

## **COMPLAINANT/GRIEVANCE PROCESS A PROCEDURES (Appendix A)**

Complaint/Grievance Process A applies to qualifying allegations of both Title IX involving employees or students. Complaint/Grievance Process A also applies to any Prohibited Conduct involving students.

### **Inclusion of Other NMU Offices**

The Equal Opportunity Office (EOO) may invite other NMU units or offices to participate in an investigation if EOO determines that its investigation may lead to violations of other NMU policies.

The Equal Opportunity Officer/Title IX Coordinator works in the Equal Opportunity Office. Throughout the procedures, reference is made to the EOO, the physical office, as well as the Title IX Coordinator, the individual.

### **Conflict of Interest**

If the Complainant or Respondent believes that the Investigator or Decision Maker assigned to the Formal Complaint has a conflict of interest or is impermissibly biased in the matter, the Complainant, or Respondent may request an alternative member. This request must be made in writing to the EOO within five (5) days of when the Complainant or Respondent knew or should have known of the alleged conflict of interest or impermissible bias. The written request must contain sufficient information and details to establish that the Investigator or Decision Maker has a conflict of interest or impermissible bias. The Title IX Coordinator or designee will grant or deny this request in writing. The decision to grant or deny a conflict of interest request is not grounds for appeal.

An Investigator or Decision Maker may seek to be recused from an investigation if they believe there may be a conflict of interest that prevents them from being unbiased in carrying out the investigation. A request by an Investigator or Decision Maker to recuse themselves must be made in writing to the Title IX Coordinator and state the basis for the request. The Title IX Coordinator will grant or deny this request in writing. It is within the Title IX Coordinator or designee's discretion to: appoint an alternative Investigator or Decision Maker; direct the Investigator or Decision Maker to fairly address the conflict of interest or impermissible bias during the investigation or Hearing; or reject the request on the grounds that no conflict of interest or impermissible bias was demonstrated.

In the event that the Title IX Coordinator has a conflict of interest or is impermissibly biased, the University's Vice President of Finance and Administration and General Counsel, or designees, may retain, a neutral, outside third party that will serve in the role of the Title IX Coordinator with respect to that specific investigation. The University's Vice President of Finance and Administration and General Counsel, or designees, will notify the Title IX Coordinator of the actions taken in the matter and any conclusions therein so that the Title IX Coordinator may carry out their duties, including but not limited to, aggregate reporting and/or other required files per federal and/or state regulations and NMU Policy and procedures.

In the event that a complaint is filed against the Title IX Coordinator, or any EOO staff member, the University's Vice President of Finance and Administration and General Counsel, or designees, may retain a neutral, outside third party that will serve in the role of the Title IX Coordinator with respect to that specific investigation. The University's Vice President of Finance and Administration and General

Counsel, or designee, will notify the Title IX Coordinator of the actions taken in the matter and any conclusions therein so that the Title IX Coordinator may carry out duties, including but not limited to aggregate reporting and/or other required files per federal and/or state regulations and NMU Policy and procedures.

### **Initial Assessment**

Following receipt of notice of a complaint of an alleged violation of this Policy, the Title IX Coordinator and/or Deputy Title IX Coordinator engage in an initial assessment. The steps in an initial assessment may include:

- Assess the nature and circumstances of the notice of complaint.
- The Title IX Coordinator or Deputy Title IX Coordinator reaches out to the Complainant to provide resources and the opportunity to meet.
- If notice of a complaint is given, the Title IX Coordinator or Deputy Title IX Coordinator seeks to determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator or Deputy Title IX Coordinator determine(s) whether to initiate a Formal Complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- The Title IX Coordinator or Deputy Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Adviser.
- The Title IX Coordinator or Deputy Title IX Coordinator works with the Complainant to determine whether the Complainant prefers Supportive Measures or a formal investigation and Complaint/Grievance Process.
  - If Supportive Measures are preferred, the Title IX Coordinator or Deputy Title IX Coordinator will work with the Complainant to identify their wishes and then seeks to facilitate implementation. No Formal Complaint/Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - If a Formal Complaint/Grievance Process is preferred, the Title IX Coordinator or Deputy Title IX Coordinator determines if the Prohibited Conduct alleged falls within the scope of Title IX:
    - If it does, the Title IX Coordinator or Deputy Title IX Coordinator will initiate the formal investigation and Complaint/Grievance Process.
    - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect off the complaint, if any), and assesses which policies may apply. Please note that dismissing a complaint under Title IX is just procedural, and does not limit NMU’s authority to address a complaint with an appropriate process and remedies under Complaint/Grievance Process B.

NMU may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- The conduct alleged in the Formal Complaint would not Prohibited Conduct as defined in this Policy, even if proved; and/or

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; or
- The Respondent is no longer enrolled in or employed by NMU; or
- Specific circumstances prevent NMU from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Upon any dismissal of a Formal Complaint, the Title IX Coordinator or Deputy Title IX Coordinator or Designee, will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the Parties.

This dismissal decision is appealable by the Complainant or Respondent under the procedures for appeal. The decision not to dismiss is also appealable by any Party claiming that a dismissal is required or appropriate.

### **Initiating an Investigation**

Upon the direction of the Title IX Coordinator, or designee, a prompt and equitable investigation of an alleged violation of this Policy will be undertaken.

The University will use its best efforts to complete its Complaint/Grievance Process, including appeals and Notice of Outcome, within 120 business days of the initiation of the Formal Complaint, although this timeline may be extended for good cause. Good cause may include, but is not limited to the complexity of each allegation, a request to coordinate or cooperate with law enforcement, the availability of witnesses, University breaks or vacations, or other legitimate reasons. In the event a time frame is extended, both the Complainant and Respondent will be notified of the extension and the reason for the extension.

### **Formal Complaint**

EOO will request that the Complainant prepare a Complaint, if not already prepared. If the EOO is investigating an allegation of a violation of this Policy without a Complainant's active participation, EOO will draft the Complaint. EOO may draft a Complaint on behalf of a Complainant and have the Complainant endorse it.

A Formal Complaint may also be signed by the Title IX Coordinator or designee alleging a policy violation by a Respondent and requesting that NMU investigate the allegation(s). In doing so, the Title IX Coordinator does not become a Complainant or a Party for the case.

### **Complainant and Respondent's Rights**

During any process defined under this Policy and Procedures, the Complainant and Respondent have the Right to:

- have a Support Person and Adviser of their choosing accompany the Party during any stage of the process.
- meet with the Title IX Coordinator or Deputy Title IX Coordinator to discuss resources, interim measures, and the investigatory process available.

- participate or decline to participate in the process. However, even if a Party declines to participate, NMU may, in some instances, continue to investigate the matter and issue a Determination based on available information in accordance with this Policy and its Procedures.
- consult with any of the resources available at any time.
- be treated with sensitivity, dignity, and respect.
- request Supportive Measures.
- be kept up-to-date regarding the status of the Complaint.
- not have the Party's irrelevant past sexual history discussed during this process.

### **Notice to Respondent**

The Title IX Coordinator or designee will provide written notice of the investigation and allegations (the "NOIA") to the Respondent upon commencement of the Formal Complaint/Grievance Process. The NOIA to the Respondent will provide:

- the general nature of the allegations, including sufficient details so that the Respondent will be able to prepare a response, including if known: identities of the Parties; conduct allegedly constituting the policy violations; and the date and location of incident(s) giving rise to the complaint;
- a statement that the Respondent is presumed not responsible and that a determination as to responsibility will be made at the conclusion of the Complaint/Grievance Process;
- a statement that either Party may have an Adviser present of their choice, who may or may not be an attorney, for the duration of the Complaint/Grievance Process;
- a statement that either Party may examine any and all evidence that is collected during the investigation, whether or not NMU intends to use that evidence in reaching a decision;
- a statement that all Parties and witnesses must comply with section 2.3.27, .03, of NMU's Student Code of Conduct, which prohibits giving false or misleading information at any disciplinary or administrative hearing, investigation or meetings; or shall initiate a student conduct proceeding in bad faith;
- notice that the Respondent will be requested to meet with the investigator(s); and
- notice that if the Respondent does not elect to participate in the investigation, EOO will carry out its investigation based on available information and the Respondent may still be subject to sanction pursuant to this Policy and Procedures.

Any notice to faculty or staff will also comply with any requirements of the applicable collective bargaining agreement, if any, regarding notice of investigation that may lead to discipline.

Additional notifications may be made to other appropriate people as required under state and/or federal laws, or NMU Policy.

### **Educational Resolutions**

Educational Resolutions can include, but are not limited to:

- education and/or training for a Respondent and/or department;
- messaging to the campus community;
- events and/or trainings offered to the campus community or particular departments; and/or
- referral and/or collaboration with another University department in order to address the

- allegations and eliminate any potential Prohibited Conduct;
- and Educational Resolution is not subject to appeal by any Party.

### **Investigation and Investigative Report**

NMU is permitted to independently, and on its own volition, retrieve any and all information available to it.

All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Assist with referring Complainant or Respondent to the Title IX Coordinator or Deputy Title IX Coordinator for any necessary supportive measures.
- Inform the Parties of their right to have the assistance of an Adviser, who could be an attorney at their own cost, or a University appointed Adviser for a hearing attended by the Party..
- Provide the Complainant, Respondent, and witness(es) an opportunity to review and verify the Investigator's summary notes of the relevant evidence/testimony from their respective interviews and meetings.
- Provide the Complainant and Respondent with written notice of the date, time, and location of the meeting, as well as the purpose.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide regular status updates to the Complainant and the Respondent throughout the investigation.
- Write an investigation report summarizing the investigation, all witness interviews, and addressing all relevant evidence.
- The Investigator(s) gathers information and evidence, makes no conclusions, engages in no policy analysis, and renders no recommendations as part of their report.

Upon the conclusion of the investigation into an allegation of a violation of this Policy, EOO will produce an investigative report to the Parties and their Adviser for a review containing the following: an overview of the investigation undertaken; and a summary of all the evidence and statements reviewed and considered.

EOO will provide simultaneous written notice to the Parties and their Advisers that the Draft Investigative Report is available for review. EOO will make the Draft Investigative Report available for 10 days. The Investigator will incorporate any relevant feedback, and the Final Report is then shared with all Parties and their Advisers by EOO through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The Parties are also provided with a file of any directly related evidence that was not included in the report.

The Parties may elect to waive the full ten (10) days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Adviser, Respondent's Adviser).

## **Pre-Hearing**

### Role of Title IX

The Title IX Coordinator or Deputy Title IX Coordinator will notify the Complainant, Respondent and witnesses of the date, time and location of the scheduled hearing no less than ten (10) business days prior to the hearing. Once mailed, emailed (NMU's preferred means of communication), and/or received in-person, notice will be presumptively delivered.

The notice to the Complainant and Respondent will contain:

- The time, date, and location of the cross-examination hearing and a reminder that attendance is required, superseding all other campus activities.
- A statement that if any Party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the Complainant, Respondent or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s). For compelling reasons, the Title IX Coordinator or Deputy Title IX Coordinator may reschedule the hearing.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the Parties located in separate rooms using technology that enables the Decision-maker(s), Complainant, Respondent to see and hear each other and witnesses answering questions. Such a request must be raised with the Title IX Coordinator or Deputy Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of the names of the Decision-maker(s). All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator or Deputy Title IX Coordinator no later than five (5) days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).
- A list of all those who are scheduled to attend the hearing.
- Information on how the hearing will be recorded and Complainant and Respondent access to the recording after the hearing.
- Notification that the Complainant and Respondent may have the assistance of an Adviser of their choosing at the hearing and will be required to have one present for any questions they may desire to have asked. The Complainant and Respondent must notify the Title IX Coordinator or Deputy Title IX Coordinator two (2) days prior if they do not have an Adviser, and NMU will appoint one for the hearing. Each Party must have an Adviser present for the cross-examination hearing, and the Adviser must conduct any questioning. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) to be used in determining a finding.
- An invitation to the Complainant and Respondent to submit to the Title IX Coordinator or Deputy Title IX Coordinator an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator or Deputy Title IX Coordinator to arrange any

disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

- Notification that mobile phones/devices are allowed into the hearing, however must be silenced. Taking photos or recording any portion of the cross-examination hearing is prohibited.

The Title IX Coordinator will give the Decision-maker(s) a list of the names of the Complainant, Respondent, witnesses, and Advisers at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the Parties, witnesses, and Advisers in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

### **Cross Examination Hearing**

After providing each Party (and advisers, as necessary) with the Investigative Report, NMU will schedule a live hearing, at which each Party's Adviser is permitted to ask the other Party, as well as any witnesses, all relevant cross-examination questions and follow up questions, including those that challenge credibility.

#### Hearing:

- Participants at the hearing will include the Decision Maker, EOO/Dean of Students Office (DSO), the Investigator(s) who conducted the investigation, the Parties, Advisers to the Parties, any called witnesses, and anyone providing authorized accommodations or assistive services.
- The Decision Maker may be a staff member of NMU or a neutral, outside third party. For hearings, neither the Investigator nor the Title IX Coordinator may be the Decision Maker.
- A member of EOO or DSO will be present at the hearing as a hearing facilitator. The hearing facilitator may attend to: logistics of rooms for various Parties/witnesses as they wait; flow of Parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.
- All hearings will be run in a manner that ensures a fair process for both the Complainant and Respondent.
- Any cross examinations taking place at the Hearing will be conducted directly, orally, and in real time by the Party's Adviser of choice.
- If a Party does not have an Adviser present for the hearing, NMU will provide an Adviser who is permitted to ask the other Party, as well as any witnesses, all relevant cross-examination and follow up questions, including those that challenge credibility.
- All Hearings are closed to the public.
- A sole recording or transcript of the Hearing will be made by NMU. Any other recording of the Hearing is prohibited.
- A member of the EOO or DSO will make the recording or transcript available to the Parties for inspection and review. Copies will not be provided to the Parties.

- The Investigator will serve as a witness.
- evidence or new evidence at the Hearing only under exceptional circumstances.
- The decisions made by the Decision Maker, during the Hearing, are not grounds for appeal by either Party.
- NMU will not return any evidence it receives or collects at the Hearing.
- At the conclusion of the Hearing, the Decision Maker will summarize the Hearing, and will include the summary in the Determination. The Decision Maker will make a determination of responsibility that will be included in the Notice of Outcome.

#### Role of the Decision Maker:

The Decision Maker:

- explains the procedures and introduces the participants.
- is responsible for maintaining an orderly, fair, impartial and respectful Hearing.
- conducts the hearing according to the hearing script.
- has broad authority to respond to disruptive behavior, including adjourning the Hearing or excluding any offending individual.
- will determine the method for questioning at the Hearing. The methods of cross examination questioning may include, but are not limited to, in-person, via speaker telephone, via video conferencing, or other methods identified by the Decision Maker that enables real time questioning.
- will answer all questions of procedure and may consult with the hearing facilitator.
- will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision Maker and the Parties and will then be excused.

#### Questioning at the Hearing:

- The Decision Maker may ask questions.
- The Parties/witnesses will submit to questioning by the Decision Maker and then by the Parties through their Advisers (“cross-examination”).
- The Decision Maker will make determinations whether specific questions are allowed.
- Only relevant Cross-Examination or other questions shall be permitted to be asked of a Party or witness. Relevance will be determined by the Decision Maker after each question is asked of a Party or witness. The Decision Maker will explain any decision to exclude a question as not relevant.
- The Adviser, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Decision Maker upon request or agreed to by the Parties), the proceeding will pause to



allow the Decision Maker to consider it, and the Decision Maker will determine whether the question will be permitted, disallowed, or rephrased.

- The Decision Maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Decision Maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance. The Decision Maker has final say on all questions and determinations of relevance. The Decision Maker may ask Advisers to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisers on relevance once the Decision Maker has ruled on a question.
- Questions and evidence about a Parties' sexual predisposition or prior sexual history are irrelevant and cannot be asked, unless they are offered: (1) To prove someone other than Respondent committed the misconduct or (2) To show specific incidents of prior sexual behavior with the Respondent and are offered to prove consent.
- Anyone appearing at the hearing to provide information will respond to questions on their own behalf.
- Anyone appearing at the hearing may choose to not answer a question.

#### Deliberation, Decision-making, and Standard of Proof

- Witnesses will be present only while being questioned, but not during deliberations.
- The Investigator(s), Complainant, Complainant's Adviser, Respondent, and Respondent's Adviser will be present during the entire hearing process, but not during deliberations.
- The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the Policy violation(s) in question. The preponderance of the evidence standard of proof is used.
- If the Respondent is found responsible, the Decision Maker may ask the EOO/DSO representative to contribute pertinent information in the sanction assessment stage. Pertinent information may include past violations, if any, and academic progress. The EOO/DSO representative may also be interviewed by the Decision Maker if there is any particular knowledge to be given that may assist the Decision Maker in assessing a sanction or selecting a special condition.
- When there is a finding of responsibility on one or more of the allegations, the Decision Maker may then consider any previously submitted Party impact statements in determining appropriate sanction(s).
- The Decision Maker will ensure that each of the Parties has an opportunity to review any impact statement submitted by the other Party(ies). The Decision Maker may – at their discretion – consider the statements, but they are not binding.
- The Decision Maker will determine the appropriate sanction(s).
- The Decision Maker will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions.
- This report must be submitted to the Title IX Coordinator within two (2) business days of the end

of deliberations (not including the date of deliberations), unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the Parties.

If a Party or witness does not submit to cross examination or is unavailable to submit to cross examination at Hearing:

- If a Complainant, Respondent, or witness declines to participate in the cross examination during the hearing, the Decision Maker may still proceed, so that a credibility finding may be made based on information available at the time of the hearing.
- The Decision Maker must not rely on any previous statement of that Party or witness in reaching a determination as to responsibility.
- The Decision Maker cannot draw an inference about the responsibility determination based solely on a Party's or witness's absence from the Hearing or refusal to submit to cross examination or other questions.

### **Notice of Outcome/Sanction**

#### Sanction Process for Student Respondents (Remedy)

Sanctions may be imposed upon any student found to be responsible for violation of this Policy. Sanctions may be used independently or in combination depending on the particular circumstance of the violation. Severe and/or multiple violations will increase the severity of sanctions applied. Continued violations will result in more severe disciplinary sanctions. Failure of a Respondent to comply with any disciplinary sanction imposed upon them will result in further disciplinary action.

- Warning Probation: a sanction imposed for a specified period of time. Further violations of the Student Code will result in more severe disciplinary sanctions.
- Disciplinary Probation: a sanction imposed for a specific period of time. Further violations of the Student Code may result in suspension or expulsion.
- Special Conditions: Financial restitution, service to the University, service to the community, attendance at educational seminars, classes, or workshops, written assignments, or other activities deemed appropriate. Some seminars, classes, and workshops may require a registration fee to be paid by the student.
- Parental/Guardian Notification for Alcohol and/or Other Drugs: Parental or guardian notification for serious first offenses, second offenses and any subsequent offenses for students under 21 years of age.
- Loss of Privileges: Denial of specified privileges for a designated period of time. Privileges that can be denied include, but are not limited to, contact with another person, campus registration of a vehicle, on-campus employment, access to a building or portion of a building, access to a program, access to the University network, participation in extracurricular activities, and any other privilege deemed appropriate.
- Revocation of degree: A degree awarded from NMU may be revoked for fraud, misrepresentation or other violation of University standards in obtaining the degree, or for other serious violations committed by a student prior to graduation. Being a degree holding alumna is sufficient association with the University and basis for application of this sanction.

- Withholding degree: The University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Code, including the completion of all sanctions imposed, if any.
- Suspension: A decision of suspension terminates the student's status as an enrolled student for a specific period of time and prohibits the student from attending classes. A suspended student may not enter onto any part of the campus without specific authorization from the Chief of the NMU Police Department or designee and the Dean of Students or designee. Students who reside on campus must remove their belongings from their place of residence within 48 hours of notice of suspension.
  - The terms of suspension may also include other conditions which may apply following the student's reinstatement.
  - At the discretion of the conduct board or conduct administrator who hears the case, the suspension may be held in abeyance.
  - A violation of the terms of suspension or suspension in abeyance may result in an extension of the period of suspension, which may be imposed by the Dean of Students or designee.
- Temporary Suspension: In certain circumstances, the Dean of Students or designee may impose a temporary suspension until the student conduct process is completed.
  - Temporary suspension may be imposed only to promote the safety and well-being of members of the University community or preservation of property; or if the Respondent poses an ongoing threat of disruption of, or interference with, the normal operations of the University.
  - During the temporary suspension, a student shall be denied access to University housing, to the campus (including classes), and/or all other university activities or privileges for which the student might otherwise be eligible, as the Dean of Students or designee may determine appropriate.
  - The temporary suspension does not replace the regular student conduct process, up to and through a conduct board hearing, if required.
- Expulsion: A decision of expulsion permanently terminates the student's status as an enrolled student. An expelled student may not enter onto any part of the campus without specific authorization from the Chief of the NMU Police Department or designee and the Dean of Students or designee. Students who reside on campus must remove their belongings from their place of residence within 48 hours of notice of expulsion.

#### Sanction Process for Employee Respondents (Remedy)

Sanctions for employees will be determined by Academic Affairs and/or Human Resources, with input from other offices as appropriate. For union employees, sanctions will be imposed in accordance with the applicable collective bargaining agreement and NMU Policy and procedures. For nonunion employees, sanctions shall be determined in accordance with NMU policies and procedures, individual contracts, and/or appointment letters. Sanctions for student employees will be coordinated between applicable departments.

The potential sanctions for an employee may include, but are not limited to:

- training
- referral to counseling

- no contact order
- no trespass (in coordination with the NMU Police Department)
- loss of privileges (access to NMU ground, a building or portion of a building, access to a program, access to NMU Network, participation in programs/activities, and any other privilege deemed appropriate)
- warning (verbal or written)
- withholding of a promotion, reassignment
- temporary suspension with or without pay
- other discipline up to and including termination from NMU

Student employees may also be subject to discipline pursuant to the Student Code of Conduct.

#### Notice of Outcome

Using the deliberation statement, the Title IX Coordinator or designee will work with the Decision Maker to prepare a Notice of Outcome. The Title IX Coordinator or designee will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the Parties and their Advisers within five (5) business days of receiving the Decision Makers' deliberation statement.

The Notice of Outcome will then be shared with the Parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official NMU records, or emailed (preferred) to the Parties' NMU-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent NMU is permitted to share such information under state or federal law; any sanctions issued which NMU is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to NMU's educational or employment program or activity, to the extent NMU is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by NMU to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

### **Appeals**

#### Appeal of the Notice of Outcome

Either Party may file an appeal. Appeals are limited to the following:

- procedural irregularity that significantly altered the outcome of the matter;
- bias or conflict of interest that significantly altered the outcome; or
- new evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that significantly altered the outcome of the matter.

- Evidence that was known to a Complainant or Respondent prior to the Notice of Outcome but withheld by that individual during the investigation, and was not raised does not constitute new information.
- A Party's claim that they did not know about specific evidence contained within the Notice of Outcome or that they did not have an opportunity to respond to certain information within the Determination, including the analysis of the evidence or any statements does not constitute the discovery of new information or evidence.

#### Appeals - Employee Respondent Matters

Employees appealing must provide the reason(s) for the appeal and sufficient and detailed information that support the reason for appeal.

Appeals must be submitted to the Vice President for Finance and Administration or designee within seven (7) days of receiving the the Notice of Outcome. The Vice President for Finance and Administration Office or designee will convene an Appeal Review Committee of one (1) or three (3) people. The chair of the committee will be determined by the Vice President for Finance and Administration.

The committee shall be empowered to review the case file, and interview witnesses, including the Parties, if the committee deems necessary, within twenty-one (21) business days from the convening of the Appeal Review Committee. The timeline may be extended for cause; all Parties will be notified if an extension occurs. If it is determined that there are material new facts that could have significantly altered the outcome, the case will be sent back to the Title IX Coordinator to determine the appropriate next steps, which may include further investigation. The chair of the Appeal Review Committee will issue a determination to the Vice President for Finance and Administration or designee. If the Appeal Review Committee determines a violation, it shall submit a written report supporting these findings, along with the recommendation for further action, to the Vice President for Finance and Administration or designee. If the Appeal Review Committee finds that a policy was not violated, it shall recommend to the Vice President for Finance and Administration or designee that the case be dismissed.

The Vice President for Finance and Administration or designee will review the recommendation of the Appeal Review Committee and make a determination. The Notice of Outcome will be sent concurrently, using email if possible, or other reliable methods if email is not available. The decision of the Vice President for Finance and Administration or designee is final.

#### Appeals - Student Respondent Matters

Students appealing must provide the reason(s) for the appeal and sufficient and detailed information that supports the reason for appeal. Appeals must be submitted to the Title IX Coordinator within seven (7) days of receiving the Notice of Outcome. The Provost for Academic Affairs or designee serves as the appeal officer and has twenty-one (21) business days from receipt from the Title IX Coordinator to make and communicate a determination. The timeline may be extended for cause; all Parties will be notified if extension occurs. If it is determined that there are material new facts that could have significantly altered the outcome, the case will be sent back to the Title IX Coordinator to determine the appropriate next steps, which may include further investigation.

All decisions made by the Provost for Academic Affairs or designee are final.

### Appeal for Leniency of the Sanction

If the Respondent is a Student:

- Appeals for leniency of the sanction may be submitted to the Associate Provost. A written appeal letter must be submitted to the Title IX Coordinator or designee within 48 hours of receiving Notice of Outcome. An appeal letter must meet two conditions: it must cite the basis for the appeal; and it must provide sufficient detailed information to support the appeal. The appeal will not be considered if both these conditions are not met. The Provost for Academic Affairs shall determine if the appeal meets both conditions.
- The grounds for an appeal of the sanction are to determine whether the sanction imposed was appropriate for the violation that the student was found to have committed, considering any previous violations. The person appealing must specify why the sanction imposed is too harsh.
  - Once an appeal is submitted and determined that it meets the appeal conditions, the Associate Provost or designee may:
    - modify the sanction (enhance or lessen);
    - Uphold the sanction;
    - In extenuating circumstances (conflict of interest, absence of appeal officer, etc.) request the President to appoint an appeal officer designee who shall consider the sanction and render a decision.
    - The Associate Provost shall inform the Respondent, Complainant, Title IX Coordinator, and the Dean of Students or designee in writing as to the decisions within ten (10) business days.

If the Respondent is an Employee:

- Appeal of a sanction may be appealed to the Vice President of Finance and Administration. A written appeal must be submitted to the Vice President or designee within 48 hours of receiving the Notice of Outcome. An appeal letter must meet two conditions: it must cite the basis for the appeal; and it must provide sufficient detailed information to support the appeal. The appeal will not be considered if both these conditions are not met. The Vice President of Finance and Administration shall determine if the appeal meets both conditions.
- The grounds for an appeal of the sanction are to determine whether the sanction imposed was appropriate for the violation that the employee was found to have committed, considering any previous violations. The person appealing must specify why the sanction imposed is too harsh.
  - Once an appeal is submitted and determined that it meets the appeal conditions, the Vice President of Finance and Administration or designee may:
    - modify the sanction (enhance or lessen);
    - Uphold the sanction;

- In extenuating circumstances (conflict of interest, absence of appeal officer, etc.) request the President to appoint an appeal officer designee who shall consider the sanction and render a decision.
- The Vice President shall inform the Respondent, Complainant and the Title IX Coordinator or designee in writing as to the decisions within ten (10) business days.