Sexual Misconduct Policy
Title IX & Violence Against Women Act (VAWA)

National American University
Students, Faculty, and Staff Training
2016
What are Title IX and VAWA?

Title IX of the Education Amendments of 1972 (20 USC § 1681 et seq.) and the Violence Against Women Reauthorization Act of 2013 (VAWA) (42 USC § 13701 et seq.) together prohibit sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, and stalking that take place on a campus, via other media, or at a university sponsored event. These acts are prohibited whether by a student, faculty member, staff member, or a third party.

Source: United States Department of Education Office of Civil Rights and Violence Against Women Act (VAWA) Federal Registry
Where can I find NAU’s Sexual Misconduct Policy and Harassment and Nondiscrimination Policy?

- Sexual Misconduct Policy
- Harassment and Non-discrimination Policy
- NAU Public Website
  www.national.edu
- 2015-2016 Undergraduate, Master’s, and Doctoral Academic Catalogs
  http://www.national.edu/programs/academics/catalogs
- MyNAU Faculty and Staff Intranet
  https://mynau.national.edu
Who does the Sexual Misconduct Policy apply to?

NAU’s Sexual Misconduct Policy prohibits inappropriate conduct by any individual associated with NAU, including:

- NAU Faculty and Staff
- Students
- Consultants
- Contractors
- Vendors
- Campus Visitors
What is sex discrimination?

Sex discrimination is discrimination and harassment based upon a person’s gender or gender identity.
What is sexual harassment?

- Unwelcome sexual advances
- Requests for sexual favors
- Sexually motivated physical contact
- Verbal or physical conduct or communication of a sexual nature
- When submission to such conduct:
  - Is unwanted or unwelcome
  - Is a condition of admission, employment, or is tied to academic achievement
  - Is a basis for any decision affecting your ability to obtain employment or an education
  - Interferes with your academic or work performance
  - Creates an intimidating, hostile, or offensive educational or work environment
- Sexual harassment includes all genders including students and employees of the same sex

Source: NAU Harassment and Non-Discrimination Policy
What is sexual violence?

- Rape
- Sexual Assault
- Sexual Battery
- Sexual Coercion

Sexual violence also includes all genders including students or employees of the same sex

Source: U.S. Department of Education Office for Civil Rights
What is a hostile environment?

- Viewed from a “reasonable person’s” perspective
- The harassment is repetitive or severe in nature
- The behavior prevents the student or employee from functioning
- In cases of sexual violence and severe harassment, one incident can create a hostile environment

Source: U.S. Department of Education Office for Civil Rights
What is domestic violence?

Domestic violence is abuse committed against someone who is a cohabitant in an intimate relationship, a spouse, or someone who has a child with the accused. This also includes former relationships.

Source: Violence Against Women Act (VAWA) Federal Register
What is stalking?

Stalking is conduct that involves excessive attention directed at a specific person that intends to harass or intimidate causing a reasonable person to fear for their safety or the safety of others.

Source: Violence Against Women Act (VAWA) Federal Register
What is dating violence?

Dating violence is abuse committed by someone who is or has been in an intimate relationship with the victim.

Source: Violence Against Women Act (VAWA) Federal Register
How is consent defined under Title IX/VAWA?

- Consent cannot be given if the person is incapacitated or unconscious from drug or alcohol impairment.
- Consent cannot be granted if the person has a mental or physical impairment.
- Consent is voluntary and is revocable.
- Consent given once does not mean that consent is ongoing.
- Please view the Tea and Consent video at https://vimeo.com/128105683. (Video used with permission from Blue Seat Studios. www.blueseatstudios.com)

Source: U.S. Department of Education Office for Civil Rights
Where do I report an incident of sexual misconduct?

- We encourage you to call 911 to report incidents of sexual violence.
- NAU staff can help you file a police report.
- Sexual misconduct should be reported to the Title IX Coordinator:
  
  Karen Hoffman (Student Contact)
  Title IX and Student Services Coordinator
  5301 S. Highway 16
  Rapid City, SD 57701
  605-394-4805 (Office)
  khoffman@national.edu

  Christina McCormick (Employee Contact)
  Human Resources Employee Relations
  5301 S. Highway 16
  Rapid City, SD 57701
  605-721-5312 (Office)
  hremployeerelations@national.edu

- Sexual misconduct may also be reported to any of the following designated “responsible employees”:
  - Campus Director/Executive Officer
  - Faculty
  - Human Resources-Employee Relations

Designated responsible employees are required under Title IX to report any incidents that they know about or reasonably should have known about to the Title IX Coordinator.
What is required of designated responsible employees?

- Designated responsible employees must report incidents to the Title IX Coordinator if the employee knew or should have reasonably known about the incident.

- Responsible employees must report incidents to the Title IX Coordinator even if the victim does not want to report the incident.

Source: U.S. Department of Education Office for Civil Rights
What types of incidents can I report to the Title IX Coordinator or the responsible employees?

- Sex Discrimination/Harassment
- Sexual Assault/Violence
- Dating Violence
- Domestic Violence
- Stalking
What are the responsibilities of all NAU students, faculty, and staff?

- Maintain learning and work environments free of sexual misconduct, discrimination, and harassment
- Participate in Title IX/VAWA trainings provided by the university
- Employees must complete harassment training located on MYNAU
- Read and abide by the university’s sexual misconduct and harassment and non-discrimination policies
- Refrain from engaging in acts of sexual misconduct, harassment, or discrimination
- Promptly report all claims of sexual misconduct, discrimination, or harassment
- Cooperate with any investigation
- Maintain confidentiality. Disclosing information only to personnel with a need to know. Refrain from speculation, drawing conclusions, or gossiping about the subject matter or individuals involved in the investigation of such claims
- Refrain from retaliatory action against any individual who has made a claim of sexual misconduct, harassment, opposed harassment, or participated in the investigation of any claim regarding harassment or inappropriate behavior

Source: National American University’s Harassment and Non-Discrimination policy
Is confidentiality guaranteed?

- Every effort will be made to ensure confidentiality, to the extent possible. However, strict confidentiality may reduce the university’s ability to respond to the complaint.
- The Title IX Coordinator will review requests for confidentiality.
- Reporting to law enforcement is the student’s decision unless reporting is required by state law. (If the student is a minor and the incident includes sexual violence, the incident must be reported.)
What if I am unsure if I want to file a police report?

- “Responsible employees” or the Title IX Coordinator can help you.
- You may go to the hospital and have an examination even if you do not want to file a complaint.
  - Evidence can be collected and then preserved for a period of time determined by the state’s law.
  - If you have an exam and preserve evidence right away, it will be available if you decide to file a police report later.
- Preserving evidence
  - Don’t change clothes. Take the clothing you were wearing with you to the hospital.
  - Don’t take a shower.
  - Don’t brush your hair.
  - Don’t brush your teeth.
  - Leave the scene of the incident just as it is. Don’t clean up.
What is the procedure?

NAU’s Sexual Misconduct Policy explains the procedure in detail.

- Interim measures may include a change of schedule to keep the parties separated. Other reasonable remedies are considered.
- Counseling and other resources
  - Student Assistance Counseling Program. Information can be found at mycampus.national.edu
  - National resources are available at www.national.edu. Local resources are available from your campus director
- Formal hearings may be required for some cases.
  - Trained university staff free from conflicts of interest make up the hearing committee.
  - Preponderance of evidence (more likely than not) is used in decision-making.
  - Investigations and the hearing process will take no more than 60 days.
  - Both parties are treated equally and given the opportunity to participate in any hearings, present their case, present witnesses, present evidence, receive notice of the outcome.
What are the consequences of sexual misconduct or harassment?

- Any person who is found to have violated the Sexual Misconduct Policy or the Harassment and Nondiscrimination Policy will be subject to appropriate corrective action.

- Corrective actions may include permanent suspension of a student or termination of employment.
Will I be notified of the outcome?

- Both parties will be notified in writing of the investigation and/or hearing outcome.
- The complainant will be notified of the sanction imposed if it directly relates to a student or employee.
What if I want to appeal the outcome?

- Either party has the right to appeal the decision of the hearing committee.
- An appeal must be submitted within 3 business days of receiving the committee’s final determination.
- The decision rendered on appeal is final.
What if I am worried about retaliation?

Retaliation is prohibited by both NAU and Title IX.

- Retaliation against any individual for making a complaint under this policy, for opposing sexual misconduct or harassment, or for participating in an investigation of any claim is strictly prohibited.

- Any person who engages in retaliatory conduct or reprisals in response to a claim of sexual misconduct will be subject to appropriate corrective action, which may include discipline up to and including termination of employment or permanent suspension of a student.

- Retaliation should be promptly reported to the Title IX coordinator or the campus director.
Questions?

If you have questions, please contact:

Karen Hoffman
Title IX and Student Services Coordinator
5301 S. Highway 16
Rapid City, SD 57701
605-394-4805 (Office)
khoffman@national.edu