

is owned by the University but controlled by another person, is frequently used by students, and supports University purposes such as a food or other retail vendor.⁶

4. Campus Security Authority - A campus police department or a campus security department of the University. Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department, such as an individual who is responsible for monitoring entrance into University property. Any individual or organization specified in the University's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses. An official of the University who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings.⁷
5. Complainant - An individual who is alleged to be the victim of conduct that could constitute sexual harassment.⁸
6. Consent - As set forth in Arizona Board of Regents Policy 5-308(E)(4), Consent in the context of sexual activity means informed and freely given words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent may not be inferred from: a) silence, passivity, or lack of resistance; b) a current or previous dating or sexual relationship; c) acceptance or provision of gifts, meals, drinks, or other items; or d) previous Consent to sexual activity. Consent may be withdrawn during sexual activity. Consent to one form of consensual sexual activity does not imply Consent to any other form of sexual activity. Consent may not be obtained through physical force, violence, duress, intimidation, coercion, or an express or implied threat of injury. Consent may never be given by a person who is incapacitated (by drugs, alcohol, or otherwise), unconscious, asleep, or otherwise physically or mentally unable to make informed, rational judgments. The use of alcohol or drugs does not diminish one's responsibility

domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (e) 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 the jurisdiction in which the crime of violence occurred.¹²

10. Education Program or Activity of a University – Locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.¹³
11. Formal Complaint - A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the University investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in, attempting to participate in, or formerly participated in the education program or activity of the University with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator in Appendix "A", and by any additional method designated by the University. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party under 34 CFR 106 or under 34 CFR 106.45, and must comply with the requirements of 34 CFR 106, including 34 CFR 106.45(b)(1)(iii).¹⁴
12. Hostile Environment – An environment where the conduct of one or more individuals is sufficiently serious that it denies or limits a student's, faculty member's, or staff member's ability to participate in or benefit from the University's program based on sex. In determining whether a hostile environment exists, the University shall consider all relevant circumstances, including the following factors: (a) the degree to which the conduct affected the University's educational programs, (b) the type, frequency and duration of the conduct, (c) the age and sex of the alleged harasser and the subject or subjects of the harassment, (d) the location of the incidents and the context in which they occurred, (e) other incidents at the University, and (f) incidents of gender-based, but nonsexual harassment.
13. Incapacitation – Any situation in which a person is incapable of giving consent due to the student's age, state of consciousness, use of drugs or alcohol, or an intellectual or other disability.
14. Intimidation – The intentional act of coercing or frightening someone to engage or not engage in conduct of a sexual nature against the person's will.
15. Non-consensual Sexual Contact - Any physical touching of a sexual nature which is not preceded by consent or which continues after a previous consent is withdrawn.
16. Non-consensual Sexual Intercourse - Any sexual intercourse which is not preceded by consent or which continues after previous consent is withdrawn.

¹² 34 CFR §668.46.

¹³ 34 CFR §106.44(a)

¹⁴ 34 CFR §106.30(a)

26. Sexual Violence - Physical sexual acts perpetrated against a person's will or with a person who suffers from incapacitation. It also means same-sex conduct that violates the University's prohibition on sexual violence.

27. Stalking²⁰ - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person's safety or the safety of others or (b) suffer substantial emotional distress.²¹ Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.²²

28. Standard of Evidence – The standard of evidence that shall be used is the preponderance of the evidence standard where the burden of proof is met when the party with the burden convinces the fact finder that there is a greater than 50% chance that the claim is true.

29. Supportive Measures - Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. 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, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The University 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 University to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.²³

30. Title IX Coordinator – The person designated as such by the University's President or the person temporarily designated by the Title IX Coordinator to serve in that capacity during the Title IX Coordinator's incapacity or absence from the University's campus.

31. Title IX Sexual Harassment – Conduct based on sex, occurring in the United States, that constitutes one or more of the following:

- a. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
- b. 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 University's education program or activity; or
- c. "Sexual assault," "dating violence," "domestic violence," or "stalking" as defined herein.²⁴

²⁰ 34 CFR § 668.46(a).

²¹ 34 CFR § 668.46(a).

²² 34 CFR § 668.46(a).

²³ 34 CFR § 106.30(a)

²⁴ 34 CFR § 106.30(a)

- a. The University's current Title IX Coordinator and any deputy Title IX Coordinator(s) are the individuals specified in Appendix "A."³⁴

- ii. The University does not require, allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.⁵⁷

4. Grievance Procedures for Title IX Sexual Harassment Formal Complaints

- a. For purposes of addressing formal complaints of Title IX Sexual Harassment, the University will comply with the grievance procedures of this section. The University's grievance procedures treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with this section before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.⁵⁸ Remedies are designed to restore or preserve equal access to the University's education program or activity.⁵⁹
- b. Basic Requirements for Title IX Sexual Harassment Grievance Procedures
 - i. Grievance proceedings shall be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.⁶⁰ Proceedings shall provide a prompt, fair, and impartial investigation and resolution.⁶¹
 - ii. The University's grievance procedures shall use an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence.⁶² During the grievance process, credibility determinations may not be based on a person's status as a complainant, respondent, or witness.⁶³
 - iii. Any individual designated by the University who is to be involved in the University's grievance procedures, such as a coordinator, investigator, or decision-maker, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.⁶⁴ It is presumed that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process⁶⁵
 - iv. The University's grievance procedure includes reasonably prompt time frames for the conclusion of the grievance process. This includes reasonably prompt timeframes for filing and resolving appeals and informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent for the delay or extension and the reasons for the action.⁶⁶ "Good cause" may include consideration such as the absence of a party, a party's advisor, or a witness,

⁵⁷ 34 CFR 106.45(b)(1)(x).

⁵⁸ 34 CFR §106.45(b)(1)(i)

⁵⁹ 34 CFR §106.45(b)(1)(i)

⁶⁰ 34 CFR §668.46(k)(2)(ii)

⁶¹ 34 CFR §668.46(k)(2)(i)

⁶² 34 CFR §106.45(b)(1)(ii).

⁶³ 34 CFR §106.45(b)(1)(ii).

⁶⁴ 34 CFR §106.45(b)(1)(iii).

⁶⁵ 34 CFR §106.45(b)(1)(iv).

⁶⁶ 34 CFR §106.45(b)(1)(v).

concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.⁶⁷

V.

5. Determination Regarding Responsibility

- a. For the purpose of making a determination regarding responsibility, the University must appoint decision-maker(s) who cannot be the same person(s) as the Title IX Coordinator(s) or the investigator(s) for the University's Title IX Sexual Misconduct grievance procedure.¹⁰⁷ When making a determination regarding responsibility, the University must apply the standard of evidence as defined above.¹⁰⁸
- b. The University's decision-maker(s) must issue a written determination regarding responsibility.¹⁰⁹ The University must provide the written determination to the parties simultaneously.¹¹⁰ The University's written determination must include:
 - i. identification of the allegations potentially constituting sexual harassment;
 - ii. a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - iii. findings of fact supporting the determination;
 - iv. conclusions regarding the application of the University's policy to the facts;
 - v. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the complainant; and
 - vi. the University's Title IX Sexual Harassment procedure and permissible bases for the complainant and respondent to appeal.¹¹¹
- c. The University must list all of the possible sanctions or supportive measures that the University may impose following the results of any University disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking in its annual security report, all of which are listed in Appendix "B".¹¹² In cases of alleged violence, sexual harassment, dating violence, sexual assault, or stalking, both the complainant and the respondent shall be simultaneously informed in writing of the outcome of any institutional disciplinary proceeding, the institution's procedures for the accused and the complainant¹¹³ to appeal the results of the institutional disciplinary proceeding, any change to the results that occurs prior to the time that such results become final, and when such results become final.¹¹⁴
- d. The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.¹¹⁵
- e. The Title IX Coordinator or designee is responsible for effective implementation of any remedies.¹¹⁶

¹⁰⁷ 34 CFR §106.45(b)(7)(i).

¹⁰⁸ 34 CFR §106.45(b)(7)(i).

¹⁰⁹ 34 CFR §106.45(b)(7)(i).

¹¹⁰ 34 CFR §106.45(b)(7)(iii).

¹¹¹ 34 CFR §106.45(b)(7)(ii)(A)-(F).

¹¹² 34 CFR §668.46(k)(1)(k)(iii)

¹¹³ See Note 46 above.

¹¹⁴ 20 U.S.C. § 1092(f)(8)(B)(iv)(III).

¹¹⁵ 34 CFR §106.45(b)(7)(iii).

¹¹⁶ 34 CFR §106.45(b)(7)(iv).

6. Appeals

- a. The University must offer both parties an appeal from a determination regarding responsibility, and from a University's dismissal of a formal complaint or any allegations therein, on the following bases: (a) procedural irregularity that affected the outcome of the matter; (b) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; (c) the Title IX Coordinator, Deputy Title IX Coordinator(s), investigator(s), or decision-

- a. A University must maintain for a period of seven (7) years records of each Title IX Sexual Hharassment investigation including any determination regarding

10. Training

- a. The University ensures that Title IX coordinators, investigators, and decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment, the scope of the University'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.¹²⁹ Coordinator(s) should be knowledgeable about other applicable Federal and State laws, regulations, and policies that overlap with Title IX.¹³⁰ Additionally, the University ensures that decision-makers 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.¹³¹ Furthermore, the University ensures that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.¹³²
- b. The University uses training materials that do not rely on sex stereotypes to train coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.¹³³ The University also uses materials that promote impartial investigations and adjudications of formal complaints of sexual harassment to train coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.¹³⁴

11. Retaliation P'ab5P a1 ABI

APPENDIX*

Appendix "A"
**Contact Information for Title IX Coordinator
and Supporting Services**
Date: July 31, 2024

Title IX Coordinator's Name and Contact Information	Name: Elyce C. Morris Physical Address: Gammage, Third Floor Email Address: Elyce.Morris@nau.edu Telephone No.: 928-523-5434
Deputy Title IX Coordinator's Name and Contact Information	Name: Josh C. Floyd Physical Address: Gammage, Third Floor Email Address: J_____@nau.edu Telephone No.: 928-523-5434
Assistant Deputy Title IX Coordinator's Name and Contact Information	Name: Cassie Luke, Director, Campus Operations Physical Address:

