

NOTE: This policy addresses complaints of sex discrimination, sexual harassment, sexual violence, dating violence, domestic violence, stalking, discrimination based on sexual orientation, gender identity and/or expression, and retaliation involving employees. For complaints of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation involving students, see FFE.

STATEMENT OF NONDISCRIMINATION

Navarro College prohibits discrimination, including harassment, against any employee on the basis of sex, pregnancy, sexual orientation, and gender identity and/or gender expression. This policy prohibits sexual harassment, sexual assault, dating violence, domestic violence, and stalking. This policy also prohibits retaliation against any employee who in good faith reports a violation of this policy, who opposes conduct prohibited by this policy, or who cooperates in an investigation, disciplinary process, or judicial proceeding arising from such a report.

DESIGNATED COLLEGE OFFICIALS FOR COMPLIANCE

The College designates the following individuals to coordinate the College's compliance with Title IX of the Education Amendments of 1972, as amended, Title VII of the Civil Rights Act of 1964, and related state and federal laws:

Title IX Coordinator: Maryann Hailey, Vice President of Student Services

Address: Gooch Building, Room 314, 3200 W. 7th Avenue, Corsicana, TX 75110

Phone: 903-875-7379

Email: studentservices@navarrocollege.edu

Webpage: <https://navarrocollege.edu/title-ix/index.html>

Deputy Title IX Coordinator (Students): Dr. Rebecca Tuerk, Dean of Students

Address: Gooch Building, Room 315, 3200 West 7th Avenue, Corsicana, TX 75110

Phone: 903.875.7414

Email: Rebecca.Tuerk@NavarroCollege.edu

ADA/Section 504 Coordinator and Deputy Title IX Coordinator (Staff): Marcy Ballew, Vice President of Human Resources

Address: Albritton Building, Room 145, 3200 West 7th Avenue, Corsicana, TX 75110

Phone: 903.875.7330

Email: Marcy.Ballew@NavarroCollege.edu

APPROVED:
REVISED:

DFD
1 of 10

DEFINITIONS

Employee – Solely for purposes of this policy, the term “employee” includes current employees, former employees, applicants for employment, and unpaid interns.

Complainant – In this policy, the term “complainant” refers to an employee who is alleged to have experienced sexual misconduct.

Respondent – In this policy, the term “respondent” refers to a person who is alleged to have committed sexual misconduct.

Sex Discrimination – Discrimination against an employee is defined as conduct directed at an employee on the basis of that employee’s sex, sexual orientation, or gender identity and/or expression that adversely affects the employee’s employment.

Sexual Harassment (Title VII) – “Sexual harassment” of a College employee is unwelcome physical, verbal, or nonverbal conduct based on the employee’s sex, sexual orientation, gender identity and/or expression, or other conduct or communication of a sexual nature when:

1. Submission to the conduct is either explicitly or implicitly a condition of an employee’s employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee (“quid pro quo” harassment); or
2. The conduct is sufficiently severe or pervasive that it has the purpose or the effect of unreasonably interfering with the employee’s work performance; or creating an intimidating, threatening, hostile, or offensive work environment.

Sexual Harassment (Title IX) – “Sexual harassment” involves a College student occurring within a program or activity of the College and includes:

1. Physical, verbal, or nonverbal conduct by a College employee in which a College employee conditions the provision of an aid, benefit, or service of the College on the student’s participation in unwelcome sexual conduct (“quid pro quo” harassment);
2. Unwelcome conduct directed toward a student on the basis of their sex, sexual orientation, gender identity, and/or gender expression by an employee, student, or third party that is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies the student’s ability to participate in or benefit from the College’s educational program or activities; or
3. Conduct that constitutes “sexual assault,” “dating violence,” domestic violence,” or “stalking” as defined in FFE.

Examples

Examples of sexual harassment of an employee may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; remarks or conversations of a sexual nature; sexual assault as defined by law; offensive or derogatory language directed at another person's gender or gender identity; and other sexually or gender-motivated conduct, communication, or contact.

Examples may also include forms of dating violence, domestic violence, or stalking, such as physical or sexual assaults; name-calling; put-downs; or threats directed at the employee, the employee's family members, or members of the employee's household; destroying the employee's property; threatening to commit suicide or homicide if the employee ends the relationship; tracking the employee; attempting to isolate the employee from friends and family; threatening an employee's spouse or partner; or encouraging others to engage in these behaviors.

Sexual Violence – Sexual violence is a form of sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability.

Dating Violence – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence – Felony or misdemeanor crimes of violence committed by a current or former spouse, a current or past intimate partner, a person that the victim shares a child with, or by a person similarly situated to a spouse or intimate partner of the victim under the domestic or family violence laws of the State of Texas. In Texas, a person commits an assault against a family member, household member, or current or past dating partner if the assault consists of:

1. Intentionally, knowingly, or recklessly causing bodily injury to another person;
2. Intentionally or knowingly threatening another person with imminent bodily injury; or
3. Intentionally or knowingly causing physical contact with another that the offender knows or reasonably should know the victim will find provocative or offensive.

A person commits aggravated domestic assault if that person intentionally, knowingly, or recklessly causes serious bodily injury to a family member, household member, or a current or past dating partner, or uses or exhibits a deadly weapon in the course of committing the assault crime.

Stalking – Engaging in a course of conduct 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.

Other Inappropriate Conduct – This policy prohibits conduct of a sexual nature, even if the conduct does not meet the legal definitions of sexual harassment, sexual violence, dating violence, domestic violence, or stalking, where the conduct adversely impacts the working environment or campus environment. The term includes the following:

1. Unwelcome sexual advances or requests for sexual favors; persistent and unwanted sexual attention; sexual voyeurism (such as watching a person disrobing, using the restroom, or engaging in sexual acts, without the consent of the person observed); unwelcome sexual gestures; public exposure of one's sexual organs on campus or at an event under the control of the College; displaying obscene materials in a public place on campus; forwarding pornographic or obscene material via email or text message to non-consenting recipients; recording or photographing sexual activity or a person's genital area or breast area or from a vantage point that a reasonable person would view as an invasion of personal privacy; and allowing a third party to view consensual sex without the knowledge of the other participant(s).
2. Unwelcome comments of a sexual nature that a reasonable person would view as gratuitous, intimidating, offensive, and/or degrading and that adversely impacts an individual's educational environment. In the academic context, including the context of a classroom discussion or preparation of a course assignment, a relevant factor is whether the comments are reasonably related to course content or serve a legitimate pedagogical function. The College's definitions are not intended to restrict constitutionally protected speech.
3. A consensual sexual or romantic relationship between employees when one of the employees in the relationship teaches, manages, supervisors, advises, or evaluates the other in any way.
4. Conduct of a sexual nature that is consensual between two or more parties but that is nonetheless inappropriate in an educational environment, such as engaging in sexual acts in a campus building.

Sexual Misconduct – In this policy, "Sexual Misconduct" includes Sex Discrimination, Sexual Harassment (under both Title IX and Title VII), Sexual Violence, Dating Violence, Domestic Violence, Stalking, Other Inappropriate Conduct, and retaliation as described by this policy, even if the behavior does not rise to the level of unlawful conduct.

Consent – Affirmative consent is a clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity. Silence or lack of resistance does not constitute consent. Obtaining consent is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act. The definition of consent does not vary based on a participant's sex, sexual orientation, gender identity, or gender expression. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is mentally disabled or incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness, being asleep, or being involuntarily restrained. Consent does not exist when it is the result of any coercion, intimidation, force, or threat of harm. Consent does not exist when the respondent misrepresents their true identity to the victim.

Under the Texas Penal Code, victims under the age of 17 cannot give consent as a matter of law. However, it is an affirmative defense to criminal prosecution that the offender was not more than three years older than the victim at the time of the offense; did not use duress, force, or a threat against the victim at the time of the offense; and was not a registered sex offender.

Confidential Employee – A person who holds a professional license requiring legal confidentiality, such as a counselor or medical provider, who is supervised by such a person, or a person who is a nonprofessional counselor or advocate designated in administrative procedures as a confidential source. This definition does not apply to persons who hold professional licenses, such as a Licensed Professional Counselor, but *whose job responsibilities for the College* do not include the provision of mental health and/or therapeutic services. Further, this definition does not include academic counselors providing academic and personal support in education and career planning.

REPORTING PROCEDURES

Mandatory Employee Reporting

Any Employee, who in the course and scope of their employment, observes or receives information regarding an incident that the Employee reasonably believes constitutes Sexual Harassment (Title VII or Title IX), Sexual Violence, Dating Violence, Domestic Violence, Stalking, or Other Inappropriate Conduct that was committed by or against a Navarro College student or Employee must promptly report the incident or allegation to the College's Title IX Coordinator or Deputy Title IX Coordinator unless an express exception applies. The duty to report applies if, at the time of the incident, the alleged victim or Respondent was enrolled at or employed by the College. The Employee shall report all known information regarding the incident, including, if available, the name of the alleged victim, Respondent, location, and nature of the incident. If the alleged victim has expressed a desire for confidentiality, the Employee shall provide this information to the Title IX Coordinator.

"Course and scope of employment" means an Employee performing duties in furtherance of the College's interests.

Employees who fail to make a mandatory report are subject to termination in accordance with the College's termination procedures. Additionally, the Employee is subject to criminal prosecution as stated in Section 51.255 of the Texas Education Code.

An Employee who makes a report under this policy may have additional reporting obligations under other law. Employees who are campus security authorities under the Clery Act will have an obligation to report incidents to the Navarro College Department of Public Safety, in accordance with the Clery Act. Additionally, any Employee who has cause to believe that a child's physical or mental health or welfare has been adversely affected by sexual abuse, child abuse, or neglect by any person must report the suspicion as required by chapter 261 of the Texas Family Code. A child is a person who is 17 years old or younger. An Employee that suspects abuse or neglect of a child must within 48 hours report the suspicion to the Texas Abuse Hotline (1-800-252-5400) at the Texas Department of Family and Protective Services (DFPS). If the child is in immediate danger, the Employee should first call 9-1-1 first and then the Texas Abuse Hotline.

Responsible Employees

All Employees, with the exception of Confidential Employees, are designated as responsible Employees for purposes of compliance with Title IX.

Administrative Reports

Employees have a right to report Sexual Misconduct, whether or not unlawful, to file complaints, and to seek a prompt and equitable resolution. An Employee or other individual may report violations of this policy whether or not the person reporting is the Complainant. Reports may be submitted in person or via email, telephone, or the College's website.

The submission of an anonymous report by a Complainant alleging to have personally experienced Sexual Misconduct is permissible but may impair the College's ability to investigate and address the Sexual Misconduct. An Employee, who is not the Complainant, and observes or receives information of a violation of this policy shall submit a report in accordance with this policy, but shall not submit the report anonymously.

An Employee alleging that another Employee has engaged in Sexual Misconduct may make a report to the Employee's immediate supervisor (or next level supervisor if the supervisor is the Respondent) or to the Vice President of Human Resources.

Alternative Reporting Procedures

An Employee is not required to, and should not, report Sexual Misconduct to the person alleged to have committed the conduct. Should an individual need to report Sexual Misconduct against a member of NC Leadership or against any Title IX or Human Resources staff they may contact any other member of the Title IX or Human Resources staff to receive alternative reporting procedures.

Reports to the Police

The decision whether to report to law enforcement belongs to the Complainant. Complainants may choose to report an offense to law enforcement or to decline to report a crime to law enforcement. Additionally, regardless of whether the alleged victim files a police report, the alleged victim has a right to file an administrative complaint with the College or to seek support services or supportive measures from the College. An Employee may request assistance of the Title IX Coordinator or Vice President of Human Resources in making a police report.

Employees who have experienced Sexual Violence or other sexual misconduct are encouraged to go to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident.

Exceptions

Victims of an alleged incident are not required to report their own incidents.

A person who received the information solely from a disclosure at a Sexual Harassment, Sexual Violence, Dating Violence, or Stalking public awareness event sponsored by a postsecondary educational institution or by a student organization affiliated with the institution is not required to report the Sexual Misconduct unless the person has the authority to institute corrective measures on behalf of the College.

Absent the Employee's consent, or unless required by law, a Confidential Employee shall only be required to disclose the type of incident reported and may not disclose information that would violate the Employee's expectation of privacy. If multiple Confidential Employees receive information about the same alleged incident, then only one report disclosing the type of incident must be submitted.

A person who has either learned of an incident of Sexual Misconduct during the course of the College's review or process, or has confirmed with the person or office overseeing the review or process that the incident has been previously reported, is not required to report the Sexual Misconduct.

TIMELY REPORTING

A failure to immediately report Sexual Misconduct may impair the College's ability to investigate and address the conduct.

NOTICE OF REPORT

Any College supervisor who receives a report of Sexual Misconduct shall immediately notify the appropriate College official listed above and take any other steps required by this policy.

INITIAL ASSESSMENT AND RESPONSE TO THE REPORT

Upon receipt or notice of a report, the Title IX Coordinator or Vice President of Human Resources shall review the allegations to determine whether the allegations, if proven, would constitute Sexual Misconduct as defined by this policy.

Sexual Harassment Under Title IX

If the Title IX Coordinator, Deputy Title IX Coordinator, or Vice President of Human Resources receives a report or allegation of Sexual Misconduct that, if proven, meets the definition of Sexual Harassment under Title IX or involves a College student, the College's provisions and procedures in FFE will apply.

All Other Sexual Misconduct

If the Title IX Coordinator, Deputy Title IX Coordinator, or Vice President of Human Resources receives or is referred an allegation of Sexual Misconduct regarding an Employee that, if proven, does not meet the definition of Sexual Harassment under Title IX, the report shall be referred to the Vice President of Human Resources, and the investigatory, grievance, and appeals process of this policy, as applicable, will apply.

Administrative Leave of the Respondent

In some circumstances, the College may determine that removal of an Employee-Respondent from campus would be appropriate prior to a determination of responsibility. Administrative leave can include a temporary reassignment, restrictions on access to a part of campus, or suspension from campus. Administrative leave must be approved by the College President, the Vice President of Human Resources, or designee. The terms and conditions of the leave, including the Employee's pay status, shall be in accordance with the Employee's contract, if any, and the College's personnel policies.

The provisions relating to administrative leave may not be construed to modify any rights that a student or Employee may have under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973.

INVESTIGATION OF THE REPORT

The College may request, but shall not insist upon, a written report. If a report is made orally, the Title IX Coordinator, Vice President of Human Resources, or designee shall reduce the report to written form, and promptly provide a copy of such to the Employee for review and comment. The report, and the Employee's comments about that report, will then be provided to the appropriate College official.

Upon receipt or notice of a report, the Title IX Coordinator, Vice President of Human Resources, or designee shall determine whether the allegations, if proven, would constitute Sexual Misconduct as defined by this policy. If so, the Title IX Coordinator, Vice President of Human Resources, or designee shall immediately authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending. An impartial investigator shall conduct the investigation. The investigator shall conduct a thorough investigation in light of the allegations and the availability of witnesses. When appropriate, the supervisor shall be involved in or informed of the investigation. The investigation shall consist of personal interviews with the person making the report (or, if different, the Complainant), the Respondent, and others with knowledge of the circumstances surrounding the allegations. The investigation shall also include analysis of other information or documents related to the allegations.

If appropriate, the College shall promptly take interim action calculated to prevent Sexual Misconduct during the course of an investigation.

FORMAL COMPLAINTS AGAINST THE PRESIDENT

A report of Sexual Misconduct against the College President should be submitted to the Chairperson of the Board of Trustees of the College. This policy and the College's grievance process shall apply to the extent practicable; avoidance of any conflict of interest is paramount. The Chairperson shall appoint an external investigator, who may be an attorney, to conduct an investigation that complies with this policy. Any appeals shall be heard by the Board of Trustees.

CONCLUDING THE INVESTIGATION AND COLLEGE DISTRICT ACTION

Absent extenuating circumstances, the investigation should be conducted and completed in a reasonably prompt timeframe; however, the investigator shall take additional time if necessary to complete a thorough investigation.

The investigator shall prepare a written report of the investigation. The written investigation report shall be submitted to the College President, Title IX Coordinator, Vice President of Human Resources, or designee, and the Respondent's dean, director, or next level supervisor who was not involved in the underlying dispute.

If the investigation does not establish a violation of this policy, the College President, Title IX Coordinator, Vice President of Human Resources, or designee shall dismiss the Complaint.

If the College President, Title IX Coordinator, Vice President of Human Resources, or designee determines that reasonable grounds establish a violation of this policy, the College President, Title IX Coordinator, the Vice President of Human Resources, or designee shall take appropriate disciplinary or corrective action reasonably calculated to address the conduct.

The College may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.

APPEAL

All appeals related to reports under this policy may be submitted through the applicable grievance policy beginning at the appropriate level. See DF series for Employees, FK series for students, and GB series for community members.

CONFIDENTIALITY

To the greatest extent possible, consistent with the law, the College shall maintain the confidentiality of records related to reports and complaints under this policy, and respect the privacy of the Complainant or the Respondent or a person who makes a report or serves as a witness. Limited disclosures may be necessary to conduct a thorough investigation, carry out the purposes of this policy and associated regulations, and to comply with applicable law.

RETALIATION

The College prohibits retaliation against any person for the purpose of interfering with a right or privilege under this policy or with any right or privilege secured by law; the Complainant or Respondent; or a person who, in good faith, makes a report or complaint, serves as a witness, or otherwise participates or refuses to participate in an investigation or proceeding under this policy.

Retaliation is a decision or action that is materially adverse to the reporting party and is of the type that would dissuade a reasonable person from exercising his or her rights to file a complaint or to participate in an investigation.

This policy prohibits charges against a person for code of conduct violations that do not involve Sexual Misconduct but arise out of the same facts or circumstances as a report or complaint of

Sexual Misconduct when the purpose of the charge is to interfere with any right or privilege secured by this policy.

Complaints alleging retaliation may be filed according to Navarro College's prompt and equitable grievance procedures. The exercise of rights protected under the First Amendment does not constitute retaliation. Imposing discipline on a person who perpetrated or assists in the perpetration of the Sexual Misconduct does not constitute retaliation. Additionally, charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a report or investigation under this policy does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

Examples

Examples of retaliation include, but are not limited to, termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, or unjustified negative references. Unlawful retaliation does not include petty slights or annoyances.

FAILURE TO REPORT AND FALSE CLAIMS

Investigations of allegations of Sexual Misconduct are serious and often time-consuming endeavors. The College recognizes that the expenditure of time and resources is necessary to ensure the fair and equitable resolution of complaints. An Employee who fails to make a required report or an Employee who intentionally makes a false claim, offers a false statement, or refuses to cooperate with a College investigation under this policy shall be subject to appropriate disciplinary action up to and including dismissal or separation. A determination that a Respondent is not responsible for allegations of Sexual Misconduct does not establish the falsity of a report, statement, or evidence. Similarly, a determination that a Respondent is responsible for a policy violation does not imply that a Respondent's statements disclaiming responsibility were false.

RECORDS RETENTION

Retention of records will be in accordance with Navarro College's [records retention procedures](#).

ACCESS TO POLICY, PROCEDURES, AND RELATED MATERIALS

Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed annually to College Employees in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in the Employee handbooks and other major College publications. Information regarding the policy, procedures, and related materials and any materials shall be prominently published on the College website, taking into account applicable legal requirements. Copies of the policy and procedures shall be readily available at the College's administrative offices and shall be distributed to an Employee who makes a report.