

3357:13-15-03 Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy

- (A) This policy applies in cases where the student or employee complaint involves discrimination, harassment, sexual misconduct, or retaliation.

A student filing a complaint that does NOT involve discrimination, harassment, sexual misconduct, or retaliation must follow the College's Student Complaint Policy ([Policy 3357:13-15-02](#)).

- (B) North Central State College (College) is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based upon race, color, religion, sex¹, gender, gender identity or expression, national origin (ancestry), military status (past, present or future), disability, age (40 years or older), status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, genetic information, or sexual orientation. Such an environment is necessary to a healthy learning, working, and living atmosphere because discrimination and harassment undermine human dignity and the positive connection among all people at the College. Acts of discrimination, harassment, sexual misconduct, and retaliation will be addressed consistent with this policy.
- (C) It is important that members of the College community understand that the law does not just prohibit discrimination and harassment of employees by employers. The law also prohibits discrimination and harassment between members of the College community more generally: for example, between an instructor and a student, between two students, or between a student and an applicant or campus guest. The policy applies in all College education programs and activities, including, but not limited to, discrimination in athletics, instruction, grading, college housing, and college employment. In addition, the law prohibits retaliation against an individual for opposing any practices forbidden under this policy, for bringing a complaint of discrimination or harassment, for assisting someone with such a complaint, for attempting to stop such discrimination or harassment, or for participating in any manner in an investigation or resolution of a complaint of discrimination or harassment. It is central to the values of the College that any individual who believes they may have been the target of unlawful discrimination, harassment, or sexual misconduct feel free to report their concerns for appropriate investigation and response, without fear of retaliation.
- (D) This policy shall not be construed or applied to restrict academic freedom at the College, nor shall it be construed to restrict constitutionally protected expression, even though such expression may be offensive, unpleasant, or even hateful.
- (E) The College employee responsible for handling complaints about conduct that may violate this policy is identified by the term "EO" or "Title IX Coordinator." All complaints or any concerns about conduct that may violate this policy and retaliation should be filed with the College's Title IX Coordinator (EO):

¹ The College does not discriminate on the basis of sex in the education programs or activities that it operates, and is required by Title IX of the Education Amendments of 1972 and its implementing regulations (34 C.F.R. part 106) not to discriminate in such a manner. The requirement not to discriminate in the education programs or activities extends to admission and employment. Inquiries about the application of Title IX and its implementing regulations to the College may be referred to the College's Title IX Coordinator, to the Assistant Secretary of the United States Department of Education, or both.

Title IX Coordinator (EO)
North Central State College
Fallerius Technical Building
Room 158
2441 Kenwood Circle
Mansfield, OH 44906
419-755-4823
Email: kgray@ncstatecollege.edu

(G) Upon receiving a complaint, the EO will follow the procedures described in the Discrimination Grievance Procedures (Policy 3357:13-15-031).

(H) Discriminatory Conduct

- (1) Discrimination is conduct that is based upon an individual's race, color, religion, sex, gender, gender identity or expression, national origin (ancestry), military status (past, present or future), disability, age (40 years or older), status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, genetic information, or sexual orientation that excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a College education program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.
- (2) Harassment is unwelcome conduct based upon an individual's race, color, religion, sex, gender, gender identity or expression, national origin (ancestry), military status (past, present or future), disability, age (40 years or older), status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, genetic information, or sexual orientation determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity, or employment at the College.
- (3) Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following: (1) An employee of the College conditioning the provision of an aid, benefit, or service of the College, or terms and conditions of employment at the College, on an individual's participation in unwelcome sexual conduct; (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity, or employment at the College.

(I) Sexual Misconduct includes sexual assault, dating violence, domestic violence, and stalking.

- (1) Sexual Assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sexual assault includes, but is not limited to:
 - (a) Involvement in any sexual contact with a person when the person is unable to consent.

- (b) Intentional and unwelcome touching of, or coercing, forcing, or attempting to coerce or force another to touch another person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast).
 - (c) Sexual intercourse without consent, including acts commonly referred to as "rape."
- (2) Dating Violence means violence committed by a person -
- (a) Who is or has been in a social relationship of a romantic or intimate nature with the victim, and
 - (b) Where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of the relationship; and the frequency of interaction between the persons involved in the relationship.
- (3) Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his or her safety or the safety of others, or (2) suffer substantial emotional distress.
- (4) Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Ohio, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Ohio.
- (I) Retaliation occurs when a person intimidates, threatens, coerces, or discriminates against another individual for the purpose of interfering with any right or privilege secured by Title IX or Title VII, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX or Title VII. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.
- (J) Complainant means an individual who is alleged to be the victim of conduct that could constitute discrimination, harassment, sexual misconduct, or retaliation under this policy.
- (K) Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute discrimination, harassment, sexual misconduct, or retaliation under this policy.
- (L) Complaint means a document filed by a complainant or signed by the Title IX Coordinator alleging discrimination, harassment, sexual misconduct, and/or retaliation against a respondent and requesting that the College investigate the allegation of harassment, discrimination, sexual misconduct, and/or retaliation. At the time of filing a complaint, a student complainant must be participating in or attempting to participate in an education program or activity of the College.

(M) Consent is informed, freely given, and mutual. If coercion, intimidation, threats, or physical force are used there is no consent. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious. There is no consent when there is force, expressed or implied, or use of duress or deception upon the person. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing future consent. Whether an individual has taken advantage of a position of influence over the person may be a factor in determining consent.

(N) Education Program or Activity includes locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which the harassment, discrimination, sexual misconduct, and/or retaliation occurs, and also includes any building owned or controlled by a student organization that is officially recognized by College.

(O) Off-Campus Conduct

Conduct that occurs off campus can be the subject of a complaint and will be evaluated by the EO and/or other appropriate College officials to determine whether it is subject to this policy.

(P) Employee Reporting of Sex-based Discrimination, Sexual Harassment and Sexual Misconduct Involving Students

(1) In order to enable the College to respond effectively and to stop instances of sex-based discrimination, sexual harassment and sexual misconduct involving students at the College, all College employees must report information they have about alleged or possible sex-based discrimination, sexual harassment, and sexual misconduct involving students to the EO. Employees who are statutorily prohibited from reporting such information are exempt from these reporting requirements, including licensed health-care professionals. Please note that this policy does not reach curriculum or in any way prohibit or abridge the use of particular textbooks or curricular materials. Please note that notice (i.e. reporting) to a College employee does not constitute notice/actual knowledge to the College. Actual knowledge means notice of sex-based discrimination, sexual harassment, or sexual misconduct, or allegations of the same to the College's Title IX Coordinator who has authority to institute corrective measures on behalf of the College. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. The actual knowledge standard is not met when the only official of the College with actual knowledge is the respondent. The mere ability or obligation to report sex-based discrimination, sexual harassment, or sexual misconduct, or to inform a student about how to report the same, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the College.

(2) Upon receiving a report of alleged or possible sex-based discrimination, sexual harassment, or sexual misconduct, the EO will evaluate the information received and determine what further actions should be taken. The EO will follow the procedures described in the Discrimination Grievance Procedures (Policy 3357:13-15-031).

(Q) Sanctions and Corrective Action

Consequences for violating this policy will depend upon the facts and circumstances of each particular situation. Sanctions and Corrective Action could include: a requirement not to

repeat or continue the discriminatory, harassing, or retaliatory conduct, a reprimand, a no-contact order, denial of a merit pay increase, reassignment, suspension or termination. The severity of sanctions or corrective action will depend on the frequency and severity of the offense and any history of past discriminatory, harassing or retaliatory conduct. A finding of discrimination, harassment, sexual misconduct, and/or retaliation may be cause for disciplinary action, up to and including the discharge of employees and the expulsion of students, in accordance with applicable College procedures. The College may also take appropriate action if it does not find discrimination, harassment, sexual misconduct, or retaliation, but (a) the College found that the respondent or complainant engaged in disruptive behavior or (b) the respondent or complainant violated other College policies or codes of conduct.

(R) Amnesty for Drug or Alcohol Possession and Consumption Violations

The College strongly encourages students to report instances of sex-based discrimination, sexual harassment, and sexual misconduct involving students. Therefore, students who report information about sex-based discrimination, sexual harassment, or sexual misconduct involving students will not be disciplined by the College for any violation of the College's drug or alcohol possession or consumption policies in which they might have engaged in connection with the reported incident.

(S) Training

In order to comply with Title IX of the Education Amendments of 1972, the Title IX Coordinator, investigators, Discrimination Grievance Committee, and any person who facilitates the College's Discrimination Grievance Procedures (Policy 3357:13-15-031) must receive training on the definition of sexual harassment found in 34 C.F.R. § 106.30, the scope of the College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. In addition, the Discrimination Grievance Committee must receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. College investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Any materials used to train the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of complaints of sexual harassment.

(T) Free Speech and Academic Freedom

The College recognizes and protects full freedom of inquiry, teaching, research, discussion, study, publication, and for artists, the creation and exhibition of works of art, without hindrance, restriction, equivocation, or reprisal. This right extends to other facets of campus life to include the right of a faculty member or student to speak on general educational questions or about the College. In addressing all complaints and reports under this policy, the College will take all permissible actions to ensure the safety of students and employees while complying with free speech requirements for students and employees. While the College will protect students' and employees' rights against sex discrimination under this policy, this policy does not apply to curriculum or in any way prohibit or abridge the use of particular textbooks or curricular materials.

(U) External Complaints

- (1) If you filed a complaint with the EO and believe the College's response was inadequate, or you otherwise believe you have been discriminated against by the College on the basis of race, color, national origin, sex, including sexual harassment, disability, age, or retaliation, you may file a complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education or the Educational Opportunities Section (EOS) of the Civil Rights Division of the U.S. Justice Department of Justice, and a complaint based on religion with EOS of the U.S. Justice Department.
- (2) As a student or employee, if you filed a complaint with the EO and believe the College's response was inadequate, or you otherwise believe you have been discriminated against by the College on the basis of race, color, religion, sex, gender, gender identity or expression, national origin (ancestry), military status (past, present or future), disability, age (40 years or older), status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, genetic information, or sexual orientation, including sexual harassment, or retaliation, you may file a complaint with the Ohio Civil Rights Commission.

(S) Resources

- (1) The College's Safety and Security Annual Report of on-campus crime statistics now includes forcible and non-forcible sex offenses, in lieu of the single category of rape used on previous reports, in compliance with the Campus Security Act.
- (2) Copies of the Safety and Security Annual Report (required by the Student Right-to-Know and Campus Security Act of 1990) which details on-campus crime statistics for the three previous calendar years may be obtained at the College's Campus Security Office located in Reidl Hall, Room 161.
- (3) Crime prevention materials concerning personal safety on campus, rape and date or acquaintance rape will be available at the Campus Security Office located in Reidl Hall, Room 161.
- (4) During the academic year, the Campus Security Office and the Office of Student Services may provide sex crime prevention information through campus publications and by direct presentations to student groups on request.

The College does offer counseling services to its students. Those students needing counseling can contact the Student Success Center at (419) 755-4764. Additional counseling services are also available through the Richland County Prosecutor's Office's Crime Victims Division at (419) 774-5676.

- (T) Recordkeeping. Pursuant to Title IX of the Education Amendments of 1972, the College must maintain for a period of seven years records of – (1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript of any live hearing, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the College's education program or activity; (2) Any appeal and the result therefrom; (3) Any informal resolution and the result therefrom; and (4) All materials used to train Title IX Coordinators, investigators, Discrimination Grievance Committee, and any person who

facilitates an informal resolution process. The College will make these training materials publicly available on its website, or if the College does not maintain a website the College will make these materials available upon request for inspection by members of the public. In addition, for each response required under 34 C.F.R. § 106.44, the College will create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or complaint of sexual harassment. In each instance, the College will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the College's education program or activity. If the College does not provide a complainant with supportive measures, then the College will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the College in the future from providing additional explanations or detailing additional measures taken.

Effective: August 10, 2020

Expires: February 1, 2026

Review Dates: 12/15/14, 7/1/15, 8/10/20, 2/23/21