

TITLE IX POLICY AND PROCEDURES

Title IX of the Education Amendments of 1972 (“Title IX”) defines and ensures sex and gender equity in education. Title IX prohibits all forms of sex discrimination, including sexual assault, domestic violence, dating violence, stalking, and harassment, in federally funded education programs. Title IX reads:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”

Title IX applies to academic programs and extends to NTI sponsored off-campus programs as well. Though a private institution, NTI receives federal monies to support financial aid packages.

June 23, 2017 marked the 45th anniversary of Title IX. But the need to promote gender equity across programs continues. In brief, Title IX:

- Prohibits sexual harassment;
- Prevents discrimination based on pregnancy (e.g., ensures pregnant students have access to education);
- Provides equal opportunity in employment in education fields;
- Promotes equal attention and a supportive learning environment (e.g., strives to eliminate gender stereotypes in educational materials);
- Ensures equitable and fair standardized testing; and
- Promotes equal access to higher education, math and science fields, technology, and vocational education.

Title IX resonates with the principles and mission of NTI, which strives to ensure equity, access and inclusion. Title IX applies to all employees (administrators, faculty, staff), not just students, at NTI. For more information, contact the NTI’s Title IX Coordinator:

Ashley Barnett Title IX Coordinator
Saftey@ntinow.edu
<tel:1-207-883-5130>

Sexual Misconduct and Harassment Policy

NTI values the diversity of persons, perspectives, and convictions. The application of the Sexual Misconduct and Harassment Policy strives to ensure that we maintain a community free from the harmful consequences of sexual and gender-based harassment. Harassment and discrimination threaten our ability to thrive personally, academically, and professionally at NTI. Sexual misconduct, a form of sex discrimination, violates a person’s rights, dignity, and integrity and violates our community principles and the mission of NTI.

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I. Overview

The purpose of this policy is to provide the NTI community with a clearly articulated set of behavioral standards, common understandings of definitions and key concepts, and descriptions and examples of prohibited conduct, including sexual

harassment, sexual violence, stalking, and domestic and dating violence (or intimate partner violence). The policy applies to all community members, including students, faculty, staff, contractors, and visitors. It is intended to guide students, faculty, and staff who have been affected by sexual harassment or misconduct, whether as a Complainant, a Respondent, or a third party.

In this policy, “Complainant” refers to an individual who identifies as being a victim or survivor of sexual harassment, sexual violence, and stalking or intimate partner violence. “Respondent” refers to an individual who has been accused of sexual harassment or misconduct. A “third party” refers to any other participant in the process, including an individual who makes a third party report, participates in an investigation or disciplinary process as a witness, or is affected by any prohibited conduct.

This policy, as set forth, reaffirms NTI’s commitment to provide recourse for those individuals whose rights have been violated. This policy is intended to provide fair and equitable procedures for determining when this policy has been violated and provide a well-coordinated and integrated education and prevention program; and prompt and equitable procedures for resolution of reports. In all instances, NTI, not the Complainant, will bear the responsibility for investigating and taking appropriate action, including the decision to seek disciplinary action against a Respondent.

This policy prohibits all forms of sexual or gender-based harassment, discrimination or misconduct, including sexual violence, sexual assault, stalking, and intimate partner violence. Misconduct of this nature is contrary to NTI’s values and is prohibited by state and federal law. NTI is dedicated to addressing cases of sexual misconduct promptly, and supporting all parties involved. Any individual who is found to have violated this policy may face disciplinary sanctions up to and including expulsion or termination of employment.

NTI strongly encourages the prompt reporting of any incident of sexual or gender-based misconduct to NTI. Upon receipt of a report, NTI will take prompt and effective action by: providing interim remedies and support for individuals who make a report or seek assistance under this policy; conducting a review of the conduct under Title IX of the Education Amendments of 1972; addressing the safety of individuals and the campus community; and as warranted, pursuing resolution through informal measures or formal disciplinary action against a Respondent. This policy provides specific procedures for investigation and resolution based on the role of the Respondent (student or employee).

Because behavior that violates this policy may also be a violation of law, any individual who has been subjected to sexual assault or harassment is also encouraged to consider criminal or civil legal options. An individual may also file a complaint with the U.S. Department of Education’s Office for Civil Rights, the Equal Employment Opportunity Commission and/or the Maine Human Rights Commission.

NTI expects all members of our community to participate in the process of creating a safe, welcoming and respectful environment on campus. In particular, NTI expects that NTI community members will take reasonable and prudent actions to prevent or stop an act of sexual misconduct or harassment. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, or seeking assistance from a person in authority. Community members who choose to take these actions will be supported by NTI and protected from retaliation. Retaliation, in any way, shape or form, against any person or group who makes a report, cooperates with an investigation, or participates in a grievance procedure is a violation of NTI policy. Retaliation should be reported promptly to the Title IX Coordinator for investigation, which may result in disciplinary action independent of any sanction or interim measures imposed in response to the underlying allegations of sexual misconduct and/or harassment.

II. Scope of Policy

This policy applies to all NTI students, employees (including but not limited to administration, instructional staff, independent contractors, visitors and any individuals conducting business or having any official capacity with NTI or on NTI property.) All members of the NTI community are responsible for understanding and complying with this policy.

This policy provides community members with the structure and guidance to assist those who have been affected by sexual harassment, sexual violence, stalking or intimate partner violence, or other forms of sexual misconduct, whether as a Complainant, a Respondent, or a third party, and to provide fair and equitable procedures for investigation and resolution of reports. “A presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.”

III. Notice of Nondiscrimination

Consistent with its obligations under Title IX, and other state and federal laws and regulations, NTI does not discriminate on the basis of race, color, national or ethnic origin, religion, sex, sexual orientation, gender identity or gender expression, age, disability, or other legally protected statuses in the administration of its programs, activities or employment and is prohibited from doing so. Inquiries concerning NTI’s policies regarding the application of Title IX and its other nondiscrimination policies may be directed to the Title IX Coordinator : Ashley Barnett 51 US Route 1, Suite K Scarborough, ME 04074, Safety@ntinow.edu or at (207) 883.5130, or Office for Civil Rights US Department of Education 5 Post Office Square. 8th Floor Boston, MA 02109-3921, Telephone: 617-289-0111, OCR.Boston@ed.gov.

Sex discrimination and sexual harassment are also prohibited under Title VII of the Civil Rights Act of 1964, and the Maine Human Rights Act, the regulations of both the Equal Employment Opportunity Commission and the Maine Human Rights Commission, and other applicable statutes.

This policy prohibits sexual harassment, sexual violence, stalking, and intimate partner violence against members of the NTI community. This policy also prohibits sex- and gender-based harassment that does not involve conduct of a sexual nature.

A. Role of Title IX Coordinator

Ashley Barnett is NTI’s Title IX Coordinator. The Title IX Coordinator oversees NTI’s centralized review, investigation, and resolution of reports of sexual harassment, sexual violence, stalking, and intimate partner violence. The Title IX Coordinator also coordinates NTI’s compliance with Title IX and other applicable statutes.

The Title IX Coordinator is:

- Responsible for oversight of the investigation and resolution of all reports of sexual harassment, sexual violence, stalking, and intimate partner violence involving students, staff, administrators, faculty, vendors, and visitors;
- Assisted by designated Deputy Title IX Coordinators, human resources, and the faculty. These Deputy Title IX Coordinators have a shared responsibility for supporting the Title IX Coordinator
- and are accessible to any member of the community for consultation and guidance;
- Knowledgeable and trained in NTI policies and procedures and relevant state and federal laws;
- Available to any individual, including a Complainant, a Respondent or a third party, about the courses of action available at NTI, both informally and formally, and in the community;
- Available to provide assistance to any NTI employee regarding how to respond appropriately to a report of sexual harassment, sexual violence, stalking, or intimate partner violence;
- Responsible for monitoring full compliance with all procedural requirements and time frames outlined in this policy;
- Responsible for overseeing training, prevention and education efforts and periodic reviews of climate and culture; and
- Responsible for compiling annual reports.

The Title IX Coordinator is supported by the Title IX Team. Members of this interdepartmental team include the Title IX Coordinator and the Title IX Deputy Coordinators.

Inquiries or complaints concerning the application of Title IX may be referred to NTI’s Title IX Coordinator and/or to the U.S. Department of Education’s Office for Civil Rights or Maine Human Rights Commission:

- Ashley Barnett, Director of Financial Aid and Title IX Coordinator: Safety@ntinow.edu tel:1-207-883-5130
- Maine Human Rights Commission: #51 State House Station, 19 Union Street, Augusta, ME 04333 | Phone: 207-624-6290

| Fax: 207-624-8729

- Office for Civil Rights, U.S. Department of Education, Boston Office: 5 Post Office Square, 8th Floor, Boston, MA 02109- 3921 | Phone: 617-289-0111 | Fax: 617-289-0150 | Email: ocr.boston@ed.gov

Inquiries involving employees may be referred the Title IX Coordinator or to the following government agencies:

- United States Equal Employment Opportunity Commission, Boston Office: John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203 | Phone: 800-669-4000 | Fax: 617-565-3196 | Web: www.eeoc.org
- Maine Human Rights Commission: #51 State House Station, 19 Union Street, Augusta, ME 04333 | Phone: 207-624-6290 | Fax: 207-624-8729

IV. *Privacy and Confidentiality*

- A. Privacy
- B. Confidentiality
- C. Responsible Employees
- D. Request for Confidentiality
- E. Timely Warning

NTI is committed to protecting the privacy of all individuals involved in a report of sexual misconduct, including sexual harassment, sexual violence, stalking, or intimate partner violence. All NTI employees who are involved in the NTI's Title IX response, including decision makers, receive specific instruction about respecting and safeguarding private information.

Throughout the process, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the report. Such a review is essential to protecting the safety of the Complainant, the Respondent, and the broader campus community and to maintaining an environment free from sex discrimination and gender-based harassment. Privacy and confidentiality have distinct meanings under this policy.

A. *Privacy*

Privacy generally means that information related to a report of misconduct will only be shared with a limited group of individuals. The use of this information is limited to those NTI employees who "need to know" in order to assist in the active review, investigation or resolution of the report. While not bound by confidentiality, these individuals will be discreet, and respect and safeguard the privacy of all individuals involved in the process. Conversations with individuals designated as private resources constitutes a report to NTI and will initiate an inquiry into the incident.

B. *Confidentiality*

Confidentiality means that information shared by an individual with designated community professionals cannot be revealed to any other individual without the express permission of the individual.

In general, the disclosure of private information to medical providers is protected by the Health Insurance Portability and Accountability Act (HIPAA). The individual has the right to request that a sexual assault advocate be present and to request that law enforcement not pursue a criminal charge.

Anonymous statistical information must be shared with public safety where required by the Clery Act. Annual Clery reporting to the U.S. Department of Education is required by educational institutions. The information contained in the Clery Report only tracks the number of Clery-reportable offenses occurring at campus locations or NTI-sponsored programs (e.g., study away) and does not include the names or any other identifying information about the person(s) involved in the report.

C. *Responsible Employee*

NTI employees responsible for student welfare under this policy are required to share reports of sexual misconduct and harassment with the Title IX Coordinator or a member of the Title IX Team.

Under Title IX, NTI is required to take immediate and corrective action if a "responsible employee" knew or, in the exercise

of reasonable care, should have known about sexual or gender-based violence or harassment that creates a hostile environment. A “responsible employee” includes any employee who:

1. Has the authority to take action to redress the harassment;
2. Has the duty to report to appropriate school officials’ sexual harassment or any other misconduct by students or employees; or
3. A student could reasonably believe has the authority or responsibility to take action.

Under NTI policy, all employees responsible for student welfare and all supervisors are considered “responsible employees.” All administrators, instructional staff, and supervisors are aware of their responsibility to assist students, and staff employees in reporting alleged incidents of sex discrimination or gender-based harassment to the Title IX Coordinator.

A responsible employee may inform a Complainant that a responsible employee is obligated to report the name of the Respondent involved in the alleged violation, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX Coordinator. A Complainant may request that NTI maintain confidentiality, which NTI will consider.

Any responsible employee who becomes aware of sexual harassment or misconduct or other potentially discriminatory behavior must contact the Title IX Coordinator or a Deputy Title IX Coordinator. This notification should be done promptly and with attention to maintaining the Complainant’s privacy.

Under the guidance of the Title IX Coordinator, NTI will conduct an initial assessment of the conduct; of the Complainant’s expressed preferences, if any, as to course of action; and of the necessity for any interim measures to protect the safety of the Complainant or the community. The goal is to eliminate any hostile, intimidating, or objectively offensive environment. Any student or employee who believes they are the victim of sexual harassment or other forms of sexual misconduct should report the incident promptly in the manner most comfortable to them.

D. Request for Confidentiality

NTI will pursue a course of action consistent with the Complainant’s request where practical under the circumstances. Where a Complainant requests that their name or other identifiable information not be shared with the Respondent or that no formal action be taken, NTI will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all.

NTI community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before disciplinary action is taken against a Respondent. In making this determination, NTI may consider, among other factors, the seriousness of the conduct, the respective ages of the parties, whether the Complainant is a minor under the age of 18, whether there have been other complaints or reports of harassment or misconduct against the Respondent, the existence of independent evidence, and the rights of the Respondent to receive notice and relevant information before disciplinary action is sought. The Title IX Coordinator in consultation with the Title IX Team will evaluate requests for confidentiality.

NTI will take all reasonable steps to investigate and respond to the report consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the Complainant. NTI will assess any barriers to proceeding, including retaliation, and will inform the Complainant that Title IX and NTI policy prohibit retaliation. NTI will take appropriate action to protect the Complainant.

Where NTI is unable to take action consistent with the request of the Complainant, the Title IX Coordinator will inform the Complainant about NTI’s chosen course of action, which may include NTI seeking disciplinary action against a Respondent. Alternatively, the course of action may also include steps to limit the effects of the alleged harassment and prevent its recurrence that do not involve formal disciplinary action against a Respondent or revealing the identity of the Complainant.

E. Timely Warning

If a report of misconduct discloses a serious, immediate or continuing threat to the NTI community, NTI may issue a campus wide timely warning or notification (which may take the form of an email, text or other electronic communication to community members) to protect the health or safety of the community and to heighten safety awareness. A timely warning may include a campus wide notification for a report of sexual assault, stalking, and intimate partner violence. NTI reserves the right to send campus wide notifications on any report of sexual misconduct.

At no time will NTI release the name of the Complainant to the general public without the express consent of the Complainant. The release of the Respondent's name to the general public is guided by Family Educational Rights and Privacy Act (FERPA) and the Jeanne Clery Act. NTI may share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions.

All NTI proceedings are conducted in compliance with the requirements of FERPA, 2013 Reauthorization of the Violence Against Women Act, the Clery Act, Title IX, state and federal law, and NTI policy.

V. Prohibited Conduct and Definitions

- A. Sexual Harassment
- B. Sexual Assault
- C. Non-Consensual Sexual Contact
- D. Sexual Exploitation
- E. Stalking
- F. Indecent Exposure
- G. Intimate Partner Violence
- H. Physical Assault
- I. Prohibited Relationships by Persons in Authority
- J. Retaliation
- K. Other Campus Code Violations

In general, sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to incapacitation. Intimate partner violence refers to any act of violence or threatened act of violence, sexual or otherwise, against a person who is or has been involved in a sexual, dating, domestic or other intimate relationship with that person. Stalking refers to a course of conduct directed at a specific person that would cause a person to fear for their safety or the safety of others.

Sexual misconduct can occur between individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals who are not known to one another. Sexual misconduct can be committed by people of any sex or gender, and it can occur between people of the same or different sex or gender identities.

NTI prohibits the following specific conduct:

A. Sexual Harassment

Sexual harassment is any unwelcome sexual advances, requests for sexual favors, and other verbal, written, visual, or physical conduct of a sexual nature when one or more of the following occur:

1. Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, evaluation of academic work, or participation in any aspect of the NTI program or activity. An employee of Northeast Technical Institute conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcoming sexual conduct;
2. Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual. "Unwelcome conduct, determined by a reasonable person to be so serve, pervasive, and objectively offensive that it effectively denies a person equal access to the school's educational program or activity" (Questions and Answers on the Title IX Regulations on Sexual Harassment, 4); or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic

performance or equal opportunity to participate in or benefit from NTI employment, programs or activities. That is, the conduct is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both a subjective and an objective standard. “‘Sexual assault’ as defined in 20 U.S.C. 1092(f)(6)(A)(v), ‘dating violence’ as defined in 34 U.S.C. 12291(a)(10), ‘domestic violence’ as defined in 34 U.S.C. 12291(a)(8), or ‘stalking’ as defined in 34 U.S.C. 12291(a)(30)” (Questions and Answers on the Title IX Regulations on Sexual Harassment, 5).

Sexual harassment also includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender stereotyping, even if the acts do not involve conduct of a sexual nature.

A single or isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical. The determination of whether an environment is “hostile” must be based on all the circumstances. These circumstances could include, but are not limited to:

1. The frequency of the speech or conduct;
2. The nature and severity of the speech or conduct;
3. Whether the conduct was physically threatening;
4. Whether the speech or conduct was humiliating;
5. The effect of the speech or conduct on the Complainant’s mental and/or emotional state;
6. Whether the speech or conduct was directed at more than one person;
7. Whether the speech or conduct arose in the context of other discriminatory conduct;
8. Whether the speech or conduct unreasonably interfered with the Complainant’s educational opportunities or performance, or work opportunities or performance;
9. Whether a statement is a mere utterance of an epithet which engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or

Sexual harassment:

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated;
- Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents;
- May be committed by anyone, regardless of gender, age, position or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context;
- May be committed by a stranger, an acquaintance, or someone with whom the Complainant has an intimate or sexual relationship;
- May be committed by or against an individual or may be a result of the actions of an organization or group;
- May occur by or against an individual of any sex, gender identity, gender expression or sexual orientation;
- May occur in the classroom, or in the workplace, or in any other setting;
- May be a one-time event or can be part of a pattern of behavior;
- May be committed in the presence of others or when the parties are alone; and
- May affect the Complainant and/or third parties who witness or observe harassment and are affected by it.

Examples of conduct that may constitute sexual harassment as defined above may include a severe, persistent or pervasive pattern of unwelcome conduct that includes one or more of the following:

1. Physical conduct
 - Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements;
 - Unwanted sexual advances within the employment or academic context;
2. Verbal conduct
 - Making or using derogatory comments, epithets, slurs or humor;
 - Verbal abuse of a sexual nature, graphic verbal commentaries about an individual’s body, sexually degrading words

- used to describe an individual, suggestive or obscene letters, notes or invitations;
- Objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes;
- 3. Visual or non-verbal conduct
 - Leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons or posters in a public space or forum;
 - Severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate; and
- 4. Written conduct
 - Letters, notes or electronic communications containing comments, words, or images described above.

Sexually harassing behaviors differ in type and severity. Key determining factors are that the behavior is unwelcome; is based on sex or gender stereotypes; and is used as the basis to give or withhold academic or employment benefits or is reasonably perceived as severe, pervasive, objectionable or offensive under both a subjective and an objective assessment of the conduct.

Sexual harassment may also include what is commonly referred to as “quid pro quo” conduct, which means unwelcome sexual advances or propositions by a supervisor or person of authority toward a subordinate where the superior:

1. Expressly or implied conditions an offer of employment or academic benefit in exchange for sexual favors;
2. Makes submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose; or
3. Makes or threatens reprisals after a negative response to sexual advances.

B. Sexual Assault

Sexual assault is defined as having or attempting to have sexual intercourse with another individual, including:

1. By the use of force or threat of force;
2. Without effective consent; or
3. Where that individual is incapacitated or physically and/or mentally unable to make informed and reasonable judgments.

C. Non-Consensual Sexual Contact

Non-consensual sexual contact is defined as having intentional physical contact of a sexual nature with another individual:

1. By the use of force or threat of force;
2. Without consent; or
3. Where that individual is incapacitated or physically and/or mentally unable to make informed and reasonable judgments.

D. Sexual Exploitation

Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for one’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited.

Examples of sexual exploitation include, but are not limited to:

- Surreptitiously observing another individual’s nudity or sexual activity or allowing another individual or group to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Non-consensual sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- Distributing sexually intimate or sexual information about another person;
- Inducing another to expose their own genitals in non-consensual circumstances;
- Knowingly exposing another individual to a sexually transmitted infection (STI) or virus without their knowledge;
- Sexually-based stalking and/or bullying;

- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity; and
- Knowingly assisting another person with committing an act of sexual misconduct.

E. Stalking

Stalking occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, under circumstances that would:

1. Place the person in reasonable fear for safety, or of harm or bodily injury to self or others; or
2. Reasonably cause substantial emotional distress to the person.

A course of conduct refers to a pattern of behavior of two or more acts over a period of time that can be reasonably regarded as likely to alarm, harass, or cause fear of harm or injury to that person or to a third party. The feared harm or injury may be physical, emotional, or psychological, or related to the personal safety, property, education, or employment of that individual. Stalking may involve individuals who are known to one another, including those who have an intimate or sexual relationship, or may involve individuals who are not known to one another.

Stalking includes cyber-stalking, a particular form of stalking in which technological means are used to pursue, harass, or make unwelcome contact with another person in an unsolicited fashion. Such methods include the use of the Internet, emails, social media, or blogs; landlines and cell phones; text messaging; global positioning systems; spyware on a person's computer or cellphone; or other similar devices or forms of contact.

Examples of stalking include, but are not limited to:

- Non-consensual communication including telephone calls, text messages, email messages, social network site postings, letters, gifts, or any other communications that are unwanted and/or place another person in fear;
- Following, pursuing, waiting or showing up uninvited at a classroom, workplace, residence, or other locations frequented by the person;
- Leaving unwanted written messages, objects or gifts;
- Vandalizing a person's property;
- Surveillance and other types of observation by physical proximity or electronic means,
- Accessing email and social media accounts;
- Spreading lies or rumors about a person, for example, filing false reports, posting or distributing personal or false information;
- Manipulative or controlling behaviors, such as threats to harm oneself in order to force contact;
- Assaulting or killing the victim's pet;
- Threatening physical contact against a person or their friends and family; or
- Any combination of these behaviors directed toward an individual person.

Under the Clery Act and the Violence Against Women Act, NTI will record and report all relevant incidents of stalking.

F. Indecent Exposure

A person commits indecent exposure if that person intentionally shows their genitals in a public place or in another place where there are other persons present under circumstances in which one knows or should know that this conduct is likely to affront or alarm.

G. Intimate Partner Violence

Intimate partner violence refers to dating violence, domestic violence or relationship violence. Intimate partner violence includes any act of violence or threatened act of violence against a person who is in, or has been involved in, a sexual, dating, domestic, or other intimate relationship with the Respondent. Intimate partner violence can encompass a broad range of behavior including, but not limited to, physical violence, sexual violence, emotional abuse, and economic abuse. It may involve one act or an ongoing pattern of behavior. Intimate partner violence may take the form of threats, assault, property damage, violence, or threat of violence to one's self, one's sexual or romantic partner or to the family members or friends of the sexual or romantic partner. Intimate partner violence affects individuals of all genders, gender identities, gender

expressions, and sexual orientation and does not discriminate by racial, social, or economic background.

- “Dating violence includes violence committed by a person who 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 consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.” (Questions and Answers on the Title IX Regulations on Sexual Harassment, 5-6)
- “Domestic violence includes felony or misdemeanor crimes of violence committed by: a current or former spouse or intimate partner of the complainant, a person with whom the complainant shares a child, a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, a person similarly situated to a spouse of the complainant under the jurisdiction’s domestic or family violence laws, or any other person against a complainant who is protected under the domestic or family violence laws of the jurisdiction.” (Questions and Answers on the Title IX Regulations on Sexual Harassment, 6)
- “Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their own safety or the safety of others or to suffer substantial emotional distress.⁹ The 2020 amendments cover instances of stalking based on sex—including stalking that occurs online or through messaging platforms, commonly known as cyber-stalking—when it occurs in the school’s education program or activity.” (Questions and Answers on the Title IX Regulations on Sexual Harassment, 6)

NTI will not tolerate intimate partner violence of any form. For the purposes of this policy, NTI does not define intimate partner violence as a distinct form of misconduct. Rather, NTI recognizes that sexual harassment, sexual assault, sexual exploitation, harm to others, stalking, and retaliation all may be forms of intimate partner violence when committed by a person who is or has been involved in a sexual, dating or other social relationship of a romantic or intimate nature with the Complainant.

Examples of intimate partner violence include, but are not limited to:

- Striking, grabbing, punching, choking, or pushing one’s partner, or threatening to do any of the foregoing;
- Throwing, smashing, or breaking objects;
- Restricting one’s partner’s physical movements;
- Constantly texting or calling when not together;
- Threatening to “out” or disclose personal information of one’s partner;
- Mocking or ridiculing one’s religious or spiritual beliefs; or
- Hiding or destroying one’s visa, immigration paperwork, or other important legal documents.

Under the Clery Act and the Violence Against Women Act, NTI will record and report all relevant incidents of intimate partner violence.

H. Physical Assault

Physical assault is a purposeful action meant to threaten or endanger the health or safety of any person. Examples include, but are not limited to, fighting, pushing, kicking, punching, hitting with or throwing an object at, or biting. When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the misconduct will be resolved under the Sexual Misconduct and Harassment Policy.

I. Prohibited Relationships by Persons in Authority

Sexual, romantic or other intimate relationships in which one party maintains a direct supervisory or evaluative role over the other party are prohibited. In general, this includes all sexual or other intimate relationships between students and their supervisors, instructors, advisors or NTI administrators. Similarly, NTI employees (faculty and staff) who supervise or otherwise hold positions of authority over others are prohibited from having a sexual or other intimate relationship with an individual under their direct supervision.

Therefore, persons with direct supervisory or evaluative responsibilities who contemplate beginning or are involved in such relationships are required to promptly: 1) discontinue any supervising role or relationship over the other person; and 2) report

the circumstances to their own supervisor. Examples of evaluative responsibilities include, but are not limited to, performance evaluations, salary decisions, decisions regarding promotion and tenure, or decisions on continuation of employment for a person with whom they have a consensual relationship. Failure to fully or timely comply with these requirements is a violation of this policy, and the person in authority could be subject to disciplinary action, up to and including dismissal from employment by NTI. All violations, complaints, or concerns regarding this policy should be reported to the Title IX Coordinator.

J. Retaliation

Retaliation is any act or attempt to retaliate or seek retribution against any individual or group of individuals involved in the report, investigation and/or resolution of an allegation of sexual misconduct or harassment. Forms of retaliation include intimidation, threats, pressuring, harassment, continued abuse or violence, slander and libel, or preventing participation in NTI activities or proceedings. Retaliation can be committed by any individual or group of individuals, not just a Respondent or Complainant.

Retaliatory conduct by community members and third parties is prohibited regardless of whether it occurs on or off campus, in person, or through social media, e-mail, or other forms of communication.

Any form of retaliation should be reported to the Title IX Coordinator or one of the Deputy Title IX Coordinators immediately. Once notified, NTI will take immediate and responsive action to any report of retaliation and may pursue disciplinary proceedings independent of the sanction or protective measures imposed in response to the underlying allegations of Sexual Misconduct or Harassment. Disciplinary action may include termination of employment or dismissal from NTI. NTI will give parties written notice of dismissal and the reasons for the dismissal.

K. Other Campus Code Violations

When other potential violations of NTI policy occur in conjunction with incidents of sexual misconduct or when the behavior is perpetrated on the basis of sex or gender, NTI has the discretion to resolve these violations under whichever policy it deems most appropriate.

VI. Consent and Related Definitions

- A. Consent
- B. Force
- C. Coercion
- D. Incapacitation
- E. Alcohol or Other Drugs

A. Consent

Consent consists of an active, conscious, and voluntary decision by each participant to engage in mutually agreed-upon sexual activity. Consent must exist from the beginning to the end of each sexual activity or each form of sexual contact. An individual who is physically incapacitated by alcohol or other drug consumption (voluntary or involuntary) or is asleep, unconscious, unaware, or otherwise physically helpless is considered unable to give consent.

The following are essential elements of consent:

- a. Informed and reciprocal

All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way.

- b. Freely and actively given

Consent cannot be gained by force, coercion, deception, threats; by ignoring or acting in spite of the objections of another; or by taking advantage of the incapacitation of another individual.

c. Mutually understandable

Consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage freely in sexual activity. In the absence of clear communication or outward demonstration, there is no consent. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response. Relying solely upon non-verbal communication can lead to a misunderstanding or false conclusion as to whether consent was sought or given.

If at any time during the sexual activity, an individual is hesitant, confused, uncertain, or is no longer an enthusiastic participant, both parties should stop and clarify verbally the other's willingness to continue before continuing such activity.

d. Not indefinite

Either party may withdraw consent at any time. Withdrawal of consent may be expressed by "no" or outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once consent is withdrawn, sexual activity must cease immediately.

All parties must obtain mutually understandable consent before continuing further sexual activity. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity.

e. Not unlimited

Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant.

Individuals with a previous or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity each time such activity occurs. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.

B. *Force*

Force is the use or threat of physical violence, intimidation, or coercion to overcome an individual's freedom of will to choose whether or not to participate in sexual activity. Such action would cause a person to fear for their physical or psychological well-being. For the use of force to be demonstrated, there is no requirement that a Complainant resists the sexual advance or request. However, resistance by the Complainant will be viewed as a clear demonstration of non-consent.

C. *Coercion*

Coercion is the use of pressure that compels another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, implied threats or blackmail which places a person in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to "out" someone based on sexual orientation, gender identity or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity. Coercing an individual into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

D. Incapacitation

Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because they lack conscious knowledge of the nature of the act (e.g., to understand who, what, when, where, why or how of the sexual interaction). Incapacitation is defined as the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically unable to make informed, reasonable judgments. An individual is incapacitated, and therefore unable to give consent, if they are asleep, unconscious, or otherwise unaware that sexual activity is occurring. Incapacitation may result from the use of alcohol and/or drugs. Incapacitation is a state beyond drunkenness or intoxication.

Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person; however, warning signs that a person may be approaching incapacitation include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, loss of consciousness, or emotional volatility.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's:

- Decision-making ability;
- Awareness of consequences;
- Ability to make informed judgments; or
- Capacity to appreciate the nature and the quality of the act.

Evaluating incapacitation also requires an assessment of whether a person should have been aware of the Complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a reasonable person.

An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of making a rational, reasonable decision about whether to engage in sexual activity is in violation of this policy.

E. Alcohol or Other Drugs

In general, sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of their own and the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual harassment, sexual violence, stalking, intimate partner violence, or other sexual misconduct and does not diminish one's responsibility to obtain informed and freely given consent.

VII. Resources

- A. Awareness and Prevention of Sexual Misconduct
- B. Emergency Support and Response Services in the Event of Sexual Violence
- C. Medical Resources in the Event of Sexual Violence
- D. Off Campus Confidential Support
- E. Private Resources and Additional Community Resources

NTI is committed to treating all members of the community with dignity, care and respect. Any individual who experiences or is affected by sexual harassment, sexual violence, stalking or intimate partner violence, whether as a Complainant, a Respondent, or a third party, will have equal access to free support and counseling services through NTI. Interim remedies are also available to all parties. These services will be non-punitive, non-disciplinary, and not unreasonably burdensome to the other party, but are designed to ensure equal educational access, protect safety, or deter sexual harassment. Some examples include counseling, extensions of course-related deadlines, modification to work or class schedules, campus escort

services, restrictions on contact between the parties, and other similar measures.

NTI recognizes that deciding whether to make a report, either to NTI or law enforcement, and choosing how to proceed can be difficult decisions. NTI encourages all individuals affected by sexual misconduct to seek the support of campus and community resources. These professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to either party in the event that a report and/or resolution under this policy is pursued. Individuals are encouraged to use all available resources on and off campus, regardless of when or where the incident occurred.

A. Awareness and Prevention of Sexual Misconduct

All incoming students and new employees will receive primary prevention and awareness programming as part of their orientation. Educational programs focused on sexual misconduct include an overview of NTI's policies and procedures. The Title IX Coordinator oversees the education and prevention calendar and tailors programming to campus needs and climate. All educational programs include a review of resources and reporting options available for students, faculty and staff.

B. Emergency Support and Response Services in the Event of Sexual Violence

NTI encourages all community members to seek assistance from a medical provider and/or law enforcement as soon as possible after an incident of sexual violence. This is the best option to provide physical safety, emotional support, and medical care to a survivor. It is also the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. NTI will escort any NTI community member to a safe place, provide transportation to the hospital, assist in coordination with law enforcement, and provide information about NTI's resources and reporting processes.

Emergency Response Services dial 911.

C. Medical Resources in the Event of Sexual Violence

A medical provider can provide emergency and/or follow-up medical services. The medical exam has two goals: first, to diagnose and treat the full extent of any injury or physical effect (including prevention of sexually transmitted illnesses [STI] or possibility of pregnancy) and second, to properly collect and preserve evidence. The exam may include testing and prophylactic treatment for HIV/AIDS, STIs, and pregnancy; a thorough physical examination, which includes the genital and/or anal area; and a blood draw. There is a limited window of time (typically 72-96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Taking the step to gather evidence immediately does not commit an individual to any particular course of action. The decision to seek timely medical attention and gather any evidence, however, will preserve the full range of options to seek resolution under this policy or through the pursuit of criminal prosecution.

The Complainant has the option — and is encouraged — to go to a local hospital to have evidence collected. A hospital is able to provide forensic exams and, hence, is the preferred medical center for those seeking sexual assault forensic examinations.

D. Confidential Resources and Support

NTI encourages all community members to make a prompt report of any incident of sexual harassment, sexual violence, stalking, intimate partner violence, and other forms of sexual misconduct to local law enforcement and NTI. For individuals who are not prepared to make a report, or who may be unsure what happened, but are still seeking information and support, there are several legally-protected confidential resources in the local community, including counseling and support services.

Individuals affected by sexual harassment, sexual violence, stalking, intimate partner violence, and other forms of sexual misconduct may want to consult with someone in a confidential manner without making a report to NTI or initiating an investigation. The trained professionals listed in this section are designated as confidential and may not share information about a patient/client (including whether or not that individual has received services) without the individual's expressed consent unless there is imminent danger to the patient/client or others or as otherwise required by law.

VIII. Reporting

- A. Reporting to and Coordination with Law Enforcement
- B. Campus Reporting Options
- C. Reporting Sexual Harassment
- D. Reporting Considerations: Timeliness of Report and Location of Incident
- E. Statement Against Retaliation
- F. False Reports
- G. Reports involving Minors or Suspected Child Abuse

NTI is committed to providing a variety of accessible means of reporting sexual misconduct so that all instances of sexual assault or harassment will be reported. All NTI community members, even those who are not obligated by NTI's Sexual Misconduct and Harassment Policy, are strongly encouraged to report information regarding any incident of sexual misconduct or harassment to the Title IX Coordinator. The Title IX Coordinator is specifically charged with coordinating the initial assessment, initiating the investigation, and responding to allegations of sexual misconduct or harassment to stop the conduct, address its effects, and prevent its recurrence.

At the time a report is made, a Complainant does not have to decide whether or not to request a formal resolution process. Choosing to make a report and deciding how to proceed after making the report can be a process that occurs over time. To the extent possible, NTI will respect an individual's autonomy in making these decisions and provide support that will assist each individual in making that determination.

Anyone may report sex discrimination including sexual harassment in person (whether or not the person submitting the report is the person alleged to be the victim of sex discrimination or sexual harassment), by mail, telephone, or e-mail to the Title IX Coordinator or a Deputy Title IX Coordinator. Any individual who reports sexual harassment, sexual violence, stalking, or intimate partner violence can be assured that all reports will be investigated and resolved in a fair and impartial manner. All individuals involved can expect to be treated with dignity and respect. In every report under this policy, NTI will make an immediate assessment of any risk of harm to the Complainant or to the broader campus community and will take steps necessary to address those risks. These steps will include temporary protective measures to provide for the safety of the Complainant or others involved and the campus community as necessary. In this process, NTI will balance the Complainant's interests with its obligation to provide a safe and non-discriminatory environment for all members of the NTI community.

A. Reporting to and Coordination with Law Enforcement

NTI encourages individuals to pursue criminal action for incidents of sexual harassment, sexual violence, stalking, and intimate partner violence that may also be crimes under Maine criminal statutes. NTI will assist a Complainant, at the Complainant's request, in contacting local law enforcement and will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process to the extent permitted by law. Except where the Complainant is less than 18 years old, NTI will respect a Complainant's choice whether or not to report an incident to local law enforcement, unless NTI determines that there is an overriding issue with respect to the safety or welfare of the NTI community. When a report involves suspected abuse of a minor under the age of 18, NTI is required by state law to notify the Maine Office of Child and Family Services and/or the District Attorney's office.

NTI's policy, definitions, and standard of proof may differ from Maine criminal law. A Complainant may seek resolution through NTI's complaint process, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's decision whether or not to prosecute a Respondent nor the outcome of any criminal prosecution are determinative of whether sexual harassment, sexual violence, stalking, or intimate partner violence has occurred under this policy. Proceedings under NTI's Sexual Misconduct and Harassment Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Individuals are not required to file a criminal complaint.

At the request of local law enforcement, NTI may agree to defer for a short time its Title IX fact gathering until after the initial stages of a criminal investigation. NTI will nevertheless communicate with the Complainant regarding Title IX rights, procedural options, and the implementation of interim measures to assure safety and well-being. NTI will promptly resume

its Title IX fact gathering as soon as it is informed that law enforcement has completed its initial investigation.

Individuals wishing to file a criminal complaint for incidents of sexual harassment, sexual violence, stalking, and intimate partner violence that occurred on campus may contact the local Police Department directly. Individuals may also contact the Title IX Coordinator to assist with filing a criminal complaint. Individuals are not required to file a criminal complaint.

B. Campus Reporting Options

NTI encourages all individuals to report sexual misconduct and harassment to the Title IX Coordinator, or a Deputy Title IX Coordinator. These individuals are trained annually on issues related to sexual violence and harassment and receive specific instruction about respecting and safeguarding private information.

All NTI employees with responsibility for the welfare of students and all supervisors, including instructional staff, and administrators are required to share with the Title IX Coordinator any report of sexual misconduct or harassment they receive or of which they become aware. These individuals are required to share with the Title IX Coordinator all information of which they are aware, including on Campus Reporting Options:

Title IX Coordinator, Ashley Barnett Saftey@ntinow.edu; <tel:1-207-883-5130>

Deputy Title IX Coordinators:

Kristy Lank | tel: 1-207-883-5130 | Saftey@ntinow.edu

Sarah Anderson | tel: 1-207-883-5130 | Saftey@ntinow.edu Megan McCannell | tel: 1-207-883-5130 | Saftey@ntinow.edu

C. Reporting Sexual Harassment

In the event that an individual believes that they may be experiencing behavior that constitutes sexual harassment, they should document the behavior and report it to the Title IX Coordinator or a member of the Title IX Team.

D. Reporting Considerations: Timeliness of Report and Location of Incident

All community members are encouraged to report sexual harassment, sexual violence, stalking, and intimate partner violence as soon as possible in order to maximize NTI's ability to respond promptly and effectively. NTI does not, however, limit the time frame for reporting. If the Respondent is no longer a student or employee or is not a member of the NTI community, NTI may not be able to take disciplinary action against the Respondent, but will still seek to meet its Title IX obligations by taking steps to end the harassment, prevent its recurrence, and address its effects.

An incident does not have to occur on campus to be reported to NTI. All NTI community members are responsible for their actions and behavior, whether the conduct in question occurs on campus or in another location. NTI will investigate off-campus sexual misconduct that occurs in any educational program or activity includes locations, events, or circumstances over which the institution exercises substantial control over the parties and the context in which the sexual harassment occurred. This includes any building owned, rented, or controlled by a student organization that is officially recognized by NTI. Members of the NTI community have a responsibility to adhere to NTI policies and local, state, and federal law. As a result, this policy applies both to on-campus and off-campus conduct. In particular, off-campus conduct that is likely to have a substantial adverse effect on any member of the NTI community or NTI may be addressed under this policy.

E. Statement Against Retaliation

It is a violation of NTI policy to retaliate in any way against an individual because they raised allegations of sexual harassment, sexual violence, stalking, or intimate partner violence. NTI recognizes that retaliation can take many forms, may be committed by or against an individual or a group, and that a Complainant, Respondent, or third party may commit or be the subject of retaliation. NTI will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting sexual harassment or misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven to be a violation under this policy.

F. False Reports

NTI takes the accuracy of information very seriously, as a charge of sexual harassment, sexual violence, stalking, or intimate partner violence may have severe consequences. Knowingly making a false report or complaint under this policy, or knowingly providing false or intentionally misleading information during an investigation, may result in disciplinary action up to and including dismissal from NTI or termination of employment. A good faith complaint that results in a determination that the evidence is not sufficient to support a formal charge or to constitute a violation of this policy is not considered to be a false report.

When a Complainant or third party witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, that individual may be subject to disciplinary action. Similarly, a Respondent or witness who is later proven to have intentionally given false information during the course of an investigation may be subject to disciplinary action. It is a violation of NTI policy to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

G. Reports involving Minors or Suspected Child Abuse

When a report involves suspected abuse of a minor under the age of 18, NTI is required by state law to notify the Maine Office of Child and Family Services and/or the District Attorney's office.

IX. Safety and Supportive Measures

- A. Range of Safety and Supportive Measures
- B. Interim Suspension or Leave

Upon receipt of a report, NTI will impose reasonable and appropriate interim measures designed to eliminate any hostile environment and protect the parties involved. NTI will make reasonable efforts to communicate with the parties to ensure that all safety and emotional and physical well-being concerns are being addressed. Safety and Supportive Measures may be imposed regardless of whether formal disciplinary action is sought by the Complainant or NTI.

A Complainant or Respondent may request a No Contact Order or other protective measure, or NTI may choose to impose safety or Supportive Measures at its discretion to ensure the safety of all parties, the safety of the broader NTI community, and/or the integrity of the process. All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by a safety or remedial measure. NTI will take immediate and responsive action to enforce a previously implemented measure. These measures will be kept confidential, to the extent that maintaining the confidentiality would not impair the ability of NTI to provide the protective measures.

A. Range of Safety and Supportive Measures

Potential remedies, which may be applied to the Complainant and/or the Respondent, include:

- Providing access to counseling services and assistance in setting up an initial appointment off campus;
- Imposing a No Contact Order between parties;
- Rescheduling of exams and assignments (in conjunction with appropriate staff);
- Providing alternative course completion options;
- Changing a class schedule, including the ability to take deferral, drop a course without penalty or transfer sections (with the agreement of the appropriate staff);
- Changing a work schedule or job assignment;
- Limiting an individual or organization's access to certain NTI facilities or activities pending resolution of the matter;
- Providing a voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Providing academic support services, such as tutoring;
- Imposing interim suspension or leave; and

- Any other remedy that can be tailored to the involved individuals (students or employees) to achieve the goals of this policy.

B. Interim Suspension or Leave

Where the report of sexual harassment, sexual violence, stalking, or intimate partner violence poses a substantial and immediate threat of harm to the safety or well-being of an individual or members of the campus community, or to the performance of normal NTI functions, NTI may place a student or student organization on interim suspension or impose a leave for an employee. Pending resolution of the report, the individual or organization may be denied access to campus, campus facilities and/or all other NTI activities or privileges for which the individual or organization might otherwise be eligible, as NTI determines appropriate based upon the outcome of the investigation. When interim suspension or a leave is imposed, NTI will make reasonable efforts to complete the investigation and resolution within an expedited time frame.

Students may be placed on interim suspension/leave at the discretion of the President of NTI or his designee. Staff may be placed on suspension/leave at the discretion of NTI.

X. Title IX Review and Resolution

- Overview of Procedural Options (students, staff, faculty)
- Role of the Title IX Coordinator and Team
- Initial Title IX Review
- Informal or Remedies-Based Resolution
- Formal Resolution
- Investigation

A. Overview of Procedural Options (students, staff, faculty)

Upon receipt of a report, the Title IX Coordinator, in consultation with members of the Title IX Team as appropriate, will conduct an initial Title IX Review. The goal of this review is to provide an integrated and coordinated response to reports of sexual harassment or misconduct. The review will consider the nature of the report, the safety of the individual and of the campus community, and the Complainant's expressed preference for resolution.

At the conclusion of the assessment, NTI may choose to pursue Informal Resolution, a remedies-based approach that does not involve disciplinary action against a Respondent, or refer the matter for a NTI-based investigation and the Formal Resolution process. The goal of the investigation is to gather all relevant facts and to determine if there is a preponderance of evidence standard or clear-and-convincing evidence standard that a violation of the policy occurred. Preponderance of evidence standard

means that the decision-maker must decide if the alleged facts are more likely than not to be true. Clear-and-convincing evidence standard means that the decision-maker must decide if the allegations are highly probable.

The initial steps for resolution of a complaint against a student, or an employee will involve the same stages: an initial assessment, followed by remedies and informal or formal resolution as appropriate. There are specific procedures for resolving complaints against a student, or staff as set out below.

B. Role of the Title IX Coordinator and Team

The President of NTI has designated Ashley Barnett to serve as NTI's Title IX Coordinator. The Title IX Coordinator oversees NTI's centralized review and resolution of reports of sexual harassment, sexual violence, stalking, intimate partner violence, and other sexual misconduct. The Title IX Coordinator also coordinates NTI's compliance with Title IX and other applicable statutes.

The Title IX Coordinator is supported by the Title IX Team. Members of this interdepartmental team include the Title IX Coordinator and the Title IX Deputy Coordinators. Composition of the team will be limited to a small group of individuals who "need to know" in order to implement procedures under this policy.

Although a report may be made to any NTI employee, NTI seeks to ensure that all reports are referred to the Title IX Team to ensure consistent application of the policy to all individuals and allow NTI to respond promptly and equitably to eliminate the harassment, prevent its recurrence and address its effects.

The members of this team oversee the resolution of a report under this policy. Resources are available for both students and employees, whether as a Complainant or a Respondent, to provide guidance throughout the investigation and resolution of the complaint. Interim remedies are also available to provide protection and security.

C. Initial Title IX Review

As part of the initial assessment of the facts, NTI will:

- Assess the nature and circumstances of the allegation;
- Respond to any need to address immediate physical safety and emotional well-being;
- Notify the Complainant of the right to contact law enforcement and seek medical treatment;
- Notify the Complainant of the importance of preservation of evidence;
- Enter the report into NTI's crime log;
- Assess the reported conduct for the need for a timely warning under the Clery Act;
- Provide the Complainant with information about on- and off-campus resources;
- Notify the Complainant of the range of available safety and Supportive Measures;
- Provide the Complainant with an explanation of the procedural options, including informal remedies-based resolution and formal resolution;
- Assess for pattern evidence or other similar conduct by Respondent;
- Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding; and
- Explain to the Complainant NTI's policy prohibiting retaliation.

D. Informal or Remedies-Based Resolution

Informal resolution is a remedies-based, non-judicial approach designed to eliminate a hostile environment without taking formal disciplinary action against a Respondent.

Where the Title IX Review concludes that informal resolution may be appropriate, NTI will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Complainant's access to the educational activities at NTI and to eliminate any hostile environment. NTI is required to obtain both the complainant and respondent's voluntary, written consent before using any kind of informal resolutions process. Examples of protective remedies are detailed in the Safety and Supportive Measures section above. Other potential remedies include targeted or broad-based educational programming or training, direct confrontation of the Respondent and/or indirect action by the Title IX Coordinator or other

appropriate NTI representative. Depending on the form of informal resolution used, it may be possible to maintain the anonymity of the Complainant.

NTI will not compel a Complainant to engage in mediation or a restorative justice process, to directly confront the Respondent, or to participate in any particular form of informal resolution. Mediation or restorative practices, even if voluntary, may not be used in cases involving sexual violence or assault. The use of restorative justice in other cases, with the approval of all parties, may be considered. The decision to pursue informal resolution will be made when NTI has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in informal resolution is voluntary, and a Complainant can request to end informal resolution at any time. Informal resolution is not available to resolve allegations where an employee sexually harassed a student.

The Title IX Coordinator will maintain records of all reports and conduct referred for informal resolution. Informal resolution will typically be completed within thirty (30) business days of the initial report.

A. Formal Resolution

Disciplinary action against a Respondent may only be taken through Formal Resolution procedures. Because the relationship of students, and staff differ in nature, the procedures that apply when seeking disciplinary action necessarily differ as well. Each of the procedures, however, is guided by the same principles of fundamental fairness and respect for all parties, which require notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a report under this policy.

A formal complaint may be filed with the Title IX Coordinator or Deputy Title IX Coordinator in person, by mail, or email. Whether received via mail or email it must contain the complainant's physical or digital signature or indicate that the complainant is the person submitting the formal complaint. NTI will also accept a parent or legal guardian to file a formal complaint on the individual's behalf.

NTI will also accept formal complaints of sexual harassment from a complainant who is not enrolled or attending schools, but only if the complainant is attempting to participate in NTI's education program or activity. Attempting to participate could be any of the following;

- 1) enrolled to attend class at NTI,
- 2) has graduated from a program at NTI and is looking to return for another program,
- 3) is on a Leave of Absence and/or Intent to Return, or
- 4) has withdrawn from NTI due to alleged sexual harassment and wants to re-enroll if NTI responds appropriately to the allegations.

The specific procedures for Formal Resolution will vary based upon the role of the Respondent:

- For a report against a student, disciplinary action may be taken by the President of NTI or his designee in consultation with the Title IX Team;
- For a report against an employee, disciplinary action may be taken at the conclusion of the investigation by employee's manager.
- In either situation above, NTI ensures that the investigator will never be the final decision maker in a formal complaint. This will always be someone who was not involved in the investigation process.
- At the time of filing a formal complaint, the complainant must be an active student or enrolled to start in any educational program or activity at NTI.

B. Investigation Including Timeframe and Opportunity to Present Witnesses and Other Evidence

Where the Title IX review concludes that a policy violation may have occurred and disciplinary action may be appropriate, NTI may initiate a formal investigation. NTI will designate a trained investigator who has specific training investigating allegations of sexual harassment, sexual violence, stalking, and intimate partner violence. The investigator may be an employee of NTI who is trained in Title IX or an external investigator engaged to assist NTI in its fact gathering and determination of a finding. Any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest.

The investigator will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the Complainant, the Respondent and any witnesses. The investigator will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. In gathering the facts, the investigator may consider prior allegations of, or findings of responsibility for, similar conduct by the Respondent to the extent such information is relevant.

After receipt of the report, the Title IX Coordinator or a member of the Title IX Team will conduct an intake meeting with the Complainant. At this meeting, the person conducting the intake will inquire into the nature of the report and allegations of misconduct. The Complainant will be informed of all safety and Supportive Measures and resolution options available under this policy and encouraged to select an advisor who has received training from NTI. The Complainant will be informed of the prohibition against retaliation and instructed not to destroy any potentially relevant documentation or evidence in any format. The Complainant will also be offered support resources on and off campus as described in Section VII of this policy. The Complainant will be given a copy of the Sexual Misconduct and Harassment Policy.

As part of the investigation, NTI will provide an opportunity for the parties to present witnesses and other evidence. Witnesses must have observed the acts in question or have relevant information and cannot be participating solely to speak about an individual's character. The investigator will provide periodic updates to the Title IX Coordinator, particularly regarding any emerging needs for the Complainant or Respondent for additional safety or Supportive Measures and regarding estimated timelines.

The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial and fair, and all individuals will be treated with appropriate sensitivity and respect. As described in Section IV. Privacy vs. Confidentiality, the investigation will be conducted in a manner that is respectful of individual privacy concerns.

NTI will seek to complete the investigation phase within 21 (twenty-one) calendar days of initiating the investigation, but this time frame may be extended depending on the complexity of the circumstances of each case. At the conclusion of the investigation, the investigative report will be forwarded to the Title IX Coordinator and will follow the relevant procedures for Formal Resolution depending on whether the Respondent is a student, or staff member. NTI seeks to resolve all reports within 60 days of the initial report. All time frames expressed in this policy are meant to be guidelines rather than rigid requirements. Extenuating circumstances may arise that require the extension of time frames, including extension beyond 60 days. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In general, the Complainant and the Respondent can expect that the process will proceed according to the time frames provided in this policy. In the event that the investigation and resolution time frame needs to be extended for good cause, NTI will provide written notice to all parties of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. Information gathered during the review and investigation will be used to evaluate the responsibility of the Respondent, provide for the safety of the Complainant and NTI community, and impose remedies as necessary to address the effects of the conduct cited in the report. Prior to concluding the investigation report, all parties involved will have 10 business days to inspect, review, and respond to all evidence directly related to the allegations. At the conclusion of the investigation, NTI will notify all parties that the investigation is complete and provide information about next steps in the process.

Based on the information gathered in the initial Title IX Review and/or full investigation, NTI will take appropriate measures designed to end the misconduct, prevent its recurrence and address its effects.

The Title IX Coordinator will document each report or request for assistance in resolving a case which involves charges of sexual misconduct, whether formal or informal, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law.

Other than a judicial order, NTI will not recognize agreements between the Complainant and Respondent in which NTI did not participate unless reviewed and approved by the Title IX Coordinator.

C. Communications

All communications and notices required by these procedures may be made electronically, in hard copy, or in person.

D. Standard of Proof

The decision maker will determine the Respondent's responsibility by the preponderance of the evidence standard which is whether the information provided supports a finding that it is "more likely than not" that the Respondent is responsible for the alleged violation. NTI will apply the same standard to all sexual harassment cases, including those against faculty members and staff.

Records

At the conclusion of the investigation, the decision maker will prepare a written investigative report summarizing and analyzing the relevant facts determined through the investigation, referencing any supporting documentation or statements. In preparing the report, the decision maker will review all facts gathered by the investigator to determine whether the information is relevant and material to the determination of responsibility given the nature of the allegation. In general, the decision maker may redact information that is irrelevant, more prejudicial than probative, or immaterial. The decision maker may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts. Further, the decision maker may redact any statements regarding general reputation or any character trait. The decision makers report may include summaries of interviews with the Complainant, Respondent, third-party witnesses, experts, and any other individuals with relevant information, photographs of relevant sites or physical evidence, electronic records and forensic evidence. The report will also list any disciplinary sanctions imposed on the respondent or whether remedies will be provided to the complainant. The decision maker may provide a summary of impressions including context for the evidence. Both parties will receive the determination in written simultaneously and with information on how to file an appeal. Both parties will have 10 business days to review and provide written response to the investigative report.

NTI must provide for a live hearing, which can be conducted in person or via videoconference. The hearing will be recorded. At the hearing, both parties must have an advisor for the purposes of conducting cross-examination. Cross-examination must be conducted directly, orally, and must be in present time of the live hearing. During the hearing, cross-examination can't be conducted by either party but must come from their advisor. If a party does not have an advisor present at the live hearing, NTI will provide an advisor free of charge. A parent or legal guardian are permitted in acting on the behalf of a complainant or respondent. At the request of either party, the parties shall be separated and the use of videoconference would be used. This would allow both to be able to see and hear one another.

During the hearing, the final decision maker will have the right to determine the relevancy of any questions asked on cross-examination and can exclude any irrelevant questioning. The final decision maker will make it clear to all those present that it is prohibited to question about either party's prior sexual history and either party's medical, psychological, or similar medical records. The final decision maker cannot draw a conclusion about the party's responsibility based solely on a party or witness(s) absence from the live hearing or refusal to answer cross-examination questions.

The investigative report, including all documents, information, and other evidence, and the documentation regarding any finding, sanction, and appeal will serve as the formal record of the proceedings and will be maintained by the Title IX Coordinator as part of the Respondent's conduct record.

If a student has been found responsible for a violation of this policy, such records may be used in reviewing any further conduct issues consistent with this policy and the Code of Student Conduct.

J. Withdrawal of Complaint

Prior to the completion of the resolution options described in this policy, the Complainant may withdraw the sexual misconduct complaint. Withdrawal of the complaint will, in most circumstances, end any investigation or process taking place under this policy.

NTI reserves the right to move forward with a complaint, even after the Complainant withdraws it, in order to protect the interests and safety of the NTI community.

K. Summary of Resolution Options

a. Informal, Remedies-Based Resolution

Informal resolution is a remedies-based approach designed to eliminate a hostile environment without taking formal disciplinary action against a Respondent.

Where the Title IX Review concludes that informal resolution may be appropriate, NTI will take immediate and corrective

action through the imposition of individual and community remedies designed to maximize the Complainant's access to the educational activities at NTI and to eliminate a hostile environment.

The Title IX Coordinator will maintain records of all reports and conduct referred for informal resolution. Informal resolution will typically be completed within thirty (30) business days of the initial report.

b. Formal Resolution

Disciplinary action against a Respondent may only be taken through the Formal Resolution process. The Formal Resolution process contains three phases: Investigation, Sanction, and Appeal. This process is outlined in detail below.

c. Acceptance of Responsibility

At any point in the process, the Respondent may choose to accept responsibility for all or part of the alleged misconduct. If the Respondent accepts responsibility for the alleged misconduct, the process may, but will not necessarily, proceed to the investigation phase. The Title IX Coordinator may proceed directly to the sanction phase to determine an appropriate sanction for the Respondent. If the Respondent disputes any aspect of the allegations, the matter will proceed to an investigation.

d. Distribution to Parties

The Title IX Coordinator or a member of the Title IX Team will provide in writing to the Complainant and Respondent with appropriate information regarding the findings of the investigation, an analysis as to how the conclusion was reached, and will inform them of the next steps in the process including the option to appeal, if applicable.

Should the Respondent be found not responsible for a violation of the Sexual Misconduct and Harassment Policy by the final decision maker, the Complainant retains the option to appeal on limited grounds using the procedures described in the Appeal of Findings of the Decision Maker section below. If an appeal is not filed, the finding shall be considered final.

Should the Respondent be found responsible for one or more violations of the Sexual Misconduct and Harassment Policy by the final decision maker, the case will proceed to the Sanction Phase.

e. Student Appeal of Findings of the Decision Maker
1. Eligibility, Timeline, and Filing Procedures

If a student, either the Complainant or Respondent may file an appeal of the findings of the decision maker within three (3) calendar days of receipt of the results of the investigation using the procedures outlined below. Appeals must be filed with the President of NTI, who serves as the appeals officer. If no appeal of the decision maker's findings is filed within a timely fashion, the findings of the decision maker shall be considered final and binding on all of the parties and may not be appealed after the sanctioning phase of the procedure.

Dissatisfaction with the findings is not grounds for appeal. Appeals may be based only on one or more of the following grounds:

- A procedural error (failure to follow prescribed policy and/or procedures) that may have had a prejudicial effect upon the outcome of the proceedings;
- An evidentiary error, such as refusal to hear material evidence or reliance upon clearly inappropriate and/or prejudicial evidence, that may have had an effect upon the outcome of the proceedings;
- A new evidence that was discovered after the investigation was completed and could not have been discovered previously that may have an effect upon the outcome of the proceedings;
- The decision maker's findings were arbitrary and capricious; or
- Evidence of conflict of interest, bias, fraud or misconduct on the part of the decision.
- The appeal shall consist of a concise and complete written statement outlining the facts that support the available grounds for the appeal.

If the appeal is properly filed, the other party will be given the opportunity to review the written appeal and respond to it in writing to President. Any response by the other party must be submitted to the President within three (3) calendar days

from being provided the appeal. If both parties file an appeal, the appeal documents from each party will be considered together in one appeal review process.

The receipt of the appeal and any response to the appeal will be acknowledged in writing (which can include email). If for any reason the President is unable to serve as the appeals officer, they may designate another trained appeals officer to serve in their stead.

2. Appeal of Findings of Decision Maker Procedures

The appeal of the decision maker's findings will be conducted in an impartial. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination is presumed to have been decided reasonably and appropriately. The appeal is not a *de novo* review of the underlying matter. The decision shall affirm the original findings of the decision maker unless the President sustains one of the grounds for appeal, in which case the President will refer the case to the original or new decision maker for reconsideration as appropriate. Appeals are not intended to be full rehearing of the complaint (*de novo*). The President will generally make all appeal decisions within five (5) calendar days of receipt of both the appeal and all responses to it, if any. The appeal decision will include a rationale and shall be presented simultaneously in writing to both the Complainant and Respondent by the Title IX Coordinator or a member of the Title IX Team.

The decision of the President upon an appeal of the findings of the decision maker shall be final.

Range of Sanctions

The President or his designee may impose any sanction or combination of sanctions available to NTI, including probation, suspension, expulsion, written warnings and or termination of employment. N.A. (2021) Questions and Answers on the Title IX Regulations on Sexual Harassment. Retrieved from: <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>

Notifications

In general, NTI provides the complainant and respondent with simultaneous written notification regarding alleged Title IX offenses, the results of related investigations, sanctions, remedies, other mitigation steps. NTI also will notify the complainant of any individual remedies offered or provided to the complainant, without also notifying the respondent of these individual remedies. If the complainant is deceased as a result of a Title IX offense, the next of kin of the complainant is treated as the complainant for purposes of this paragraph.