

GOVERNANCE AND LEGAL

Effective Date: February
1, 2001

Date Revised: August
28, 2020

Supersedes: N/A

Related Policies:

Policy on Equal
Opportunity

Code of Ethical Conduct

Policy on Non-
Fraternization

Responsible

Office/Department:
Office for University
Equity and Compliance

Keywords:

Discrimination; Equal
Opportunity;
Harassment;
Retaliation; Title IX.

Policy Prohibiting Sexual and Gender-Based Harassment

I. Purpose and Scope

Northeastern University is committed to providing equal opportunity to its students and employees in an environment free of Sexual and Gender-Based harassment. Because Sexual and Gender-Based Harassment interferes with the expectation that all individuals at the University will learn and work in an environment that is free from discrimination, it will not be tolerated in any form.

This Policy applies to all members of the University community, including students, faculty, staff, affiliates, and volunteers when acting on behalf of the University, whether on or off campus, as well as to contractors, parents, and visitors when they are on University property. It further applies to allegations of sexual and gender-based harassment involving students, faculty, or staff members that occur:

- on or off property owned or controlled by the university;
- in the context of a university education or research program or activity, including but not limited to university-sponsored study abroad, or other affiliated programs, or employment; or
- outside the context of a university education or research program or activity, or employment, but which nonetheless creates a hostile environment in a university education or research program or activity, or employment environment.

Reports of Title IX Prohibited Offenses, including Sexual Assault, Sexual Harassment and Domestic or Intimate Partner Violence, are not covered under this policy but instead are

addressed by the University's Policy on Rights and Responsibilities Under Title IX and its accompanying procedures.

II. Definitions

Abuse

- Verbal abuse is the extreme or excessive use of language, often in the form of insults, name-calling, and criticism, designed to mock, shame, embarrass, or humiliate an intimate partner. Verbal abuse often has the aim of diminishing the Complainant's self-esteem, dignity, or security. Singular statements and isolated incidents will likely fall short of this sufficiency standard.
- Physical violence or abuse occurs when one intentionally or recklessly (1) causes bodily harm; (2) attempts to cause another bodily harm; or (3) puts another in reasonable fear of imminent bodily harm.
- Emotional and psychological abuse involves a persistent pattern or prolonged climate of dominating or controlling behavior, often involving some type of power imbalance. The Respondent's behavior is often intended to terrorize, intimidate, isolate, or exclude an intimate partner.

Advisor refers to an individual chosen by a Complainant or Respondent to provide support and guidance through the investigatory and disciplinary processes of this Policy, including at interviews, meetings and hearings. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation.

Coercion means the use of an unreasonable amount of pressure to initiate or continue sexual activity against an individual's will. Coercion is more than an effort to gain consent, or persuade, entice, or attract another person to engage in sexual activity.

Complainant is the person alleging they were subjected to discrimination or harassment.

Complaint is an allegation(s) of discrimination, harassment and/or retaliation, filed in good faith and in accordance with this Policy.

Consent means a voluntary, affirmative agreement to engage in sexual activity proposed by another; it requires mutually understandable and communicated words and/or actions that would demonstrate to a reasonable person agreement by both parties to participate in sexual activity.

Confidential Employee refers to university employees who are bound by their profession to confidentiality and, therefore, are not required to disclose information about violations of this Policy to the Office of University Equity and Compliance without prior consent of the Reporting Party. Additional information about Confidential Employees can be found in Section III(C) of this Policy.

Emergency Removal is the process for removing a student respondent from the university's education program or activity on an emergency basis. The university will conduct an individualized safety and risk analysis, and if it is determined that there exists an immediate threat to the physical health or safety of any student or other individual arising from the allegations of violations of this Policy, the student may be removed from the university community. When students are removed through this process, the university will provide the Respondent with notice and an opportunity to challenge the decision within three business days of removal, absent extenuating circumstances.

Gender-Based Harassment includes harassment based on gender, sexual orientation, gender identity, or gender expression that has the purpose or effect of creating a hostile living, learning, or working environment.

Hostile Environment exists when the conduct is sufficiently severe, pervasive and objectively offensive that it unreasonably interferes with, or deprives an individual from participating in or benefiting from, the university's education or employment programs and/or activities or unreasonably interferes with an individual's work or academic performance. Conduct must be deemed severe, pervasive and offensive from both a subjective and an objective perspective (application of the reasonable person standard).

Retaliation is any intentional or attempted adverse or negative act against a person who in good faith makes a report, serves as a witness, or participates in an investigation or adjudication process regarding an alleged violation of a university policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this Policy. Retaliation does not include good faith actions lawfully pursued in response to a report under this Policy.

Respondent means the individual who has been reported to be the perpetrator of a sexual or gender-based harassment as defined by this Policy.

Sexual Exploitation means when a person(s) takes non-consensual sexual advantage of another, for any purpose. Sexual Exploitation includes but is not limited to:

- *Inducing Incapacitation for the Purpose of Sexual Activity:* Providing drugs, alcohol, or other substances to a person(s) with or without their knowledge, with the intent to impair their ability to withhold consent or their ability to knowingly consent to sexual activity.
- *Photographing or Video/Audio Taping of Sexual Activity:* The intentional viewing, filming, photographing, and/or recording in any manner or by any means transmitting and/or disseminating any recording of any type of sexual acts, partial or full nudity, and/or related materials, sounds, or images of another person without the consent of all parties involved.

Voyeurism: The act of intentionally observing, spying on or listening to a person(s) involved in sexual activity or in any state of undress. Voyeurism also occurs when an individual allows others to observe this behavior without the consent of all parties involved.

Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee or other community member of the university conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (*Quid pro quo* sexual harassment);
 - Unwelcome conduct of a sexual nature that is not covered under the jurisdiction of Title IX Sexual Harassment, determined by a reasonable person standard to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity.

Domestic Violence means the intentional infliction of physical, sexual, or psychological harm on a current or former partner or spouse. Domestic Violence includes Dating, Intimate partner, and Relationship Violence.

Sexual Assault consists of (1) Sexual Contact and/or (2) Sexual Intercourse that occurs without (3) Consent.

- **Non-Consensual Sexual Contact** is any intentional touching of a sexual nature performed by a person upon another person, without the consent of all parties involved, including:
 - the intentional touching of the intimate body parts of another – such as breasts, buttocks, groin, genitals, or the clothing covering them.
 - forcing or coercing another person touch you or themselves with or on someone's breasts, buttocks, groin, genitals, or the clothing covering them.

- **Non-Consensual Sexual Intercourse** is any oral, anal, or vaginal penetration, however slight, by an inanimate object, penis, or other bodily part without the consent of all parties involved;
 - forcing or coercing another person to penetrate someone else;
 - the attempted oral, anal, or vaginal penetration of an individual(s) by an inanimate object, penis, or other bodily part without the consent of all parties involved.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress (i.e. significant mental suffering or anguish).

Examples of stalking include, but are not limited to, acts in which a person follows, monitors, observes, surveils, or threatens someone, conducted in person directly, indirectly, or through third parties, or by mail, phone, electronically, or social media.

Third Party refers to any individual who is not a Northeastern University student, faculty member, or staff member (e.g., vendors, alumni, students at another college or university or local residents).

III. Policy

Northeastern University strictly prohibits all forms of Sexual and Gender-Based harassment by any member of the Northeastern community, including visitors to Northeastern campuses.

The University reserves the right to address any behavior that it considers inappropriate or inconsistent with University expectations, standards or values, even though such behavior may not rise to the level of discrimination pursuant to this Policy or under state or federal law. Nothing in this policy is intended to limit the authority of Northeastern University to take appropriate action against any individual who violates University rules or policies, whether or not the conduct constitutes a violation of this Policy. The University may assume the role of a Complainant and pursue a report or complaint of Sexual or Gender-Based harassment either informally or formally.

A. Prohibited Conduct Under this Policy

Sexual or Gender-Based Harassment includes the following conduct as defined in this Policy when the conduct does not meet the definition of a Title IX Prohibited Offense:

- Domestic Violence (Dating, Intimate partner, and Relationship Violence)
- Gender-Based Harassment

- Quid Pro Quo Harassment
- Retaliation
- Sexual Assault (Non-Consensual Sexual Contact and Non-Consensual Sexual Intercourse)
- Sexual Exploitation
- Stalking

B. Sexual Harassment and Title IX

Reports of Title IX Prohibited Offenses (sexual harassment, sexual assault, domestic violence, intimate partner violence, dating violence, stalking, or retaliation) are addressed by the University's Policy on Rights and Responsibilities Under Title IX and separate procedures referenced in that policy, which outline the investigation and resolution of claims of Prohibited Offenses. Reports of Prohibited Offenses can be reported to the Office for University Equity and Compliance (OUEC) by completing the form available at: [Reporting to OUEC](#) or in person at OUEC. OUEC's policy, as well as other helpful information can be found at <https://www.northeastern.edu/titleix/>. The university reserves the right to address allegations of Prohibited Offenses under this Policy when the behavior occurs outside of the parameters of the university's Policy on Rights and Responsibilities Under Title IX and within the parameters set above.

In the event of any conflict or inconsistency between this Policy and other university policies or procedures that may relate to the subject matter hereof, the university will determine which policy takes precedence.

C. Consent, Incapacitation and Coercion

i. Consent

Sexual activity requires Consent from all involved parties. Consent must be freely given, without physical force, threats, intimidating behavior, duress, or coercion. Silence, a lack of resistance, previous sexual relationships or experiences and/or a current relationship may not, in itself, constitute Consent.

The initiator, or the person who wants to engage in the specific sexual activity, must obtain Consent from the partner(s) for each sexual act. Each participant may be an initiator at different points of sexual activity. If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue that activity.

A person's initiation of a sexual act constitutes Consent to that act, but not necessarily to subsequent acts. Consent to sexual activity may be withdrawn at any time and the

withdrawal must be communicated in mutually understandable words and/or actions; if so, sexual activity must cease immediately. Consent may never be given by minors (in Massachusetts, minors for these purposes are those not yet 16 years of age), or those who are unable to understand the who, what, when, where, why, or how of their sexual activities as a result of incapacitation due to a cognitive disability, intoxication by alcohol or other drug consumption (voluntary or involuntary), or those who are unconscious, or otherwise physically helpless.

Engaging in sexual activity while under the influence of alcohol or drugs may create ambiguity for either party as to whether Consent has been sought or given. A person who has consumed alcohol and/or drugs still has a responsibility to obtain Consent for any sexual activity with another person(s). Being impaired by alcohol or other drugs is no defense to any violation of this Policy.

ii. Incapacitation

A person who is incapacitated is unable, temporarily or permanently, to give Consent to sexual activity because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition. Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking alcohol or using drugs.

The impact of alcohol, medication, and other drugs varies from person to person. Although every individual may manifest signs of incapacitation differently, signs could include, but are not limited to, some or all of the following:

- confusion or lack of understanding;
- disorientation to place, time and/or location;
- vomiting;
- incontinence; and/or unconsciousness.

A person who is incapacitated may not be able to understand some, or all, of the following questions:

- “Do you know where you are?”
- “Do you know how you got here?”
- “Do you know what is happening?”
- “Do you know whom you are with?”

For purposes of evaluating Consent, the university considers two questions:

- Did the person initiating sexual activity know that their partner was incapacitated? If not,
- Would a reasonable person in the same situation have known that their partner was incapacitated?

If the answer to either of these questions is “yes,” Consent was absent.

iii. Coercion

A person subject to Coercion is unable to give Consent to sexual activity. In evaluating whether coercion was used, the university will consider: (1) the frequency of the application of the pressure, including severe and/or pervasive intimidation, manipulation, threats, and blackmail, which causes a person to engage in unwelcome sexual activity, (2) the intensity of the pressure, (3) the degree of isolation of the person being pressured, and (4) the duration of the pressure.

D. Reporting Expectations and Obligations

The University encourages anyone who becomes aware of possible Sexual or Gender-Based Harassment to immediately report it to the OUEC. All faculty and staff, except Confidential Employees, are expected to report any potential violation of this policy as described in Section III (C).

The OUEC is responsible for enforcing University policies prohibiting discrimination, including this Policy.

If there is any immediate health, wellness or safety concern, individuals are strongly encouraged to first report the incident to the Northeastern University Police Department (NUPD).

- Emergency: 617.373.3333
- Non-Emergency: 617.373.2121)

Faculty and staff are obligated to be immediately available to investigators and to be truthful and forthcoming. Lack of cooperation may subject the individual to disciplinary action. If parties refuse to cooperate and/or respond in a timely manner, the OUEC may take any specific action it deems necessary and appropriate to address the situation based on the information available. Failure to cooperate in the review of a complaint of Sexual or Gender-Based Harassment or Retaliation may be grounds for discipline, up to and including suspension or termination.

All community members are expected to provide truthful information in any report or proceeding under this Policy, and have the responsibility to keep information related to such report or proceeding private.

E. Confidential Resources

The university offers confidential resources for medical treatment, emotional support and counseling through Confidential Employees. Confidential Employees are not required to disclose information about alleged violations of this Policy to the OUEC without prior consent of the student. Confidential Resources on campus include:

- University Health and Counseling Services (UHCS) staff
- Sexual Violence Resource Center (SVRC)
- The Office of Prevention and Education at Northeastern (OPEN)
- Center for Spirituality, Dialogue, and Service (CSDS) spiritual advisors/leaders

For a complete list of confidential resources, please go to:

<https://www.northeastern.edu/ouec/file-a-complaint/>

F. Filing a Formal Complaint

A Complainant may choose to report allegations of Sexual or Gender-Based Harassment to the university, to law enforcement, to both, or to neither. These reporting options are not exclusive. Complainants may simultaneously pursue criminal and disciplinary action through the university. The university will support Complainants in understanding, assessing and pursuing these options.

A Formal Complaint is a document filed by a Complainant or signed by the Assistant Vice President for University Equity and Compliance (Assistant Vice President) alleging Sexual or Gender-Based Harassment against a Respondent and requesting that the university investigate the allegation or pursue a Resolution Option as identified in this Policy. A Formal Complaint may be filed with the OUEC using the methods as identified in this section. The Formal Complaint must have the Complainant's physical or digital signature, or otherwise indicate that the Complainant is the person filing the Formal Complaint.

If a Complainant chooses not to file a Formal Complaint against a Respondent, the Assistant Vice President will review the facts in the report to determine if an investigation is required in order to address a potential hostile environment in a university education program or to protect the safety of the university community. In making this determination, the Assistant Vice President will review the report for any of the following facts:

- the Respondent has a prior record of committing Prohibited Offenses or Sexual and Gender-Based harassment;
- the Respondent displayed any signs of predatory behavior;
- violence or any weapons were used by the Respondent;
- other individuals were involved in the commission of the Prohibited Offense or Sexual and Gender-Based harassment;
- the Respondent presents a continuing threat to the university community; and/or
- a hostile environment may exist in a university education program as a result of the alleged Sexual or Gender-Based harassment.

If the initial report contains any of the above facts or allegations, the Assistant Vice President may sign a Formal Complaint. The Assistant Vice President will notify the Complainant if a determination is made to proceed with an investigation and explain the Complainant's right to participate or not participate in the investigation or in any other actions undertaken by the university.

When the Assistant Vice President signs a Formal Complaint, the Assistant Vice President is not a Complainant or otherwise a party of the investigation.

If you feel that you have been subjected to Sexual or Gender-Based Harassment, you may file a formal complaint with the Office for University Equity and Compliance:

360 Huntington Avenue, 125 Richards Hall

Boston, MA 02115

Phone: (617) 373-4644

ouec@northeastern.edu

Reporting to the OUEC: The university's preferred mechanism to report allegations of Discrimination to the OUEC is by completing the form available at <https://www.northeastern.edu/ouec/file-a-complaint/>. Reports can also be made in person at OUEC, by telephone or by electronic mail as listed in this section.

Reporting to Law Enforcement: Community members impacted by Sexual or Gender-Based harassment are strongly encouraged, but not required, to report any allegations of violations of this Policy directly to Northeastern University Police Department as soon as possible, regardless of where the offense took place and whether or not the Respondent is known to the Complainant. NUPD officers will report allegations of this Policy to the OUEC.

i. Allegations Where the Complainant is a Third Party

Third Party Complainants may make reports to the university of alleged violations of this Policy committed by a member of Northeastern's community by contacting NUPD and/or the OUEC.

A Third Party Complainant may participate in a university complaint resolution process, as described in this Policy.

- In order to comply with federal privacy laws, Third Party Complainants will not receive written notice of the investigator's recommended finding or OSCCR's decision of responsibility of a Northeastern community member. Further, Third Party Complainants do not have appeal rights under this policy.
- Third Party Complainants participation in the university's investigation process completes on step #11 in Appendix B.

ii. **Allegations Where the Respondent is a Third Party**

The university's ability to take appropriate corrective action against a Third Party will be determined by the nature of the relationship of the Third Party to the university. The Assistant Vice President will determine the appropriate manner of resolution consistent with federal law, guidance, and this Policy.

When a Third Party is a Respondent, NUPD or local enforcement may investigate the allegations. The university will assist the Complainant in making a report to the appropriate law enforcement agency with jurisdiction over the incident, and will provide appropriate supportive, remedial and protective measures as well as ongoing assistance to the Complainant to facilitate their participation in the criminal process.

G. Enforcement

A determination of whether conduct is considered discriminatory or harassing in violation of the University's policies is dependent upon the totality of the circumstances, including the severity and persistence of the conduct, from both a subjective and an objective perspective, and whether the conduct is objectively offensive.

The university uses a "preponderance of the evidence" standard (more likely than not that a policy violation occurred) in determining whether this policy has been violated. Any student found responsible for Sexual or Gender Based-Harassment is subject to disciplinary action up to and including expulsion from the University. An employee

found to have committed Sexual or Gender Based-Harassment in violation of this policy is subject to disciplinary action up to and including termination.

H. Retaliation:

It is unlawful to take adverse actions against any member of the Northeastern community for filing a complaint of harassment or discrimination, or for cooperating in an investigation of such a complaint. Retaliation against a member of the Northeastern community who, in good faith, reports alleged harassment or who participates in an investigation is a violation of this Policy. Any person who is determined to have engaged in retaliatory behavior will be subject to appropriate discipline. Retaliation may have an adverse impact in the following areas: hiring, firing, promotions, demotions, compensation, benefits, grading, pressure to withdraw from class, ignoring, refusing requests for assistance. This list is not exhaustive.

I. Request for Anonymity

If a Complainant requests to remain anonymous during an OUEC Resolution for an allegation of Sexual or Gender-Based Harassment, the Assistant Vice President will consider the request, balancing the request in the context of the university's responsibility to provide a safe and non-discriminatory environment for university community members, as well as the fair and equitable treatment of the individuals involved. This includes the Respondent's right to receive notice of allegations that prompted the investigation. The university will take reasonable steps to investigate and respond to a report of a Sexual or Gender-Based Harassment consistent with the request for anonymity, but its ability to investigate may be limited by the request.

The university may not be able to honor requests for anonymity in all cases. In such cases, the Assistant Vice President will notify the Complainant that the university intends to proceed with the most appropriate resolution procedure, as deemed by the OUEC, and that during the process the Complainant's identity may have to be disclosed to individuals who may have relevant information regarding the allegation.

J. Medical Amnesty

The university seeks to remove any barriers to reporting allegations of Sexual or Gender-Based Harassment. Accordingly, student Respondents, student Complainants and student witnesses will not be subject to disciplinary sanctions for drug or alcohol offenses that may have occurred in connection with alleged harassment or

discrimination. For the full Medical Amnesty Policy, please see the Code of Student Conduct.

K. Supportive, Remedial and Protective Measures for Students

The university offers reasonable and appropriate measures to protect students who are Complainants, Respondents, and witnesses, as appropriate, and to facilitate their continued access to university education programs and activities while maintaining the integrity of any investigation into an allegation of harassment or discrimination. Upon receipt of a report of discrimination, the university will inform the student Complainant(s) and Respondent(s) of, and promptly provide access to, the following supportive, remedial and protective measures as appropriate:

- options for on- and/or off-campus medical, counseling, and other related services;
- options for temporary alternate housing arrangements, including immediate relocation to different university housing, when available;
- options for requesting a residential hall ban;
- options for altering academic class schedules/obligations;
- options for a leave of absence;
- options for altering student organization schedules/obligations;
- options for altering work schedule or job assignment;
- emergency removal from the university's educational program for student respondents and administrative leave from employment for employee respondents (with or without pay);
- options for alternative transportation as well as a campus escort service;
- options for seeking disciplinary action against a Respondent who is a Northeastern community member;
- options for receiving a university No Contact Order; and

- options for seeking a Judicial Harassment Protection Order or a Restraining Order.

The above supportive, remedial and protective measures may be temporary or permanent and are available to Complainants even if they do not wish to participate in an OUEC or criminal investigation of the alleged discrimination. While the above outlined measures represent options that are generally available to the parties, not every measure is available to every party in every circumstance. Except under extraordinary circumstances as determined by the Assistant Vice President, the university does not provide supportive, protective and remedial measures to Third Parties.

L. Advisors

The Complainant and Respondent may be accompanied by their respective Advisors at any meeting or interview related to the investigation and adjudication of a report under this Policy. While Advisors may provide support and advice to the parties during the meeting or interview, they may not speak on behalf of the parties or otherwise actively participate in such meetings and/or proceedings.

An Advisor may not delay or otherwise interfere with or disrupt the investigatory and adjudication process under this policy. Because the university's process is not the same as a formal, external legal process, the Advisor, although they may be an attorney, does not represent the party in a legal capacity in the university's process. Absent accommodation for a disability, the Complainant and Respondent may not be accompanied by more than one Advisor or by other individuals during meetings or interviews.

Throughout the investigation and adjudication process of a report under this Policy, all official university communications (both verbal and written) will be between the university and the parties directly. The university will not communicate with an Advisor on behalf of a party.

M. Resolution Options

The Policy offers two forms of resolution for complaints of Sexual or Gender-Based Harassment, as well as complaints of alleged retaliation, as defined by this Policy:

1. The Informal Resolution Procedure is a voluntary and remedy-driven pathway to a complaint resolution that is acceptable to the Complainant, Respondent,

and the OUEC without a full university investigation and without official findings of fact.

2. The Formal Resolution Procedure provides a structured process for investigating and resolving complaints that includes official findings of fact.

The University takes all complaints of Sexual or Gender-Based Harassment seriously, and will take steps to prevent its recurrence and remedy discriminatory effects where appropriate.

i. Informal Resolution Procedure Overview

The Informal Resolution Procedure offers a way to discuss, evaluate and resolve perceived allegations of Sexual or Gender-Based Harassment without initiating a comprehensive investigation through the Formal Resolution Procedure. The university does not require a Complainant to utilize the Informal Resolution Procedure prior to pursuing a Formal Resolution Procedure.

In keeping with the nature and spirit of an informal resolution, under this Procedure, the university will not make a determination as to whether a Respondent has violated this Policy. Instead, the OUEC will attempt to facilitate a mutually acceptable resolution through the use of conflict resolution techniques.

Informal resolutions are pursued after a Formal Complaint of an alleged violation of this Policy is filed with the OUEC, the Complainant has been fully informed of all available Resolution Options, and has explicitly communicated their choice to utilize the Informal Resolution Procedure to the OUEC. A Complainant can request the Informal Resolution Procedure any time prior to the university reaching a determination regarding responsibility of a violation of this Policy.

Possible outcomes of an Informal Resolution may include, but are not limited to, mediation where a third party can assist in facilitating an agreement between the parties, a written understanding about future conduct, establishing mutually agreed upon interim measures, broad-based educational programming or training for relevant individuals or groups, or any other supportive, remedial or protective measures that can be tailored to the involved individuals to stop any unwanted behavior, prevent recurrence of the issues and remedy the effects of the particular complaint. Complainants and Respondents are not required to communicate directly with each other during the Informal Resolution process, unless requested and agreed to by all parties, including the OUEC.

An Informal Resolution Procedure is voluntary, and a Complainant and Respondent can withdraw from the informal process at any time before its completion and resume the grievance process with respect to the Formal Resolution Procedure. If an Informal Resolution Procedure is ended by request of one of the parties prior to a resolution being achieved, any information obtained may not be used in a subsequent Formal Resolution Procedure and hearing process. Once a complaint has been resolved through an Informal Resolution Procedure, the matter is closed and the parties are precluded from resuming a Formal Complaint Procedure arising from the same allegations.

The procedures for the Informal Resolution Procedure of reports of Prohibited Offenses are detailed in [Appendix A](#).

ii. Formal Resolution Procedure Overview

A Formal Resolution Procedure will occur when (a) a Formal Complaint of an alleged violation of this Policy is filed with the OUEC and the Complainant seeks a Formal Resolution; or (b) the Assistant Vice President for the OUEC or designee determines that a Formal Resolution Procedure is necessary after considering the safety of the broader campus community. In the situation when there is a serious threat to the University community, but the potential Complainant cannot or does not wish to proceed with the formal process, the Assistant Vice President, may file a Formal Complaint.

The Formal Resolution Procedure of a complaint of Sexual or Gender-Based Harassment includes a neutral, thorough and reliable investigation by OUEC into the allegations of the complaint in order to reach a determination as to whether the Respondent(s) has violated this Policy. Complainants may initiate the Formal Resolution Procedure by filing a Formal Complaint with OUEC, regardless of whether resolution under the Informal Resolution Procedure has been attempted.

The Respondent is presumed to be not responsible, and this presumption may be overcome only where the Hearing Board (where a student is the Respondent) or the Assistant Vice President or designee (where an employee is a Respondent) concludes that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the Respondent violated the Policy.

Once the investigation is complete, the investigator(s) will submit the Investigative Report to the Assistant Vice President for review. If the Assistant Vice President determines that the Investigative Report contains sufficient information to constitute a potential violation of this Policy, any case where a student is the Respondent will be referred by the Assistant Vice President to the Director of OSCCR, who will facilitate a Hearing, to determine, using a preponderance of the evidence standard, whether to:

- i. affirm the recommended findings of Policy violations contained in the Investigative Report;
- ii. make alternative findings of Policy violations than those contained in the Investigative Report.

OUEC responds to complaints in accordance with the procedures outlined this Policy. However, there may be circumstances that support a departure from these procedures, and, should such circumstances arise, OUEC will advise the parties.

N. Timeframe for Completion of Resolution Procedures

Both Informal and Formal Resolution Procedures will be completed in a reasonably prompt and equitable manner. The goal is to have Informal and Formal Resolution Procedures completed approximately 90 days after a complaint is made. However, the specific circumstances and complexity of each case could lead to these processes taking longer.

Any time frame set forth in this Policy may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of a resolution procedure, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, within reason, to account for university breaks, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. The Investigator will notify the parties in writing of any extension of this timeframe and the reason for such extension.

O. Confidentiality of University Records

The privacy of Student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”). The university is committed to protecting the privacy of all parties involved in any aspect of this Policy and will not share any such information except on a need-to-know basis for the purposes of assessing, investigating and resolving the alleged Sexual or Gender-Based Harassment and providing access to interim remedial and protective measures. The university will

also share information as required by federal, state, or local law or as required by valid subpoena or court order.

P. Confidentiality of the Resolution Process

All parties are required to keep confidential all documents received from the university during the resolution and adjudication processes, and must destroy such documents and information at the direction of the university (except for outcome letters). Disclosing documents outside of the resolution and adjudication processes may be considered Retaliation. However, the university cannot restrict the ability of any party to discuss the allegations under investigation.

Q. Record Retention

All student records created and maintained pursuant to this Policy will be retained as described in the Maintenance of Disciplinary Records section of the Code of Student Conduct.

R. Academic Freedom

The university is committed to academic freedom as an institution, and supports community members to express themselves, while protecting and respecting the rights of others to learn, conduct research, and carry out the essential functions of the university free from interference or obstruction. When addressing complaints of violations of this Policy, the university will take all permissible actions to respond appropriately while respecting the rights of academic freedom in accordance with applicable University Policy.

S. Training and Education for the University Community

Every member of the university community is responsible for promoting an environment free from Sexual and Gender-Based Harassment and Discrimination. All members of the community are encouraged to take reasonable, safe, and prudent actions to prevent or stop the commission of all forms of discrimination. Members who take such actions or who wish to learn more about active bystander prevention are encouraged to access the resources described in this Policy for support and assistance.

The university offers ongoing education to students and employees to promote awareness of discrimination. Such education includes definitions of Sexual and Gender-Based Harassment; best practices for risk reduction, safe and positive bystander intervention; reporting procedures and options; and information concerning rights as

described in this Policy. Faculty and staff have the obligation to complete mandatory anti-harassment training.

IV. Additional Information

The University's Policy on Sexual and Gender-Based Harassment is available online at <http://www.northeastern.edu/policies/> and the university's nondiscrimination policies and related grievance procedures are available at <https://www.northeastern.edu/ouec/> and in the Office for University Equity and Compliance which is located in 125 Richards Hall.

In addition to the above, if you believe you have been subjected to Sexual or Gender-Based Harassment, you may file a formal complaint with any of the government agencies set forth below. Using our internal complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC – 300 days; MCAD – 300 days).

The Regional Director, Office for Civil Rights, United States Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109; (617) 289-0111 www.ed.gov/ocr

Massachusetts Commission Against Discrimination (MCAD), One Ashburton Place, Suite 601, Boston, Massachusetts 02108-1518; (617) 994-6000, www.mass.gov/mcad

Equal Employment Opportunity Commission, John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203. (800) 669-4000, <http://www.eeoc.gov/>.

V. Contact Information

Inquiries regarding the University's nondiscrimination and harassment policies may be directed to:

Office for University Equity and Compliance
360 Huntington Avenue, 125 Richards Hall
Boston, MA 02115
Phone: (617) 373-4644
ouec@northeastern.edu

Appendix A - Informal Resolution Procedure

If the Complainant requests that the Informal Resolution Procedure be utilized after filing a Formal Complaint and having been fully informed of all available options, the following steps shall be taken:

1. OUEC shall request to meet with Complainant, if necessary, to determine whether the complaint states a potential violation of this Policy.
 - a. If OUEC determines that the Complainant's allegations, if true, do not constitute a potential violation of this Policy, or that OUEC does not have jurisdiction over the matter, OUEC staff will provide appropriate referrals to both on and off-campus resources. If new information is subsequently provided to OUEC, OUEC may reevaluate whether the allegations constitute a potential violation of this Policy and/or whether OUEC has jurisdiction to investigate.
2. If OUEC determines that Complainant's allegations, if true, constitutes a potential violation of this Policy, OUEC will notify the Respondent, in writing, that a complaint has been filed against them and that the Complainant has requested an informal resolution. The Respondent may agree to the informal resolution or request a Formal Resolution as detail in Appendix B.
 - a. OUEC will provide the Complainant and the Respondent a summary of the alleged Sexual or Gender-Based Harassment, identify potential Policy violation(s), and provide an explanation of the Informal Resolution Procedure, including:
 - i. completion of the Informal Resolution Procedure precludes the parties from utilizing a Formal Resolution Procedure arising from the same allegations;
 - ii. any time prior to agreeing to an Informal Resolution, any party has the right to withdraw from the Informal Resolution Procedure and resume the grievance process with respect to the Formal Resolution Procedure,
 1. If an Informal Resolution Procedure is ended without resolution, by request of one of the parties, any information obtained may not be used in a subsequent Formal Resolution Procedure and hearing process;
 - iii. record maintenance of the procedure;
 - iv. the requirement for the parties' voluntary, written consent to the Informal Resolution Procedure.

3. If the Respondent agrees to an Informal Resolution, the investigator(s) will request to meet separately with the Respondent, and the Complainant, if necessary, for an interview.
4. Both the Complainant and the Respondent will have the opportunity to provide their version of events in order for the investigator(s) to understand the issues. Please note that this is not a formal investigation.
5. A summary of the informal process shall be kept on file with OUEC, but will not be considered part of the academic record for student Complainants and/or Respondents or the employee record for employee Complainants and/or Respondents.
 - a. Complaints resolved informally require mutual acceptance by the Complainant, the Respondent(s), and OUEC through a Memorandum of Agreement (MOA). The MOA (1) must be signed by the Complainant, the Respondent(s), and OUEC, (2) shall state the conditions of the resolution, if any, and (3) shall state that the resolution of the complaint via the MOA does not imply an admission of wrongdoing or a clearance of charges. The MOA shall also state which issues are being resolved by the parties and which issues remain unresolved, if any.
 - b. If an informal resolution is not achieved, the investigator will notify all parties in writing that the informal process has terminated without a resolution, and that any information obtained during the attempted facilitation of the informal process cannot be utilized in any future processes.
 - c. If resolution of the complaint is reached through the Informal Resolution Procedure, the matter will be considered closed.
 - d. If OUEC determines that further process is necessary, or if either party fails to comply with the terms of any agreed upon resolution, OUEC may initiate the Formal Resolution Procedure.

The university retains the discretion and authority to determine whether the Informal Resolution Procedure is inappropriate or is no longer appropriate. The university will consider, among other things, the following factors in making its decision: the length of time of the informal review process, the results of the informal process, the gravity of the alleged offense, the risk of harm to an individual or the community, the risk of a violation of law, or any other reason that necessitates elevation to the Formal Resolution Procedure.

Appendix B - Formal Resolution Procedure

1. When made aware of a complaint of Sexual or Gender-Based Harassment, the Assistant Vice President will, in collaboration with appropriate university departments, assess the safety and well-being of the parties involved, as well as potential threats to the university community, and will determine the need for any immediate action or interim measures.
3. The Assistant Vice President or designee will determine whether a Fomal Complaint states a potential violation of this Policy.
 - a. If the Assistant Vice President determines that the Complainant's allegations, if true, do not constitute a potential violation of this Policy, or that OUEC has no jurisdiction in the matter, OUEC staff will provide appropriate referrals to both on and off-campus resources. If new information is subsequently provided to OUEC, OUEC may reevaluate whether the allegations constitute a potential violation of this Policy and/or whether OUEC has jurisdiction to investigate.
 - b. If the Assistant Vice President determines that the Complainant's allegations, if true, constitute a potential violation of this Policy, the Assistant Vice President will initiate an investigation into the allegations and assign an investigator.
4. Case Managers will be assigned to students who are Complainants or Respondents. Case Managers will serve as the main point of contact for these individuals in order to provide interim measures and resources.
5. Notice of Investigation: Upon initiation of the investigation, the investigator will notify the Complainant and the Respondent of the investigation in writing via their university email account. The notice will (1) provide a summary of the alleged violations of this Policy including the date, time and location, if known, (2) identify potential Policy violation(s), (3) provide the identities of the Complainant and Respondent, if known, (4) explain the prohibition against Retaliation (5) provide an explanation of the investigation process as described herein and (6) provide a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the hearing process.
6. During the investigation, the parties will have an equal opportunity to be heard. The investigator(s) will request to meet separately with the Complainant and the Respondent for an interview. Either party may choose to participate or decline to

participate in the investigation. The investigator(s) may continue to investigate the alleged Sexual or Gender-Based Harassment and produce an Investigative Report based on the available information. Both the Complainant and the Respondent will be asked to provide relevant documentary evidence, including electronic or other records of communications between the parties or witnesses (e.g., photographs, text messages, emails, phone records, messages through social media sites, receipts, etc.) and the names of any and all relevant witnesses with information about the alleged Sexual or Gender-Based Harassment. Witnesses cannot participate solely to speak about an individual's character.

a. Parties involved in the investigation may, under limited and extenuating circumstances, request to submit a written statement instead of participating in an interview with the investigator(s). The Assistant Vice President will determine whether to include in the Investigative Report information provided in a written statement, taking into consideration the relevance of the information and the rights of the Complainant and Respondent to have equal opportunity to present information and witnesses.

b. The investigation may also include the review of any documentation, reports, video or other items the investigator deems relevant to the allegation.

c. The university may dismiss a complaint or any allegations therein, if at any time during the investigation or hearing, (1) a Complainant notifies the Assistant Vice President in writing that the Complainant would like to withdraw the complaint or any allegations therein; (2) the Respondent is no longer enrolled in or employed by the university; or (3) specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations.

8. The investigator(s), in consultation with the Assistant Vice President, has the discretion to determine the relevance of any witness or evidence and may exclude irrelevant, immaterial or unduly prejudicial information in preparing the Investigative Report.

a. An individual's prior or subsequent sexual activity, behavior or predisposition is not relevant and will not be considered, except for these limited, factual purposes:

i. Evidence of past sexual experience are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or

- ii. The Complainant and the Respondent engaged in consensual sexual activity prior or subsequent to the alleged Sexual Harassment, and
- iii. The prior or subsequent consensual sexual activity is offered for the sole purpose of demonstrating how consent was communicated between the parties during the consensual sexual activity, as compared to the alleged Sexual Harassment. Such information will not be used for any other purpose.

9. The investigator(s) will provide each interviewed party a written interview summary for review via their university email account. The interviewed party will review the summary and, within two (2) business days of receipt, will confirm the summary's accuracy or provide a written response. Failure to respond within two (2) business days will be considered confirmation of the accuracy of the summary. The investigator(s) will review any written response by an interviewed party and will incorporate information into the Investigative Report deemed relevant in the discretion of the investigator(s).

10. At the conclusion of the investigative process, the investigator(s) will share a draft summary of the facts gathered during the investigation with the Complainant and Respondent for their review and response. The identities of individuals named in the report may be redacted as deemed necessary in the sole discretion of the investigator. The parties may submit a written response to the investigator(s) within three (3) business days in order to:

- a. clarify information,
- b. provide an additional explanation,
- c. submit additional questions for the investigator(s) to ask of other parties or witnesses, or
- d. identify any other relevant information for the investigator to consider.

11. If a written response includes new and relevant information, the investigator will revise the draft summary of facts accordingly and provide the Complainant and Respondent with opportunities to respond to the new information. Thereafter, the investigator(s) will determine if additional investigation is required. Any further investigation will follow the steps above. If no further investigation is needed, the investigator(s) will finalize the Investigative Report.

12. The investigator(s) will submit the Investigative Report with their recommended finding to the Assistant Vice President for review. The Assistant Vice

President will review the Investigative Report to assess its thoroughness, reliability and impartiality.

13. If the Assistant Vice President determines that the Investigative Report contains insufficient information to constitute a potential violation of this Policy, the case will be closed and the decision will be simultaneously communicated to the Complainant and the Respondent by the Assistant Vice President in writing. There is no appeal of this decision.

14. If the Assistant Vice President determines that an Investigative Report involving a student as the Respondent contains sufficient information to constitute a potential violation of this Policy, the case will be referred by the Assistant Vice President to the Director of OSCCR (or designee).

If the Assistant Vice President determines that an Investigative Report involving an employee as the Respondent contains sufficient information to constitute a potential violation of this Policy, the Assistant Vice President will review the report and may affirm or alter the recommended findings of Policy violation contained in the Investigative Report. Thereafter, Assistant Vice President will inform the Complainant and Respondent of the findings of fact of any Policy violation. As appropriate, a copy of the Notice will also be forwarded to the administrative official immediately responsible for supervision of the Respondent and the appropriate Vice President, Dean, or Director for the unit in which the Respondent works. OUEC may, as appropriate, provide the offices identified in Step 4 with recommended action. The next step for cases involving employee Respondents is #23.

a. In order to protect the privacy of the parties, the Investigative Report forwarded to the Director of OSCCR and reviewed by a Conduct Board will have personally identifiable information replaced with their role in investigation (Complainant, Respondent, Witness 1, etc.). Members of the Board will not know the names of the parties.

15. Facts established as part of an investigation that reveal conduct that may violate the Code of Student Conduct will be investigated by the OUEC and a recommended finding will be made in the Investigative Report.

a. Rights, including the right to an Advisor throughout the process and Appeal options will apply to alleged violations of the Code of Student Conduct that stem from an investigation of a Sexual or Gender-Based Harassment.

b. Facts established as part of an investigation that reveal conduct that may violate other university policies, procedures or commonly accepted norms of conduct will be referred to the appropriate office for review.

16. The Director of OSCCR will send a pre-hearing meeting notice to the university email account of the Complainant and the Respondent when they are Northeastern students. The pre-hearing meeting is between the party, their advisor and an OSCCR Hearing Administrator to:

- a. Review the Investigative Report that forms the basis of the complaint;
- b. Explain the charges of the Policy violation filed against the Respondent (from this point on in the process, the Respondent will be referred to as the Charged Student);
- c. Explain the process for resolving the case, including whether the parties accept or contest the recommended findings of the Investigative Report;
- d. Explain that the Director of OSCCR will appoint a three (3) member Board; and
- e. Review the process how to challenge participation by any member of the Board for perceived bias or conflict of interest.

17. Complainants and Charged Student can accept or contest the recommended findings of the Investigative Report at the pre-hearing meeting. The party's acceptance or contestation of the recommended finding will be noted for the Board as they review the Investigative Report and hold a Hearing to determine, using a preponderance of the evidence standard, whether to:

- i. affirm the recommended findings of Policy violations contained in the Investigative Report;
- ii. make alternative findings of Policy violations than those contained in the Investigative Report.

19. The Complainant and the Charged Student will each have the option to present a written or oral statement to the Board. Such statements or the decision to give an oral statement should be provided to the Director of OSCCR at least five (5) business days prior to the Hearing. However, the Hearing is not a forum for the parties to present facts, information or witnesses. The parties are expected to provide all relevant facts, information and witnesses to the investigator(s) during the investigation. The Hearing is an opportunity for the parties to present their arguments as to why the recommended findings of Policy violations in the

Investigative Report should or should not be adopted by the Board. Any new information presented at the Hearing will not be considered by the Board.

20. Either party may request alternative methods for participating in the Hearing that do not require physical proximity to the other party, including participating through electronic means that enable the Board and parties to simultaneously see and hear the party or the witness answering questions. This request should be submitted to the Director of OSCCR at least two (2) business days prior to the Hearing.

21. At the conclusion of the Hearing, the Board will convene to deliberate and render a decision, by majority vote, regarding whether or not there is a preponderance of the evidence to support the recommended findings in the Investigative Report. No member may abstain.

22. The Director of OSCCR will provide both the Complainant and the Charged Student written notice of the Board's decision, including a description of the procedural steps taken by the university from the receipt of the Formal Complaint through Board's finding, the rationale for why a Policy violation was or was not found, and any relevant sanctions. The Director of OSCCR will also explain the appeals process to both parties.

23. The Complainant or the Charged Student/employee Respondent may file a written appeal within five (5) business days of the Notice of Decision. The written appeal will be provided to the non-appealing party, who may but is not required to provide a response within two (2) business days.

- In cases involving students as the Respondent, OSCCR will appoint an Appeals Board to review the written appeal to determine whether it meets any of the below grounds for appeal.
- In cases involving employees as the Respondent, the Assistant Vice President will appoint an Appeals Officer to review the written appeal to determine whether it meets any of the below grounds for appeal.

Grounds for appeal are:

(1) new information not reasonably available by the completion of the investigation that could affect the outcome, (2) procedural error that affected the outcome, (3) review of the imposed sanctions based on extraordinary circumstances (for student Respondents only).

24. If an appeal is granted on the basis of new information, the original Conduct Board (where students are Respondent) or Assistant Vice President (where an employee is the Respondent) will reconvene to determine if the new information alters their original decision. The Director of OSCCR/ Assistant Vice President will notify the parties of the Board's decision.
25. If an appeal is granted for procedural error, the process will reset to the point at which the procedural error occurred and proceed from that point.
26. If an appeal is granted based on a review of imposed sanctions, the Director of OSCCR will notify the parties of the decision.
27. The Senior Vice Chancellor of Student Affairs reserves the right to review and revise final outcomes in all cases involving students, including if Assistant Vice President closes a case at Step 13 of this process, as well as any decision by a Board or Appeals Board. Any such revision is not subject to appeal.

Appendix C

Protocols for an Emergency Removal

1. When an alleged violation(s) of this Policy is reported and the violation(s) may constitute an immediate threat to the physical health or safety of any student or other individual, the Assistant Vice President will meet with an Evaluation Panel which may include, but not limited to (1) the Assistant Vice President or designee, (2) a representative of NUPD, and (3) a representative from the Division of Student Affairs.
 - a. A representative from Human Resources Management or the Office of the Provost may be placed on the Evaluation Panel, if the Respondent is an employee, in order to determine whether or not an administrative leave is appropriate during the pendency of an investigation.
2. The Evaluation Panel will conduct an individualized safety and risk analysis of the potential need to remove the Respondent(s) from the University on an emergency basis.
3. If an Emergency Removal is deemed necessary, the student Respondent will receive communication of the Emergency Removal through the Director of OSCCR, or their designee
 - a. This communication will be sent to the Respondent's university email address;
 - b. A hold will be placed on the student Respondent's record;

- c. The Respondent is not allowed on any university property cannot attend classes or any University sponsored activities both on and off university property;
 - d. The Respondent will need to make advance arrangements with OSCCR for approval any time they may need to be on campus to take care of University-related business during the period of interim suspension;
 - e. Included in the letter will explain the Respondent's opportunity to submit an online request to challenge the decision of the emergency removal
4. If the Respondent wishes to challenge the emergency removal, they will submit an online request form within five (5) business days, explaining in detail the reasons for why they are challenging the Emergency Removal. Grounds to challenge an Emergency Removal are:
 - a. The reliability of the information concerning the appellant's alleged conduct, including the matter of their identity; or
 - b. Whether the alleged conduct and surrounding circumstances reasonably indicate that the continued presence of the appellant on university property or within university programs poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of a violation of this Policy.
5. The appeal of student Respondent's will be reviewed within three (3) business days from the date of the request by the Senior Vice Chancellor of Student Affairs, or their designee and the Emergency Removal will remain in effect during the appeal process.
6. The Senior Vice Chancellor of Student Affairs, or their designee, will review the student's appeal, the incident report(s), and the original individualized safety and risk analysis
 - a. The Senior Vice Chancellor of Student Affairs, or their designee, can request to meet with the student in person or virtually, if deemed necessary to obtain any additional information or clarification
 - b. This meeting will not replace the Resolution process, which shall proceed in accordance with procedures identified in this Policy.
7. A final decision to either (1) uphold the Emergency Removal, (2) modify, or revoke it will be provided to the student within 2 business days of receiving the student's request.
 - a. There will be no further appeals to the decision rendered upon review.
 - b. If the Emergency Removal is modified or revoked, other supportive, remedial and protective measures may be assigned until the resolution of any related Resolution Option through the OUEC is completed.
 - i. At any point in a Resolution Process of an allegation of a violation of this Policy, the university has the discretion to impose, lift,

reassess, and modify an Emergency Removal as circumstances may warrant and as new information becomes available.

8. If the Emergency Removal is upheld, the Director in OSCCR, or their designee, will send a memo to campus colleagues regarding the emergency removal.
9. Every effort will be made, if practicable, to conclude the hearing and obtain a decision on the charges within 10 business days after the emergency removal was imposed.