



ADMINISTRATIVE POLICY

Sexual Assault, Domestic Violence, Dating Violence, and Stalking Policy

(PS 8)

POLICY STATEMENT

Nevada State University is a diverse community committed to creating and maintaining a safe campus where all persons who participate in University programs and activities can work and learn together in an atmosphere free of all forms of harassment, discrimination, or intimidation. Sexual harassment, sexual assault/sexual misconduct, domestic violence, dating violence, and stalking are violations of University policy.

Nevada State University will respond promptly to reports of sexual harassment, sexual assault/sexual misconduct, domestic violence, dating violence and stalking.

DEFINITIONS

Coercion: the use of violence or threats of violence against a person or the person's family or property, depriving or hindering a person in the use of any tool, implement or clothing, attempting to intimidate a person by threats or force, or when committed with the intent to compel a person to do or abstain from doing an act that the person has the right to do or abstain from doing.

In the context of sexual misconduct, coercion is the use of pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity.

Consent: An affirmative, clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity. Consent is active, not passive. Silence or lack of resistance cannot be interpreted as consent. Seeking and having consent accepted 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.

The existence of a dating relationship or past sexual relations between the participants does not constitute consent to any other sexual act.

The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

Affirmative consent must be ongoing throughout the sexual activity and may be withdrawn at any time. When consent is withdrawn or cannot be given, sexual activity must stop.

Consent cannot be given when a person is 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); inability to communicate due to a mental or physical condition; the lack of consciousness or being asleep; being involuntarily restrained; if any of the parties are under the age of 16; or if an individual otherwise cannot consent.

Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

Dating Violence: Nevada law does not distinguish between Dating Violence and Domestic Violence. For Clery reporting purposes crimes meeting the below definition will be reported as dating violence:

Dating violence is an act committed by a person who is or has been in a “dating relationship” with the reporting party:

- (a) The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. “Dating relationship” means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context; and
- (b) Dating violence is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the reporting party. Dating violence includes, but is not limited to, mental, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. For the purpose of complying with requirements of this section and 34 CFR 668.41, any incident meeting this definition is considered a crime for the purpose of Clery Act reporting.

Domestic Violence: Domestic violence occurs when a person commits one of the following acts against or upon the person’s spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person is or was actually residing, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person’s minor child or any other person who has been appointed the custodian or legal guardian for the person’s minor child:

- (a) A battery.
- (b) An assault.
- (c) Compelling the other person by force or threat of force to perform an act from which the other person has the right to refrain or to refrain from an act which the other person has the right to perform.
- (d) A sexual assault.
- (e) A knowing, purposeful or reckless course of conduct intended to harass the other person. Such conduct may include, but is not limited to:
 - 1) Stalking.
 - 2) Arson.
 - 3) Trespassing.
 - 4) Larceny.
 - 5) Destruction of private property.

- 6) Carrying a concealed weapon without a permit.
- 7) Injuring or killing an animal.
- (f) A false imprisonment.
- (g) Unlawful entry of the other person's residence, or forcible entry against the other person's will if there is a reasonably foreseeable risk of harm to the other person from the entry.

Preponderance of the Evidence: The evidence establishes that it is more likely than not that the misconduct occurred.

Sexual Assault: A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or herself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct, is guilty of sexual assault. (NRS 200.366(1))

Stalking: A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated, harassed or fearful for the immediate safety of a family or household member, and that actually causes the victim to feel terrorized, frightened, intimidated, harassed or fearful for the immediate safety of a family or household member, commits the crime of stalking. (NRS 200.575(1))

PROCEDURES

I. Reporting Domestic Violence, Dating Violence, Sexual Assault, and Stalking

The University encourages all members of the college community who believe that they have experienced sexual misconduct or gender based violence to seek immediate medical attention and take steps to preserve pertinent information and tangible materials, regardless of whether or not an individual wishes to make a report to the University or law enforcement.

How to File a College Complaint

Individuals who believe that they are victims of dating violence, domestic violence, sexual assault, or stalking should notify the College's Title IX Coordinator. Complaint forms are also available online at <https://nevadastate.edu/title-ix/>. Lastly, employees may also notify their supervisors, department chair or director of a unit.

Title IX Coordinator: TitleIXCoordinator@nevadastate.edu

Next Steps & Anticipated Timelines

Upon receipt of a report of domestic violence, dating violence, sexual assault, or stalking, the Title IX Coordinator will conduct an investigation to determine if disciplinary charges are warranted. If, after conducting an investigation of the allegation, the Title IX Coordinator believes that there is sufficient information to support a violation of University policy, the case is referred to the appropriate administrative officer for adjudication.

For students, cases are referred to the Dean of Students and adjudicated under the Student Code of Conduct <https://nevadastate.edu/university-policies/student-code-of-conduct/>

- Staff cases are referred to the appropriate Academic Department or Office of Human Resources.

For staff, cases are referred to the Office of Human Resources.

- The University seeks to resolve such complaints within 60 business days from receipt of a report, excluding days classes are not in session. Circumstances may require the University to extend this overall time frame or any individual time frame discussed in this Policy. Examples of reasons why time frames may need to be extended include the complexity of the case, delays due to fall/spring/summer/holiday breaks, inclement weather, and other extenuating circumstances. Exceptions to these time frames will be communicated to the Complainant and Respondent.

Standard of evidence

When an incident of domestic violence, dating violence, sexual assault, or stalking is reported to Nevada State, these violations are adjudicated based on standard of evidence known as “preponderance of the evidence” during any institutional conduct proceeding arising from such a report.

Evidence Preservation

Although in the immediate aftermath of an incident, an individual may not be interested in reporting the incident to the University or in pressing charges, preserving evidence immediately can be vital to a successful investigation if, in the future, an individual decides to move forward with a civil, criminal, or University conduct case, or seeks a protective order.

Here are some tips on preserving evidence:

- Avoid any of the following before seeking medical attention: showering, bathing, douching, brushing of teeth, going to the bathroom, drinking, and/or change of clothing.
- Similarly, any clothing, towels or bedding should remain untouched pending collection by law enforcement. Whether or not an individual has chosen how to proceed at the time of the medical examination, taking the step to gather evidence will preserve the full range of options to seek resolution through the pursuit of criminal investigation or through the College's complaint processes.
- If an individual has any bruising or injuries, they should take photos of the bruising with a camera and document the date and time of the photograph (cell phones automatically do this). If an individual goes to the hospital they can do this as it is deemed necessary.

Medical attention is also strongly encouraged. If a survivor of sexual assault would prefer to remain anonymous, they can receive an evidentiary exam at no cost at an area hospital without filing a police report. These exams are filed under a Jane/John Doe name. If a survivor chooses to file a police report, it should be noted that a police report states what happened and does not require the survivor to press charges. The choice remains with the individual whether to press charges.

Individuals or Organizations that Can Assist Victims

The following support services are available should victims want to access them:

- Vice President of Student Affairs at (702) 992-2511.
- Title IX and the Office of Compliance at (702) 992-2322.
- To notify and report the crime off-campus, contact the Henderson Police Department at (702) 267-5000 or the appropriate jurisdiction, or 9-1-1.
- University Police Services at (702) 895-3669 or 9-1-1 from a campus phone.

Options about the Involvement of Law Enforcement

- You have the option to report to, or decline to report to the University Police Services and local law enforcement: Although the University strongly encourages prompt reporting of dating violence, domestic violence, sexual assault, or stalking individuals have the option of reporting to (a) local law enforcement; (b) the University, including University Police Services; (c) both (a) and (b); or (d) none of the above. This means that individuals have the right to decline to notify the University or law enforcement officials.
- If you want to notify local law enforcement, the University can assist you in notifying those authorities: If an individual wants to notify local law enforcement, then the University will, upon request, help that individual make a report to local law enforcement. A report to local law enforcement is separate from a report to the University.
- Process of Making a Police Report: Depending on the circumstances of an incident, University Police Services may meet you at the hospital, on campus, or at the police station. An officer will document the case with a written report. It is very important for an individual to provide the most comprehensive, accurate details of the crime to the officer. Sometimes a person may have distorted memories of the event; it is okay for a person to say "I don't remember" or "I'm not sure," without any penalty. A police interview can take up to a few hours, depending on the circumstances of the case. Questions often include the timeline of events, what (if anything) was said, whether there was additional physical assault or injury, if weapons were used, and any descriptive features that were noticed about the Respondent. It is likely the officer may go over the events of an assault repeatedly when writing the report; this is intended to gather as many details as possible, to make the strongest case. Information is gathered then given to a detective who will review the same information. All individuals have the right to stop a report at any time, not complete the report, or request a break, if they feel overwhelmed.
- Contact Information: An individual who wishes to pursue criminal action in addition to, or instead of, making a report to the College for dating violence, domestic violence, sexual assault, or stalking may contact law enforcement directly by calling: 911 (for emergencies) or 702-985-3669 for University Police Services or in-person at one of the locations mentioned above.

Availability of Protective Orders

In some cases, an individual may wish to consider a Protection from Abuse Order from the local courts. This is a civil proceeding independent of the University. If a court order is issued the University will, to the extent possible, assist the protected person in benefiting from the restrictions imposed by the court and will also facilitate on-campus compliance with the order.

Separate from protective orders, the University can in some cases issue a “no contact” order pending the outcome of a University investigation. Such a directive serves as notice to both parties that they must not have verbal, electronic, written, or third party communication with one another.

Efforts to Protect Confidentiality of Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

The University will attempt to protect the confidentiality of victims of dating violence, domestic violence, sexual assault, or stalking the following ways:

- In completing any publicly-available recordkeeping, including Clery Act reporting and disclosures, such as the daily crime log, the University takes all efforts to avoid the inclusion of personally identifying information about the victim, to the extent permissible by law.
- In addition, when the University assesses or delivers protective measures and accommodations, the University will attempt to keep personally identifiable information about the victim as confidential (shared only with persons with a need to know) to the extent that maintaining such confidentiality would not impair the ability of the University to provide such support. The Title IX Officer and/or the Dean of Students will determine what, if anything must be disclosed and to whom. This decision will depend on the facts and circumstances of the unique situation and the measure being requested.

Written Information Made Available Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

The University will provide the following information to students and employees:

- Written notification is made to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available for victims both on-campus and in the community.
- Written notification is made to victims about options for, available assistance in, and how to request changes to academic living, transportation, and working situations, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

Any student or employee who reports to Nevada State University that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the student or employee's rights and options.

Disciplinary Action in the Case of Alleged Domestic Violence, Dating Violence, or Stalking

Nevada State University is committed to creating and maintaining workplace and educational environments that are free from all forms of sexual discrimination, including sexual misconduct. Any act involving sexual harassment, violence, coercion, and intimidation will not be tolerated. The University prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking. It is the practice of NS's Title IX Coordinator to investigate any allegations of sexual misconduct and to take immediate action by providing interim resources and accommodations to both the accused and the accuser.

About These Proceedings

- Such proceedings provide a prompt, fair, and impartial investigation and resolution and are conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking in addition to how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
- The accuser and the accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding; including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice; and
- Both the accuser and the accused shall be simultaneously informed, in writing, of:
 - The outcome of any institutional disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking.
 - The institution's procedures for the accused and the victim 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, as well as when such results do become final.
- NS will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in section 16 of title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by NS against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased the next of kin of such victim shall be treated as the alleged victim.
- An institution, or an officer, employee, or agent of an institution, may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision in this section.

List of Potential Sanctions

Students, faculty, or staff who are found in violation of University policy by committing acts of domestic violence, dating violence, sexual assault, or stalking may be subject to discipline up to and including termination and/or expulsion, in accordance with the NSHE Code (or in the case of students, any applicable student code of conduct) or, in the case of classified employees, the Nevada Administrative Code. Other lesser sanctions may be imposed, depending on the circumstances. Complaints may also be filed against visitors, consultants, independent contractors, service providers and outside vendors whose conduct violates this policy, with a possible sanction of limiting access to institution facilities and other measures to protect the campus community.

For students, the following list includes all the possible sanctions that NS may impose following the results of any institutional disciplinary proceeding from an allegation of dating violence, domestic violence, sexual assault, or stalking. Depending upon the severity of the violation, and whether a repeat or multiple violations are involved, recommendations for sanctions may be imposed in any order or combination. In addition to the disciplinary, educational, community, and health initiative sanctions identified below, and in the College's sole discretion, a student/student organization may be required to perform specific restitution service, to complete counseling or other specialized treatment or support services, and/or be required to participate in an activity or program whose purpose is to redirect behavior. This is monitored by NS's Dean of Students.

Any violation of the Code that is motivated by race, ethnicity, religion, gender, sexual orientation, age, creed, national origin, disability, or veteran status may subject the student/student organization to the imposition of a sanction more severe than would be imposed in the absence of such motivation.

A sanction may have an accompanying administrative fee, in which case the student will be notified at the time the sanction is assigned. Payment of an administrative fee will be considered part of the successful completion of the sanction.

Failure to comply with any such sanction or requirements will constitute an additional violation of the Code, and may result in additional and increased sanctions in accordance with the procedures set forth in this Code.

SANCTIONS:

RESTRICTIONS, LOSS OF PRIVILEGES, AND EXCLUSION FROM ACTIVITIES.

Exclusion/restriction from participation in privileges, extracurricular activities, holding office, or represent the University. Loss of use privileges for designated University facilities, denial of the use of a vehicle on campus, and/or other restrictions consistent with the violation committed.

CONDUCT PROBATION. The terms of probation will be determined at the time the probation is imposed. Probation may include exclusion from participation in privileges or extracurricular activities. The student/student organization placed on probation shall be notified in writing that the commission of prohibited acts will lead to additional and/or increased conduct sanctions.

DISCIPLINARY CONDUCT SUSPENSION. This is the temporary separation of the student from the University for a specified period of time and/or until specific conditions, if imposed, have been met. A disciplinary suspended student shall not participate in any University-sponsored activity and shall be barred from all University campuses and properties. The student will be notified in writing of the suspension. The official transcript of the student shall be marked

“Not In Good Standing” The parent(s) or legal guardian(s) of students under the age of eighteen (18) years shall be notified of the action. After the suspension period has elapsed, the student will be placed on conduct probation for a period of time that is equal to the amount of time that the student was suspended. At the end of the probationary period, the student will be classified as being in “good standing” provided that no further Code violations have occurred.

EXPULSION OR TERMINATION. Permanent separation of the student from the University. The expelled student shall not participate in any University-sponsored activity and shall be barred from all NSHE campuses and properties. The official transcript of the student shall be marked “Conduct Expulsion Effective (date).” The parent(s) or legal guardian(s) of a student under the age of eighteen (18) years shall be notified of the action.

REQUIRED EDUCATIONAL/RESTITUTION ACTIVITIES. Mandatory participation in educational activities or programs of community restitution service on campus or in the community, as approved.

ADMINISTRATIVE CONDUCT HOLD. A status documented in the Registrar’s official file that precludes the student from registering for classes and/or accessing official transcripts until clearance from the Dean of Students.

INTAKE/ASSESSMENT/TREATMENT REFERRALS. A student may be referred to NS’s counseling services or a community mental health provider to complete an intake and assessment involving alcohol, controlled substance, or other identified issues arising from a violation. At the University’s discretion, proof of participation or completion of treatment may be required. When appropriate, a student may be referred to an off-campus provider for such services at the student’s expense.

Range of Protective Measures Available

These measures may include, but are not limited to:

- the implementation of a NS-issued no-contact order
- academic accommodations
- residential accommodations
- transportation accommodations
- employment accommodations
- safety consultations with University Police Services
- personal protection devices
- on-campus escorts

Resources

The University provides additional information on sexual harassment and sexual violence trainings. New faculty, staff and student workers will be notified of sexual harassment and sexual violence prevention training during orientation. Current faculty and staff can access training through the Law Room. Students are assigned training through CampusClarity.

In addition, NS’s Office of Human Resources also provides training on Title IX and Sexual Harassment and oversees the University’s web-based training programs that include trainings on Campus SaVE Act and Title IX.

NS's LawRoom/CampusClarity Training Library includes:

STUDENT TRAINING LIBRARY	STAFF/FACULTY TRAINING LIBRARY
Alcohol, Drugs, Sexual Assault harm-reduction Training – Title IX and Campus SaVE Act (main course)	Overview of Title IX and Campus SaVE Act.
Title IX and Campus SaVE Act training (main course)	Prevent harassment, discrimination & retaliation
	Family Educational Rights and Privacy Act

Students and staff may report an incident to the Student Conduct Office via the NS Portal. In addition, any staff member who is concerned about the health, safety, and/or well-being of a student can make a referral to the CARE Team.

CONTACTS

OFFICE/UNIT	CONTACT	PHONE	EMAIL
College and Community Engagement	Edith Fernandez	X2358	Edith.fernandez@nevadastate.edu
Title IX Coordinator			TitleIXCoordinator@nevadastate.edu
VP of Student Affairs	Stefanie Coleman	X2511	Stefanie.coleman@nevadastate.edu

RELATED INFORMATION

HISTORY

Revised January 3, 2024, to update institutional name and Title IX Coordinator.

APPROVAL SIGNATURES PAGE

Vickie Shield

9-26-2019

Office of the Provost (Provost's Signature) Date

Recommendation (check one):

	Denial*	X	Approval	Approval w/ condition*
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Office of the President (President's Signature) Date

Final decision (check one):

	Denied*	X	Approved
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*Attach rationale for denial or conditional approval