

Title IX Grievance Policy

1.1. Title IX Policy Statement

Northern New Mexico College (Northern) is committed to providing equal access to educational and employment opportunities regardless of race, color, religion, national origin, physical or mental disability, pregnancy, age, sex (including sexual harassment), sexual preference, gender identity, ancestry, spousal affiliation or medical condition. We are committed to providing a work and student environment which is free of sexual harassment and will not tolerate sexual harassment activity by any of Northern's employees, contractors, vendors or students. We will take all reasonable steps to deter discrimination and will act quickly and impartially to address claims of sexual harassment and discrimination and remedy discriminatory effects of inappropriate acts of discrimination on the victim(s). This policy also applies to individuals conducting business within the college.

The Director of Human Resources serves as Northern's Title IX Coordinator and is the designated individual on campus for assuring compliance with all College policies, state and federal laws and regulations that apply to the civil rights of individuals.

The Human Resources Office is located in the Joseph M. Montoya Administration Building at 921 Paseo de Oñate in Española, New Mexico. The Title IX Coordinator can be reached at 505-747-2160 during regular business hours (8:00 a.m. – 5:00 p.m., Monday through Friday) and via email to HR@nmmc.edu.

Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972 and will not be tolerated at Northern. The following procedures will apply to all complaints of sex discrimination (including sexual harassment, sexual assault, and sexual violence) and are designed to provide for the prompt and equitable resolution of complaints alleging sex discrimination.

Both Federal and State law prohibits anyone from retaliating against anyone who has opposed an unlawful discriminatory practice or has filed a complaint, testified or participated in any proceedings under Federal or State law. Retaliation against an employee or student for filing a sexual harassment complaint is strictly prohibited and grounds for a subsequent harassment complaint and possible disciplinary action up to and including termination or expulsion.

2. Definitions & Examples of Sex Discrimination

Sexual harassment is a kind of discrimination based on sex. Sexual harassment includes any unwelcomed sexual advances or requests for sexual favors; and other unwelcomed conduct of a sexual nature constitutes prohibited sexual harassment when:

- submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or academic advancement;
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual;
- such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment; or

- a supervisor or faculty member fails to take corrective action when he or she knows, or reasonably should have known, that a subordinate employee or a student is being subjected to sexual harassment.

Conduct of sexual nature may include, but is not limited to, verbal or physical sexual advances, including subtle pressure for sexual activity; touching, pinching, patting, or brushing against; comments regarding physical or personality characteristics of a sexual nature; sexually oriented “kidding,” “teasing,” “double-entendres,” and jokes,” as well as any harassing conduct to which an employee or student would not be subjected but for such individual's sex.

Verbal or physical conduct of a sexual nature may constitute sexual harassment when the allegedly harassed employee or student has indicated, either verbally or by his or her conduct, that it is unwelcome. An employee or student who has initially welcomed such conduct by active participation must give specific notice to the alleged harasser that such conduct is no longer welcome in order for any such subsequent conduct to be deemed unwelcome.

Examples of sexual harassment which shall not be tolerated include but are not limited to:

- suggestive or obscene letters, notes, invitations,
- derogatory comments, epithets, slurs or jokes,
- impeding or blocking movements, touching, or any physical interference with normal work,
- sexual oriented gestures, displaying sexually suggestive or derogatory objects, pictures, cartoons, or posters (the situation will be evaluated for appropriateness such as art displayed in museums versus centerfold in office setting),
- threats or insinuations that lack of sexual favors will result in reprisals, withholding support for appointments, grades, promotions or transfers, change of assignments, or poor performance reviews.

Northern disapproves of intimidating conduct of a sexual nature which does not rise to the level of the above definition of sexual harassment and which has a detrimental but limited impact on the work and/or educational environment. Such conduct may include isolated sexual remarks, sexist comments, or inappropriate physical behavior of a sexual nature. Such conduct shall be strongly and actively discouraged by responsible supervisors and faculty members.

While sexual harassment most often takes place in a situation of power differential between the persons involved, this policy also recognizes that sexual harassment may occur between persons of the same status: student-student, faculty-faculty, staff-staff. The prohibition of sexual harassment applies regardless of the status or genders of the parties.

Sexual harassment is especially serious when it threatens the relationship between student and teacher or the relationship between a supervisor and his or her subordinates. Through grades, wage increases, recommendations for graduate study, promotion, and the like, a teacher or supervisor can have a decisive influence on a student's or employee's success and future career at Northern and beyond.

3. Procedures for filing a complaint of sex discrimination

A person who believes he or she may have experienced sex discrimination or harassment may report the incident to any of the following:

- his or her supervisor, and/or

- the Title IX Coordinator

Disputes involving work-related allegations of sexual harassment will be resolved by the Title IX Coordinator. The Title IX Coordinator will decide the proper method of resolving the allegations and is available to discuss the incident(s), assist in evaluating whether the conduct appears to be sexual harassment, and explain the options available, such as filing a formal complaint of sexual harassment, etc. In determining whether the alleged conduct constitutes sexual harassment, consideration will be given to the record as a whole and to the totality of the circumstances, including the nature of the sexual advances, and the context in which the alleged incidents occurred.

In cases of sexual harassment that may also constitute criminal behavior (*e.g.*, sexual assault, stalking, etc.), the victim may simultaneously, in addition, file a complaint with local law enforcement authorities. The Title IX Coordinator may also notify local law enforcement in cases that may constitute criminal behavior.

3.1. Procedures for Complaints: Employees

Every staff and faculty member who becomes aware of alleged sexual harassment has the responsibility of reporting the matter immediately to the Title IX Coordinator.

If an employee believes that he or she has been discriminated against or harassed on the basis of sex, that employee should report the alleged incident to his or her supervisor or the Title IX Coordinator by utilizing the following process:

- 3.1.1. Employees should report any incident in which they believe they have been a victim of sexual harassment or discrimination to the Title IX Coordinator no later than fifteen (15) working days after the alleged incident.
- 3.1.2. The Title IX Coordinator shall conduct a thorough, reliable, and impartial investigation of the complaint and will provide all parties with written notification of the findings of the investigation no later than forty (40) working days after receiving the initial complaint.
- 3.1.3. The Title IX Coordinator may direct interim measures to ensure the safety and well-being of the complainant and the work/school community while any investigation of the complaint is in progress.
- 3.1.4. The Title IX Coordinator may gather any evidence available for consideration, may take statements from witnesses, and will permit the parties equal opportunity to submit statements, witnesses, or evidence to be considered in the investigation process.
- 3.1.5. The Title IX Coordinator will apply the conventional rule of civil litigation, the preponderance of the evidence standard, in determining whether sexual discrimination or harassment occurred as alleged.
- 3.1.6. Any real or perceived conflict of interest between the Title IX Coordinator and either of the parties should be disclosed and resolved by the President or designee.
- 3.1.7. No reprisal or retaliation by any party to the investigation shall be taken against any party as a result of making a complaint or participating in the investigation.
- 3.1.8. All documents related to the investigation shall be kept confidential and maintained and controlled by the Title IX Coordinator. Information related to the investigation will be released only on a need-to-know basis consistent with applicable law or to any

external investigative agency who is investigating a complaint under their jurisdiction.

- 3.1.9. If either of the parties to the investigation is unsatisfied with the decision made by the Title IX Coordinator, the party shall have the right to appeal the decision, in writing, to the President, or designee, no later than fifteen (15) working days after issuance of the written notification of the outcome of the investigation from the Title IX Coordinator.
- 3.1.10. The President, or designee, shall conduct any additional investigations that may be necessary to resolve the appeal and shall review all materials pertaining to the investigation including any additional materials that the appellant feels is relevant to his or her appeal. The appeal will only address the issue of whether the factual or legal analysis of the original decision is correct and will not require a reinvestigation of the original complaint allegations.
- 3.1.11. The President, or designee, will provide the parties with written notification of the outcome of the appeal no later than ten (10) working days after receiving the written appeal from the appealing party. The decision of the President, or designee, is final.
- 3.1.12. The time limits set forth above may be extended provided the extension is based on a showing of good cause and is requested and agreed to by both parties in writing.

The Title IX Coordinator will inform any employee making a sexual harassment complaint of counseling and other internal and/or external resources available.

If the immediate supervisor is part of the alleged conduct, or if for some legitimate reason the employee feels uncomfortable about making a report to the supervisor, the employee may directly contact the Title IX Coordinator and proceed through the steps outlined in the internal grievance procedure. If the Title IX Coordinator is part of the alleged conduct, or if for some legitimate reason the employee feels uncomfortable about making a report to the Title IX Coordinator, the employee may directly contact the Director of Equity and Diversity and proceed through the steps outlined in this policy.

Should the Title IX Coordinator find that there is a preponderance of the evidence indicating that an employee (whether faculty, adjunct faculty, or staff, including individuals providing contract services to the College) engaged in sexual harassment, the employee may be terminated for cause according to the most current version of Northern's Termination Policy in the respective Northern Policy Handbook. An employee may end any informal efforts to resolve a complaint of sexual harassment at any time and initiate a formal complaint subject to these procedures. If an employee believes alleged sexual harassment constitutes a criminal offense, the employee should consider reporting the conduct to appropriate law enforcement officials.

3.2. Procedures for Complaints: Students

If any student believes that he or she has been discriminated against or harassed on the basis of sex, that student should report the alleged incident to the Title IX Coordinator. The Title IX Coordinator will conduct a thorough investigation and provide the student with a written notification of the outcome of the investigation. Students may make their initial report to the Dean of Student Services who will refer the matter immediately to the Title IX Coordinator.

The Title IX Coordinator will inform any student making a sexual harassment complaint of counseling, academic, and other resources available at Northern and in the community.

- 3.2.1. Students should report any incident in which they believe they have been victim of sexual harassment or discrimination to the Title IX Coordinator no later than fifteen (15) working days after the alleged incident.
- 3.2.2. The Title IX Coordinator shall conduct a thorough, reliable, and impartial investigation of the complaint and will provide all parties with written notification of the findings of the investigation no later than forty (40) working days after receiving the initial complaint.
- 3.2.3. The Title IX Coordinator may direct interim measures to ensure the safety and well-being of the complainant and the school community while any investigation of the complaint is in progress.
- 3.2.4. The Title IX Coordinator may gather any evidence available for consideration, may take statements from witnesses, and will permit the parties equal opportunity to submit statements, witnesses, or evidence to be considered in the investigation process.
- 3.2.5. The Title IX Coordinator will apply the conventional rule of civil litigation, the preponderance of the evidence standard, in determining whether sexual discrimination or harassment occurred as alleged.
- 3.2.6. Any real or perceived conflict of interest between the Title IX Coordinator and either of the parties should be disclosed and resolved by the President or designee.
- 3.2.7. No reprisal or retaliation by any party to the investigation shall be taken against any party as a result of making a complaint or participating in the investigation.
- 3.2.8. All documents related to the investigation shall be kept confidential and maintained and controlled by the Title IX Coordinator. Information related to the investigation will be released only on a need-to-know basis consistent with applicable law or to any external investigative agency who is investigating a complaint under their jurisdiction.
- 3.2.9. If either of the parties to the investigation is unsatisfied with the decision made by the Title IX Coordinator, the party shall have the right to appeal the decision, in writing, to the President, or designee, no later than fifteen (15) working days after issuance of the written notification of the outcome of the investigation from the Title IX Coordinator.
- 3.2.10. The President, or designee, shall conduct any additional investigations that may be necessary to resolve the appeal and shall review all materials pertaining to the investigation including any additional materials that the appellant feels is relevant to his or her appeal. The appeal will only address the issue of whether the factual or legal analysis of the original decision is correct and will not require a reinvestigation of the original complaint allegations.
- 3.2.11. The President, or designee, will provide the parties with written notification of the outcome of the appeal no later than ten (10) working days after receiving the written appeal from the appealing party. The decision of the President, or designee, is final.
- 3.2.12. The time limits set forth above may be extended provided the extension is based on a showing of good cause and is requested and agreed to by both parties in writing.

Should the Title IX Coordinator find that there is a preponderance of the evidence indicating that a student engaged in sexual harassment, the student will be subject to the *Disciplinary Actions and Sanctions* as provided in the most current version of the Northern Student Handbook. Sanctions may include, and are not limited to: probation; withholding of grades, transcripts, or degrees; restitution; suspension; and expulsion. The sanction imposed is determined by the severity of the infraction.

A student may end any informal efforts to resolve a complaint of sexual harassment at any time and initiate a formal complaint subject to these procedures.

Northern New Mexico College's Title IX grievance policy and procedures shall be reviewed biennially to ensure Title IX compliance with all applicable laws, rules, policies, procedures, etc.

The college is committed to thoroughly, reliably, and impartially investigating complaints of alleged sexual harassment and taking action to stop the harassment, prevent further harassment, and remedy the effects of the harassment. Any investigation related to a complaint under this policy will be conducted impartially, with confidentiality and respect for the rights of all individuals involved. Information related to the investigation will be released only on a need-to-know basis consistent with applicable law or to any external investigative agency who is investigating a complaint under their jurisdiction. Northern will take steps to investigate any complaint or report of sexual harassment consistent with a request for confidentiality, and must weigh a request for confidentiality with responsibility to provide a safe, non-discriminatory environment for students and employees. It may be necessary in appropriate cases to explain that confidentiality may not be ensured. The President, or designee, will be the final authority on releasing any information or documents to a specific case. All investigative files will be maintained and controlled by the Title IX Coordinator.