

Northern Arizona University

Nondiscrimination and Anti-Harassment Policy

Effective Date: August 14, 2020 (updated September 23, 2021)

Policy Summary

Northern Arizona University (NAU) is committed to providing a working and learning environment free from discrimination, harassment, including sexual harassment, and retaliation. This policy prohibits discrimination and harassment based on protected status including race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity and expression, or genetic information. The policy also prohibits retaliation for raising concerns under this policy or participating in an investigation.

Reasons for This Policy

Harassment and discrimination based on protected status are harmful individually and institutionally and pose barriers to academic and career success. Retaliation can have a chilling effect on reporting instances of prohibited conduct and deter individuals from reporting concerns or participating in the investigative process.

Entities Affected By This Policy

- All university programs and activities

Who Should Know This Policy

- All prospective and current students
- All NAU employees, volunteers, contractors, affiliates, agents and guests
- All persons participating in or accessing NAU-sponsored programs or events

Definitions

Affiliate: A person who belongs to one of the university's affiliations who has developed a formal relationship with the university and who has been determined to be an "affiliate" under the University Affiliate Policy.

Discrimination: Discrimination is defined under applicable federal and state law. In general, unlawful discrimination means failing to treat people equally, at least based in part, on status that is protected under applicable law or policy. Protected status includes race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity and expression and genetic information.

Employee: All individuals who have an employment relationship with the university including, for example, faculty, staff, student-employees, graduate and teaching assistants.

Harassment: Harassment is a specific form of discrimination. For purposes of this policy, harassment is unwelcome behavior based upon an individual's actual or perceived protected status where, in aggregate, the incidents are sufficiently severe or pervasive that a reasonable person with the same

protected characteristics as the victim of the harassing conduct would be adversely affected to a degree that interferes with their ability to participate in or to realize the intended benefits of an institutional activity, employment or resource Conduct over social media that rises to this level is prohibited. Harassment, as defined above, is not protected by the First Amendment.

Retaliation: For purposes of this policy, retaliation occurs when an adverse action is taken against an individual for complying with this policy, opposing conduct reasonably believed to constitute a violation of this policy, filing a report or formal complaint, seeking an accommodation under this policy, or participating in any manner in an investigation or proceeding related to this policy. Adverse actions that are likely to deter a complaining individual or others from engaging in protected activity are prohibited.

Sexual Harassment: (see also Title IX Sexual Harassment)

Quid Pro Quo sexual harassment occurs when an employee of the university conditions the provision of an aid, benefit, or service of the university on an individual's participation in unwanted sexual conduct.

Hostile Environment Sexual Harassment includes unwelcome conduct of a sexual nature (including unwelcome sexual advances or activity) which is sufficiently severe or pervasive to create an intimidating, hostile or offensive environment for academic pursuits, employment or participation in university sponsored programs or activities.

Examples of conduct that may, if severe or pervasive, constitute sexual harassment include, but are not limited to:

- unwelcome physical or implied sexual advances, or requests for sexual favors;
- inappropriate physical touching, kissing, brushing up or rubbing against another;
- unwelcome sexually suggestive or degrading jokes, comments, insults or gestures;
- voyeurism (which includes observing others in a state of full or partial undress or engaged in sexual activity) or non-consensual photographing or audio or video recording of another in such circumstances, or publishing or threatening to publish or disseminate such materials; or
- inappropriate display or circulation of sexually explicit materials such as photos, pictures, posters, magazines, cartoons, or statements, whether in printed or electronic form.

Title IX Sexual Harassment: Title IX Sexual Harassment, as defined in the university Sexual Misconduct Policy, is conduct based on sex, occurring in the United States, which constitutes one or more of the following:

- Unwelcome conduct that a reasonable person would find so severe, pervasive and objectively offensive that it effectively denies a person equal access to university sponsored education programs or activities.
- An employee conditioning the provision of an aid, benefit, or service of the university in the United States on an individual's participation in unwelcome sexual conduct.
- Any of the following specific acts of sexual harassment within a university sponsored program or activity: sexual assault, domestic violence, dating violence, and stalking.

The NAU Sexual Misconduct Policy and related procedures (as discussed in Section I) will apply to allegations that meet this definition.

Student: For purposes of this policy, all admitted or currently enrolled undergraduate and graduate students, including those enrolled in online classes or auditing university courses.

Volunteer: A person doing work for the university under the direction and control of university officials and is not being paid by anyone for these activities.

Policy

A. Scope

Northern Arizona University prohibits discrimination or harassment based on any protected status: race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity and expression and genetic information. This includes allegations of sexual harassment and Title IX sexual harassment as defined in this policy to include quid pro quo and hostile environment sexual harassment as well as sexual assault, dating violence, domestic violence and stalking. The NAU Sexual Misconduct Policy covers allegations of Title IX Sexual Harassment.

Retaliation or retribution of any kind taken against an individual for reporting or participating in an investigation of a report made under this policy is prohibited. Retaliation is a separate, distinct and serious violation of this policy.

Inappropriate conduct need not rise to the level of a violation of federal or state law to constitute a violation of this policy and warrant disciplinary action or other appropriate response.

Enforcement of this policy is subject to relevant constitutional provisions, for example, freedom of speech and expression.

Members of the University community are responsible for participating in, creating, and maintaining a workplace and/or educational environment free from all forms of prohibited discrimination, harassment and retaliation and for cooperating with any investigation of allegations of a violation of this policy.

B. Reporting

1. Reporting Options

Reports of possible violations of this policy should be made to the Equity and Access Office (EAO). Reports of Title IX Sexual Harassment or other sexual misconduct (as defined above) may be made to the Office of Title IX Compliance & Institutional Response to Sexual Misconduct. These offices may consult with other university offices as necessary to appropriately respond to the report.

2. Reporting Obligations - Supervisors

Individuals in positions of authority, including supervisors, managers or administrators, who are informed of a violation of this policy or have a reasonable basis to believe a violation may have occurred are required to contact the Equity and Access Office. Failure to do so may result in disciplinary action. Informal resolution at the department level may be appropriate in some cases, but that does not eliminate the obligation to report and consult as described above.

3. Anonymous Reports

Individuals without a reporting obligation described above may report to the above offices or may make an anonymous complaint to the [NAU Police Department](#), [the Office of the Dean of Students](#) or the [Equity and Access Office](#). If an individual requests anonymity after a report is made, the appropriate office will consider the request in light of the due process rights of all involved, the severity of the harassment, the potential risk to other members of the university community and any related legal obligations. When possible, the requesting party will be advised if this request cannot be honored.

C. Confidentiality

It is the obligation of faculty, supervisors, employees, and administrators to whom a concern or complaint is brought to maintain the privacy of all parties to the extent possible insofar as it does not interfere with their duty to report and the university's obligation to investigate and address allegations or as required by law.

D. Other University Policies

This policy does not cover all forms of perceived unfair treatment. Issues not covered by this policy may be appropriately referred to other university offices.

E. Time Limits and Considerations

Although there are no time limits within which a complaint may be filed under this policy, individuals are encouraged to bring forward issues in a timely manner to facilitate an effective investigation process and resolution. Individuals may file with an outside agency, including law enforcement, the U.S. Equal Employment Opportunity Commission or the U.S. Department of Education, Office for Civil Rights. The university may continue to investigate under this policy concerning the same or related events and will not retaliate in any way against an individual who files with an outside agency.

F. Obligation to Provide Truthful Information

As allegations under this policy may result in severe consequences, the university takes the accuracy of information in its processes very seriously. All participants have an obligation to provide truthful information. Initiating a false complaint, falsifying or withholding evidence or inducing another person to do the same, or otherwise intentionally hindering an investigation, are prohibited. This provision does not apply to reports made or information provided in good faith, even if the information later proves to be faulty or the facts alleged are not later substantiated.

G. Interim Actions

The university may take interim actions designed to support and protect individuals and the university community even in the absence of a formal complaint or while the complaint is being processed. An employee may be placed on administrative leave if deemed appropriate under university policy or as governed by Title IX regulations.

H. Sanctions

If, after review through the appropriate university procedures, it is determined by a preponderance of the evidence that violation of this policy has occurred by an employee or student, educational and/or

disciplinary action(s) may be taken; such actions may include up to termination for employees (including student employees) and up to suspension, expulsion, or degree revocation for students. Affiliates, volunteers and other individuals violating this policy may be subject to a severing of their connection to the university, trespass from campus or any related privileges.

In addition to disciplinary action, the university will also consider remedies designed to address the impact of the violation on the reporting party.

I. Applicable Procedures

The applicable procedures for addressing a report made under this policy will be determined by the nature of the allegations made.

1. Title IX Sexual Harassment

The university will address allegations of Title IX Sexual Harassment, as defined above, under the NAU Sexual Misconduct Policy and related procedures. Where appropriate, the University may investigate the same or similar allegations concurrently under this Policy and the Sexual Misconduct Policy.

2. Other Complaints

The Equity and Access Office Complaint Procedures will be applicable to all other complaints under this policy. These procedures provide for prompt and equitable methods to identify prohibited behavior and to stop discrimination, remedy any harm, and prevent its reoccurrence. If a student is also an employee and the allegations are related to conduct in that role, EAO procedures will apply to the investigation and determination of any appropriate employment related sanctions. If the behavior also constitutes a violation of the Student Code of Conduct or other student policy, then the matter may be referred to the Office of the Dean of Students.

3. Informal Complaints

Reports made under this policy may be addressed informally under this policy at the request of a reporting party or after evaluation by EAO. In some circumstances, EAO may determine that an informal process is not appropriate. Reports made under the Sexual Misconduct Policy may be addressed under the Informal Resolution Process, if eligible.

J. University Compliance Officers/Offices

The university has identified the following individuals as the persons responsible for compliance with certain federal laws related to discrimination and harassment. They may be contacted with questions or concerns regarding prohibited discrimination and related policies and procedures:

The person designated to serve as the University Title IX Coordinator is:

Elyce C. Morris
Title IX Coordinator
Elyce.Morris@nau.edu | 928.523.5434
Old Main – Room 110
PO Box 4116, Flagstaff, AZ 86011-4116
in.nau.edu/title-ix

The person designated to serve as ADA/504 Coordinator is:

Jamie Axelrod

Director, Disability Resources

Jamie.Axelrod@nau.edu | 928.523.8773

Health and Learning Center Room 2050

PO Box 5633, Flagstaff, Arizona 86011-5633

in.nau.edu/disability-resources

The person designated to serve as the compliance officer for Title VI, Title VII, and other non-discrimination laws not otherwise addressed above is:

Pamela Heinonen

Associate Vice President, Equity and Access

Pamela.Heinonen@nau.edu | 928.523.9342

PO Box 4083, Flagstaff, Arizona 86011-4116

Old Main – Room 113

in.nau.edu/eao

The Dean of Students is:

Dr. Megan Gavin

Interim Dean of Students

Megan.Gavin@nau.edu | 928.523.5181

PO Box 6015, Flagstaff, Arizona 86011-6015

University Union Room 104

in.nau.edu/dean-of-students