



NOTICE OF RIGHTS AND OPTIONS

Title IX

Violence Against Women Act

INTRODUCTION

This guide is intended to help explain Northampton Community College's responsibility under Title IX and the Violence Against Women Act (VAWA). Additionally, this guide will:

- provide you with specific resources available both on and off campus
- provide you with details on available supportive measures
- educate you on your right to an Advisor and how they can assist you throughout the process
- inform you of policy definitions that describe prohibited conduct
- provide you with common questions and answers asked by parties (Complainants and Respondents)

IF YOU HAVE EXPERIENCED SEXUAL MISCONDUCT

If you are off campus and experiencing an emergency, you can call local police by dialing 911.

1. Go to a safe location as soon as you are able.
2. Seek immediate medical attention if you are injured or believe you may have been exposed to the risk of an STI/STD, or pregnancy.
3. Contact any of the following for immediate assistance:
 - a. Title IX Coordinator, at 570-369-1960 Regular business hours, M-F, 8:00a-5:00p.
 - b. Public Safety, 24 hours/7 days a week
 - i. Bethlehem: 610-861-5588
 - ii. Pocono: 570-369-1911
 - iii. Fowler: 610-332-8659
 - c. Health Center, at 610-861-5365. Regular business hours, M-F
 - d. Counseling Center, Regular business hours, M-F
 - i. Bethlehem: 610-861-5342
 - ii. Pocono: 570-369-1842
 - e. PA Coalition Against Rape, at 888-772-7227
 - f. Crime Victims Council, at 610-437-6611
4. **Medical Attention:** Evidence collection should be completed within approximately 120 hours of an assault, but fluids, hair samples and DNA can be collected for a long time thereafter. Even if you have washed or bathed, evidence can often still be obtained. After 120 hours, it may still be helpful to have medical attention, even if you are not trying to obtain evidence of an assault. Sexual assault nurse examiners are trained in the collection of forensic evidence and can check for injuries and exposure

to sexually transmitted infections and diseases. If you are still wearing any clothes worn during the incident, wear them to the hospital, but bring a change of clothes, as the hospital will keep the clothes you are wearing as evidence. If you have changed clothes, bring the ones you were wearing during the incident to the hospital in a clean paper (not plastic) bag or a wrapped in a clean bedsheet. Leave sheets/towels at the scene of the incident. Police will collect them. Typically, police will be called to the hospital to take custody of the forensic kit, but it is up to you whether you wish to speak with them or file a criminal complaint.

Choose how to proceed. You have options. You can: (1) do nothing until you are ready, (2) pursue resolution by the College, and/or (3) initiate criminal proceedings, and/or 4) initiate a civil process against the perpetrator. You may pursue whichever combination of options is best for you. If you pursue resolution by the College, your options can include a formal response, informal resolution, and/or supportive measures. If you wish to have an incident investigated and resolved by the College, students should contact the Title IX Coordinator. Employees should contact either Human Resources or the Title IX Coordinator. College procedures will be explained and are summarized below. Those who wish incidents to be handled criminally should contact local law enforcement and have the right to be assisted by the College in doing so.

CONFIDENTIALITY

To make informed choices, all parties should be aware of confidentiality and privacy considerations, as well as institutional mandatory reporting requirements.

Confidential Reporting: If a Complainant wishes to keep the details of an incident confidential, they should speak with campus mental health counselors and/or health service providers. Campus counselors are available to help on an emergency basis. Their service is free of charge. Local resources such as crisis centers are also confidential and have no duty to report disclosed information to the College

Confidential Resources:

- On-campus licensed professional counselors and staff
- On-campus health service providers and staff
- Off-campus (non-employees):
 - Licensed professional counselors and other medical providers
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Attorneys

Mandated Reporting: All employees not designated as confidential above are mandated reporters. This means they are required to share information that you have disclosed to them with the Title IX Coordinator, though that does not obligate you to any formal involvement. The Title IX Coordinator will simply reach out to you to offer support and the opportunity to file a formal complaint.

SEXUAL MISCONDUCT: RISK REDUCTION FOR INTIMATE PARTNER VIOLENCE, STALKING, SEXUAL HARASSMENT, AND SEXUAL ASSAULT

While victim-blaming is never appropriate and Northampton Community College fully recognizes that only those who commit sexual offenses are responsible for their actions, the College provides the suggestions that follow to help members of the campus community reduce their risk of being victimized and their risk of committing sexual offenses.

REDUCING THE RISK OF VICTIMIZATION

- ✓ Make any limits and/or boundaries you may have known as early as possible.
- ✓ Tell a sexual aggressor “no,” as clearly and firmly as possible.
- ✓ Remove yourself, if possible, from an aggressor’s physical presence.
- ✓ Reach out for help, either from someone who is physically nearby or by calling someone.
Bystanders around you may be waiting for a signal that you need help.
- ✓ Take affirmative responsibility for your alcohol and/or drug consumption, understanding that alcohol and drugs can increase your vulnerability to sexual victimization.
- ✓ Look out for your friends and ask them to look out for you. Respect them, and ask them to respect you, but be willing to challenge each other about high-risk choices.

REDUCE THE RISK OF BEING ACCUSED OF A SEX OFFENSE

- ✓ Show your potential partner respect if you are in a position of initiating sexual behavior.
- ✓ If they say “no,” accept it and don’t push. If you want a yes, ask for it, and don’t proceed without clear permission.
- ✓ Communicate your intentions to your potential sexual partner clearly and give that person a chance to share their intentions and/or boundaries with you.
- ✓ Respect personal boundaries. If you are unsure what’s okay in any interaction, ask.
- ✓ Avoid ambiguity. Just ask. Don’t make assumptions about consent, about whether someone is attracted to you, how far you can go with that person, or if the individual is physically and mentally able to consent. If you have questions or are unclear, you *don’t* have consent.
- ✓ Don’t take advantage of the fact that someone may be under the influence of drugs or alcohol, even if that person chose to become that way. Their loss of control does not put you in control.
- ✓ Be on the lookout for mixed messages. That should be a clear indication to stop and talk about what your potential partner wants or doesn’t want to happen. They may be undecided about how far to go with you, or you may have misread a previous signal.
- ✓ Respect the timeline for sexual behaviors with which others are comfortable and understand that everyone is entitled to change their minds.

- ✓ Recognize that even if you don't think you are intimidating in any way, your potential partner may be intimidated by or fearful of you, perhaps because of your sex, physical size, or a position of power or authority you may hold.
 - ✓ Do not assume that someone's silence or passivity is an indication of consent. Pay attention to both verbal and non-verbal signals to avoid misreading intentions.
 - ✓ Understand that consent to one type of sexual behavior does not automatically grant you consent to other types of sexual behaviors. If you are unsure, stop and ask.
 - ✓ If your partner indicates a need to stop, or withdraws consent, respect them. Immediately.
 - ✓ If you've had consent with your partner previously, still check in with them. Just because something was okay with them before doesn't mean it will be okay in the future.
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WHEN DOES TITLE IX APPLY?

Title IX only applies when Northampton Community College has jurisdiction over the complaint. This happens when the Complainant is participating in (or attempting to participate) in the College's educational program or activities, AND the Respondent is a student or employee of the College, AND the behavior occurred within the College's control in the United States (meaning not on private property, outside the scope of the educational program, etc.).

If it is unclear whether Title IX applies to your situation, contact the Title IX Coordinator for additional assistance. If Title IX does not apply to your situation, the conduct may still be addressable under other College policies. For such complaints involving students, contact Student Affairs. For such complaints involving employees, contact Human Resources.

POLICY TERMINOLOGY AND SEX OFFENSE DEFINITIONS

There is certain terminology used in both the policy and procedures that are important for you to know. Additionally, members of the Title IX team will use these terms in their written and verbal communication. Below is a chart of the most common terminology used and its definition:

<i>Term</i>	<i>Definition</i>
<i>Actual Knowledge</i>	Notice of sexual harassment or allegations of sexual harassment to the College's Title IX Coordinator or any official of Northampton who has the authority to institute corrective measure on behalf of the College
<i>Complainant</i>	An individual who is alleged to be the victim of conduct that could constitute sexual harassment
<i>Formal Complaint</i>	A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the College investigate the allegations of sexual harassment
<i>Respondent</i>	An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment
<i>Supportive Measures</i>	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
<i>Advisor</i>	A person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct questioning for the party at the hearing, if any
<i>Confidential Resource</i>	An employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation

<i>Decision-Maker</i>	The person, panel, and/or Chair who hears evidence, determines relevance, and makes the final determination of whether the policy has been violated and/or assigns sanctions
<i>Investigator</i>	The person or persons designated by the College to gather facts about an alleged violation of the policy, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report of relevant evidence and a file of directly related evidence
<i>Mandated Reporter</i>	An employee of the College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator
<i>Notice</i>	When an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct
<i>Parties</i>	The Complainant(s) and Respondent(s), collectively

Northampton’s sexual harassment policy is intended to define expectations for appropriate conduct and outline resolution processes to address conduct that does not meet these expectations. You can review the College’s full policy here www.northampton.edu/titleix.

Sex offenses, including sexual harassment, sexual assault, domestic violence, dating violence, and/or stalking are violations of Northampton’s code of conduct and its sexual harassment policy. A number of federal laws and regulations, including Title IX, VAWA, and the Clery Act, mandate how institutions of higher education must respond to sex offenses. Many types of sex offenses also constitute violations of PA state law.

Members of the campus community, guests, and visitors have a right to be free from sexual offenses and to be protected by College policy regardless of sex, sexual orientation, gender identity, or gender expression. All members of the campus community must conduct themselves in a way that does not infringe upon the rights of others. When individuals are found to have violated policy, the College will impose serious sanctions.

SEX OFFENSE DEFINITIONS

The following are the definitions of conduct prohibited by the College sexual harassment policy:

SEXUAL HARASSMENT:

Sexual Harassment, as an umbrella category includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking and is defined as:

- ☐ Unwelcome conduct on the basis of sex¹ or that is sexual in nature that satisfies one or more of the following:

QUID PRO QUO:

- ☐ an employee of the College/University
- ☐ conditioning² the provision of an aid, benefit, or service of the College,
- ☐ on an individual's participation in unwelcome sexual conduct.

SEXUAL HARASSMENT:

- ☐ 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 education program or activity

SEXUAL ASSAULT, defined as:

- ☐ any sexual act directed against another person
- ☐ without the consent of the Complainant,
- ☐ including instances in which the Complainant is incapable of giving consent.

DATING VIOLENCE, defined as:

- ☐ violence,
- ☐ on the basis of sex,
- ☐ committed by a person,
- ☐ who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the person involved in the relationship. For the purposes of this definition-

¹ Including sexual orientation, sex stereotypes, gender identity and gender expression

² Implicitly or explicitly

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

DOMESTIC VIOLENCE, defined as:

- ☐ Violence,
- ☐ On the basis of sex,
- ☐ Committed by a current or former spouse or intimate partner of the Complainant,
- ☐ By a person with whom the Complainant shares a child in common, or
- ☐ By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- ☐ By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of your state, or
- ☐ By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of your state.

STALKING, defined as:

- ☐ Engaging in a course of conduct,
- ☐ On the basis of sex,
- ☐ Directed at a specific person, that would
 - Cause a reasonable person to fear for the person's safety, or the safety of others; or
 - Suffer substantial emotional distress.

CONSENT

knowing, voluntary, and clear permission by word or action to engage in sexual activity

In all sexual encounters, it is important that you obtain consent. Each of us is responsible for obtaining consent and has a right to choose to give consent or not give consent. Consent is:

- ☐ Informed, knowing, and voluntary (freely given)
- ☐ Active (not passive)
- ☐ Affirmative, clear words or actions that create mutually understandable permission regarding the conditions of sexual or intimate activity
- ☐ Not something that can be given by someone who is known to be, or who should be known to be, mentally or physically incapacitated
- ☐ Not something that can be obtained by use of physical force, compelling threats, intimidating behavior, or coercion

SEXUAL HARASSMENT PROCEDURES

Northampton's full grievance process for sexual harassment defined above and in accordance with the regulations can be accessed here www.northampton.edu/titleix.

The College treats Complainants and Respondents equitably by providing remedies to a Complainant when a determination of responsibility for sexual harassment has been made against the Respondent and by following a grievance process that complies with the Title IX regulations and VAWA.

TIMELINES FOR RESOLUTION

Northampton is committed to resolving complaints within a reasonably prompt timeframe. The College's policy and procedures detail this timeline more specifically. Northampton's process allows for the temporary delay of the grievance process or limited extensions of time frames for good cause with written notice to the Complainant and the Respondent. This notification will include specifics of the delay or extension with a detailed reason for the action. Contact the Title IX Coordinator if you need a delay in the process, or an extension for an aspect of the process.

INFORMAL RESOLUTION PROCESS

To initiate an informal resolution process, a Complainant must submit a formal complaint first. After submission of the formal complaint, the Title IX Coordinator will provide additional information if an informal resolution is an option. Parties who wish to initiate an informal resolution process should contact the Title IX Coordinator.

All parties must agree, in writing, to initiate an informal resolution process. The parties may agree as a condition of engaging in informal resolution that statements made or evidence shared during the informal resolution process will not be considered in the formal grievance process unless all parties consent.

It is not necessary to pursue informal resolution first to pursue a formal grievance process, and any party participating in informal resolution can stop the process at any time and begin or resume the formal grievance process.

RIGHTS OF COMPLAINANTS AND RESPONDENTS

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment, discrimination, and/or retaliation made in good faith to College officials
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations
- The right to be informed in advance of any public release of information by the College regarding the allegation(s) or underlying incident(s), whenever possible
- The right not to have any personally identifiable information released by the College to the public without consent provided, except to the extent permitted by law
- The right to be treated with respect by College officials
- The right to have College policy and procedures followed without material deviation
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence
- The right not to be discouraged by College officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities
- The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by the College in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by law enforcement and/or other College officials
- The right to be informed of available supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; and/or other services, both on campus and in the community
- The right to a College-implemented no-contact order when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct

- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Transportation assistance
 - Arranging to dissolve a housing contract and provide a pro-rated refund
 - Exam, paper, and/or assignment rescheduling or adjustment
 - Receiving an incomplete in, or withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Alternative course completion options
 - Referral to counseling
 - Referral to the Employee Assistance Program
 - Referral to community-based service providers
 - Student financial aid counseling
 - Altering campus housing assignment(s) and assistance from College staff in completing the relocation
 - Safety Planning
 - Providing campus safety escorts
 - Implementing contact limitations (no contact orders) between the parties
 - Timely warnings
 - Increased security and monitoring of certain areas of the campus
 - Any other actions deemed appropriate by the Title IX Coordinator
- The right to have the College maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair the College's ability to provide the supportive measures
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible
- The right to have the Investigator(s), Advisors, and/or Decision-maker(s) identify and question relevant available witnesses, including expert witnesses
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant, may be asked of any party or witness
- The right to have inadmissible prior sexual predisposition/history or irrelevant character evidence excluded by the Decision-maker
- The right to know the relevant and directly related evidence obtained and to respond to that evidence
- The right to a fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record

- The right to receive a copy of all relevant and directly related evidence obtained by the investigation, subject to privacy limitations imposed by state and federal law, and a ten (10) business day period to review and comment on the evidence
- The right to receive a copy of the final investigation report, including all factual, policy, and/or credibility analyses performed, and to have at least ten (10) business days to review and comment on the report prior to the hearing
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant
- The right to regular updates on the status of the investigation and/or resolution
- The right to have complaints addressed by Investigator(s), Title IX Coordinator(s), and Decision-maker(s) who have received relevant annual training
- The right to a hearing panel that is not single-sex in its composition, if a panel is used
- The right to preservation of confidentiality/privacy, as permitted by law
- The right to meetings, interviews, and/or hearings that are closed to the public
- The right to petition that any College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process
- The right to the use of the appropriate standard of evidence, to make a finding after an objective evaluation of all relevant evidence
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process (if any) and a detailed rationale of the decision including an explanation of how credibility was assessed, delivered simultaneously (without undue delay) to the parties
- The right to be informed in writing of when a decision by the institution is considered final and any changes to the final determination or sanction(s) that occur post Notification of Outcome
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal
- The right to a fundamentally fair resolution as defined in these procedures

PREVENTION AND AWARENESS PROGRAMS

Bystander Intervention: The College offers bystander intervention programming to all new students in an effort to ensure that each member of the campus community is invested in creating a safe campus environment. Program participants are instructed on safe options for preventing harm and intervening when a risk of sexual misconduct exists.

VAWA Training: Incoming students and new employees are provided with education and training on awareness and risk reduction of sexual violence, dating violence, domestic violence, stalking and consent in compliance with the Violence Against Women Act.

Ongoing Campaigns: Ongoing awareness and prevention campaigns are provided throughout the school year to students, faculty and staff.

FREQUENTLY ASKED QUESTIONS (FAQ)

Can an attorney be my Advisor?

Yes. You have the right to an Advisor of your choice, which can include an attorney.

Will my parents/guardians find out about this incident?

It depends. If you are a minor, members of the Title IX team have certain mandatory reporting obligations, which may include notifying your parents/guardians of the incident.

If you are not a minor, this incident is a part of your education record, which is protected under the Family Educational Rights and Privacy Act (FERPA). This means that your education record cannot be shared with anyone with whom you have not given the College permission to share.

Do I have to resolve this through a formal grievance process?

No. You have options. If you are a Complainant and wish to resolve informally, you must first make a formal complaint. Upon receipt of this formal complaint, the Title IX Coordinator will provide you with additional information. Any party who wishes to resolve the matter informally should contact the Title IX Coordinator. All parties must agree, in writing, to informally resolve for this to be an option.

Is there a time limit on when I can report?

There is no statute of limitations on when a complaint can be filed however there are certain jurisdictional requirements that must be met to pursue a formal grievance process under Title IX.

Will I get in more trouble if I was drinking underage during the incident?

The College maintains a policy of offering parties and witnesses amnesty from minor policy violations such as underage consumption of alcohol or the use of illicit drugs related to the incident.

What happens if the Respondent fails to comply with the sanctions?

Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s). Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination.

What happens if the Respondent transfers, leaves, or resigns prior to the conclusion of the formal resolution process?

If a Respondent permanently withdraws or resigns, the resolution process ends with a dismissal, as the College no longer has disciplinary jurisdiction over the withdrawn student or former employee. However, the College will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

What if law enforcement is involved?

College action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced. The College may undertake a short delay in its investigation if circumstances require. Communication will be sent to the parties explaining the reason(s) for the delay and the anticipated duration of the delay.

Do I have to be cross-examined during the hearing?

If you want the Decision-Maker(s) to consider any prior statements made or evidence submitted by you, then yes, you must submit to cross-examination during the hearing. You have a choice not to, but your statements and evidence will not be considered by the Decision-maker(s).