



## **Title IX**

### **1. PURPOSE**

This policy establishes the expectations at Northern Pennsylvania Regional College (“NPRC” or the “College”) for compliance with Title IX of the Education Amendments of 1972 (“Title IX”).

### **2. SCOPE AND APPLICABILITY**

This Policy is applicable to all employees, students, and other individuals participating or seeking to participate in College education programs and activities which occur within the United States, at NPRC Facilities.

### **3. REFERENCES**

- 3.1 INDX-1310-01: Master Policy Index
- 3.2 CLDR-1310: Policy Review Schedule
- 3.3 INDX-1310-02: Document Naming Key
- 3.4 Title XI of the Education Amendments of 1972
- 3.5 Title IX of the Education Amendments of 1972
- 3.6 Title VII of the Civil Rights Act of 1964; Elliott Larsen Civil Rights Act, Act 453 of 1976
- 3.7 U.S Department of Education, Office of Civil Rights
- 3.8 Family Educational Rights and Privacy Act (“FERPA”), (20 U.S.C. § 1232g; 34 CFR Part 99
- 3.9 Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)
- 3.10 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f)
- 3.11 PROC-1205-01: Title IX
- 3.12 NPRC-5705: Clery Act Compliance
- 3.13 NPRC-2110: Employee Code of Conduct
- 3.14 NPRC-3225: Academic Code of Conduct for Academic Students
- 3.15 PROC-3225: Academic Code of Conduct for Academic Students

- 3.16 NPRC-3235: Behavioral Code of Conduct for Students
- 3.17 PROC-3235: Behavioral Code of Conduct for Students
- 3.18 NPRC-3311: Instructor Code of Conduct
- 3.19 NPRC-9140: Drug, Alcohol, and Substance Abuse for Students

#### **4. DEFINITIONS**

- 4.1 Employee shall mean any individual that acts on behalf of the College on a full-time or part-time capacity as an administrator, staff, or faculty.
- 4.2 A Student is any individual enrolled in any course(s) of instruction offered by NPRC.
- 4.3 Facility/ies and Facility Property/ies refer to any NPRC Administrative Center(s), NPRC Education and Training Center(s), Instructional locations, Instructional Sites, or any other physical space utilized by NPRC which may or may not be primarily owned or controlled by the College at which any College activity, educational or otherwise occurs.
- 4.4 Title IX is a federal civil rights law that prohibits sex-based discrimination in any education program or activity that receives federal funding.
- 4.1 Title IX Prohibited Conduct (“Prohibited Conduct”) as defined in this Policy includes sexual harassment, sexual assault, dating violence, domestic violence, or stalking.
  - 4.1.1 Sexual harassment under Title IX means conduct on the basis of sex occurring in the United States and occurring in or related to a College Education Program or Activity, which satisfies one or more of the following:
    - 4.1.1.1 Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the College’s Education Program or Activity. Such conduct may include, but is not limited to, unwelcome sexual advances, requests for sexual favors, verbal or physical conduct of a sexual nature, sexual exploitation (including dishonesty or deception regarding the use of contraceptives or condoms during the course of sexual contact or sexual activity), sexual coercion, the touching of an unwilling person’s intimate parts, and forcing an unwilling person to touch another’s intimate parts.
    - 4.1.1.2 An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual’s participation in unwelcome sexual conduct (“Quid Pro Quo Harassment”). Whether or not the individual submits is not an element of the offense.
    - 4.1.1.3 Sexual Assault, Dating Violence, Domestic Violence, and Stalking.
      - 4.1.1.3.1 Sexual Assault is an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sexual Assault includes sexual

contact or intercourse with an individual without that individual's consent, including sexual contact or intercourse against an individual's will or in a circumstance in which an individual is incapable of consenting to the contact or intercourse. This includes:

4.1.1.3.1.1 Nonconsensual Sexual Contact. Intentional sexual touching, however slight, with any object or part of one's body of another's private areas without consent. Sexual Contact includes:

- 4.1.1.3.1.1.1 Intentional contact with the breasts, buttock, groin, or genitals;
- 4.1.1.3.1.1.2 Touching another with any of these body parts;
- 4.1.1.3.1.1.3 Making another touch you or themselves with or on any of these body parts;
- 4.1.1.3.1.1.4 Any other intentional bodily contact in a sexual manner; or
- 4.1.1.3.1.1.5 The touching of the private body parts of another individual for the purpose of sexual gratification (i.e., fondling).

4.1.1.3.1.2 Nonconsensual Sexual Intercourse is sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration can be oral, anal, or vaginal.

4.1.1.3.2 Dating Violence means violence committed by a person:

4.1.1.3.2.1 Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

4.1.1.3.2.2 Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- 4.1.1.3.2.2.1 The length of the relationship;
- 4.1.1.3.2.2.2 The type of relationship; and
- 4.1.1.3.2.2.3 The frequency of interaction between the persons involved in the relationship.

4.1.1.3.3 Domestic Violence includes felony or misdemeanor crimes of violence committed by a person who:

4.1.1.3.3.1 Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the College, or a person similarly situated to the spouse of the victim;

- 4.1.1.3.3.2 Is cohabitating, or has cohabited with the victim as a spouse or intimate partner;
- 4.1.1.3.3.3 Shares a child in common with the victim; or
- 4.1.1.3.3.4 Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
- 4.1.1.3.4 Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - 4.1.1.3.4.1 Fear for the person's safety or the safety of others; or
  - 4.1.1.3.4.2 Suffer substantial emotional distress.
- 4.2 Relevant means related to the allegations under investigation as part of the Title IX procedures under this policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged incident(s) occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged incident(s) occurred.
- 4.3 Remedies are provided to a Complainant where a determination of responsibility for Prohibited Conduct has been made against the Respondent, following Title IX procedures that comply with this Policy. Remedies must be designed to restore or preserve access to the College's Education Program or Activity. Remedies may include disciplinary sanctions or other actions against a Respondent, such as individualized Supportive Measures. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. The Title IX Coordinator is responsible for ensuring effective implementation of any Remedies.
- 4.4 Respondent is an individual who has been alleged to be the perpetrator of conduct that could constitute Title IX Prohibited Conduct.
- 4.5 Retaliation means any adverse action taken by an employee or student against any individual on the basis of a complaint made by such an individual, or on the basis of such an individual's participation in an investigation, hearing, or inquiry by the College, or participation in a court proceeding relating to suspected Prohibited Conduct at the College. Retaliation shall include, but not be limited to, harassment, discrimination, threats of physical harm, job termination, punitive work schedule or research assignments, decrease in pay or responsibilities, or negative impact on academic progress.
- 4.6 Supportive Measures are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive Measures are designed to restore or preserve equal access to the College's Education Program or Activity without unreasonably burdening the other Party, including measures designed to

- protect the safety of all Parties or the College's educational environment, or to deter Prohibited Conduct.
- 4.7 Time Periods refer to the stated timelines, which are not binding and create no rights for the Parties. The College can extend the deadlines at its discretion, with good cause. The College will make every reasonable effort to resolve complaints in reasonably prompt timeframes.
- 4.7.1 There is no time limit on a Complainant's decision to bring a report or file a Formal Complaint, but at the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the College's education program or activity at the time they were subjected to the alleged conduct that could constitute sex discrimination under Title IX.
- 4.8 Title IX Coordinator is the employee or designee 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.
- 4.9 Advisor (or Hearing Advisor) is an individual who has agreed to serve as an informal provider of support and advice for a Complainant or Respondent.
- 4.10 Complainant is an individual who is alleged to be the victim of conduct that may constitute Title IX Prohibited Conduct as defined in this Policy. A Complainant who files a Formal Complaint must be participating in, or attempting to participate in, the education program or activity of the College.
- 4.11 Confidential Employee is a College employee:
- 4.11.1 Whose communications are privileged or confidential under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
- 4.11.2 Whom the College has designated as a Confidential Resource for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing these services.
- 4.12 Confidentiality and Privacy - have distinct meanings under this Policy.
- 4.12.1 Confidentiality generally means that information shared with a licensed confidential resource cannot be revealed to any other person or office unless written permission is granted by the individual to share their information.
- 4.12.2 Privacy generally means that information related to a report of Prohibited Conduct will only be shared with a limited circle of individuals who "need to know" in order to assist in the assessment, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

4.12.2.1 The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act, as outlined in the College's FERPA Policy. The privacy of an individual's medical and related records may be protected by the Health Insurance Portability and Accountability Act ("HIPAA"), excepting health records protected by FERPA. Access to an employee's personnel records may be restricted by applicable state and federal law.

4.12.2.2 While there are certain limitations on privacy, the College generally will not release the names of the Complainant or Respondent to the general public without express written consent or absent another exception consistent with the law. The release of names will be guided by applicable law, including the Family Educational Rights and Privacy Act (FERPA) and the Jeanne Clery Act.

4.12.3 Limits to Confidentiality include the following:

4.12.3.1 Life-threatening risk - If the reporting person poses a life-threatening risk to themselves or others, responsible individuals may need to be notified, for their protection.

4.12.3.2 Child abuse reporting - Pennsylvania law (Act 31, 2014) requires that the following types of child abuse (depending on the nature and date of abuse) be reported to PA Child Protective Services (and NPRC) if there is reasonable cause to suspect that a child (a person who is currently less than 18 years of age) has been the victim of child abuse:

4.12.3.2.1 If you are less than 18 years of age and disclose that you are the victim of child abuse.

4.12.3.2.2 If you disclose that an identifiable child has been the victim of child abuse. A report may be required even if we do not meet with the child.

4.12.3.2.3 If you disclose that you abused a child when you were 14 years of age or older. A report may be required even if the victim is no longer in danger.

4.12.3.3 Clery Act – If the information being shared occurred in a Clery Act location and is a Clery Act offense (rape, fondling, incest, statutory rape, dating violence, domestic violence, and stalking), a Campus Security report must be filed with the Clery Officer. However, this does not include personally identifiable information.

4.12.3.4 Court Order or Search Warrant - Information may be required to be disclosed as a result of a court order or search warrant in connection with judicial proceedings.

4.12.3.5 As otherwise required or permitted by law, or consistent with the professional ethical obligations of the person receiving the disclosure.

- 4.13 Consent is a free and willing agreement to engage in a sexual act, provided without force or coercion, between individuals who are of sufficient age and are not mentally incapable, mentally disabled, mentally incapacitated or physically helpless, or incapacitated by drugs or alcohol. Consent is a clear and unambiguous agreement, expressed outwardly through mutually understandable words or actions, to engage in a particular activity. Consent must be voluntarily given and cannot be obtained through coercion or force, and the person initiating a specific sexual activity is responsible for obtaining consent for that activity. Consent is not to be inferred from silence, or a lack of resistance. Consent is not to be inferred from an existing or previous dating or sexual relationship. Consent to engage in one sexual activity at one time is not consent to engage in a different sexual activity or to engage in the same sexual activity on a later occasion. Consent can be withdrawn by any Party at any point. Once consent is withdrawn, the sexual activity must cease immediately. For purposes of this Policy, in evaluating whether consent was freely sought and given, the issue is whether the Respondent knew, or reasonably should have known, that the activity in question was not consensual or that the Complainant was unable to consent due to incapacitation.
- 4.14 Days - any reference to days within this Policy shall be counted as College business days unless otherwise specified
- 4.15 Business Day is a day of normal College operation.
- 4.16 Education Program or Activity includes locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the Title IX Prohibited Conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College.
- 4.17 Emergency Removal means that the College may remove a Respondent from a College education program or activity on an emergency basis.
- 4.18 Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the College investigate the allegation of Prohibited Conduct. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in one of the College's programs or activities. A Formal Complaint filed by a Complainant may be a document or electronic submission (such as by e-mail or through an online portal) but must contain the Complainant's physical or digital signature or otherwise indicate that the Complainant is the person filing the Formal Complaint.
- 4.19 Mandatory Reporter – the College has designated specific employees as mandatory reporters under this policy who hold a title of, or equivalent to, President, Vice President, and Department Directors who are required to report suspected prohibited behavior under this policy to the Title IX Coordinator.
- 4.20 Party (Parties) means a Complainant and/or Respondent.

- 4.21 Informal Response is an alternative to the formal investigation and adjudication process and may include participation in educational modules and restorative practices, among other options. Restorative practices can include, but are not limited to, mediation and diplomacy. There may be no determination of responsibility nor imposition of disciplinary sanctions resulting from this informal resolution type.
- 4.22 Adaptable Resolution is a voluntary, non-disciplinary, alternative to formal investigations and disciplinary actions and aims to find solutions that meet the needs of those impacted while promoting safety and positive communication.
- 4.23 Acceptance of Responsibility Offer happens when a Respondent admits to the allegations against them. By accepting responsibility, the Respondent acknowledges their wrongdoing and may avoid further formal investigation or hearing procedures.
- 4.24 Consideration Statement is a written statement from a Complainant or Respondent describing the mitigating or aggravating factors that may help inform sanctioning.
- 4.25 No Contact Directives (NCDs) also known as No Contact Orders (NCOs) are administrative orders issued by educational institutions to restrict contact between individuals involved in a Title IX complaint or investigation. These directives aim to protect individuals from potential harm, harassment, or interference during the Title IX process, ensuring a safe environment for all Parties.

## 5. POLICY

- 5.1 This Policy and the accompanying procedure shall serve as the process for resolution and appeal of complaints of Sexual Harassment.
  - 5.1.1 Allegations of sexual misconduct which do not constitute Sexual Harassment as defined by Title IX, shall be handled in accordance with the NPRC-3235: Behavioral Code of Conduct for Students and NPRC-2110: Employee Code of Conduct.
  - 5.1.2 Allegations of discrimination based on sex which is neither Sexual Harassment nor any other form of sexual misconduct are subject to NPRC-1210 Nondiscrimination, and Equal Opportunity.
- 5.2 The College is committed to maintaining a community free from Sexual Harassment. The College does not discriminate on the basis of sex in employment, or in its Education Programs or Activities. Sexual Harassment is a form of sexual discrimination. Sexual Harassment violates this Policy, and generally also violates federal, state or local laws. Furthermore, all members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others.
- 5.3 The College prohibits discrimination for pregnancy and related conditions, in all education programs and activities. Pregnancy and related conditions include, but are not limited to, pregnancy, childbirth, termination of pregnancy (including abortion,



- miscarriage, or stillbirth), lactation, medical conditions related to pregnancy or childbirth, and recovery from any of the previously stated conditions.
- 5.4 Students and employees experiencing pregnancy or related conditions are entitled to:
- 5.4.1 Equal access to classes, programs, and activities without discrimination.
  - 5.4.2 Reasonable modifications based on individualized needs (e.g., larger desks, elevator access, more frequent restroom breaks).
  - 5.4.3 Excused absences for as long as deemed medically necessary by a healthcare provider, with the opportunity to make up missed work.
  - 5.4.4 Voluntary participation in any separate program offered, provided it is comparable to the regular program.
  - 5.4.5 Access to a clean, private lactation space that is not a bathroom, shielded from view, and free from intrusion.
- 5.5 Students and employees are notified of their rights under Title IX, provided with notice of non-discrimination and available accommodations.
- 5.6 NPRC will provide:
- 5.6.1 Equal grading standards -students cannot be penalized for pregnancy-related absences if medically necessary.
  - 5.6.2 Make-up opportunities - students will be allowed to make up missed work, tests, or assignments.
  - 5.6.3 Incomplete grades or withdrawals without penalty - if recovery requires extended absence, students may be granted incompletes or medical leave without academic punishment.
  - 5.6.4 No discrimination in grading - student pregnancy status cannot affect evaluation of their academic performance.
- 5.7 When an allegation of Sexual Harassment is reported, the College will act to end the conduct, prevent its recurrence, and remedy the effects on the College community, in accordance with PROC-1205-01: Title IX.
- 5.8 The College will provide discrimination and harassment prevention and response training to all employees.
- 5.9 Employees involved with addressing and/or resolving reports of Title IX violations will be required to complete Title IX compliance training annually.
- 5.10 The College will publish materials on the NPRC website, to include but not be limited to information on Title IX protections and Sexual Assault Victims' Bill of Rights.
- 5.11 Any person who willfully makes or participates in making a false or frivolous Title IX report, or providing false information, may be subject to disciplinary action. False reporting may also violate state criminal statutes and civil defamation laws.

- 5.12 Retaliation is prohibited against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.
- 5.13 The Title IX procedures are not open to the general public. Documents prepared as part of Title IX, including pre-hearing documentation (including email correspondence, the Formal Complaint, the Notice of Allegations and Investigation, the investigative report, the notices of hearing, and any prehearing submissions), as well as documents, testimony, or other information introduced at any hearings, may not be disclosed outside of Title IX procedures, except as may be required or authorized by law or legal proceedings.
- 5.14 No Party, Advisor, or witness may record Title IX hearing(s) or disclose any recording of the hearing(s) or any portion thereof. A recording of the hearing will be created and maintained by the College. Any violation of confidentiality requirements may be subject to disciplinary action.
- 5.15 Neither Party will be required to abide by a nondisclosure agreement, in writing, or otherwise, that would prevent the re-disclosure of information related to the final outcome of Title IX procedures.
- 5.16 NPRC Title IX procedures include, at a minimum:
- 5.16.1 Training and Information
  - 5.16.2 Reporting
  - 5.16.3 Protection from Retaliation
  - 5.16.4 Supportive Measures
  - 5.16.5 Emergency Removal/Individualized Safety and Risk Analysis
  - 5.16.6 Informal Report
  - 5.16.7 Formal Complaint
  - 5.16.8 Voluntary Informal Resolution
  - 5.16.9 Acceptance of Responsibility Offer
  - 5.16.10 Investigation of Formal Complaint
  - 5.16.11 Investigation Process
  - 5.16.12 Formal Hearing Process
  - 5.16.13 Sanctions
  - 5.16.14 Written Notice of Outcome and Sanctions
  - 5.16.15 Appeal Rights of Parties

- 5.17 The College will retain a full record of all complaints filed under these provisions for a period of no less than seven (7) years from the date of the initial report or Formal Complaint, whichever is earlier.
- 5.18 Parties have the right to file a complaint directly with the U.S. Department of Education, Office for Civil Rights (OCR).

## **6. RESPONSIBILITIES AND TIMELINES**

- 6.1 The Title IX Coordinator is responsible for compliance with Title IX requirements including but not limited to policy and procedure development, implementation, and review; training and education; and record keeping.
- 6.2 The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.
- 6.3 The Director of Student Services or designee is responsible for responding to reports of sexual harassment for students.
- 6.4 The Director of Human Resources or designee is responsible for responding to reports of sexual harassment for employees and third-party respondents.
- 6.5 The Title IX Ad Hoc Committee is responsible for the investigation and final investigative report process.
- 6.6 The Vice President of Finance and Operations and the Vice President of Enrollment and Student Services are responsible for oversight of this policy.

## **7. REVIEW STATEMENT**

Review of this policy will occur in alignment with CLDR-1310: Policy Review Schedule.

Revision Notes: Policy in Revision