

Policy

Policy #3.03.06

Effective Date: 6/22/16

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| <i>(Impact Area - Dept Name)</i> Students, Employees, Volunteers, Contractors, and Guests | <i>(General Subject Area)</i> Non-discrimination | <i>(Specific Subject Area)</i> Sexual Harassment, Discrimination and Sexual Misconduct |
| | Author: Title IX Coordinator | Supersedes Policy # 3.03.01 |
| Relates to Procedure # 3.03.06 | Impact: | |
| Legal Citation (if any): Title IX of the Educational Amendments of 1972; Department of Education Office of Civil Rights; Federal Code of Regulations Title 34, part 106 | | |
| North Idaho College | | |

Policy Narrative

[Page 1 of 7]

North Idaho College (“the college”) recognizes that members of the college community, including guests and visitors, have the right to be free from all forms of gender and sex-based discrimination. Examples of this include acts of sexual violence, sexual harassment, relationship and dating violence, sexual exploitation, and stalking. All members of the college community are expected to conduct themselves in a manner that does not infringe upon the rights of others and the college will not tolerate sex or gender-based misconduct.

The purpose of this policy is to clearly establish the college’s commitment to provide an educational and working environment free from unlawful discrimination or harassment based on sex or gender and to provide recourse for those individuals whose rights have been violated. This policy and associated procedure is intended to define the college’s expectations and outline a mechanism for determining when those expectations have been violated.

I. Policy

Sex or gender-based discrimination or harassment of an applicant for admission to the college, an applicant for employment with the college, a student, employee, or a member of the public by any student, employee, volunteer, contractor, or guest is in violation of Title IX of the Education Amendments of 1972 (“Title IX”) and/or Title VII of the Civil Rights Act of 1964 (“Title VII”) and will not be tolerated. Title IX and Title VII are described below:

- A. Title IX prohibits discrimination based on sex or gender in NIC's programs, benefits and activities. It says "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."
- B. Title VII prohibits sex and gender based discrimination in to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Any employee, student, volunteer, contractor, or guest found to be participating in any form of discrimination or harassment based on sex or gender, or retaliation against another employee, student, volunteer, contractor, or guest for filing a report or cooperating with an investigation shall be subject to disciplinary action up to and including expulsion from the college, termination of employment or contract with the college, and/or being banned from the college premises.

II. Policy Limitations and Exclusions

This policy applies exclusively to allegations of discrimination based on sex or gender, including gender-based or sex-based harassment, sexual misconduct and sexual violence. Other forms of harassment and discrimination (such as race, color, religion, national origin, age (40 and over), pregnancy or disability) are addressed in policies 3.03.03 and 3.03.04.

III. Notice of Required Updates to this Policy

The current version of this policy that is found on the NIC Policy Manual website supersedes all other versions of this policy, regardless if a previous version is in print or found electronically on a webpage that is not the official NIC Policy Manual webpage.

Due to the evolving nature of the federal and state laws that this policy addresses, there may be a need to update this policy in a timeframe that is incompatible with the timeline used in the current practice for policy revisions at the college. In the event that this policy requires updating in order to be in compliance with applicable federal or state law, and the timeframe for updating the policy is incompatible with timeline for policy revisions as stated in the procedure for Policy 2.01.04, the Title IX Coordinator will make amendments to the policy to ensure compliance with applicable law, subject to the approval of the President. Official notice of these updates will be given to the College Senate and the Board of Trustees, and a presentation of the updates will be made, upon request, at an open meeting of each group.

IV. Policy Enforcement

The college has identified a Title IX coordinator to oversee the enforcement of

this policy. The Title IX coordinator is also responsible for overseeing the college's compliance with the Title IX federal requirements. The Title IX coordinator's duties include but are not limited to receiving reports of alleged violations of this policy, investigating such reports, and issuing a determination regarding the investigation of the alleged misconduct.

Contact information for the current Title IX coordinator can be found on the Title IX website at www.nic.edu/security

V. Responsibilities in Regards to this Policy

It is the responsibility of the college to develop this policy, provide training on this policy, keep it up to date, and to ensure that any violation of this policy is brought to its attention and is dealt with as required by law and according to this policy and the associated procedure.

It is the responsibility of North Idaho College employees, students, and volunteers to know and adhere to this policy. All employees, students, and volunteers share the responsibility of understanding and preventing discrimination based on sex or gender, including sex and gender-based harassment, sexual misconduct and sexual violence. It is encouraged and expected that employees, students, and volunteers will report incidents that violate this policy through the proper reporting channels so the college can ensure that these incidents are handled appropriately.

VI. Mandatory Employee Reporting

To enable the college to respond effectively and to stop instances of sex or gender-based discrimination, sexual harassment or sexual misconduct, all college employees must, in the exercise of reasonable care, promptly report information they have about actual or suspected discrimination, harassment, or misconduct to the Title IX coordinator, a Title IX investigator, or other appropriate employee of the college such as the director of Human Resources or the vice president for Student Services. Employees who fail to report this information in a prompt manner may be subject to disciplinary action.

VII. Confidential Reporting

Employees who are hired into positions that have legal requirements to keep confidentiality, such as licensed professional counselors and licensed medical staff, are exempt from the mandatory reporting requirements when they become aware of a these sorts of incidents in the course of discharging the responsibilities for which they were hired. These employees will maintain confidentiality except in extreme cases of immediate threat or danger, or the abuse of a minor. A list of positions that are exempt from the mandatory reporting requirement can be found the college website at www.nic.edu/security.

VIII. Student and Community Reporting

Students and community members who have witnessed an incident or been the

victim of sex or gender-based discrimination, harassment, or misconduct are strongly encouraged to report the alleged incident in a timely manner to the Title IX coordinator, a Title IX investigator, or other appropriate employee of the college such as the director of Human Resources or the vice president for Student Services.

IX. Privacy Regarding Reports

The privacy of the reporting party/reported victim and responding party will be maintained in accordance with applicable federal and state law. The Title IX coordinator will inform and attempt to obtain consent from the reporting party (or reported victim, if they are not the initial reporting party) prior to beginning an investigation. If the reported victim requests complete privacy, or that no investigation be conducted at all, the Title IX coordinator will take reasonable steps to conduct an investigation consistent with the request for privacy. However, there may come a point in time when information about the reported victim will need to be disseminated as necessary in order for the college to meet our standard of maintaining a safe and non-discriminatory environment, as well as ensuring the college is in compliance with federal and state law.

X. False Reports

Any employee, student, volunteer, contractor, or guest of the college who has been found to have knowingly made false reports or knowingly given false information during an investigation regarding sex or gender-based discrimination, harassment, or sexual misconduct, is subject to disciplinary action up to and including expulsion from the college or termination of employment, termination of contract, or trespass from campus.

Be assured that this is not intended to discourage any person from making reports regarding sex-based discrimination, harassment, or sexual misconduct, or from participating in an investigation of such reports. However, the college understands that intentionally false reports and intentionally false investigation information adversely impact the academic environment and the workplace, as well as the lives and careers of those falsely accused, and will not be tolerated.

XI. Sanctioning for Sexual Misconduct

If, following an investigation into reported sexual misconduct, the responding party is found in violation of this policy, the Title IX coordinator will make recommendations for sanctions and remedies that are appropriate for the violation.

A. Possible student sanctions include:

- 1) Educational opportunities;
- 2) Counseling;
- 3) Assessment for drug, alcohol, or other psychological disorder;

- 4) Warning or censure: written notice to student in writing that continuation or repetition of the conduct in violation may be cause for more severe disciplinary sanction;
- 5) Fees or restitution;
- 6) Community service;
- 7) Disqualification from activity, class, or specific privilege, curtailing or barring a student from participating in a specified activity or exercising a specific privilege for a stated period of time;
- 8) Disciplinary probation;
- 9) Special sanctions deemed appropriate and reasonable;
- 10) Interim suspension;
- 11) Suspension;
- 12) Expulsion.

B. Possible employee sanctions include:

- 1) Verbal warning;
- 2) Written warning;
- 3) Personal Improvement Plan;
- 4) Required counseling;
- 5) Required training or education;
- 6) Probation;
- 7) Suspension;
- 8) Termination.

C. Possible volunteer, guest or contractor sanctions include:

- 1) Verbal warning;
- 2) Written warning;
- 3) Termination of contract;
- 4) Trespass from campus.

A responding party may appeal any sanctions resulting from an investigation per the Appeals process outlined in the associated procedure.

XII. Drug, Alcohol, and Off-Campus Conduct Stipulations

A. Drug or Alcohol Use as a Defense

Use of alcohol or other drugs will never serve as a defense for any behavior that violates this policy.

B. Amnesty for Drug/Alcohol Possession and Consumption Violations

The college recognizes that an individual who has been drinking or using drugs at the time of an incident that violates this policy may be hesitant to make a report or participate in an investigation because of potential Student Code of Conduct consequences for their own conduct. A reporting party, reported victim, or a third party witness will not be subject to disciplinary action by the college for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not

and do not place the health or safety of any other person at risk. The college may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

C. Off-Campus Conduct

Conduct that occurs off-campus can be the subject of a report and will be evaluated to determine whether it violates this policy (e.g., if off-campus harassment has continuing effects that create a hostile environment on campus).

XIII. Special Provisions

The following are special provisions related to this policy and associated grievance procedure.

A. College as Reporting Party

As necessary, the college reserves the right to initiate a report, to serve as reporting party, and to initiate investigatory proceedings without a formal report by the victim of misconduct.

B. Notification of Outcomes and FERPA

The outcome of a formal investigation will be released to the complainant and the respondent subject to the limitations outlined herein.

Either party may appeal the findings and outcome of an investigation per the Appeals process in the associated procedure.

For students, the outcome of a formal investigation is part of the educational record of the accused student, and is protected from release under FERPA. However, the college observes the legal exceptions as follows:

- 1) The reporting party/reported victim in non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and relationship violence incidents have an absolute right to be informed of the outcome, essential findings, and sanctions, in writing, without condition or limitation.
- 2) The college may release publicly the name, nature of the violation and the sanction for any student or employee who is found in violation of a college policy that is a "crime of violence," including arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property and kidnapping/abduction.

C. Past Sexual History or Conduct Violations

The past sexual history or sexual character of a party will not be admissible by the other party in the investigation unless such information is determined to be relevant by the designated investigator. While previous conduct violations by an accused student or employee are not generally admissible as information about the present alleged violation, the college conduct officer

(for alleged student conduct) or the director of human resources (for alleged employee conduct) may supply previous conduct information to the investigator only if the following three conditions are met:

- 1) The accused was previously found to be responsible;
- 2) The previous incident was substantially similar to the present allegation;
and
- 3) Information indicates a pattern of behavior and substantial conformity with that pattern by the accused person.