

Conduct Grievance Board

Purpose

The purpose of the Conduct Grievance Board is to oversee the investigation and resolution 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](#)
- [Title IX](#)

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 Complaint Form](#)). You may also request a complaint form from any of the university officials listed below. Completed complaint forms may be submitted electronically to conductgrievanceboard@umary.edu or to one of the officials listed below. Persons with questions about the process may contact any of these officials for assistance.

Title IX Coordinator

Room 210

Benedictine Center for Servant Leadership

7500 University Drive

Bismarck, ND 58504

(701) 355-8245

titleix@umary.edu

Director of Student Life

Room 1501

Benedictine Center for Servant Leadership

7500 University Drive

Bismarck, ND 58504

(701) 355-8126

Director of Human Resources

Room 210

Benedictine Center for Servant Leadership

7500 University Drive

Bismarck, ND 58504

(701) 355- 8245

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

When a complaint is submitted to the Title IX coordinator, the director of student life, or the director of human resources, the complaint shall be promptly forwarded to the chair of the Conduct Grievance Board. Complaints submitted electronically to conductgrievanceboard@umary.edu are received by the chair. Upon receipt of a complaint, the chair shall promptly schedule a meeting of the full Board and in consultation with the university's legal counsel and/or Title IX coordinator as is appropriate, the Board will determine the most appropriate response for investigation based on the circumstances of the case.

Protection of the University Community

The safety and well-being of all involved is a priority for the Conduct Grievance Board. When there is cause to believe that a risk exists, the Conduct Grievance Board will take action deemed necessary and appropriate to protect the safety and well-being of the community. Depending upon the circumstances involved, measures may include, but are not limited to, temporary suspension of the accused pending completion of an investigation, extra security and/or asking for the assistance of law enforcement officials.

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. When 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. When 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 or intercollegiate athletics; 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

When the Conduct Grievance Board meets in consultation with the university's legal counsel and Title IX coordinator to consider the most appropriate course to investigate and resolve a complaint it may decide to dismiss any complaint it deems to be manifestly false or frivolous. All other complaints will be investigated in a timely manner (normally within 60 days of receipt of the complaint as recommended under Title IX).

In the event the accused is a member of the Board of Trustees, the president of the university, a member of the president's council or another official who reports directly to the president there shall be an independent investigation of the complaint conducted by a qualified person or persons who are not employees of the university and free of other relationship with the university that would prevent a full and impartial investigation. Independent investigations shall be authorized as follows:

1. If the accused is the chair of the Board of Trustees, the chair of the Conduct Grievance Board shall notify the president of the Board of Trustees of the complaint and the president of the Board of Trustees will then promptly arrange for an independent investigation of the complaint. The president of the Board of Trustees will receive the investigative report and will make a determination of what sanctions or corrective actions will apply based on the findings of the independent investigation.
2. If the accused is the president of the Board of Trustees, a member of the Board of Trustees, or the president of the university, the chair of the Conduct Grievance Board shall notify the chair of the Board of

Trustees and the chair of the Board of Trustees shall then promptly arrange for an independent investigation of the complaint. The chair of the Board of Trustees will receive the investigative report and will make a determination of what sanctions or corrective actions will apply based on the findings of the independent investigation.

3. If the accused is a member of the President's Council or another individual who reports directly to the president of the university, the chair of the Conduct Grievance Board shall notify the president and the president will then promptly arrange for an independent investigation of the complaint. The president will receive the investigative report and will make a determination of what sanctions or corrective actions will apply based on the findings of the independent investigation.
4. If the accused is a member of the Conduct Grievance Board, s/he will be recused from the Conduct Grievance Board and the other board members shall notify the president of the university. The president will appoint a person to fill the vacancy on the board (and if necessary appoint a board member to serve as chair).

In all other cases, the Conduct Grievance Board will either appoint a committee comprised of university employees to investigate the complaint, or it may authorize an independent investigation if circumstances warrant. In the event that a committee of university employees is appointed to conduct the investigation, there shall be no fewer than three members of the committee and at least one member will be female and one member will be male.

Unless a reason exists to do otherwise, the Conduct Grievance Board will make the following notifications at the start of any investigation:

1. In the case of a conduct complaint where the accused is a student, the executive vice president, the vice president for student development and the director of student life shall be notified of the complaint and asked to assist the Conduct Grievance Board with the investigation as is deemed appropriate.
2. In the event that the accused is a member of the faculty, the executive vice president, the director of human resources, the vice president for academic affairs, the appropriate dean and/or the direct supervisor of the accused faculty member shall be notified of the complaint and asked to assist with the investigation as is deemed appropriate.
3. In the event that the accused is any other employee of the university, the executive vice president, the director of human resources, the supervising member of the president's council, department chair and direct supervisor of the accused shall be notified of the complaint and asked to assist with the investigation as is deemed appropriate.

The Investigation

The Conduct Grievance Board shall authorize an investigation to be completed by a committee comprised of members of the faculty or staff, an independent investigator or a combination. When an independent investigation is authorized, the person or persons selected shall have appropriate training and/or experience in conducting investigations and may have special expertise related to the nature of the complaint.

Those who will conduct the investigation will receive instructions on procedures to follow from the chair of the Conduct Grievance Board the university's legal counsel and/or the Title IX Coordinator. The committee shall conduct its investigation and make its findings and recommendations as expeditiously as possible. Allegations shall be investigated in as impartial and confidential manner as possible. The committee shall keep a written record of

its proceedings. Upon completion of its investigation, the committee shall prepare a written report, including findings of fact and conclusions and submit its report to the chair of the Conduct Grievance Board. The committee/independent investigators may include a recommendation regarding resolution or disposition of the complaint with its report.

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 and the committee may recommend filing of additional written complaints.

It may be necessary for investigators to interview the person(s) who made the original complaint 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 interviews of all parties will be done 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 investigators shall make a point to ask the complainant to describe what outcome s/he hopes to achieve through the Conduct Grievance Board process. The complainant's wishes with regard to resolution shall be given careful consideration to the degree the desired outcome is appropriate to the circumstances and does not jeopardize the safety and well-being of those involved and/or other members of the community. In some cases this may mean that mediation or other non-punitive outcomes may be considered to be a part of a successful resolution of the complaint.

The investigators shall have the authority to question any member of the university community believed to have relevant information about the incident. At their discretion, investigators may require those who are questioned 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 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.

Standard of Evidence

A preponderance of the evidence is the standard that will be used in all Conduct Grievance Board cases to determine if there has been a violation of university policy.

When the investigation is complete, the investigators shall submit a written report of their findings and conclusions to the Conduct Grievance Board. The report shall state whether a preponderance of the evidence shows the accused did or did not engage in misconduct and violated university policy or policies, with specific reference to applicable policy or policies.

Sanctions, Corrective Actions and Penalties

The Conduct Grievance Board is responsible to determine appropriate sanctions and corrective actions for persons found to be responsible for violating university policies. Upon receipt of a report from the investigators, the Conduct Grievance Board shall, as soon as practicable, convene to make its determination based on the report. If the investigators included a recommended disposition in its report, the Board may accept, reject or modify the recommendation. The Board also may also authorize further investigation and/or instruct investigators to supplement their report. Absent a timely request for reconsideration, the Board's action is final.

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.

The university is not designed or equipped to supervise or rehabilitate persons who pose a substantial threat to themselves or others, and it may be necessary to remove those individuals from the university and/or sever the institutional relationship with them in order to protect the well-being and safety of all involved.

Reconsideration

A party may request reconsideration of the action of the Conduct Grievance Board based on the discovery of new evidence previously unavailable or a significant irregularity in the procedural process which could affect the disposition determined by the Board. A request for reconsideration must be filed with the chair of the Conduct Grievance Board within five business days of receipt of the Board's decision. The request for reconsideration must describe the new evidence or the perceived irregularity and include any copies of

documents or other evidence to support the request. Upon receipt of a request for reconsideration, the chair of the Conduct Grievance Board shall inform other parties of the request and provide other parties with an opportunity to respond in writing within five business days of such notice. The Board shall then convene as soon as practicable to consider the request, and additional information and may affirm, modify or reverse its decision. The Board's action upon reconsideration is final.

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. The president shall designate one member of the board to serve as the chair. The university's legal counsel serves in an advisory capacity to the board. The university's Title IX coordinator serves the board in an advisory and compliance capacity. The university's legal counsel and Title IX coordinator attend meetings of the Board as is deemed to be appropriate.

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 Title IX coordinator, the director of student life or the director of human resources.

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. 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. The university's Title IX coordinator shall ensure compliance with all Department of Education rules and regulations for complaints involving Title IX.

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 Conduct Grievance Board, the president of the university shall appoint a temporary member for the purpose of deciding the issue under question.

Approved

June 2015 by the President of the University of Mary

August 2015 by the Executive Committee of the University of Mary Board of Trustees

February 2016 Revision by the President's Council

March 2016 Revision by the Executive Committee of the University of Mary Board of Trustees