

# **Sexual Misconduct Policy**

## **Purpose**

Sexual misconduct is contrary to the Christian, Catholic and Benedictine philosophy of the university. Students, faculty, staff and administrators of the university must comply with all applicable laws regarding sexual misconduct and with the procedures outlined in this policy.

## **Statement of the Policy**

### **A. Definition**

For the purpose of this policy, sexual misconduct includes a range of behaviors used to obtain sexual contact against a person's will.

- Sexual misconduct includes all sex offenses prohibited under North Dakota or federal law.
- Sexual misconduct includes, but is not limited to, date rape, stranger rape, indecent exposure, and attempted sexual acts by use of verbal or non-verbal threats.
- Sexual misconduct includes sexual contact without consent by an acquaintance or a stranger and includes:
  1. intentional touching without consent, either of the victim or when the victim is forced to touch, directly or through clothing, another person's genitals, breast, groin, thighs or buttocks;
  2. rape (sexual intercourse without consent, whether by an acquaintance or stranger);
  3. attempted rape;
  4. sodomy (oral or anal intercourse) without consent; or
  5. sexual penetration with an object without consent.

To constitute lack of consent, the act must be committed either:

1. by threat, force, or intimidation;
2. through the use of the victim's mental or physical inability, such as when the victim is physically or mentally incapacitated by alcohol or other drugs, or when the victim suffers from a mental state which renders him or her incapable of understanding the nature of the contact; or
3. when the victim is less than fifteen years of age.

### **B. What to do if you are sexually assaulted**

- Go to a safe place.
- Call Campus Security (471-6070) or the Burleigh County Sheriff Department (222-6651) or in the case of an emergency call 911 even if you do not want to press charges. You will be assisted in getting immediate and critical medical attention. Even if you choose not to contact authorities, you are encouraged to seek medical assistance.

- Contact the Abused Adult Resource Center (222-8370) or the hot line (800-472-911).
- Consider talking with someone you trust — a relative, a resident assistant, a residence hall director, the University of Mary student counselor, a good friend, a pastor – for the much-needed support you deserve.
- Do not shower or douche. While at the hospital, you will be checked for physical injuries, and evidence will be collected in case you decide to press charges. Going to the hospital does not mean that you will need to press charges. You can decide that later.
- Explore legal avenues for criminal and/or civil action as well as utilizing on-campus reporting procedures, including the university’s disciplinary system.
- Allow yourself time to heal. Seek counseling services with the University of Mary Student Counselor (355-8145), at Archway Family Services 224-7192, or West Central Human Services Center 255-3090.

**C. Reporting**

Anyone who is the subject of sexual misconduct should promptly report such matter to one of the following university officials: the director of student life, the director of human resources or the assistant vice president for academic affairs. The contact information is:

Director of Human Resources  
 Benedictine Center, Room 210  
 7500 University Drive  
 Bismarck, ND 58504  
 (701) 355-8245;

Director of Student Life  
 Benedictine Center, Room 1501  
 7500 University Drive  
 Bismarck, ND 58504  
 (701) 355-8126;

Assistant Vice President for Academic Affairs  
 Benedictine Center, Room 1206  
 7500 University Drive  
 Bismarck, ND 58504  
 (701) 355-8021

A complaint shall be reduced to writing, including dates, names, and the nature of the incident. All reports of sexual misconduct are treated with respect to the privacy of the involved individuals. Incidents are reported as statistics without identifying information in the university’s annual security report and daily crime log.

The individual receiving the report shall advise the victim of their legal right to pursue criminal charges against the perpetrators.

#### **D. Victim Assistance**

A report of sexual misconduct will be handled as follows:

1. If a medical emergency exists, appropriate action will be taken.
2. The victim will be informed of his/her right to make a report to appropriate law enforcement officials, and will be encouraged to do so. Victims are advised that the university will assist and support them in reporting the incident to law enforcement officials. It is recognized that a victim may be undecided in reporting the misconduct to law enforcement authorities. In any event, the victim will be informed of the importance of evidence and encouraged to not destroy evidence. At the direction of criminal investigators, the university will assist in obtaining, securing and maintaining evidence.
3. A victim who does not wish to see law enforcement officials will be encouraged to seek medical consultation to address physical problems, fear of injury and sexually transmitted disease or pregnancy.
4. The University of Mary community actively supports sexual misconduct victims. Individuals who report being the victim of sexual misconduct will be notified of on and off-campus counseling, mental health and other services available. Employee Assistance Programs are also available for employees of the university.
5. Students who have been the victim of sexual misconduct will be notified of options to request changes in academic schedules and on-campus residence assignments to avoid further contact with the perpetrator or alleged perpetrator.

#### **E. Investigation and Response**

All reports of sexual misconduct will be investigated in a timely manner. Due to the sensitivity of this type of offense, complaints will be investigated with sensitivity to the need for confidentiality and privacy. With the consent of the victim, these investigations may be made with the assistance of local law enforcement officials. As required by the federal Clery Act, the University of Mary reports all crimes reported to university and/or law enforcement officials as occurring on or adjacent to the university campus in its daily crime log and as part of its annual statistical history of campus crime. These reports do not include any identifying information about the persons involved. The university will issue timely security advisories to members of the campus community in cases of sexual misconduct if there is a continuing danger to the campus community.

#### **F. Disciplinary Action, Procedure and Sanctions**

All victims shall be advised of their right to file a written complaint pursuant to the Conduct Grievance Procedure. [Conduct Grievance Procedure](#)

Internal judicial or disciplinary measures by the university are not intended to replace or inhibit or interfere with action in the criminal justice system. Victims of sexual assault always maintain the legal right to pursue criminal charges against the perpetrators. Criminal investigation by local law enforcement officials, arrest and prosecution can occur independently before, during or after the campus judicial process or employee disciplinary actions. These investigations may be made with the assistance of the Burleigh County Sheriff Department.

### **G. Educational Programs**

The university conducts several programs to prevent sexual misconduct and to make the university community aware of the potential for such crimes. Residence life staff provides the programming on this issue and campus-wide programs are available through the student development office and as part of orientation. In addition, the residence hall staff, the health clinic and the counseling services office provides educational programs concerning sexual misconduct awareness.

#### **Approved**

April 2009 by the President of the University of Mary

November 2009 by the Executive Committee of the University of Mary's Board of Trustees