Northern Arizona University

Interim Nondiscrimination and Anti-Harassment Policy

Effective Date: August 14, 2020 (updated December 13, 2020)

Policy Summary

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

Reasons For This Policy

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

Entities Affected By This Policy

- All university programs and activities

Who Should Know This Policy

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

Definitions

Affiliate: a person who belongs to one of the University’s affiliations who has developed a formal relationship with the University and who has been determined to be an “affiliate” under the University Affiliate Policy (hyperlink)

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

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

Harassment: Harassment is a specific form of discrimination. For purposes of this policy, harassment is unwelcome behavior, based on a protected classification, that is sufficiently severe or pervasive to
create an intimidating, hostile or offensive environment for academic pursuits, employment, or participation in university sponsored programs or activities.

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

**Sexual Harassment:** (see also Title IX Sexual Harassment)

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

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

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

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

**Title IX Sexual Harassment:** Title IX Sexual Harassment (sexual harassment as regulated by Title IX of the Education Amendments of 1972 and its applicable regulations) is conduct based on sex, occurring in the United States, that constitutes one or more of the following:

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

*The NAU Sexual Misconduct Policy and related procedures (as discussed in Section H) will apply to allegations that meet this definition.*
Volunteer: A person doing work for the University under the direction and control of University officials and are not being paid by anyone for these activities.

Policy

A. Scope

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

Retaliation for reporting or participating in the review of a report made under this policy is also prohibited. Inappropriate conduct need not rise to the level of a violation of federal or state law to constitute a violation of this policy and warrant disciplinary action or other appropriate response.

Enforcement of this policy is subject to constitutional protections related to freedom of speech, association, and the press.

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

B. Reporting

1. Reporting Options

If the alleged violator is a university student, the report may be made to the Office of the Dean of Students. If the alleged violator is not a student, the report may be made to the Equity and Access Office. Reports of Title IX Sexual Harassment (as defined above) may be made to the Title IX Coordinator or the offices above.

2. Reporting Obligations - Supervisors

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

C. Anonymous Reports

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

D. Confidentiality

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

If a victim wishes to have a confidential conversation about an allegation of sexual harassment, including sexual assault, dating/domestic violence, or stalking, they can do so by seeking a confidential appointment. This may include such resources as Counseling Services, Employee Assistance and Wellness, or a local community support organization such as Victim Witness Services for Coconino County or similar organization in their respective region. The university strongly encourages individuals to utilize support resources regardless of their desire for an investigation to occur.

E. Violations of Law or Other University Policies

1. Violation of Other Policy

Because the university wishes to protect the well-being of the university community, any other policy violation (e.g., drug and alcohol use including by minors) will be considered separately and in light of the concerns brought forward. The priority shall be on the investigation and response to the allegations under this policy.

2. Unfair Treatment Not Based on Discrimination

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

F. Time Limits and Considerations

Although there are no time limits within which a complaint may be filed under this policy, individuals are encouraged to bring forward issues in a timely manner to facilitate an effective investigation process and resolution. Filing with an outside agency, including law enforcement, the U.S. Equal Employment Opportunity Commission, or the Office for Civil Rights (U.S. Department of Education) will not affect any investigation under this policy concerning the same or related events.

G. Obligation to Provide Truthful Information

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

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

I. Sanctions

If, after review through the appropriate University procedures, it is determined by a preponderance of the evidence that violation of this policy has occurred by an employee or student, educational and/or disciplinary action(s) may be taken; such actions may include up to termination for employees (including student employees) and up to suspension, expulsion, or degree revocation for students. Affiliates, volunteers, and other individuals violating this policy may be subject to a severing of their connection to the University, trespass from campus or any related privileges.

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

H. Applicable Procedures

The applicable procedures for addressing a formal complaint under this policy will be determined by the allegations made.

1. Title IX Sexual Harassment

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

2. Other Complaints

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

3. Informal Complaints

Reports made under this policy (except Title IX Sexual Harassment) may be addressed informally under this policy at the request of a reporting party in consultation with EAO.

I. University Compliance Officers/Offices

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

The person designated to serve as the University Title IX Coordinator is:
Elyce C. Morris
Title IX Coordinator
Elyce.Morris@nau.edu | 928.523.5315
Babbitt Administrative Center, First Floor
PO Box 4116, Flagstaff, AZ 86011-4116
in.nau.edu/title-ix

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

Jamie Axelrod
Director, Disability Resources
Jamie.Axelrod@nau.edu | 928.523.8773
Health and Learning Center Room 2050
PO Box 5633, Flagstaff, Arizona 86011-5633
in.nau.edu/disability-resources

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

Pamela Heinonen
Associate Vice President, Equity and Access
Pamela.Heinonen@nau.edu | 928.523.9342
PO Box 4083, Flagstaff, Arizona 86011-4116
Old Main – Room 113
in.nau.edu/eao

The Dean of Students is:

Dr. Scott Brown
Interim Assistant Vice President and Dean of Students
Scott.Brown@nau.edu | 928.523.4835
PO Box 6015, Flagstaff, Arizona 86011-6015
University Union Room 104
in.nau.edu/dean-of-students