



# Relationship Violence, Sexual Misconduct, and Stalking Policy

## Relationship Violence, Sexual Misconduct, and Stalking Policy

Note: NMU is required to abide by all applicable law and governmental regulation and guidance as amended. To the extent this policy is in conflict with any law or government regulation and guidance, NMU reserves the right to determine that the relevant law and/or guidance will apply.

Title IX Office of Northern Michigan University  
105 Cohodas Hall Marquette, MI 49855  
Phone: [906-227-2416](tel:906-227-2416) Email: [TitleIX@nmu.edu](mailto:TitleIX@nmu.edu)

If you have any concerns of an administrative or personnel conflict regarding your report, you may alternatively contact: [\(906\) 227-2272](tel:906-227-2272) or send an email to [crcomplaint@nmu.edu](mailto:crcomplaint@nmu.edu) and indicate whether you want to speak to NMU's General Counsel, Board Chair; or Board Vice-Chair.

### Purpose

This Policy prohibits specific forms of:

- Relationship Violence
  - Dating Violence/Domestic Violence
- Sexual Misconduct
  - Sexual Assault,
    - Rape,
    - Sodomy,
    - Sexual Assault with an Object,
    - Nonconsensual Sexual Contact,
    - Incest, and

- Statutory Rape

- Sexual Exploitation
- Sexual harassment
  - Harassment on the basis of sex or pregnancy status
- Stalking

\*Modification and Accommodation concerns related to education and/or work are addressed under the Pregnancy, Childbirth and Pregnancy-Related Conditions Policy.

All of the above are collectively referred to as “Prohibited Conduct.” This Policy requires all Mandatory Reporters to promptly report any reported conduct or complaints of which they become aware that may be in violation of this Policy to the Title IX Coordinator/Title IX Administrator. Through this policy and supporting procedures, Northern Michigan University (“NMU”) addresses Prohibited Conduct pursuant to its obligations under state and federal law.

### **Applicability**

This policy applies to Prohibited Conduct by NMU Community Members:

- students,
- faculty,
- and staff,
- volunteers, and/or
- third party/parties participating or involved in an NMU program or activity.

The rights, obligations and privileges included within this policy may not apply to all parties depending on the circumstances of each allegation. Reports involving minors should be immediately reported to the NMU Police Department, and follow the University’s [Minors on Campus Policy](#).

NMU has expanded the scope and applicability of the policy beyond the requirements of the Title IX final regulations. The Title IX Coordinator/Title IX Administrator will follow this Policy’s guidelines and procedures but the definition of Prohibited Conduct in the Policy applicable at the time based on the date the alleged conduct occurred shall apply. NMU reserves the right to interpret and apply these expanded protections in its sole discretion. This policy and related procedures are not intended to, and should not be construed to, establish a contract between NMU and any NMU Community Member or to increase NMU’s obligations or responsibilities beyond those required by federal or state law.

This policy applies when prohibited conduct occurs:

- On NMU property; or
- Off NMU property, including online or electronic conduct, if an NMU Community Member is involved or impacted, if the conduct:

- Occurs during an NMU program or activity; or
- Occurs in connection with NMU-sponsored events; (e.g., field trips, social functions, student organization events, NMU-related business, NMU travel, student recruitment activities, and service learning/internship experiences); or
- May pose a serious threat of harm to any NMU Community Member(s); or
- May have the effect of creating a **hostile** environment for any NMU Community Member(s); or
- Creates a continued and ongoing adverse impact or effect on any NMU Community Member on campus or during NMU programs or activities.

The regulations require that universities include conduct that occurs in any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. Currently, there are no buildings owned or controlled by student organizations that are officially recognized by NMU.

This policy enables NMU to provide supportive measures to parties, as defined in the definitions regardless of where the Prohibited Conduct occurred and whether or not a formal investigation was initiated.

### **Policy**

NMU is committed to fostering and maintaining a safe and healthy academic, work, and living environment, which safeguards the applicable due process rights of all NMU Community Members, including Complainants and Respondents. Prohibited Conduct is inconsistent with the standards and ideals of the NMU community. NMU will take prompt and suitable action to investigate and stop Prohibited Conduct; prevent its recurrence; and, as appropriate, remedy its effects.

### **Prohibited Conduct Disclosure**

If a Mandatory Reporter receives a Prohibited Conduct disclosure, they are required to report to an Official with Authority (OWA) per federal regulations. At NMU the OWA are the Title IX Coordinator and the Executive Director of Equal Opportunity and Title IX. Upon notification, the Title IX Coordinator/Title IX Administrator will make outreach to the Complainant and offer resources, information and supportive measures.

### **Complainant - Initiating a Formal Investigation**

In order to give notice and provide actual knowledge to NMU to trigger NMU's legal response obligations under Title IX and this policy, a Complainant or other reporting person must file a formal complaint, in writing, with the Title IX Office and cooperate during the investigation. To file a formal complaint, a Complainant or other reporting person should contact the Title IX Office at:

### **Title IX Office of Northern Michigan University**

**105 Cohodas Hall**

**Marquette, MI 49855**

**Phone: 906-227-2416 Email: [TitleIX@nmu.edu](mailto:TitleIX@nmu.edu)**

### **Mandatory Reporters - Employees Required to Report to Title IX Coordinator/Title IX Administrator**

All employees, except those specifically identified below, are designated as Mandatory Reporters, and must report, by policy, incidents of Prohibited Conduct observed as well as incidents reported to them orally or in writing. Mandatory Reporters must report to an OWA.

The OWA are assigned to implement corrective measures for Prohibited Conduct. A Mandatory Reporter who fails to report a concern or report of a potential violation of this policy within a reasonable time is subject to discipline, up to and including termination.

Employees of NMU Counseling and Consultation Services and the NMU Health Center are designated as Confidential Employees. Confidential Employees will not typically be required to make a report to an OWA without the permission of the person reporting; specific exceptions are allowed by law and regulation, including but not limited to the protection of a minor child, protecting persons at high risk for violence, or to adhere to a court order.

### **Confidentiality/Anonymity**

NMU will treat all information it receives as part of reporting procedures with discretion and will keep all information confidential to the extent permitted or required by law. All employees integral to Prohibited Conduct processes must receive specific training about respecting and safeguarding private information. Persons who wish to strictly protect the confidentiality of information are encouraged to report to a Confidential Employee.

A Complainant or reporting person may make a confidential or anonymous report of Prohibited Conduct. However, depending on the circumstances, including the nature of the allegation and availability of evidence, NMU's ability to investigate and respond to the complaint, or to provide an appropriate remedy, may be limited.

### **Standard of Evidence**

NMU will apply the preponderance of the evidence standard to determine responsibility under this policy. Preponderance of the evidence means that it is more likely than not, based on all the reasonable evidence and reasonable inferences from the evidence, that an event or action violated NMU policy.

### **Training and Resources**

The Title IX Coordinator/Title IX Administrator will be responsible for the development and implementation of all required training and resources to support this policy.

## Addressing Questions and Specific Concerns

The University welcomes and encourages you to report all complaints of harassment, discrimination, retaliation, and sexual misconduct. The University strives to clearly indicate through written policies how to report complaints. Questions may always be directed to the Title IX Coordinator/Title IX Administrator. If there is a concern that a complaint must be escalated to a higher university level, for instance, if there is a complaint against an executive level administrator or a member of the Board of Trustees, reports may be made either to the Title IX Coordinator/Title IX Administrator, or to the University's General Counsel. Alternatively, complaints may be made directly to the Chair or Vice Chair of the Board of Trustees. All will execute their fiduciary duty to ensure that the complaint is thoroughly investigated and that appropriate action will be taken based on the investigation findings, facts, and circumstances.

## Related Policies

All incidents of Prohibited Conduct will be handled through this policy, approved by the Board of Trustees, and the procedures approved by the Office of the President.

Incidents of discrimination (including based on sex, gender, gender identity, sexual orientation, and sex stereotypes) or other forms of harassment based on legally protected characteristics or retaliation may be handled through other applicable policies, and may include the Non-discrimination Policy, Pregnancy and Related Conditions Policy, and/or Retaliation Policy. NMU follows all state and federal regulations regarding harassment, discrimination and retaliation as defined in the above-mentioned policies.

It is a violation of NMU policy to retaliate against, intimidate, discipline, discharge, or harass any individual who has in good faith reported Prohibited Conduct or participated in any proceeding under this policy. Individuals and groups of individuals are prohibited from engaging in retaliation and will be held accountable under NMU's Retaliation Policy.

## Relationship Violence, Sexual Misconduct and Stalking (Guideline) -

A list of definitions of capitalized terms in these guidelines are at the end of the document.

### Introductory Information

The following sections provide guidelines, as well as the processes NMU will follow when the University receives notice and/or a Formal Complaint that an NMU Community Member has engaged in Prohibited Conduct as defined in this Policy.

NMU takes complaints of Prohibited Conduct seriously, follows the law and operates with the presumption that the Respondent is not responsible for the reported misconduct

unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

Nothing in the Relationship Violence, Sexual Misconduct and Stalking Policy or Procedures is intended to limit constitutionally protected First Amendment rights, Due Process rights of the 5th and 14th Amendments, or restrict any other Constitutional rights.

First Amendment free speech rights do not protect illegal activity, Prohibited Conduct, destruction of property, or material and substantial disruption of classes or campus activities.

### **Amnesty for Good Faith Reporting**

The NMU community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to give notice to NMU officials or participate in Complaint/Grievance Process because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons. It is in the best interests of the NMU community that Complainants choose to give notice of misconduct to NMU officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, NMU maintains a policy of offering Parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by the Title IX Coordinator/Title IX Administrator, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

#### **A. Students**

NMU maintains an amnesty policy for students who offer help to others in need.

#### **B. Employees**

Sometimes, employees are hesitant to report discrimination, harassment, or retaliation they have experienced for fear of getting in trouble themselves. NMU may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

### **Obligation to Provide Truthful Information**

NMU Community Members are expected to provide truthful information in any report or proceeding under this Policy. Deliberately false and/or malicious accusations under this

Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or Complaint/Grievance Process can be subject to discipline under appropriate NMU policies.

Parties and witnesses should not knowingly offer false or misleading information at any prohibited conduct meeting, investigation, or hearing.

### **Withdrawals, Resignations, Non-participation, and Graduation**

#### **A. Students**

Should a student Respondent decide not to participate in the Complaint/Grievance Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from NMU, the Complaint/Grievance Process may continue, or the Title IX Coordinator/ Title IX Administrator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, NMU will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Complaint/Grievance Process, NMU will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to NMU in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator/Title IX Administrator has discretion to dismiss the Complaint.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Complaint/Grievance Process may continue remotely. If found in violation, that student is not permitted to return to NMU unless and until the Complaint/Grievance Process is complete and permits return.

#### **B. Employees**

Should an employee Respondent decide not to participate in the Complaint/Grievance Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent withdraws from NMU with unresolved allegations pending, the Complaint/Grievance Process may continue, or the Title IX Coordinator/Title IX Administrator may exercise their discretion to dismiss the Complaint. If the Complaint is

dismissed, the Title IX Coordinator/Title IX Administrator may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When an employee resigns and if the Complaint is dismissed, the employee may not return to the NMU in any capacity until the Complaint is resolved. The documents will be reserved in the Title IX Office.

### **Consent, Force (Coercion), and Incapacitation:**

As used in this Policy, the following definitions and understandings apply:

#### Consent

Consent is defined as:

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

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish consent.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, sexual activity should cease within a reasonably immediate time.

Silence or the absence of resistance alone should not be interpreted as consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent to some sexual contact cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent

(e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected. If a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of sexual assault.

Proof of consent or non-consent is not a burden placed on either party involved in a Complaint. Instead, the burden remains on NMU to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault. (Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual.)

#### Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

#### Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand

what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

### **Resources - On and Off-Campus**

The following resources are available to assist Parties in Relationship Violence, Sexual Misconduct, and/or Stalking matters as well as to friends and family members who want to report relationship violence, sexual misconduct, and/or stalking.

#### **On-Campus Resources**

NMU Police Department (Open 24 hours a day)

(906) 227-2151

Emergency: 911

100 Services Building

Title IX Coordinator

(906) 227-2416

105 Cohodas Hall

Dean of Students Office (DSO)

(906)-227-1700

2001 Hedgcock

Counseling and Consultation Services

(906) 227-2980

NMU WellBeing Center

NMU Health Center

(906)-227-2355

NMU WellBeing Center

Housing and Residence Life

(906)-227-2620

Room 124 Quad 1 (Spalding Lobby)

### **Off-Campus Resources**

Women's Center (note: Women's Center provides services to all people of all genders and gender identities)

Emergency Hotline 24/7

(906) 226-6611

(800) 455-6611

General Information

(906) 225-1346

Harbor House

24/7 crisis line

(906) 226-6611

(800) 455-6611

Planned Parenthood

(906) 225-5070

1219 North Third Street

[plannedparenthood.org](http://plannedparenthood.org)

Employee Assistance Program (for NMU Employees)

Call NorthStar to schedule an appointment:

906-225-3145

[northstareap.com](http://northstareap.com)

UP Health Systems - Marquette

(906) 228-9440

850 W. Baraga Avenue

Marquette, MI 49855

UP Health Systems – Bell (Ishpeming)

(906) 486-4431

901 Lakeshore Drive

Ishpeming, MI 49849

Pathways

(906) 225-1181

(888) 728-4929 24/7 Hotline

200 West Spring Street

Marquette, MI 49855

National Sexual Assault Hotline

<http://www.rainn.org>

1-800-656-4673 (24/7)

### **Important Information about Medical Care and Preserving Evidence**

NMU encourages all individuals who experienced sexual misconduct and/or relationship violence to seek immediate assistance from a medical provider for emergency services, including treatment of any injury, and to collect and preserve physical and other forms of evidence.

The preservation of evidence can be critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. A Complainant can preserve evidence by taking actions, including but not limited to, the following:

#### Sexual Assault

- Seek forensic medical assistance at the nearest hospital as soon as possible, ideally within 120 hours of the incident.
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement)
- Seeking medical treatment can be essential, even if it is not for the purposes of collecting forensic evidence.

#### Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
- Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
- Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take time stamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.

- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and Title IX Coordinator/Title IX Administrator, the importance of taking these actions will be discussed, if timely.

NMU Police Department may provide transportation to an examination if requested. Even if an individual has not been physically hurt, a timely medical examination is recommended so that forensic evidence can be collected and preserved. An individual may choose to allow the collection of evidence by medical personnel even if they choose not to make a report to the police.

A sexual assault medical forensic examination typically includes a medical history, a physical examination, treatment for injury, and prophylactic treatment for pregnancy or sexually transmitted infections (STIs). In Marquette, sexual assault forensic exams can be coordinated through UP Health Systems - Marquette, [\(906\) 228-9440](tel:9062289440); Women's Center/Harbor House [\(906\) 225-1346](tel:9062251346); Hotline: [\(800\) 455-6611](tel:8004556611); <http://www.wcmqt.org/> or by calling the National Sexual Assault Hotline at [\(800\) 656-4673](tel:8006564673).

In Michigan, sexual assault victims have the right to receive a no-cost medical forensic examination and have evidence collected within 120 hours (5 days) of a sexual assault, even if they do not want to participate in the criminal justice process. Health facilities must offer the examination and evidence collection to any person who states they have been assaulted within the previous 120 hours (5 days). If an individual chooses, forensic evidence is also collected through the use of a sexual assault evidence kit. Sexual assault medical forensic examinations are typically performed by a Sexual Assault Nurse Examiner. Patients cannot be billed for evidence collection and the accompanying medical forensic examination.

### **Where and to Whom to Report**

Mandatory Reporters are required to report all Prohibited Conduct (Relationship Violence, Sexual Misconduct, and Stalking) reported to them to the Title IX Coordinator/Title IX Administrator. Any individual (including a student, employee, visitor, guest, or other third party), not just the Complainant, may make a report. An individual may choose to report to law enforcement, an NMU Mandatory Reporter, to both law enforcement and the University, or to make no report at all. Individuals are encouraged to make reports to the police jurisdiction where the violation occurred. NMU Police Department may provide information of police jurisdictions if needed. Support and resources are available, upon request, regardless of the chosen reporting option.

NMU recognizes that deciding among these options can be difficult and is an intensely personal decision. A Complainant has many options to make a report under the Relationship Violence, Sexual Misconduct, and Stalking Policy, including seeking counseling or assistance from a confidential resource and/or making a report to law enforcement.

### **To File a University Complaint**

Reports of Prohibited Conduct can be made to NMU through a number of Mandatory Reporters, including the offices listed below.

If you have a police or medical emergency, call 911.

### **On Campus**

NMU Police Department  
100 Services Building  
[906-227-2151](tel:906-227-2151)

NMU Equal Opportunity and Title IX Office  
105 Cohodas Hall  
[906-227-2420](tel:906-227-2420)

NMU Dean of Students Office  
2001 Hedgcock  
[906-227-1700](tel:906-227-1700)

NMU Housing and Residence Life (including resident directors and resident advisers)  
Room 124 Quad 1 (Spalding Lobby)  
[906-227-2620](tel:906-227-2620)

### **To any Mandatory Reporter**

Mandatory Reporters include all NMU employees who, as a requirement of this Policy, must immediately report any information they learn about suspected Prohibited Conduct to the Title IX Coordinator/Title IX Administrator. Failure by a Mandatory Reporter to timely report suspected Prohibited Conduct may subject them to appropriate discipline, up to and including removal from their position.

A Mandatory Reporter includes any employee, including student employees, who have a duty to report to the Title IX Coordinator/Title IX Administrator Prohibited Conduct covered by NMU Policy.

Mandatory Reporters are required by NMU Policy to immediately disclose all reported details of the incident (date, time, and location), the names of the Parties involved, and a

brief description of the incident to the Title IX Coordinator/Title IX Administrator.

Mandatory Reporters will safeguard an individual's privacy and only share information with a small circle of individuals who are directly involved in the resolution of a report under the Relationship Violence, Sexual Misconduct and Dating Violence Policy. This connects a Complainant to information and resources and enables NMU to take appropriate action to eliminate, prevent and address any Prohibited Conduct that may exist.

### **To File a Criminal Complaint**

Reports of Prohibited Conduct that may constitute a violation of the criminal laws can also be made to law enforcement; make reports to the police jurisdiction where the violation occurred.

Emergency - 911

NMU Police Department  
100 Services Building  
Marquette, MI 49855  
906-227-2151

Marquette City Police Department  
300 W. Baraga Avenue  
Marquette, MI 49855  
906-228-0400

Marquette County Sheriff  
236 W. Baraga Avenue  
Marquette, MI 49855  
906-228-8435

Nationwide Police Contact Information: [police locator.com](https://www.police locator.com)

If an individual files a report with the NMU Police Department, that information is shared with the Title IX Coordinator/Title IX Administrator. However, action taken through the NMU Police Department and/or NMU are separate. Support and resources are available, regardless of the chosen reporting path.

### **Initial Evaluation**

The Title IX Coordinator/Title IX Administrator conducts an initial evaluation typically within seven (7) business days of receiving Notice/Complaint/Knowledge of alleged misconduct. The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
  - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Determining whether NMU has jurisdiction over the reported conduct, as defined in the Policy.
  - If the conduct is not within NMU jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate office for resolution.
- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- Notifying the Complainant, or the person who reported the allegation(s), of the Complaint/Grievance Process, including a supportive and remedial response, an Informal Resolution option, or the Complaint/Grievance Process described below.
- Determining whether the Complainant wishes to make a Complaint.
- Notifying the Respondent of the Complaint/Grievance Process, including a supportive and remedial response, an Informal Resolution option, or the Complaint/Grievance Process described below, if a Complaint is made.
- Notifying any need-to-know departmental or human resources unit, as applicable, of the reported conduct.

### **Helping a Complainant to Understand Options**

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Title IX Coordinator/Title IX Administrator will help to facilitate the Complaint, which will include:

- Working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:
  - a supportive and remedial response, and/or
  - Informal Resolution, or
  - the Complaint/Grievance Process described below.

The Title IX Coordinator/Title IX Administrator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation. If the Complainant elects for the Complaint/Grievance Process below, and the Title IX Coordinator/Title IX Administrator has determined the Policy applies and that NMU has jurisdiction, they will route the matter to the appropriate Complaint/Grievance Process, will provide the Parties with a Notice of Investigation and Allegation(s), and will initiate an investigation consistent with these procedures. If any Party indicates (either orally or in writing) that they want to pursue an Informal Resolution option, the Title IX

Coordinator/Title IX Administrator will assess whether the matter is suitable for Informal Resolution and refer the matter accordingly.

If the Complainant indicates (either orally or in writing) that they do not want any action taken, no Complaint/Grievance Process will be initiated (unless deemed necessary by the Title IX Coordinator/Title IX Administrator), though the Complainant can elect to initiate one later, if desired.

### **Administrator Authority to Initiate a Complaint**

If the Complainant does not wish to file a Complaint, Title IX Coordinator/ Title IX Administrator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Title IX Coordinator/Title IX Administrator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if NMU cannot ensure equal access without initiating a Complaint. The Title IX Coordinator/Title IX Administrator will consider the following non-exhaustive factors to determine whether to file a Complaint:

- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
- The severity of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Prohibited Conduct and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an NMU employee;
- The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a Decision-maker in determining whether Prohibited Conduct occurred;
- Whether NMU could end the alleged Prohibited Conduct and prevent its recurrence without initiating its Complaint/Grievance process.

If deemed necessary, the Title Coordinator/Title IX Administrator may consult with appropriate NMU employees, and/or conduct a violence risk assessment with appropriate CARE Team members to aid their determination whether to initiate a Complaint.

When the Title IX Coordinator/Title IX Administrator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged

conduct that could constitute a violation of this Policy. The Complainant's level of participation, if any, in a Title IX Coordinator/Title IX Administrator Complaint process is voluntary.

### **Dismissal**

The Title IX Coordinator/Title IX Administrator may dismiss a Complaint if, at any time during the investigation or Complaint/Grievance Process, one or more of the following grounds are met:

- The Title IX Coordinator/Title IX Administrator is unable to identify the Respondent after taking reasonable steps to do so
- The Title IX Coordinator/Title IX Administrator no longer enrolls or employs the Respondent
- A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator/Title IX Administrator declines to initiate a Complaint
- The Title IX Coordinator/Title IX Administrator determines the conduct alleged in the Complaint would not constitute a Policy violation, taking Complainant's report as true.

A Decision-maker can recommend dismissal to the Title IX Coordinator/Title IX Administrator, if they believe the grounds are met. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, the Title IX Coordinator/Title IX Administrator will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, the Title IX Coordinator/Title IX Administrator will also notify the Respondent of the dismissal.

The dismissal decision is appealable by any party.

### **Appeal of Dismissal**

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

The Title IX Coordinator/Title IX Administrator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Title IX Coordinator/Title IX Administrator must then provide the Respondent with a Notification of Investigation and Allegations (NOIA) and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, the Title IX Coordinator/Title IX Administrator will:

- implement dismissal appeal procedures equally for the Parties,
- assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint,
- provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal, and
- notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

- procedural irregularity that would change the outcome;
- new evidence that would change the outcome and that was not reasonably available when the dismissal was decided;
- the Title IX Coordinator/Title IX Administrator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

Upon receipt of a dismissal appeal in writing from one or more Parties, the Title IX Coordinator/Title IX Administrator will share the petition with the other party and provide three (3) business days for other Parties to respond to the request. The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. This appeal will be provided in writing to the other Parties, and the Title IX Coordinator/Title IX Administrator, who will be invited to respond in writing. At the conclusion of the response period, the Title IX Coordinator/Title IX Administrator will forward the appeal, as well as any response provided by the other Parties to the Dismissal Appeal Officer for consideration.

If the request for appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Dismissal Appeal Officer, and the Parties, their Advisors, and the Title IX Coordinator/Title IX Administrator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisors, and the Title IX Coordinator/Title IX Administrator, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal, though extensions can be granted at the discretion of the Title IX Coordinator/Title IX Administrator, and the Parties will be notified of any extension.

The Dismissal Appeal Officer may consult with the Title IX Coordinator/Title IX Administrator and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Title IX Coordinator/Title IX Administrator will maintain documentation of all such consultation.

### **Emergency Removal**

The Title IX Coordinator/Title IX Administrator may recommend to the Dean of Students Office, the emergency removal (temporary suspension) of the Respondent. The Dean of Students Office will follow the Temporary Suspension guidelines - 2.7.07 - within the NMU Student Handbook.

Nothing precludes NMU from removing a Respondent from an education program or activity on an emergency basis, provided that the NMU undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of Prohibited Conduct justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

The University may place an employee on Administrative Leave, with or without pay, when circumstances suggest the presence of the Respondent would significantly hinder the investigation or where the Respondent poses an immediate threat to the physical health or safety of an individual.

### **Informal Resolution**

To initiate an Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator/Title IX Administrator at any time prior to a final determination, or the Title IX Coordinator/Title IX Administrator may offer the option to the Parties, in writing. The Title IX Coordinator/Title IX Administrator will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution. The Title IX Coordinator/Title IX Administrator has the authority to approve or decline an Informal Resolution in any given case and at any given time.

Before initiation of an Informal Resolution process, the Title IX Coordinator/Title IX Administrator will provide the Parties with a NOIA that explains:

- The allegations;
- The requirements of the Informal Resolution process;
- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume NMU's Complaint/Grievance Process;

- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the resolution process arising from the same allegations;
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties; and
- What information the Title IX Coordinator/Title IX Administrator will maintain, and whether and how it could disclose such information for use in its Complaint/Grievance Process.

NMU generally offers two categories of Informal Resolutions:

1. Educational Conversation. When the Title IX Coordinator/Title IX Administrator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations.
2. Accepted Responsibility. When the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and NMU are agreeable to the resolution terms. The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision-maker, or Appeal Decision-maker.

It is not necessary to pursue Informal Resolution first in order to pursue a Complaint/Grievance Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time prior to its conclusion and initiate or resume the Complaint/Grievance Process.

If an investigation is already underway, the Title IX Coordinator/Title IX Administrator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

### **Formal Complaint**

A complaint may be filed with the Title IX Coordinator/Title IX Administrator, orally or in writing, in person, by mail, online web form submission, or by electronic mail, by using the contact information listed in the Relationship Violence, Sexual Assault and Stalking Policy. If an oral complaint is made a request for certification in writing will be sent to the Complainant.

If notice of a complaint is submitted in a form that does not meet the standard of a Formal Complaint, the Title IX Coordinator/Title IX Administrator will contact the Complainant to ensure that it is filed correctly. A Formal Complaint means a document filed/signed (physical or digital signature or otherwise indicates that the Complainant is the person

filing the complaint) by the Complainant. A parent or legal guardian may file a Formal Complaint on behalf of their dependent with a disability.

A Formal Complaint may also be signed by the Title IX Coordinator/Title IX Administrator alleging a policy violation by a Respondent and requesting that NMU investigate the allegation(s). In doing so, the Title IX Coordinator/Title IX Administrator does not become a Complainant or a Party for the case.

### **Timeframes for Reporting**

There is no time limitation on providing Notice/Complaints to the Title IX Coordinator/Title IX Administrator. However, if the Respondent is no longer subject to the NMU's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

If a Complainant chooses not to file a Formal Complaint at the time of the Report, they may file a Formal Complaint at a later date.

If a Complainant decides to withdraw a Formal Complaint, they may later request to reinstate it or refile it.

### **Complainant Requests for Confidentiality/No Investigation**

If a Complainant does not wish for their name or other identifiable information to be shared with the Respondent, does not wish for an investigation to take place, or does not want a Formal Complaint to be pursued, they may make such a request to the Title IX Coordinator/Title IX Administrator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law. NMU will also remain true to principles of fundamental fairness that require notice and an opportunity to respond to all parties in a Formal Complaint process.

In assessing threats, NMU may consult with appropriate offices, which may include the appropriate members of the CARE Team, the Dean of Students Office, and NMU Police Department, and may consider the following in evaluating a Complainant's request for confidentiality, that no investigation occur, or that no formal action be taken:

- the nature and scope of the alleged conduct, including whether the reported Prohibited Conduct involves the use of a weapon;
- the Complainant's wish not to pursue disciplinary action;
- the respective ages and roles of the Complainant and Respondent;
- the risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- whether there have been other reports of misconduct by the Respondent;

- whether the Respondent threatened further sexual violence or other violence against the Complainant or others;
- whether the report reveals a pattern of Prohibited Conduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group such that there is an increased risk of future acts of sexual violence under similar circumstances;
- whether NMU possesses other means to obtain relevant evidence (e.g., security cameras, personnel, or physical evidence);
- considerations of fundamental fairness and due process with respect to the Respondent should the course of action include disciplinary action against the Respondent; and
- NMU's obligation to provide a safe and non-discriminatory environment.

Where NMU determines what action should be taken that is inconsistent with a Complainant's request not to proceed, the Title IX Coordinator/Title IX Administrator will inform the Complainant about NMU's chosen course of action. As part of providing Supportive Measures, NMU may pursue steps to limit the effects of the alleged Prohibited Conduct and prevent its recurrence in ways that do not involve disciplinary action against a Respondent or disclosing the identity of the Complainant. NMU may be compelled to initiate a Formal Complaint signed by the Title IX Coordinator/Title IX Administrator or otherwise act on alleged employee misconduct irrespective of a Complainant's wishes.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date. Upon making a Formal Complaint, a Complainant has the right, and can expect, to have allegations taken seriously by NMU, and to have the incidents investigated and resolved through these procedures.

## **Supportive Provisions**

### Supportive Measures

During the grievance procedures or during the informal Complaint/Grievance Process, the Title IX Coordinator/Title IX Administrator will offer and/or provide supportive measures. Supportive measures cannot be unreasonably burdensome to a party and cannot be imposed for punitive or disciplinary reasons. NMU offers non-disciplinary, non-punitive individualized services as appropriate, as reasonably available, and without fee or charge to the Complainant and/or the Respondent upon notice of alleged Prohibited Conduct. Such measures are designed to restore or preserve equal access to the university's education program or activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the university's educational environment, and deter Prohibited Conduct.

Supportive measures may include referral to other departments such as Counseling and Consultation Services or the Health Center, or referral to the Employee Assistance Program, modifications of work, Safe Walk Program, mutual restrictions on contact between the Complainant and Respondent, changes in work or housing locations, work leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The Title IX Coordinator/Title IX Administrator may also assist, in coordination with faculty, in other supportive measures that may include adjustment to class schedules, extensions of deadlines or other course-related adjustments, and student leave of absence.

NMU will maintain the privacy of the supportive measures, provided that privacy does not impair NMU's ability to provide the supportive measures. NMU will act to ensure as minimal of an academic impact on the Parties as possible. NMU will implement measures in a way that does not unreasonably burden the other Party.

The Title IX Coordinator/Title IX Administrator promptly makes supportive measures available to the Complainant and/or Respondent, when appropriate, upon receiving notice of Prohibited Conduct. Supportive measures may be offered as the result of such disclosures without formal NMU action. At the time that supportive measures are offered, NMU will inform the Complainant, in writing (via email), that they may file a Formal Complaint with NMU either at that time or in the future, if they have not done so already. The Title IX Coordinator/Title IX Administrator is responsible for coordinating the implementation of supportive measures.

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

The University may place an employee on Administrative Leave when circumstances suggest the presence of the Respondent would significantly hinder the investigation.

#### Support Person and/or Adviser

Complainant(s) and Respondent(s) may each have a support person and/or Adviser of their choice present at any meeting related to a report of Prohibited Conduct.

During investigative meetings, the Adviser and/or Support Person are both silent and non-participating entities who are there solely to observe and provide support. The Parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Complaint/Grievance Process. Either Party or their Adviser and/or Support Person may request a short break during the investigative meetings to confer privately.

If the case proceeds to a hearing, the Adviser is then responsible for asking cross examination questions on behalf of their Party. The Adviser cannot make opening or closing

statements, object to questions, ask questions of their own, or engage in advocacy other than to ask questions on behalf of their Party. An Adviser is required at a hearing; if a Party does not have an Adviser at the hearing, the University will provide one at no charge.

An Adviser may be an attorney at the Parties own cost. Advisers should make themselves available for meetings throughout the process when requested by their Party to attend. NMU will communicate directly with the Party. If the Party requests communication to include the Adviser, the determination will be made at the discretion of the Title IX Coordinator/Title IX Administrator.

The Adviser and/or Support Person will be required to abide by the University's policies and procedures, privacy protections and expected rules of participation. The University shall determine what constitutes appropriate behavior on the part of a support person and Adviser.

Any Adviser who oversteps their role as defined will be warned. If the Adviser continues to disrupt or otherwise fails to respect the limits of the Adviser role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator/Title IX Administrator will determine how to address the Adviser's non-compliance and future role.

Advisers are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by NMU. NMU may seek to restrict the role of any Adviser who does not respect the sensitive nature of the process or who fails to abide by NMU's privacy expectations.

NMU may also make reasonable provisions to allow an Adviser who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

The Parties are expected to provide immediate notice to the Title IX Coordinator/Title IX Administrator if they change Advisers at any time.

### **Complaint/Grievance Process**

When responding to a Report of Prohibited Conduct, NMU will undertake one of two Complaint/Grievance Processes, either:

- Complaint/Grievance Process A (Applies to any reported Prohibited Conduct involving students. It also applies to employee reports of Relationship Violence, Sexual Misconduct (Sexual Assault and Sexual Exploitation), and Stalking)
  - Relationship Violence (Dating Violence, and Domestic Violence), Sexual Assault (Rape, Sodomy, Sexual Assault with an Object, Nonconsensual Sexual Contact,

### Incest, and Statutory Rape), and Stalking

- assessment (including Supportive Measures or temporary suspension); formal resolution (investigation, hearing (for Complaint/Grievance Process A / Appendix A only), finding, appeal of outcome, sanction, appeal of sanction)
- Sex Discrimination (Gender Identity, Sexual Orientation, Sex Stereotypes, and Sex-Based Harassment (Sexual Harassment and other harassment on the basis of sex))
  - assessment (including Supportive Measures or temporary suspension); formal resolution (investigation, hearing (for Complaint/Grievance Process A / Appendix A only), finding, appeal of outcome, sanction, appeal of sanction)
  - for conduct involving a student Party/Parties only.
- Complaint/Grievance Process B (Applies to reported Prohibited Conduct matters between employees of the University, where an employee is reporting the Prohibited Conduct covered below.)
  - Sex Discrimination (Gender Identity, Sexual Orientation, Sex Stereotypes, and Sex-Based Harassment (Sexual Harassment and other harassment on the basis of sex))

Reports that include allegations from both Complaint/Grievance Processes A & B, will follow Complaint/Grievance Process A.

Reports that include allegations related to the Nondiscrimination Policy will follow Complaint/Grievance Process A or B, as applicable.

The Complaint/Grievance Process will include; assessment (including supportive measures or emergency removal); formal resolution (investigation, hearing (for Complaint/Grievance Process A/Appendix A only), finding, appeal of outcome, sanction, appeal of sanction).

The Complaint/Grievance Process will ensure the following basic rights for all participants:

- Equitable treatment of all Parties
- Supportive Measures offered to both Parties
- Objective evaluation of relevant evidence
- No NMU conflicts of interest or bias by investigators or any Decision Makers involved in the process.
- Presumption of “not responsible” for Respondent
- Reasonably prompt timeframes for all steps in the process, including disciplinary sanctions
- Preponderance of Evidence standard used in all cases
- Appeal provided to both Parties

The Title IX Coordinator/Title IX Administrator will provide supportive measures and assist any Complainant or Respondent in understanding how to navigate the Grievance Process and Procedures. Upon receipt of a Formal Complaint, NMU will conduct an assessment to determine the applicable process for review and investigation.

Unionized/other categorized employees are subject to the terms of their agreements/employees' rights to the extent those agreements do not conflict with federal or state compliance obligations.

All efforts will be made to complete the Complaint/Grievance Process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. Complainants and Respondents will be provided periodic status updates on the progress of the investigation and resolution of all Formal Complaints and subsequent appeals.

NMU will determine responsibility for violation of this Policy by using the preponderance of evidence standard.

When the Respondent is a third party, defined as any Party who is not a current NMU student or employee, NMU's ability to take action may be limited. Please see Appendix C: Third Parties.

### **Prohibited Conduct**

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discrimination, harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom or the First Amendment.

The sections below describe the specific forms of legally prohibited discrimination, harassment, and retaliation that are also prohibited under NMU's Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of NMU's Policy, though supportive measures will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the NOIA will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice-versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

Violation of any other NMU policies may constitute discrimination or harassment when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

### **Discrimination** (on the basis of sex under this Policy)

Throughout this Policy, “on the basis of sex” means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

Note: For other forms of discrimination see [NMU's Non-Discrimination Policy](#).

Discrimination is different treatment with respect to an individual's employment or participation in an education program or activity based, in whole or in part, upon the individual's actual or perceived protected characteristic. Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy.

Discrimination can take two primary forms:

- Disparate Treatment Discrimination:
  - Any intentional differential treatment of a person or persons that is based on an individual's actual or perceived protected characteristic and:
    - excludes an individual from participation in; denies the individual benefits of;
    - or otherwise adversely affects a term or condition of an individual's participation in an NMU program or activity.
- Disparate Impact Discrimination:
  - Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:
    - excludes an individual from participation in; denies the individual benefits of;
    - or otherwise adversely affects a term or condition of an individual's participation in an NMU program or activity.

Discriminatory Harassment:

- Discriminatory Harassment is unwelcome conduct on the basis of actual or perceived protected characteristic(s), that based on the totality of the circumstances, is
  - subjectively and objectively offensive, and
  - is so severe or pervasive, that it limits or denies a person's ability to participate in or benefit from NMU's education program or activity

Sex-based Harassment (Applicable under Title IX, Title VII, and the Fair Housing Act)

- Sex-based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

1) Quid pro quo: an employee agent, or other person authorized by NMU, to provide an aid, benefit, or service under NMU's education program or activity, explicitly or impliedly conditioning the provision of such aid, benefit, or service, on a person's participation in unwelcome sexual conduct.

2) **Hostile Environment Harassment**: unwelcome sex-based conduct, that based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe or pervasive, that it limits or denies a person's ability to participate in or benefit from NMU's education program or activity

NMU reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a **hostile** environment, or (2) that is of a generic nature and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under NMU Policy, but may be addressed through respectful conversation, remedial actions, education, effective or other Informal Resolution mechanisms.

For assistance with Informal Resolution techniques and approaches, contact the Title IX Coordinator/Title IX Administrator.

3) Sexual Assault: Any sexual act, including Rape, Sodomy, Sexual Assault with an Object, or Nonconsensual Sexual Contact directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also, unlawful sexual intercourse.

- Rape:
  - Penetration, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent
  - because of their age or
  - because of their temporary or permanent mental or physical incapacity
- Sodomy
  - Oral or anal penetration of the Complainant by the Respondent without the consent of the Complainant,
  - including instances where the Complainant is incapable of giving consent
    - because of their age or
    - because of their temporary or permanent mental or physical incapacity
- Sexual Assault with an Object

- Respondent's use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of the Complainant, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent
  - because of their age or
  - because of their temporary or permanent mental or physical incapacity
- Nonconsensual Sexual Contact
  - The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
  - The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
  - This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication.
- Incest
  - Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Michigan State law
- Statutory Rape
  - Non-forcible sexual intercourse with a person who is under the statutory age of consent, which is 16 in Michigan.

#### 4) Dating Violence:

- violence\* committed by a Respondent,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant; and
- where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - length of the relationship
  - type of relationship
  - frequency of the interaction between the Parties involved in the relationship.

*\*For purposes of this Policy, violence is defined as intentionally or recklessly causing the Complainant physical, emotional, or psychological harm. Legitimate use of violence for self-defense is not chargeable under this Policy because the purpose is safety, not harm. Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.*

#### 5) Domestic Violence

- felony or misdemeanor crimes committed by a person who:
  - is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of the State of Michigan or a person similarly situated to a spouse of the Complainant;
- is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- shares a child in common with the Complainant; or
- commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of the State of Michigan.

## 6) Stalking

- engaging in a course of conduct\*, that is,
  - directed at a specific person that would cause a reasonable person\*\* to:
    - fear for the person's safety, or
    - the safety of others; or
    - suffer substantial emotional distress.\*\*\*

*\*For purposes of this definition, "A 'course of conduct' requires that there be more than one incident and the conduct must be directed at a specific person. Stalking can occur in person or using technology, and the duration, frequency, and intensity of the conduct should be considered. Stalking tactics can include, but are not limited to watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks. Merely annoying conduct, even if repeated, is a nuisance, but is not typically chargeable as stalking.*

*\*\*Reasonable person is an objective standard meaning a person in the Complainant's shoes (having similar characteristics/demographics to the Complainant).*

*\*\*\*In the context of stalking, a Complainant is not required to obtain medical or other professional treatment and counseling is not required to show substantial emotional distress.*

### **Resolution Timeline**

The Title IX Office will make a good faith effort to complete the Complaint/Grievance Process within one hundred and twenty (120) business days, including any appeals, which can be extended as necessary for appropriate cause by the Title IX Coordinator/Title IX Administrator. The Parties will receive regular updates on the progress of the Complaint/Grievance Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process. Investigations are completed expeditiously, normally within one hundred and

twenty (120) business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors. If a party or witness chooses not to participate in the Complaint/Grievance Process or becomes unresponsive, the Title IX Office reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Complaint/Grievance Process.

The Title IX Office may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to delay the investigation temporarily, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. The Title IX Office will promptly resume its Complaint/Grievance Process as soon as feasible. During such a delay, Title IX Office will implement and maintain supportive measures for the Parties as deemed appropriate. The Title IX Office action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced. The Title IX Office will make a good faith effort to complete the Complaint/Grievance Process as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the process.

### **Additional Information**

#### Coordination with Law Enforcement

NMU encourages Complainants and Respondents to pursue their legal rights regarding criminal claims of Prohibited Conduct that may also violate federal or state law. If requested, NMU will connect involved Parties with resources so they may file criminal reports and/or cooperate with law enforcement agencies.

NMU's Relationship Violence, Sexual Misconduct, and Stalking Policy, Procedures, definitions and burden of proof may differ from Michigan or federal criminal law. Neither law enforcement's determination of whether to prosecute a Respondent, nor the outcome of any criminal prosecution, determine whether a violation of this Policy has occurred. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

At the request of law enforcement, NMU may defer its Complaint/Grievance Process until after the initial stages of a criminal investigation. If NMU delays for this reason, it will communicate with both Parties regarding Supportive Measures, rights, and procedural options under this Policy to assure safety and well-being during the criminal investigation. NMU will promptly resume the Complaint/Grievance Process under this Policy as soon as it is informed that law enforcement has completed its initial investigation. The Title IX Coordinator/Title IX Administrator shall communicate with NMU Police Department

concerning any reported Prohibited Conduct that may constitute a crime, but such notification shall not obligate a Complainant to initiate or participate in a law enforcement investigation or criminal proceeding of any kind.

### Prevention Education

Northern Michigan University places a high priority on maintaining a safe and secure campus for all students, faculty, staff, and visitors. Members of the NMU community learn about campus security procedures and the prevention of crime through mandatory and optional training modules as well as programs presented across NMU.

NMU also uses internal and external resources to educate students and employees about harassment, sexual misconduct, relationship violence, safe and positive options for bystander intervention, as well as alcohol and drug awareness. Information is also available for students and employees concerning relationship violence, sexual misconduct, and/or stalking prevention and awareness upon request.

In addition, NMU offices, such as the NMU Police Department, Intercollegiate Athletics, and Rec Sports, and Housing and Residence Life, coordinate to offer programming to address important topics such as relationship violence, sexual misconduct, bystander intervention, and substance abuse awareness education.

In addition, NMU follows all federal and state training requirements for all sexual misconduct, relationship violence and/or stalking for reporting, investigations, resolutions, and appeals.

### Training Requirements

Every person involved in the resolution of a Formal Complaint of Prohibited Conduct and/or Informal Resolution must complete all legally required training. These individuals include Title IX Coordinator/Title IX Administrators, Investigators, Decision Maker, Appeal Decision Maker and/or Committee Members, Conduct Administrators (designated Dean of Student staff, designated Human Resources staff, and the Provost for Academic Affairs and their designee), and designated NMU Police Department staff and Mandatory Reporters. All employees are also trained on this Policy annually.

### Contact Information for External Complaints and Other Resources

Concerns about NMU's application of Title IX, Title VII, the Clery Act, or Michigan's Elliott-Larsen Civil Rights Act or any other applicable federal or state law may be addressed to the Title IX Office at [titleix@nmu.edu](mailto:titleix@nmu.edu) or [906-227-2416](tel:906-227-2416); Clery Officer at [cleryofficer@nmu.edu](mailto:cleryofficer@nmu.edu) or [906-227-2150](tel:906-227-2150); or [\(906\) 227-2272](tel:906-227-2272) or [crcomplaint@nmu.edu](mailto:crcomplaint@nmu.edu) and indicate whether you want to speak to NMU's General Counsel; Board Chair; or Board Vice-Chair, or any of these external agencies:

United State Department of Education Clery Act Compliance Division  
clery@ed.gov  
(800) 421-3481

United States Department of Education Office for Civil Rights  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: OCR@ed.gov

Equal Employment Opportunity Commission  
info@eeoc.gov  
(800) 669-4000

Michigan Department of Civil Rights  
[www.michigan.gov/](http://www.michigan.gov/)

## **DEFINITIONS**

### Adviser

Any person chosen by a party, or appointed by the University, who may accompany the Party to all meetings related to the Complaint/Grievance Process and advise the party on that process. The Adviser's role in meetings is to advise their party privately. The Adviser's role in a hearing is limited to cross-examination of the other Party and witnesses and conferring with their respective party.

### Appeal Decision-Maker

The person or committee who accepts or rejects a submitted appeal request, determines whether any of the grounds for appeal are met, and renders a decision.

### Amnesty

Make allowances from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident.

### Business Day

A day when NMU is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.

### Complainant

- A Student or Employee who is alleged to have been subjected to Prohibited Conduct under the Policy
- A third party who is alleged to have been subjected to Prohibited Conduct under the Policy by an NMU Student or Employee
  - and/or are participating in an NMU educational program or activity at the time of the alleged Prohibited Conduct.

### Complaint

An oral or written request to the Title IX Coordinator/Title IX Administrator that can objectively be understood as a request for the Title IX Coordinator/Title IX Administrator to investigate and make a determination about the alleged Policy violation(s).

### Complaint/Grievance Process

The process that NMU uses to assess a report and resolve a Formal Complaint.

### Confidential Employee

- An employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
- An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination, harassment, or retaliation. The employee's confidential status only applies with respect to information received while conducting the study

### Consent

Consent is the voluntary, knowing, and freely given agreement, through words and/or actions, to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate in each sexual act.

### Decision Maker/Hearing Officer

A person(s) authorized to determine whether a Respondent has violated the Relationship Violence, Sexual Misconduct and Stalking Policy and to impose sanctions when it has been determined a violation has been committed. This includes specially trained individuals to administer cases related to Prohibited Conduct.

### Education Program or Activity

Locations, events, or circumstances where NMU exercises substantial control over the context in which the sexual harassment or discrimination occurs and also includes any

building owned or controlled by a student organization that is officially recognized by NMU.

#### Employees

A person employed by NMU either full- or part-time, or student employees when acting within the scope of their employment.

#### Final Determination

A conclusion by preponderance of evidence that the alleged conduct occurred and whether it did or did not violate policy.

#### Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

#### Formal Complaint

A document verified by a Complainant or the Title IX Coordinator/Title IX Administrator alleging Prohibited Conduct against a Respondent requesting that NMU investigate a complaint initially provided orally or in writing.

#### Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk. Incapacitation is an objective, reasonable person standard that assumes that a Reasonable Person is both sober and exercising sound judgment.

### Informal Resolution

A resolution agreed to by the Parties and approved by the Title IX Coordinator/Title IX Administrator that occurs prior to a Final Determination in the Complaint/Grievance Process

### Investigation Report

The investigation summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.

### Investigator

The person or persons charged by NMU with gathering facts about an alleged violation of this Policy, assessing relevance, synthesizing evidence, and compiling the information into an Investigation Report.

### Knowledge

When a Mandatory Reporter receives information, a report, or a concern of conduct that reasonably may constitute Prohibited Conduct in an NMU Education Program or Activity requiring Notice.

### Leave of Absence

A period of time when a student is not enrolled in classes but typically intends to re-enroll

### Mandatory Reporter

All employees, except those specifically identified as Confidential Employees acting within their roles, are designated as Mandatory Reporters, and must report, by policy, Knowledge and/or reports of Prohibited Conduct observed as well as incidents reported to them. Mandatory Campus Reporters must report and provide Notice to the Title IX Coordinator/Title IX Administrator, who is assigned to implement corrective measures for Prohibitive Conduct.

### Notice

When an employee, student, or third party informs the Title IX Coordinator/Title IX Administrator of the alleged Prohibited Conduct.

### Party/Parties

The Complainant(s) or Respondent(s) in an action relating to a complaint or investigation of Prohibited Conduct.

### Pregnancy or Related Conditions

Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related to, or recovery from.

### Preponderance of Evidence

Burden of proof that is met if there is greater than a 50% chance that, based on all the reasonable evidence shown, that a particular fact or event was more likely than not to have occurred.

### Prohibited Conduct

Prohibited Conduct is a term used to collectively refer to relationship violence, sexual misconduct (sexual assault, sexual exploitation, and sexual or gender-based harassment), and stalking. Prohibited Conduct can be committed by anyone, regardless of sex or gender, and can occur between people of the same or different gender.

### Reasonable Person

Reasonable Person is an objective, comparative standard meaning a hypothetical person who exercises sober and sound judgment and has similar characteristics, demographics, and circumstances.

### Relevant Evidence

Evidence that may aid a Decision-maker in determining whether the alleged Prohibited Conduct occurred, or in determining the credibility of the Parties or witnesses.

### Remedy

Typically, post-finding actions directed to the Complainant, Respondent and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to NMU's Educational Program and/or Activity.

### Respondent

A person who is alleged to have engaged in Prohibited Conduct that could constitute a violation under this Policy.

### Retaliation

It is a violation of the University's [Retaliation Policy](#) to intimidate, discipline, discharge, or harass any individual who has in good faith reported misconduct or fraud, filed a complaint, instituted proceedings, participated in an Informal Resolution Process, assisted in an investigation or compliance review, or formally or informally objected to sexual misconduct and/or discriminatory practices.

### Sanction

Consequence(s) imposed by NMU on a Respondent who is found to have violated this Policy.

### Sex

Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

### Coercion

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person's consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

### Sexual Exploitation

Sexual Exploitation is defined as an individual taking non-consensual or abusive sexual advantage of another, that does not constitute Sex-Based Harassment as defined, for their own benefit or for the benefit of anyone other than the person being exploited. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or

#### sexual activity

- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images, videos, or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually-related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., deep fakes)

#### Student

This definition includes all persons enrolled for credit bearing courses through or at NMU, both full-time and part-time, and those who attend educational institutions other than NMU but reside in NMU housing facilities. Participants of the National Training Site are considered students. Persons who are not officially enrolled for a particular semester but whose NMU record indicates a continuing relationship with the University are considered students. Persons who have been admitted to NMU but have not yet enrolled for courses are considered students.

#### Supportive Measures

Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant and/or the Respondent upon notice of the alleged Prohibited Conduct. Such measures are designed to restore or preserve equal access to the university's education program or activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the university's educational environment, and deter the alleged Prohibited Conduct.

Supportive measures may include but are not limited to:

- referral to counseling, medical, and/or other healthcare services
- academic supports,
- modifications of work,
- work leaves of absence,
- changes in work or housing locations,
- providing safety campus escorts (Safe Walk Program),
- mutual restrictions on contact between the Parties,
- increased security and monitoring of certain areas of the campus,
- any other actions deemed appropriate by the Title IX Coordinator/Title IX Administrator.

The Title IX Coordinator/Title IX Administrator may also assist, in coordination with faculty, in other supportive measures that may include adjustment to class schedules, extensions of deadlines or other course-related adjustments, and student leave of absence.

The institution must maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the supportive measures. The Title IX Coordinator/Title IX Administrator is responsible for coordinating the effective implementation of supportive measures.

#### Third Party

Any individual that is not a current NMU employee or student.

#### Title IX Coordinator/Title IX Administrator

An official designated by NMU to ensure oversight of compliance with Title IX and NMU's Title IX program. References to the Coordinator/Administrator throughout the Policy may encompass the Coordinator, Executive Director, or Specialist.

ATIXA 2024 ONE POLICY, ONE PROCEDURE MODEL

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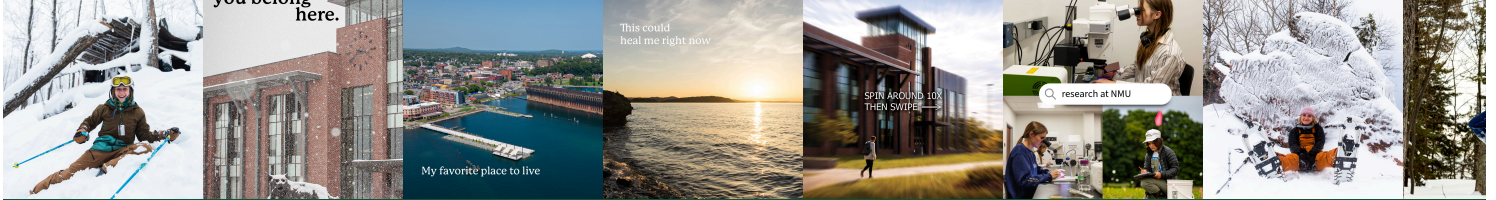
**Oversight Unit** EQUAL OPPORTUNITY

**Under review** No

**Attachment** [RV-S-SM-Policy-Procedures-A.docx](#)

**Attachment** [RV-S-SM-Policy-Procedures-B.docx](#)

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[Mission and Vision](#)

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**NORTHERN MICHIGAN UNIVERSITY**



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Northern Michigan University is located on the ancestral homelands of the Anishinaabe Three Fires Confederacy. Gichi-namebini Ziibing is the traditional name of Marquette.

