



# NATIONAL AMERICAN UNIVERSITY

## 2020 Student, Faculty, and Staff Sexual Misconduct Training Title IX and Violence Against Women Act (VAWA)

### What is 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.

### Where can I find NAU's Sexual Misconduct and Harassment and Nondiscrimination Policies?

- NAU public website: <http://www.national.edu/sexual-complaint-reporting/>
- Undergraduate, master's, and doctoral academic catalogs: <https://www.national.edu/catalogs/>
- MyNAU faculty and staff SharePoint site – MavCentral: <https://nationalamericanuniversity.sharepoint.com/sites/MavCentral/policies>

### Who does the Sexual Misconduct Policy apply to?

- NAU Faculty, staff, and students
- Consultants
- Contractors
- Vendors
- Campus Visitors

### 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

### What is included in sexual misconduct?

- **Dating violence** – dating violence is abuse committed by someone who is or has been in an intimate relationship with the victim.
- **Domestic Violence** – 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.
- **Sex discrimination** – discrimination and harassment based upon a person’s gender or gender identity.
- **Sexual harassment** – unwelcome sexual advances; requests for sexual favors; sexually motivated physical contact; verbal or physical conduct or other communication of a sexual

nature. When submission to such conduct is unwanted or unwelcome; a condition of admissions; employment; or is tied to academic achievement; is the basis for any decision affecting your ability to obtain employment or education; interferes with your academic

- performance; or creates an intimidating, hostile, or offensive educational or work environment.
- **Sexual violence/assault** – rape; sexual assault; sexual battery; sexual coercion; or sexual violence.
- **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.
- NAU’s sexual misconduct policy and these definitions apply to all genders to include students or staff of the same gender.

State specific definitions can be found in the Annual Security Report:

<https://www.national.edu/information-disclosures/>

### **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](http://www.blueseatstudios.com))

### **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 or to executive director of human resources:

Cheryl Bullinger  
Title IX Coordinator  
Executive Director of Compliance  
5301 Mt. Rushmore Road  
Rapid City, SD 57701  
605-721-5213 (Office)  
[cbullinger@national.edu](mailto:cbullinger@national.edu)

Gordon Brooks  
Executive Director of Human Resources  
5301 Mount Rushmore Road  
Rapid City, SD 57701  
605-394-4947 (Office)  
[hremployeeerelations@national.edu](mailto:hremployeeerelations@national.edu)

**What are the responsibilities after the Title IX coordinator and/or the executive director of HR are aware of an incident?**

- The university is required to investigate any Title IX incident that the Title IX coordinator and/or the executive director of HR knows about or reasonably should have known about an investigation must occur even if the victim does not want to report the incident.
- Implement interim measures as appropriate.
- Inform the victim of their right to report the incident to authorities.
- A staff member should accompany the victim to the hospital and/or to report the incident to local law enforcement if requested.

**What types of incidents can I report to the responsible employees (Title IX coordinator and executive director of human resources)?**

- 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, 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 investigation of any claim regarding harassment or inappropriate behavior.

**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.)
- Any anonymous complaint can be reported at the following links
  - Staff: <http://webapps.national.edu/RegForms/SexualAssaultAndHarassment/Faculty>
  - Students: <http://webapps.national.edu/regforms/sexualassaultandharassment/index>

**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 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 university's procedure?**

- NAU's Title IX: Sex Discrimination and Sexual Misconduct Policy explains this procedure in detail.
- Interim measures may include a change in schedule to separate the parties. Other reasonable remedies are considered. Interim measures may be considered for the accused, so classes are not missed.
- National and Community resources
  - National resources are available at [www.national.edu](http://www.national.edu).
  - Local resources are available from your campus director
- Formal hearings may be required in some cases such as sexual violence
  - Trained university staff free from conflicts of interest make up the hearing committee
  - Clear and convincing evidence (substantially more likely than not) is used in decision-making
  - The university strives to complete investigations and the hearing process within 60 days, but this can be delayed under certain circumstances such as when a case is undergoing law enforcement investigation

#### **What are the consequences of sexual misconduct or harassment?**

- Any person who is found to have violated the Title IX: Sex Discrimination and Sexual Misconduct Policy or the Harassment, Nondiscrimination, and Non-retaliation 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 the 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 three (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 any 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 location director.

### **Prevention/Awareness: It's on Us Campaign**

- Don't be a bystander-intervene in any way that you can. If it is not safe for you to intervene, get help or call 911
- Trust your gut. If something feels wrong, it probably is.
- Ask the person if they are okay.
- Keep an eye on someone who has had too much to drink.
- If you see someone who is too intoxicated to give consent, enlist their friends to help them leave safely.
- Recognize the potential danger of someone who talks about planning to target a person at a party.
- Be aware if someone is deliberately trying to intoxicate, isolate, or corner someone.
- Get in the way by creating a distraction, drawing attention to the situation, or separating them.
- Understand that if someone does not or cannot give consent to sex, it is rape.
- Never blame the victim.

It's on all of us to prevent sexual violence and harassment. Don't be a bystander.  
[www.Itsonus.Org](http://www.Itsonus.Org) <https://www.Youtube.Com/watch?V=dx54t8h5q5u>

### **Questions?**

If you have questions, please contact:

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