



Policy: NPRC-1205: Sexual Discrimination and Sexual Misconduct Origination: 02-19-2-2022 Approved: 03-11-2022 Effective: 03-11-2022 Reviewed: Last Updated:
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Subject: Sexual Discrimination and Sexual Misconduct

1. PURPOSE

This policy establishes expectations for the compliance of Northern Pennsylvania Regional College (“NPRC” or the “College”) with federal and state sexual nondiscrimination requirements, rules, and regulations, including those related to Title IX--Discrimination, Harassment, and Retaliation on the Basis of Sex and Non-Title IX Sexual Misconduct, Harassment, or Retaliation. This policy supports procedures to provide prompt, fair, and impartial processes for resolution of related allegations.

2. SCOPE AND APPLICABILITY

This policy is applicable to all NPRC students, faculty (full- and part-time), administrators, staff, employees, vendors, contractors, visitors, volunteers and others who interact with any students on behalf of the College.

Policy guidelines apply to any activity at NPRC Administrative Center(s), NPRC Education and Training Center(s), Instructional Location(s), Instructional Site(s), and any other location at or means by which training or education occurs, including in-person, virtual, or online instructional delivery. The policy’s scope includes, but is not limited to, activities supported or sanctioned by the College online or at facilities and properties utilized by NPRC which may not be directly owned or controlled by the College.

This policy addresses the College’s commitment to educating, preventing, and offering resources such as support services and guidance to reporting parties, Complainants, Respondents, or other affected community members.

This policy outlines the College’s responsibility and references supporting the scope contained within to ensure compliance with the requirements of Title IX, the Clery Act, as amended by VAWA (The Violence Against Women Act), the Family Educational Rights and Privacy Act (FERPA) and state and federal law, as may be applicable. No information shall be released from such proceedings except as required or permitted by law and College Policy.

3. REFERENCES

- 3.1 NPRC-3240: Educational Rights and Privacy
- 3.2 NPRC-3235: Behavioral Code of Conduct for Students
- 3.3 NPRC-2003: Equal Employment and Educational Opportunity
- 3.4 NPRC-2103: Corrective Action
- 3.5 NPRC-2107: Obligation to Report Harassment
- 3.6 NPRC-2110: Code of Conduct
- 3.7 NPRC-2112: Employee Grievance
- 3.8 NPRC-3311: Instructor Code of Conduct
- 3.9 PROC-3262: Resolution Procedure for Alleged Sexual Discrimination and Sexual Misconduct
- 3.10 The Pennsylvania Code, § 32.3. Assurances, <https://www.pacode.com/secure/data/022/chapter32/s32.3.html>
- 3.11 Title VII of the Civil Rights Act of 1964, <https://www.justice.gov/crt/laws-enforced-employment-litigation-section>
- 3.12 Title IX of the Education Amendments of 1972 and amended regulations, 20 U.S.C., 34 CFR Part 106, <https://www.justice.gov/crt/overview-title-ix-education-amendments-1972-20-usc-1681-et-seq>
- 3.13 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), <https://clerycenter.org/policy-resources/the-clery-act>
- 3.14 Campus Sexual Violence Elimination Act (SaVE Act), <https://www.congress.gov/bill/112th-congress/house-bill/2016>
- 3.15 The Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4 (VAWA 2013), <https://www.justice.gov/tribal/violence-against-women-act-vawa-reauthorization-2013-0>

- 3.16 Campus Sexual Assault Victims' Bill of Rights Act of 1991, <https://www.congress.gov/bill/102nd-congress/senate-bill/1289/text>
- 3.17 Equal Employment Opportunity, [eeoc.gov/pregnancy-discrimination](https://www.eeoc.gov/pregnancy-discrimination)
- 3.18 Bostock v. Clayton County, Supreme Court, https://www.supremecourt.gov/opinions/19pdf/17-1618_hfci.pdf
- 3.19 Article XX-J of Pennsylvania Law Act 16 of 2019, <https://www.education.pa.gov/Postsecondary-Adult/Pages/Act-16-of-2019.aspx>

4. DEFINITIONS

- 4.1 A Business Day is a day of normal college operation.
- 4.2 A Formal Complaint is a filed document that is physically or digitally signed by an individual, the Title IX Coordinator, Director of Student Services, or other NPRC employee alleging discrimination, harassment, or retaliation as categorized in the definitions of this policy whether on the basis of sex or otherwise and requesting the College investigate the allegation.
- 4.3 An Informal Complaint is verbal or written notice from an individual alleging discrimination, harassment, or retaliation whether on the basis of sex or otherwise and requesting the College investigate the allegation.
- 4.4 A Protected Activity is speech, action, or conduct that is not considered a violation of NPRC policy when taken under the auspices of academic freedom or expression under the first amendment.
- 4.5 A Report is verbal or written notification submitted to an NPRC employee from any source alleging discrimination, harassment, or retaliation whether on the basis of sex or otherwise.
- 4.6 Amnesty is the act of releasing or protecting an individual from discipline associated with policy violations, determined not to be egregious by the College, which occur around the time of or related to a complaint or report of an alleged violation of this policy.
- 4.7 Retaliation occurs when a harmful action is taken against an individual for engaging in legally protected activity and includes, but is not limited to acts of intimidation, verbal or physical threats, coercion, or discrimination.

- 4.8 Sex/Gender Discrimination occurs when a behavior or Policy has the purpose or effect of restricting or denying an individual's or group's access to opportunities, programs, or resources in relation to sex, gender, gender identity, gender expression, or sexual orientation in a manner that interferes with an individual's working, academic, residential, or social environment or athletic participation or performance.
- 4.9 A Complainant is an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination on the basis of sex or otherwise or is alleged to be a victim of retaliation for engaging in a protected activity.
- 4.10 A Respondent is an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination on the basis of sex or otherwise or retaliation against an individual for engaging in a protected activity.
- 4.11 A Mandated Reporter is an individual who has a duty to report all incidents of sexual harassment, sexual violence, sexual assault, relationship violence, stalking or other sexual misconduct.
- 4.12 A Title IX Coordinator is the employee or employees, designated to coordinate the College's efforts to comply with Title IX and its regulations found in Part 106 of Title 34 of the Code of Federal Regulations.
- 4.13 Sanctions are the penalties resulting from a determination that a violation of policy occurred.
- 4.14 Prohibited Conduct Definitions as defined by Title IX-specific Sexual Harassment categorizations/definitions:
- 4.14.1 The Title IX Regulations are the regulations that define sexual harassment to encompass a set of conduct on the basis of sex that satisfies the definition of one or more of the following:
- 4.14.1.1.1 Quid Pro is a person's submission to unwelcome sexual conduct that's implicitly or explicitly made to basis for employment decisions, academic evaluations, grades, advancements or other decisions affecting participation in a college program or activity.
- 4.14.1.1.2 Hostile Environment Sexual Harassment is conduct on the basis of sex that is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to NPRC's educational program, employment or activity.

4.14.1.1.3 Non-consensual Sexual Intercourse is any sexual intercourse (anal, oral or vaginal), however slight, with any object, by a man or a woman upon a man or a woman, without consent.

4.14.1.1.3.1 Consent is informed, knowing, and voluntary. Consent is active; silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, provided those words or actions create mutually understandable permission regarding the conditions of sexual activity. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Previous relationships or consent does not imply consent to future sexual acts. Consent may not be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Consent may not be granted by someone you know to be or should be able to know to be mentally or physical incapacitated by alcohol or drug use.

4.14.1.1.4 Non-consensual Sexual Contact is any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman, without consent.

4.14.1.1.5 Sexual Exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to the benefit or advantage of anyone other than the one being exploited, and the behavior does not otherwise constitute another form of sexual misconduct. Examples include, but are not limited to prostituting another student; non-consensual video or audio-recording of sexual activity; going beyond the boundaries of consent (such as permitting a friend to hide in a closet to watch you having consensual sex); engaging in voyeuristic behavior; or knowingly transmitting a sexually transmitted disease to another.

4.14.1.1.6 Sexual Assault as defined by federal law includes forcible and non-forcible sex offenses and are as follows for purposes of this Policy:

4.14.1.1.6.1 Penetrative Sexual Assault: 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, including instances where the Complainant is incapable of giving consent because of

their age or because of their temporary or permanent mental or physical incapacity

- 4.14.1.1.6.2 Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- 4.14.1.1.6.3 Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- 4.14.1.1.6.4 Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent,
- 4.14.1.1.7 Dating Violence is an act of violence committed by a person who is or has been in a romantic or intimate relationship with the Complainant. The existence of such a romantic or intimate relationship is determined by the length of the relationship, the type of relationship, and the frequency of interactions between the individuals involved in the relationship. Acts of violence may include but are not limited to recklessly causing bodily injury; attempts to cause bodily injury; and causing fear of immediate, physical harm through threat of force.
- 4.14.1.1.8 Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under Pennsylvania's domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- 4.14.1.1.9 Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person with similar characteristics under similar circumstances to fear for their safety or the safety of others; or to suffer substantial emotional distress. A course of conduct includes two or more acts, including but not limited to, those in which the alleged perpetrator directly,

indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about the Complainant, or interferes with the Complainant's property. Stalking governed by Title IX refers to stalking that is sex or gender based.

5. POLICY

- 5.1 The College shall comply with the criteria set by federal and state regulations and requirements referenced within this policy.
- 5.2 The College shall not discriminate and prohibits discrimination against any student, faculty, administrator, staff, or any other individual who interacts with the NPRC community on behalf of the College based upon race, color, religion, national origin, ancestry or place of birth, sex, gender identity or expression, perceived gender identity, sexual orientation, disability, use of a service animal due to disability, marital status, familial status, genetic information, veteran status, age or other classification protected by applicable law in matters of employment, admissions, student services, or in the services, programs or activities that it operates.
 - 5.2.1 No person shall, on the basis of gender, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the College. These protections apply across all aspects of operations of the College, including (but not limited to) recruitment, admissions, programs, and employment.
- 5.3 The College shall afford protections for pregnant individuals, as well as protection against retaliation for those who file complaints under Title IX as per the ruling from *Bostock v. Clayton County*, which determined that sexual orientation and gender identity are both protected under 'sex' in Title VII, applies equally to Title IX.
- 5.4 The College shall, under the guidance of the Title IX Coordinator and the Director of Student Services, educate students in alignment with state and federal expectations on sexual harassment and discrimination on an ongoing basis.
- 5.5 The College shall, under the guidance of the Title IX Coordinator and Director of Human Resources, ensure that education and training is provided to all employees regarding mandated reporting responsibilities, sexual harassment, and sexual misconduct in alignment with state and federal expectations on an ongoing basis.
- 5.6 The College shall, upon report of alleged violation report, make available appropriate and reasonable supportive measures to all individuals involved in the allegation. Supportive measures may include non-disciplinary, non-punitive individualized

services offered as appropriate, as reasonably available, and without fee or charge to restore or preserve access to an NPRC's education program or activity, including measures designed to protect the safety of NPRC's community or to deter prohibited conduct as outlined in this policy's definitions.

- 5.7 The College shall adhere to the Victim's Bill of Rights as outlined below:
 - 5.7.1 The option to contact, or to decline to contact, law enforcement authorities.
 - 5.7.2 Written notification of counseling, health, mental health, victim advocacy, legal assistance, and other services available to victims both on-campus and in the community.
 - 5.7.3 Notification of options for, and available assistance in, changing academic, living, transportation, and working situations, if so, requested by the victim and if such accommodations are available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.
 - 5.7.4 The accuser and accused (the "parties") have the same opportunity to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice.
 - 5.7.5 Both parties shall be simultaneously informed, in writing, of (1) the outcome of any institutional disciplinary proceeding that arises from an allegation of sexual harassment, including sexual assault, dating or domestic violence, or stalking; (2) the procedures to appeal the results of such a disciplinary proceeding; (3) any change of the results of such a disciplinary proceeding before the results become final, and (5) when the result(s) become final.
- 5.8 The College shall provide means by which NPRC community members and guests may report acts of prohibited conduct verbally, electronically, in writing, and if so desired, anonymously.
- 5.9 The College shall designate a Title IX Coordinator whose responsibilities shall include overseeing the College's response to Title IX reports and complaints and identifying and addressing patterns or systemic issues revealed by such reports and complaints.
- 5.10 Reports or complaints of prohibited conduct or retaliation as outlined in this policy are submitted to the Title IX Coordinator, verbally, in writing, or online as specified by:

Title IX Coordinator
Northern Pennsylvania Regional College
300 2nd Ave, Suite 500
Warren, PA 16365
Phone: 814.230.9010
Email: TitleIX@rrcnpa.org

- 5.11 All reports received will be evaluated by the Title IX Coordinator to determine classification of either Title IX qualifying violation or non-Title IX qualifying violation as per the identified this policy. When the alleged violation meets the definition of sexual harassment as identified in this policy and when all three of the following threshold parameters are met, the violation will be classified and adjudicated as a Title IX violation. All alleged violations that are classified as harassment but do not meet all three of the below parameters, will be adjudicated as non-Title IX violations:
- 5.11.1 The conduct must have occurred against a person in the United States.
 - 5.11.2 The conduct must have occurred within the College's education program, employment, or activity. For purposes of this provision, this means that the conduct must have occurred at a location, event, or circumstances over which the College exercised substantial control over both the Respondent and the context in which the sexual harassment occurs.
 - 5.11.3 The Complainant must be participating in or attempting to participate in the education program, employment, or activity of the College at the time the Formal Complaint is filed.
- 5.12 Title IX Coordinator shall explain to Complainant the types of reports and correlating procedures such as live hearings as well as possible sanctions, with the intent that the Complainant will be able to make an educated decision as to whether they would like to file an Informal Report or a Formal Report. This shall include Complainant's right to report both or either internal at the College and with law enforcement authorities as well as the right to change or withdraw report at any time during the process.
- 5.13 Title IX qualifying reports will be reported as per Clery Act applicable standards.
- 5.14 All NPRC employees are non-confidential mandated reporters and are required to report actual or suspected prohibited behaviors in violation of this policy to the Title IX Coordinator immediately upon gaining knowledge of the alleged violation.
- 5.15 The College will treat any report or complaint of a Title IX violation as alleged, and within five (5) business days an investigation will be initiated in accordance with PROC-3262: Resolution Procedure for Alleged Sexual Discrimination and Sexual

Misconduct which includes timelines, live hearing processes, release of notices, rights, and responsibilities.

- 5.16 The College prohibits and will not engage in retaliation against any person who in good faith reports a violation of this policy, provides information in an investigation of a potential violation, or otherwise engages in protected activity under the law.
- 5.17 Failure to report an incident of discrimination or harassment of which a mandated reporter becomes aware may result in disciplinary action.
- 5.18 A mandated reporter who is a target of harassment or other misconduct in violation of this policy is not required to report their own experience.
- 5.19 Amnesty may be granted for witnesses who help others in need, report alleged violations of this policy, and who may be in violation of one or more other college policies.
- 5.20 The process for resolution of allegations is determined by the level of action requested by the Complainant per applicable procedure. Action for resolution or to determine if this policy has been violated may include:
 - 5.20.1 Offering supportive measures because the Complainant does not want to proceed formally,
 - 5.20.2 An informal resolution process, and/or,
 - 5.20.3 A formal complaint process to include an investigation and hearing.
- 5.21 Dismissal of a formal complaint may occur at any time during the resolution process if it is determined that the reported alleged actions:
 - 5.21.1 Are not in violation of this policy,
 - 5.21.2 Misconduct did not occur during an educational program or activity of the College,
 - 5.21.3 The Respondent is not a member of the college community or encompassed in this policy's scope,
 - 5.21.4 The conduct did not occur against a person in the United States, or

- 5.21.5 At the time of reporting, the Complainant is not covered by the scope of this policy.
- 5.22 The College shall reserve the right during the review of the report to impose the emergency removal of the Respondent from the College's education program, employment, or activities should it be determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of the report. The Respondent will receive notice of the intent to impose emergency removal and will be afforded the right to appeal as outlined in correlated procedure associated with the report; PROC-3262: Resolution Procedure for Alleged Sexual Discrimination and Sexual Misconduct
- 5.23 Upon finding that a violation of this policy has occurred, the College may impose appropriate and reasonable sanctions on the Respondent which may be in addition to other actions taken or imposed by external authorities. Decisions regarding student sanctions are made by the Director of Student Services and decisions regarding sanctions for employees is made by the Vice President of Finance and Administration. The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.
- 5.23.1 Sanctions for violation of this policy may include, but are not limited to, verbal or written warning(s), required counseling, probation, suspension, expulsion, organizational penalties, restriction of access to facilities or services, required training or education, or termination for students and for employees is outline in NPRC 2103 – Corrective Action.
- 5.24 Appeals to decisions made throughout a resolution process associated with this policy related to students may be made in writing to the Vice President of Academic and Student Affairs (VPASA) and related to employees to the Vice President of Finance and Administration, within five business days of receiving the resolution process results. Decisions regarding appeals will be communicated in writing within ten business days and are final.
- 5.25 Appeals can be made under the following circumstances:
- 5.25.1 A procedural error or omission occurred that significantly impacted the outcome of the hearing.
- 5.25.2 Presentation of new, unknown, or unavailable evidence that was not previously considered that could substantially impact the original finding or sanction.

- 5.25.3 The imposed sanctions fall outside the range of sanctions designated for the offense.
- 5.26 All records related to reports, supportive measures, actions taken, resolution processes, sanctions, and appeals will be maintained for seven years and in accordance with state and federal laws.
- 5.27 The College will attempt to resolve complaints within 60 business days.
- 5.28 Involved College personnel will preserve the privacy of reports and complaints and will not share the identity of any Complainant, Respondent, or other individual associated with a report or complaint, except as permitted by NPRC-3240: Educational Rights and Privacy, to adhere to this policy or conduct the processes established by associated procedures, or as required by law.
- 5.29 Individuals have the right to file a complaint with the United States Department of Education Office for Civil Rights (OCR) regarding an alleged violation of federal law related to this policy. Instructions on how to file a complaint can be accessed at <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

6. RESPONSIBILITIES AND TIMELINES

- 6.1 The Title IX Coordinator is responsible for the execution of this policy and its respective resolution processes as related to Title IX reports and complaints in PROC-3262: Resolution Procedure for Alleged Sexual Discrimination and Sexual Misconduct.
- 6.2 The Title IX Coordinator is responsible for identifying and addressing patterns or systemic issues revealed by such reports and complaints. NPRC's designated Title IX Coordinator is the Director of Human Resources.
- 6.3 The Vice President of Finance and Administration is responsible for determining employee sanctions for violations related to this policy.
- 6.4 The Director of Student Services is responsible for determining student sanctions for violations related to Title IX complaints and reports.
- 6.5 The Director of Student Services or designee is responsible for the execution of this policy and its respective resolution processes as related to students.
- 6.6 All Northern Pennsylvania Regional College employees are responsible for reporting alleged Title IX allegations immediately upon receiving knowledge.

- 6.7 The Vice President of Academic and Student Affairs and the Vice President of Finance and Administration are jointly responsible for oversight and administration of this policy.

7. SIGNATURES

<i>Signature on File</i>	03-11-2021
_____	_____
Chair, Board of Trustees	Date
_____	_____
President	Date

Attachments: None

Distribution: Board of Trustees; <https://regionalcollegepa.org>