florida Site*)
Phone: (727) 394-6217; Email: pjones@nuhs.edu
Office: UPC 1st floor, Room 209

Yesenia Maldonado
Dean of Student Services (*Illinois Site*)
Phone: (630) 889-6548; Email: ymaldonado@nuhs.edu
Office: Janse Hall 2nd floor, Room 218

Andrew Wozniak
Director of Human Resources (*Illinois Site*)
Phone: (630) 889-6878; Email: awozniak@nuhs.edu
Office: Janse Hall 1st floor, Room 117D

Training and Education

In compliance with the *Illinois Preventing Sexual Violence in Higher Education Act* (110 ILCS 155), all employees must complete annual sexual misconduct training. Such training should include, but is not limited to, this policy, effects of trauma on a survivor, consent, retaliation, reporting options, available support services, and strategies for bystander intervention and risk reduction.

Additional annual training on the issues related to sexual misconduct is provided to those involved in the receipt and resolution of sexual misconduct reports and complaints, including, but not limited to, coordinators, investigators, hearing officers, advisors, appeal agents, and individuals who facilitate informal resolutions.

EXTERNAL AGENCIES

At any time during the pendency of the above-described formal grievance process, investigation, hearing and/or appeal, students and employees with questions about Title IX or those who believe they have been subjected to sexual misconduct or retaliation may file a complaint with the **Office for Civil Rights (OCR)**:

Office for Civil Rights (Chicago Office)
U.S. Department of Education
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago, IL 60661-4544

312-730-1560
FAX 312-730-1576
TDD 800-877-8339
OCR.Chicago@ed.gov
ed.gov/ocr

At any time during the pendency of the above-described formal grievance process, investigation, hearing or appeal, employees who believe they have been subjected to sexual misconduct or retaliation may file a complaint with the following agencies:

Illinois Department of Human Rights
100 West Randolph Street
10th Floor – Intake Unit
Chicago, Illinois 60601
312- 814-6200
TTY: 866-740 3953
illinois.gov/dhr

Equal Employment Opportunity Commission
Chicago District Office
500 West Madison Street, Suite 2000
Chicago, Illinois 60661
800-669-4000
TTY: 312-869-8001
eeoc.gov

Office of the Executive Inspector General for the Agencies of the Illinois Governor
69 West Washington Street, Suite 3400
Chicago, Illinois 60602
Phone: 312- 814-5600, 866- 814-1113 or 888-261-2734 (TTY)
Fax: 312- 814-5479
www.illinois.gov/oeig

Illinois Sexual Harassment & Discrimination Helpline: 877-236-7703

RELATED DEFINITIONS: INCLUDING STATE LAWS

Advisor	An advisor is a person, identified by the complainant or respondent, to accompany him/her through the formal grievance process. An advisor is required if the grievance process results in a formal hearing. Advisors shall conduct cross-examinations on behalf of each party. The identity of the advisor must be disclosed to the investigator prior to the hearing. Failure to provide notice of the identity of the selected advisor may result in the university appointing another advisor to that party.
Bystander	Any person who witnesses an event of misconduct.
Bystander Intervention	An act in good faith to limit misconduct through reporting and/or safely intervening, challenging the social norms that support, condone, or permit various acts of sexual, domestic or personal violence and other acts of misconduct.
Clery Act	The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. Section 1092(f); 34 C.F.R. 668.46.
Committee on University Discipline	The group appointed by the NUHS President that shall hear all formal disciplinary charges involving students and occasionally convene for the exclusive purpose of determining a sanction in specific conditions set forth in this policy.
Complainant	Person filing a complaint of the alleged action which may be a violation of this policy.
Consent	<p><u>In Illinois</u>, consent is defined as "(i) a freely given agreement to the act of sexual activity, (ii) a person's lack of verbal or physical resistance or submission resulting from the use of threat or force does not constitute consent, (iii) a person's manner of dress does not constitute consent, (iv) a person's consent to past sexual activity does not constitute consent to future sexual activity, (v) a person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another, (iv) a person can withdraw consent at any time, and (vii) a person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to the circumstances, including without limitation the following: (A) the person is incapacitated due to the use or influence of alcohol or drugs; (B) the person is asleep or unconscious; (C) the person is under age; or (D) the person is incapacitated due to a mental disability." 110 155/5 ILCS</p> <p><u>In Florida</u>, consent is defined as "intelligent, knowing, and voluntary consent and does not include coerced submission. Consent shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender." Florida Statute 794.011</p>
Cyber-Stalking	<p><u>In Illinois</u>, cyberstalking is committed when "he or she knowingly and without lawful justification, on at least 2 separate occasions, harasses another person through the use of electronic communication. 720 ILCS 5/12-7.5</p> <p><u>In Florida</u>, cyberstalking is defined as "to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail, or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose." Florida Statute 784.048</p>
Dating Violence	<p><u>In Illinois</u>, dating violence is defined as "'physical abuse, harassment . . . interference with personal liberty or willful deprivation" directed toward "persons who have or have had a dating or engagement relationship. [N]either a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship." 750 ILCS 60/103</p> <p><u>In Florida</u>, dating violence is defined as "violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors: a dating relationship must have existed within the past 6 months, the nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties, the frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship. The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context." Florida Statute 784.046</p>
Deputy Title IX Coordinator	Person responsible for conducting investigations of a sexual misconduct complaint or other misconduct identified in this policy under the informal resolution process.
Discrimination Based on Pregnancy or Parental Status	Excluding a person from, denying the benefit to, or discriminating against a person due to pregnancy or status as a parent.

Domestic Violence	<p><u>In Illinois</u>, is defined as "physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation, but does not include reasonable direction of a minor child by a parent or person in loco parentis." 750 ILCS 60/103</p> <p><u>In Florida</u>, is defined as "any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member, Florida Statute 741.28</p>
Employee	A person currently employed by National University of Health Sciences.
FERPA	Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g; 34 C.F.R. Part 99.
Force	Physical force, violence, threat, intimidation or coercion.
Gender-Based Harassment	Subjecting a person to adverse treatment based on held gender stereotypes. Adverse treatment can include verbal, nonverbal, physical aggression, intimidation, or hostility based on gender or held gender stereotypes, even if those acts do not involve conduct of a sexual nature.
Incapacitation	The physical and/or mental inability to make informed, rational judgments. States of incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol or other drugs are involved, one does not have to be intoxicated or drunk to be considered incapacitated. Rather, incapacitation is determined by how the alcohol or drugs consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. The question is whether the respondent person knew, or a sober, reasonable person in the position of the respondent should have known, that the complainant was incapacitated. Because incapacitation may be difficult to discern, everyone is strongly encouraged to err on the side of caution (i.e., when in doubt, assume that the person is incapacitated and therefore unable to give consent. Being intoxicated or drunk is never a defense to a complaint of sexual misconduct).
Intimidation	Intentionally creating feelings of fear, anxiety or inadequacy in a person.
Investigator	Individual designated by the Title IX Coordinator, typically the Deputy Title IX Coordinator, to conduct investigations of alleged sexual misconduct or other misconduct identified in this policy.
Legal Counsel	Legal counsel (attorney) retained by the complainant or respondent to consult with the hiring party during the formal resolution process.
Mandated Reporter	Any physician, resident, intern, school personnel, or other person identified under the Abused and Neglected Child Report Act, who has reasonable cause to believe a child known to that member is being abused, will immediately report or cause a report to be made to the Department of Children and Family Services. (Illinois: 800-252-2873) (Florida: 800-962-2873)
Non-University Conduct	Conduct that occurred other than on NUHS owned or leased property, at any NUHS sanctioned function, at the permanent or temporary local residence of a NUHS student, employee or visitor, or elsewhere in the Village of Lombard in DuPage County, Illinois or the Town of Pinellas Park in Pinellas County, Florida.
Patient	A person currently receiving care at any NUHS clinic location.
Public Indecency	Lewd exposure of the body with the intent to arouse or satisfy a sexual desire
Rape	<p><u>In Illinois</u>, is defined as, "sexual penetration by force or threat of force or an act of sexual penetration when the victim was unable to understand the nature of the act or was unable to give knowing consent." 720 ILCS 5</p> <p><u>In Florida</u>, is defined as, "when a person has nonconsensual oral, anal, or vaginal contact with another person using their sexual organ or an object," Florida Statute 794.011</p>
Respondent	Person accused of performing alleged sexual misconduct or misconduct that violates this policy.
Retaliation	Any adverse action taken against a person who filed a complaint in an effort to seek revenge.
Sexual Assault	<p><u>In Illinois</u>, "a person commits criminal sexual assault if that person commits an act of sexual penetration and (1) uses force or threat of force, (2) knows that the victim is unable to understand the nature of the act or is unable to give knowing consent; (3) is a family member of the victim, and the victim is under 18 years of age; or (4) is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age." 720 ILCS 5/11-1.20</p> <p><u>In Florida</u>, "sexual battery [sexual assault] means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object." Florida Statutes 794.011</p>

Sexual Exploitation	Taking sexual advantage of another person without consent, and includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person; causing the prostitution of another person; recording, photographing or transmitting identifiable images of private sexual activity and/or the intimate parts (including genitalia, groin, breasts or buttocks) of another person; allowing third parties to observe private sexual acts; engaging in voyeurism; and/or knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection, including HIV.
Sexual Harassment	Unwelcome conduct, based on sex, gender stereotypes or gender identity, which is so severe or pervasive that it unreasonably interferes with a person's employment, academic performance or participation in NUHS programs or activities and creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive. Sexual harassment may include, for example, unwelcome sexual advances, requests for sexual favors, and acts of sexual violence. Additionally, quid pro quo is another example of sexual harassment (i.e., requesting an exchange of goods/services to ensure good grades, performance evaluations, etc). In evaluating any complaint of sexual harassment, the perceived offensiveness of a particular expression, standing alone, may not be sufficient by itself to constitute sexual harassment. The conduct in question must be objectively intimidating, hostile or offensive and interfere with a person's employment, academic performance or participation in NUHS programs.
Sexual Intercourse	Penetration (anal, oral or vaginal) by a penis, tongue, finger, or an inanimate object.
Sexual Misconduct (as defined by NUHS)	A broad term encompassing a range of behaviors including rape, attempted rape, sexual battery, attempted sexual battery, sexual assault, intimate partner violence, stalking, cyber-stalking, sexual exploitation, sexual harassment, non-consensual sexual intercourse, and non-consensual conduct in which a person deliberately touches, fondles, pinches, grabs, etc., another person's (of either gender) intimate body part (including genitalia, groin, breast or buttocks, or clothing covering any of these areas), voyeurism, possession of child pornography, public indecency, and/or knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection (including HIV), and any other non-consensual conduct of a sexual nature that has the purpose or effect of threatening, intimidating or coercing a person or persons. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by men or by women and it can occur between people of the same or different sex.
Sexual Penetration	Any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove penetration.
Stalking	<u>In Illinois</u> , stalking is defined as "knowingly and without lawful justification, on at least 2 separate occasions, follows another person or places the person under surveillance or any combination thereof." 720 ILCS 5/12-7.30 <u>In Florida</u> , stalking is defined as "a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person." Florida Statutes 784.048
Student	Any student who is registered or enrolled at NUHS at the time of the alleged sexual misconduct (including sexual misconduct that is alleged to have occurred during any academic recess, provided that there is an expectation of continued enrollment at NUHS).
Third-Party Vendor	An outside company/person contracted to conduct business with NUHS.
Threat	To use spoken or written words tending to intimidate or menace others.
Title IX Coordinator	Pursuant to Title IX of the Education Amendments of 1972 and the USDE's implementing regulations at 34 C.F.R. Part 106, the Title IX Coordinator has primary responsibility for coordinating NUHS' efforts to comply with and carry out its responsibilities under Title IX, which prohibits sex discrimination in all the operations of NUHS, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX.
Title IX Employee Hearing Committee	The group appointed by the NUHS President that shall hear all formal disciplinary charges involving employees and occasionally convene for the exclusive purpose of determining a sanction in specific conditions set forth in this policy.
Visitor	A person on the NUHS campus for: a tour, visit, guest lecture, observe, etc.
Voyeurism	The practice of obtaining sexual gratification by looking at sexual objects or acts, especially secretly.

ADDITIONAL RESOURCES

The needs of someone who has been sexually assaulted vary from person to person and may vary over time. NUHS has gathered and listed a diverse array of services and external resources, many of which may be accessed 24 hours a day, so that a person may choose what he/she may find most helpful and healing.

NUHS urges anyone who has been sexually assaulted to seek support as soon as possible to minimize and treat physical harm, assist with processing the unique and complex emotional aftermath, assist in preserving evidence, and to understand options for pressing charges. Even for someone who does not wish to report the event to the police or pursue disciplinary action, seeking medical attention as soon as possible is important. A person that has been sexually assaulted has the right to seek a medical forensic examination free of charge.

COMPLAINANT'S RIGHTS

- To receive concise information regarding crime victim's rights.
 - Illinois Victim's Rights can be found at:
<http://ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1970&ChapterID=54>
 - Florida Survivor's Rights can be found at:
<http://www.police.ufl.edu/victim-services/florida-state-statute-960crime-victim-bill-of-rights/>
- To report or not report the alleged incident to NUHS or law enforcement.
- To request NUHS to assist you in contacting local law enforcement.
- To make a confidential report to the Title IX coordinator.
- To make a confidential report to a mental health counselor or clergy.
- To request NUHS provide you with interim supportive measures.
- To receive a complaint resolution summary from NUHS.
- To request NUHS assist you in seeking assistance through community-based, state and national sexual assault crisis centers referenced below in the resource section and receive that information with 12 hours of filing a complaint.
- To receive free medical forensic exams at the hospitals located below:
 - Good Samaritan Hospital, 3815 Highland Ave, Downers Grove, IL 60515 (630) 275-5900
 - St. Petersburg Hospital, 6500 28th Ave N, St. Petersburg, FL 33710 (727) 384-1414

CAMPUS SECURITY

Illinois	Florida
Security Cell Phone – (630) 927-9957 Security Office – (630) 889-6683 Security from on campus phone – ext. 311	Security Office – (727) 791-2560 Security from on campus phone – ext. 2560

POLICE (NON-EMERGENCY)

Illinois	Florida
Lombard Police – (630) 620-5955	St. Petersburg Police – (727) 893-7780 Pinellas Park Police – (727) 541-0758

RAPE CRISIS/SEXUAL ASSAULT/SEXUAL ABUSE

National Sexual Assault Hotline – (800) 656-4673 www.rainn.org
Centers for Sexually Transmitted Disease National Hotline – (800) 232-4636 www.cdc.gov/std
CDC National AIDS Hotline – (800) 232-4636 www.aids hotline.org

Preserving Evidence: (Information taken from <https://ohl.rainn.org/online/resources/should-i-report.cfm>)

- Preserve evidence of the attack; don't bathe or brush your teeth.
- Write down all the details you can recall about the attack and the attacker.
- Do not change or destroy clothing – your clothes are also evidence.
- If the assault took place in your home, do not rearrange and/or clean up anything
- Seek medical attention. Ask the hospital to conduct a rape exam, test for STD's and pregnancy, and, if you think you were drugged, collect a urine sample for analysis.

Illinois	Florida
Lombard Police – (630) 620-5955 Coalition Against Sexual Assault (217) 753-4117 www.icasa.org Rape Victim Advocates (312) 443-9603 www.rapevictimadvocates.org	Suncoast Center – (727) 530-7273 www.suncoastcenter.org Council Against Sexual Violence – (850) 297-2000 www.fcasv.org

SEXUAL AND DOMESTIC ABUSE OUTREACH & ADVOCACY

National Sexual Violence Resource Center – (877) 739-3895 www.nsvrc.org
National Domestic Violence Helpline – (800) 799-7223 www.thehotline.org

Illinois	Florida
Family Shelter Services – (630) 221-8290 www.familyshelterservice.org Prairie Center Against Sexual Assault – (217) 753-8081 www.prairiecasa.org	Suncoast Center Abuse Hotline – (800) 962-2873 www.suncoastcenter.org Council Against Sexual Violence – (850) 297-2000 www.fcasv.org Florida Domestic Violence Hotline – (800) 500-1119 www.fcadv.org

STALKING RESOURCES

National Stalking Resource Center – (202) 467-8700 www.ncvc.org

Illinois

Illinois stalking laws:
<http://www.victimsofcrime.org/our-programs/stalking-resource-center/stalking-laws/criminal-stalking-laws-by-state/illinois#3>

Florida

Florida stalking laws:
<http://www.victimsofcrime.org/our-programs/stalking-resource-center/stalking-laws/criminal-stalking-laws-by-state/florida#48>

COUNSELING/MENTAL HEALTH SERVICES

National Stalking Resource Center – (202) 467-8700 www.ncvc.org

Illinois

DuPage County Crisis Intervention Unit
(630) 627-1700 www.dupagehealth.org

NAMI of DuPage County – (630) 752-0066
www.namidupage.org

IL Health and Human Services Helpline – (800) 843-6154 www.dhs.state.il.us
YWCA Metropolitan Chicago – (630) 971-9327
www.ywcachicago.org

Florida

Suncoast Center – (727) 388-1220 www.suncoastcenter.org

University of Southern Florida Psychological Services Center –
(813) 974-2496 www.psc.usf.edu

VICTIMS RIGHTS & RESOURCES

Directory of Crime Victim Services: <http://ovc.ncjrs.gov/findvictimservices/>

