

Title IX Tips & FAQ's Faculty / Staff

<p>Approved by: Northeastern State University Executive Cabinet</p> <p>Responsible Official: Student Affairs studentaffairs@nsuok.edu (918) 444-2120</p>	<p>History: Adopted – August 26, 2014 Revised – August 17, 2015</p> <p>Related Policies: Title IX (Faculty/Staff) Policy</p> <p>Additional References:</p>
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SEXUAL VIOLENCE –RISK REDUCTION TIPS

Risk reduction tips can often take a blaming tone, even unintentionally. With no intention to blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

1. If you have limits, make them known as early as possible.
2. Tell a sexual aggressor “NO” clearly and firmly.
3. Try to remove yourself from the physical presence of a sexual aggressor, even if they’re a friend.
4. Find someone nearby and ask for help.
5. Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
6. Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being respondent of sexual misconduct:

1. Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.

2. Understand and respect personal boundaries.
3. DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
4. Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
5. Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
6. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
7. Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
8. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

FAQ'S

Here are some of the most commonly asked questions regarding Northeastern State University's sexual misconduct policy and procedures.

Does information about a complaint remain private?

The privacy of all parties to a complaint of sexual misconduct must be respected, except insofar as it interferes with the NSU's obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the complainant or the respondent may lead to disciplinary action by NSU.

In all complaints of sexual misconduct, all parties will be informed of the outcome. In some instances, the administration also may choose to make a

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brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged complainant. Certain university administrators are informed of the outcome within the bounds of employment privacy (e.g., the President of Northeastern State University, Members of the President's cabinet, Director of Public Safety, etc.). If there is a report of an act of alleged sexual misconduct and there is evidence that a felony has occurred, local police will be notified. This does not mean charges will be automatically filed or that a complainant must speak with the police, but NSU is legally required to notify law enforcement authorities. NSU also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

Will the Respondent Know My Identity?

Yes, if you file a formal complaint. Sexual misconduct is a serious offense and the respondent has the right to know the identity of the complainant/alleged complaint. If there is a hearing, NSU does provide options for questioning without confrontation, including closed-circuit testimony, Skype, using a room divider or using separate hearing rooms.

Do I have to name the perpetrator?

Yes, if you want formal disciplinary action to be taken against the alleged perpetrator. No, if you choose to respond informally and do not file a formal complaint (but you should consult the complete confidentiality policy above to better understand NSU's legal obligations depending on what information you share with different university officials). Complainants should be aware that not identifying the perpetrator may limit the institution's ability to respond comprehensively.

What do I do if I am the respondent of sexual misconduct?

DO NOT contact the alleged complainant. You may immediately want to contact someone in the campus community who can act as your advisor. You may also contact the Human Resources Department Director which can explain NSU's procedures for addressing sexual misconduct complaints. You may also want to talk to a confidential counselor through employee counseling service or seek other community assistance. See below regarding legal representation.

Will I (as a complainant) have to pay for counseling/or medical care?

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Not typically, if NSU provides these services already. If a complainant is accessing community and non-institutional services, payment for these will be subject to state/local laws, insurance requirements, etc. [In this state, complainants may be ineligible for state-based assistance if they were engaged in any illegal activity during the assault or if they fail to cooperate with criminal prosecution].

What about legal advice?

Complainants of criminal sexual assault need not retain a private attorney to pursue prosecution because representation will be handled by the District Attorney's office. You may want to retain an attorney if you are the respondent or are considering filing a civil action. The respondent may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution and/or the campus conduct proceeding.

What should I do about preserving evidence of a sexual assault?

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged complainant's person within 72 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a complainant of a criminal sexual assault, you should immediately report to police, or if you choose not to report to law enforcement, go to the Hospital Emergency Room, before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is usually on call 24 hours a day, 7 days a week (call the Emergency Room if you first want to speak to the nurse; ER will refer you). A complainant advocate from the institution can also accompany you to Hospital and University Police can provide transportation. If a complainant goes to the hospital, the appropriate law enforcement agency will be called, but s/he is not obligated to talk to the police or to pursue prosecution. Having the evidence collected in this manner will help to keep all options available to a complainant, but will not obligate him or her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the complainant decide later to exercise it.

For the complainant: the hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of

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clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear evidence for the police to collect.

Will a complainant be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?

No. The severity of the infraction will determine the nature of NSU's response, but whenever possible NSU will respond educationally rather than punitively to the illegal use of drugs and/or alcohol. The seriousness of sexual misconduct is a major concern and the university does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct.

Will the use of drugs or alcohol affect the outcome of a sexual misconduct conduct complaint?

The use of alcohol and/or drugs by either party will not diminish the respondent's responsibility. On the other hand, alcohol and/or drug use is likely to affect the complainant's memory and, therefore, may affect the outcome of the complaint. A person bringing a complaint of sexual misconduct must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to prove his/her complaint. If the complainant does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the respondent without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by the respondent.

Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

What should I do if I am uncertain about what happened?

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the institution's sexual misconduct policy, you should contact The Director of Human Resources or NSU Police Department. NSU provides advisors who can help you to define and clarify the event(s), and advise you of your options.