

# NewSchool of Architecture and Design Title IX Grievance Reporting Policy and Procedures

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The United States Department of Education (DOE) mandates that institutions comply with specific requirements under Title IX of the Educational Amendments of 1972. Title IX is a federal civil rights law that prohibits discrimination on the basis of sex. NewSchool of Architecture and Design (NSAD) is committed to providing a safe educational and working environment for its students, faculty, staff, and other members of the university community.

## 1. Definitions

Sexual Misconduct, Sexual Harassment, and Sexual Discrimination are defined as follows:

**Sexual Misconduct:** NSAD's Code of Conduct prohibits sexually violent acts, which can be considered criminal offenses. Sexual misconduct includes nonconsensual sexual intercourse, nonconsensual sexual contact, sexual exploitation, interpersonal relationship violence, sex/gender-based stalking, sexual harassment, and sexual discrimination. While NSAD may use different standards and definitions than state criminal codes, sexual misconduct often overlaps with crimes of rape, sexual assault, sexual harassment, stalking, dating violence, and domestic violence.

**Sexual Harassment:** NSAD's Code of Conduct prohibits sexual harassment, which is a form of misconduct that undermines the integrity of the academic environment. All members of the NSAD community, especially officers, faculty members, and other individuals who exercise supervisory authority, have an obligation to promote an environment that is free of sexual harassment. Sexual harassment can include, but is not limited to, unwelcome sexual advances; requests for sexual favors; unwelcome physical contact of a sexual nature; e-mails containing inappropriate sexual content; obscene or harassing phone calls or jokes of a sexual nature; suggestive gestures, sounds, stares, or other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of a student's academic progress;
2. Submission to or rejection of such conduct by an individual is used as a basis for decisions affecting assessment of academic progress; or

3. Such conduct, by instructors, staff, or students, including between students, has the purpose or effect of interfering with academic performance or creating an intimidating, hostile, or offensive environment.

**Sexual Discrimination:** Sexual discrimination is a form of misconduct that undermines the integrity of the academic environment. NSAD's Code of Conduct prohibits sexual discrimination. Sexual discrimination for the purpose of this policy is defined as including, but not limited to, treating individuals differently because of their gender or sexual orientation, in connection with the terms and conditions of employment or educational opportunities. Discrimination does not occur, however, when an individual is treated differently than another individual for legitimate reasons.

For purposes of the NSAD Title IX Reporting and Grievance Policy, Sexual Misconduct, Sexual Harassment, and Sexual Discrimination are considered "Sexual Misconduct."

## 2. Procedural Overview

**Reporting Procedures:** Students, faculty, or staff members who believe that they are the victim of Sexual Misconduct, Sexual Harassment, or Sexual Discrimination ("Complainant") should contact the Title IX Coordinator. The Title IX Coordinator is responsible for receiving and processing, in a timely manner, reports from students, faculty, staff, and administrators regarding rights and responsibilities concerning Sexual Misconduct in violation of Title IX.

Any questions or complaints regarding Title IX may be referred to the NSAD Title IX Coordinator or Deputy Title IX Coordinator or to the Office of Civil Rights.

### **NSAD's Title IX Coordinator**

Prisca Bermudez, Manager Academic Advising and Disability Services  
619-684-8876  
pbermudez@neschoolarch.edu

**Filing a Report with the NSAD Title IX Coordinator:** Students, faculty, and staff members have the right to file both a criminal complaint and a Title IX complaint simultaneously. Students, faculty, and staff members must report an incident of alleged discrimination to a "Responsible Employee." For the purposes of this policy, the "Responsible Employees" are the Title IX Coordinator or Deputy Title IX Coordinator.

### **Initial Title IX Review and Assessment of Reports of Sexual Misconduct, Sexual Harassment, or Sexual Discrimination**

NSAD takes all reports of Sexual Misconduct seriously and, upon receiving notice of any alleged violation of this policy, shall take immediate steps to conduct a thorough, prompt, and appropriate investigation

of the complaint. The following steps will be taken by the Title IX Coordinator (or Deputy) in the event of a complaint of Sexual Misconduct:

Step 1: Intake/reporting of complaint

A complainant who contacts the Title IX Coordinator or Responsible Employee with an allegation of Sexual Misconduct will be notified of his or her right to confidentiality and his or her right to remain anonymous and how that may affect NSAD's ability to conduct an investigation. Please note that there are certain situations where NSAD may not be able to guarantee confidentiality or anonymity. If the complainant wishes to move forward with the process, he or she will be asked a series of questions to provide information. If the complainant prefers, he or she may complete the information from the form and submit it to the Title IX Coordinator. The *Sexual Misconduct or Discrimination Complaint Incident Report* is available from the Title IX Coordinator or by downloading here <http://newschoolarch.edu/student-life/campus-facilities/campus-safety/>

Step 2: Determination of interim measures

Upon notification of an incident of Sexual Misconduct, NSAD shall take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. These measures are designed to protect the Complainant and provide the Complainant with options to avoid contact with the alleged perpetrator. These measures may include a change in academic activities, living, transportation, dining, and working situation as appropriate. The Title IX Coordinator shall work with the Complainant to determine what, if any, interim measures shall be implemented.

Step 3: Determination of complainant's confidentiality request and desired outcome

NSAD strongly supports the Complainant's right to confidentiality in cases involving sexual misconduct. Complainants have the right to ask that their names not be disclosed to the alleged perpetrators. However, there are limited situations in which the university must override a Complainant's request for confidentiality in order to meet the institution's legal obligations under Title IX. In these situations, the information will only be shared with individuals who are responsible for handling NSAD's response to incidents of sexual violence. Given the sensitive nature of reports of sexual violence, NSAD shall ensure that the information is maintained in a secure manner. If the Complainant requests that his or her name not be revealed to the alleged perpetrator or if Complainant asks NSAD not to investigate or seek action against the alleged perpetrator, NSAD will be limited in its ability to respond fully to the incident, including taking disciplinary action against the alleged perpetrator. If the Complainant still requests that his or her name not be disclosed to the alleged perpetrator, or that NSAD not investigate or seek action against the alleged perpetrator, the Title IX Coordinator will need to determine whether

or not the institution can honor such a request while providing a safe and nondiscriminatory environment for all students, faculty, and staff.

Step 4: Initiate investigation process

An investigation refers to the process NSAD uses to resolve Sexual Misconduct complaints. The Title IX Coordinator shall determine, given the circumstances surrounding the complaint, the proper party to conduct the investigation. The proper party may or may not be the Title IX Coordinator, and shall be the person best able to conduct an impartial and fair review of the complaint. The process will include the fact-finding investigation and any hearing and decision-making process NSAD uses to determine whether or not the conduct occurred and, if the conduct occurred, what action NSAD will take to end the sexual violence, eliminate the hostile environment, and prevent its recurrence, which may include imposing sanctions on the perpetrator and providing remedies for the Complainant and broader student population. The investigation may, but not necessarily, include a hearing. The investigation may include, but is not limited to, conducting interviews of the Complainant, the alleged perpetrator, and any witnesses; reviewing law enforcement investigation documents (if applicable); reviewing student and personnel files; and gathering and examining other relevant documents or evidence. During the process, NSAD shall promote a fair process that provides the same opportunities to all parties.

Step 5: Recommendations of resolution to leadership

Upon the completion of the investigation, the Title IX Coordinator shall present the findings to NSAD leadership which may include, as appropriate, the Executive Director of Student Affairs, the Chief Academic Officer, or Human Resources Director. NSAD leadership shall then determine the appropriate resolution to the complaint, considering factors including the role of the party within the university community (student, faculty, or employee). Resolutions may include disciplinary action against the perpetrator or providing counseling for the perpetrator. Remedies for the complainant may include steps such as reassignment of a course section or residency, counseling services, as well as changes to the school's overall services or policies. Any remedies offered would be separate from, and in addition to, any interim measure that may have been provided prior to the conclusion of any investigation.

Step 6: Report/notification

NSAD shall provide written notification to the Complainant and the alleged perpetrator of the findings of the investigation.

**Evidentiary Standard:** In investigating a complaint under this policy, NSAD shall use a *preponderance of the evidence* (more likely than not) standard when considering evidence presented by any party.

**Retaliation:** Title IX includes protections against retaliation. NSAD will take immediate and appropriate steps to investigate or otherwise determine if retaliation due to the reporting of sexual misconduct or discrimination occurs.

**Sources of Counseling, Advocacy, and Support:** Victims of Sexual Misconduct can receive assistance immediately by calling the local police department (911, if emergency). Students may contact ComPsych Guidance Resources by calling 1-866-645-1762 or TDD: 1-800-697-0353. When you call, please reference NSAD's ID, NEWSCHOOL. NSAD employees may contact the Employee Assistance Program (EAP) by contacting Business Health Services (BHS) at 800-327-2251 or online: at [www.bhsonline.com](http://www.bhsonline.com) (user name: Laureate). Both the SAP and EAP are free, "Confidential Resources" at NSAD, which means that all conversations will remain confidential and will not initiate any type of investigation into the incident. Sexual assault reports must be made by contacting the NSAD Title IX Coordinator (or Deputy) who are the appropriate University Officials for receiving reports of sexual assault.

**Appeals:** A student (either Complainant or alleged perpetrator) may appeal the decision of the university in cases of sexual misconduct policy violations. (See the appeals process in the Student Appeals and Grievances section of the catalog <http://newschoolarch.edu/academics/academic-catalog/> page 259). Faculty and other employees should review their applicable employee handbook for further information regarding their rights under this policy.

**Time Frames for Process:** While each situation is different and there can be no way to determine how long an investigation will take, the Title IX Coordinator shall use her best efforts to reach resolution within 60 days from the time the complaint is reported to notice of resolution.