

# CONDUCT GRIEVANCE BOARD

## Purpose

The purpose of the Conduct Grievance Board is to oversee the investigation of all formal complaints alleging misconduct as identified in any of the following University of Mary policies:

- Sexual Misconduct Policy
- Discrimination and Harassment Policy
- Hazing Policy
- Retaliation Policy

The board consists of three persons appointed by the president of the university. A list of the current members may be obtained from the office of the president.

## Conduct Grievance Procedure

### PART 1: How to File a Complaint

If you have been the target of any form of sexual misconduct, discrimination, harassment, hazing or retaliation perpetrated by an individual member of the University of Mary community (student, faculty, staff, or administrator) or an independent contractor employed at the university, or by members of a group, organization, team or department at the university, you are encouraged to report it to the Conduct Grievance Board using the complaint form available online ([Conduct Grievance Procedure 2009 Complaint Form](#)). You may also request a complaint form from any of the university officials listed below. Completed complaint forms should be submitted to one of these officials and individuals who have questions about the process may contact them for assistance.

**Director of Human Resources**  
Room 411, Benedictine Center for Servant Leadership  
7500 University Drive  
Bismarck, ND 58504  
(701) 355-8245

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

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

### PART 2: Response to a Complaint (Investigation and Decision)

Upon receipt of a complaint form, the director of human resources, the director of student life, or the assistant vice president for academic affairs shall promptly forward the complaint to the chair of the Conduct Grievance Board. The chair shall promptly schedule a meeting of the full Board and notify the appropriate university officials of the complaint as follows:

1. In the case where the accused is a vice president of the university, the president of the university will be notified.
2. In the case of a conduct complaint where the accused is a student, the director of student life and vice president for student development shall be notified of the complaint.
3. In the event that the accused is a member of the faculty, the director of human resources, the direct supervisor of the accused faculty member and the vice president for academic affairs shall be notified of the complaint.
4. In the event that the accused is any other employee of the university, the director of human resources, the direct supervisor of the accused, and the supervising vice president shall be notified of the complaint.

### **Protection of the University Community**

The university is not designed or equipped to supervise or rehabilitate persons who pose a substantial threat to themselves or to others. The university reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community. It may be necessary to remove those individuals from the campus and/or to sever the institutional relationship with them.

Depending upon the circumstances involved, and in consultation with the Conduct Grievance Board, the appropriate vice president may take any action up to and including temporary suspension of the accused that is deemed necessary or appropriate for the security, safety and common good of the university community.

A student or employee accused of violating policies of the University of Mary may be temporarily suspended until the university's investigation is complete and/or all legal charges in the matter are fully resolved when, in the sole discretion of the university, the accusations are credible, endanger a member or members of the university community and have been made in good faith. Where the accused is an employee of the university, the director of human resources will suspend the employee as appropriate to the situation and this may include suspension of employment with or without pay. Where the accused is a student, the vice president for student development will suspend the student as appropriate to the situation. This may include but is not limited to, suspension of eligibility to participate in extracurricular activities; suspension from eligibility to reside in on-campus student housing; suspension of eligibility to be present on campus or to move

about the campus freely or any other suspension of student privileges up to a full suspension as a student from the university.

### **Investigation of the Complaint**

The Conduct Grievance Board shall meet to consider the most appropriate response to the complaint. The Board shall have the authority to take any of the following actions:

1. Appoint an investigating committee of at least three but no more than five individuals from the university community, and appoint one to serve as chair of the committee.
2. Direct the parties to attend informal mediation of the complaint. In this instance, the Board shall appoint a neutral third party mediator who shall meet with parties and attempt to resolve the complaint. If this is unsuccessful, the Board shall revert to step 1.
3. Summarily dismiss any complaint that it finds to be manifestly false or frivolous.

### **The Investigating Committee**

Members of the investigating committee will receive instructions on procedures to follow from the chair of the Board and/or the university's legal counsel. The committee may file written complaints against those individuals involved and proceed to make its investigation in such manner as it considers appropriate to the circumstances. The committee will conduct its investigation and make its recommendations as expeditiously as possible. In the event there are related criminal or civil proceedings the committee shall have the right to delay making a determination in the matter until all legal proceedings have been fully resolved. Allegations shall be investigated in as impartial and confidential manner as possible. The committee shall keep a written record of its proceedings.

If, in the course of its investigation, the committee determines that university policies in addition to, or other than, those alleged in the complaint have been violated, the committee shall include such violations in its investigation.

It may be necessary for the person(s) who made the original complaint to appear before the committee for the purposes of answering questions and clarifying information in the written statement. Some forms of misconduct are of a highly personal and sensitive nature. The person who brings forth a complaint may fear retaliation and/or the reaction of those responsible for the investigation and/or the public. For this reason, those responsible for an investigation are trained to carry out their work in the most confidential and sensitive manner possible. For example all those who appear before the

committee will do so at a separate time making it unnecessary for the person who files the complaint to have to be present at the same time as the accused.

The committee shall have the authority to require any member of the university community believed to have relevant information about the incident to appear before it for the purposes of answering questions and providing information. At its discretion, the committee may require those who appear before it to provide written statements.

Formal rules of evidence applied in courtroom proceedings do not apply to the investigations of the conduct board or subsidiary panels. All information that responsible persons are accustomed to rely upon in the conduct of serious affairs, including hearsay, may be considered.

If deemed necessary, the committee may ask anyone believed to have relevant information about the matter who is not a member of the university committee to appear before it or provide a statement. The committee may also consider any other relevant information available to it including physical and electronic evidence, law enforcement reports, court documents and/or media reports of the incident.

It is the responsibility of all members of the university community to cooperate with the investigation of the committee. Any student, faculty or staff member who refuses to cooperate or who provides false information may be subject to disciplinary action.

Each person who is asked to appear before the committee has the right to be accompanied to the hearing by one person whose purpose shall be to offer support. The person may be an advisor, a friend, a parent or relative or an attorney. The support person will not be permitted to participate in the hearing, his/her role is limited to support. If a person appearing before the committee elects to exercise his or her right to have a support person present, he/she must notify the chair of the committee at least 24 hours in advance, providing the support person's name and nature of the relationship he/she has with the support person. The university reserves the right to have its legal counsel present at any and all meetings and hearings of the committee.

### **The Findings of the Investigating Committee**

When the investigating committee has completed its investigation, consistent with its findings, it will make a determination in the matter to include any sanctions which it deems appropriate to the findings. The committee will provide the chair of the Board with a written report of its findings and notify the complainant and all accused of its determination which may take any of the following forms:

1. A finding that the misconduct alleged in the complaint is supported by the facts.
2. A finding that misconduct other than the misconduct alleged in the complaint is supported by the facts.

### 3. A finding that no misconduct is supported by the facts

Upon a finding that misconduct is supported by the facts, the committee shall mandate the disciplinary sanctions and/or corrective measures it deems appropriate to the case, if any.

In all cases, the committee may recommend such corrective actions as it deems appropriate to help avoid or reduce future misconduct.

### **Sanctions, Corrective Actions and Penalties**

Appropriate sanctions and corrective actions for employees may include dismissal from employment; suspension from employment, with or without pay; probation; mandated psychiatric or psychological evaluation with a mandate to complete all resulting recommendations; mandatory educational programs and/or mandated mediation or any other action deemed appropriate.

Appropriate sanctions and corrective actions for students will include assignment of an appropriate Student Conduct Level and may also include permanent expulsion from student status at the university; temporary suspension or dismissal from student status; mandated psychiatric or psychological evaluation with a mandate to complete all resulting recommendations; mandatory educational programs and/or mandated mediation or any other action as deemed appropriate.

In the event that individuals acting together in concert as members of a group, organization, team or department at the university are found to have engaged in misconduct, the committee has the authority to impose sanctions and penalties including revocation of club or organization status; probation; disciplinary action against the advisor, coach or supervisor or any other action it deems appropriate.

### **Appeals**

All parties have the right to an appeal. Appeals must be in writing, using the proper appeal form (available from the chair of the Board) and must be received by the chair within 5 business days from the date of notification of the original determination. Upon a receipt of an appeal, the chair of the Conduct Grievance Board will convene the full membership of the Board to consider the appeal. The chair of the Board will inform all parties of the Board's determination in the matter of the appeal. The determination of the Conduct Grievance Board is the final level of appeal.

### **PART 3: Structure and Operation of the Conduct Grievance Board**

The Conduct Grievance Board consists of three persons appointed by the president of the university. The appointed members shall serve until they resign or are replaced by the president. New members shall participate in an orientation process overseen by the University's legal counsel. A list of the current members may be obtained from the director of human resources, the director of student life or the assistant vice president for academic affairs.

A majority of the members of the Board shall constitute a quorum for the transaction of business. At all meetings of the Board, each member shall have one vote. The act of a majority present at a meeting shall be the act of the Board, provided a quorum is present. From its members, the board shall select a chair, vice-chair and a secretary. The Board shall keep a written record of its proceedings. Upon the close of the Board's proceedings for a particular matter, the Board's record shall be maintained with other university records for the individuals involved, which shall be with human resource records for employees and student conduct records for students.

Each member shall recognize his or her capacity as a person occupying a place of trust and should not create a position in which self interest conflicts with any duty the member owes to the University, its students, staff or faculty. Any member, who is actually or potentially involved in such a conflict of interest, shall make full disclosure of the interest. Such member shall not vote upon the matter and shall not be counted as a part of the quorum for the vote on the matter. The minutes of the meeting shall reflect that a disclosure was made and that the member having a conflict of interest did not participate in the discussion and abstained from voting. If required to carry out the business of the Board, the President shall appoint a temporary member for the purpose of deciding the issue under question.

#### **Approved**

July 2009 by the President of the University of Mary

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