

## SEXUAL MISCONDUCT POLICY

### Purpose

Sexual misconduct is immoral and contrary to the Christian, Catholic, and Benedictine mission and philosophy of the University. It is also often illegal. Students, faculty, staff, and administrators of the University shall comply with all applicable laws regarding sexual misconduct and with the procedures outlined in this policy.

### Statement of Policy

#### Definitions

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 eighteen years of age.

#### Distinction from Title IX:

While the majority of conduct constituting a violation under this policy also falls under Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), there are scenarios wherein conduct may not fall under the jurisdiction of Title IX. A member of the university community who has been a victim or witness to sexual misconduct under the jurisdiction of Title IX is encouraged to file a report in accord with the University's [Title IX policy](#). Reports of sexual misconduct

filed under this policy instead of Title IX will be evaluated by the University to determine if the misconduct falls under Title IX and will be addressed accordingly.

*What to Do If You Are Sexually Assaulted*

Go to a safe place. Call Campus Safety and Security, (701) 355-8000, or the Burleigh County Sheriff's Department, (701) 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 with the Abused Adult Resource Center at (701) 222-8370, or use their hot line, (866) 341-7009.

Consider talking with someone you trust – a relative, a Resident Assistant, a Residence Director, 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 from licensed mental health professionals through CHI St. Alexius Health by calling (701) 530-7195 or (800) 327-7195.

*Reporting*

Anyone who is the subject of sexual misconduct should promptly report such matters 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. Their contact information is:

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

**Director of Human Resources**  
**Benedictine Center, Room L210**  
**7500 University Drive**  
**Bismarck, ND 58504**  
**(701) 355-8245**

Christi Schaeftbauer, Title IX Coordinator  
(vice president supervising human resources)  
Benedictine Center for Servant Leadership, Room L403  
7500 University Drive  
Bismarck, ND 58504  
(701) 355-3794  
[titleix@umary.edu](mailto:titleix@umary.edu)

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 University shall advise the victim of his or her legal right to pursue criminal charges against the perpetrators.

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#### Victim Assistance

The following are guidelines for university officials responding to a report of sexual misconduct:

1. If a medical emergency exists, appropriate action will be taken.
2. The victim will be informed of his or her right to make a report to appropriate law enforcement officials. Victims should be advised that the University is willing to assist and support them in reporting the incident to law enforcement officials. It is acknowledged that a victim may be undecided in reporting the misconduct to law enforcement authorities. In any case, the victim should 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. Regardless of whether a victim wishes to seek law enforcement officials, he or she should be encouraged to seek medical consultation to address physical problems, fear of injury, and sexually transmitted disease.
  - a. If a female victim of sexual assault believes or has reason to believe she may be pregnant, she is encouraged to reach out to the Women's Care Center by calling (701) 751-4575 or (877) 908-3241.
4. The University of Mary community actively supports sexual misconduct victims. Individuals who report being the victim of sexual misconduct will be notified of counseling and other services available. Employee assistance programs are also available for employees of the University.
5. A student who has 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.

### Investigation and Response

All reports of sexual misconduct will be addressed according to the policies and procedures set forth in the University's [Conduct Grievance Procedure](#) or [Title IX Sex Nondiscrimination Policy, Grievance Procedure, and Process](#).

### 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 Student Development and as part of new student orientation. Additionally, Residence Life staff and the Student Health Clinic periodically provide educational programs concerning sexual misconduct awareness.

### Approved

*28 September 2020 by the President's Council*

*29 September 2020 by the President of the University*

*30 September 2020 by the Board of Trustees (EC)*

*22 October 2020 delivered to University Senate*