

## 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:

- [Discrimination and Harassment Policy](#)
- [Hazing Policy](#)
- [Retaliation Policy](#)
- [Sexual Misconduct Policy](#)
- [Social Media Policy for Employees](#)
- [Social Media Policy for Students](#)

*Note: Most cases of sexual harassment and sexual violence fall under the jurisdiction of Title IX. A separate process exists for adjudicating complaints under Title IX, which can be accessed within the [Title IX resources](#) provided on the University's website.*

### **Part 1: How to File a Report**

If you have been the target of any form of applicable misconduct 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 online [Misconduct Report Form](#). You may also request a Misconduct Report Form from any of the university officials listed below. Completed forms may be submitted electronically to [conductgrievance@umary.edu](mailto:conductgrievance@umary.edu) or to one of the officials listed below. Persons with questions about the process may contact any of these officials for assistance.

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

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

### **Part 2: Response to a Report (Initial Response and Assessment)**

When a report is submitted to the Director of Student Life or the Director of Human Resources, the report shall be promptly forwarded to the Chair of the Conduct Grievance Board. Reports submitted using the online Misconduct Report Form or electronically to [conductgrievance@umary.edu](mailto:conductgrievance@umary.edu) are

received by the Chair of the Conduct Grievance Board. Upon receipt of a report, the Chair shall promptly contact the complainant confidentially to emphasize the availability of supportive measures and explain to the complainant the process for filing a formal complaint.

If the complainant does not wish to file a formal complaint, the allegations will not be investigated by the University unless the Chair determines that signing a formal complaint to initiate an investigation over the complainant's wishes is not clearly unreasonable in light of the known circumstances.

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

Upon receipt of a formal complaint, the Chair shall promptly schedule a meeting of the full Board and, in consultation with the University's General Counsel, the Board will determine the most appropriate response for investigation based on the circumstances of the case.

### **Notifications**

Upon receipt of a formal complaint, the University must provide written notice of the complaint to the known parties with sufficient time to prepare a response before any initial interview. This written notice must contain:

1. The allegations of misconduct, including sufficient details known at the time, the identities of the parties involved in the incident (if known), the nature of the alleged misconduct, and the date and location of the alleged incident, if known;
2. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
3. A statement explaining that the parties may have a support person of their choice, pursuant to the provisions below;
4. A listing of supportive measures available, enclosed in the notice both to the complainant and the respondent;
5. A statement informing the parties of any code of conduct provision that prohibits knowingly making false statements or knowingly submitting false information;
6. A copy of the University's retaliation policy and
7. A copy of this policy.

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

The safety and well-being of all involved is a priority for the Conduct Grievance Board. When there is sufficient cause to do so, 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 respondent pending completion of an investigation, extra security, and/or requesting 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 respondent is an employee of the University, the Director of Human Resources may suspend the employee as appropriate to the situation, and this may include suspension of employment with or without pay. When the respondent is a student, the Vice President for Student Development may 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 General Counsel 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 reasonably timely manner.

In the event the respondent is a member of the Board of Trustees, the President of the University, or an individual 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 respondent 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 respondent 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 respondent is an 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 respondent is a member of the Conduct Grievance Board, he or she 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 Chair of the Conduct Grievance Board will either appoint 1-3 members of the Board (an "Inquiry Committee") to investigate the complaint or authorize the University's General Counsel to conduct the investigation. If the Board believes it is

warranted by special circumstances, the Chair may consult with the President or the Executive Vice President to request authorization of an independent investigation of the complaint. 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.

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 respondent 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. Such parties are formally reminded of the confidential and sensitive nature of the process.
2. In the event that the respondent is a member of the teaching 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 respondent faculty member shall be notified of the complaint and asked to assist with the investigation as is deemed appropriate. Such parties are formally reminded of the confidential and sensitive nature of the process.
3. In the event that the respondent is any other employee of the University, the Executive Vice President, the Director of Human Resources, the supervising member of the President's Council or the Director of Intercollegiate Athletics, department chair, and direct supervisor of the respondent shall be notified of the complaint and asked to assist with the investigation as is deemed appropriate. Such parties are formally reminded of the confidential and sensitive nature of the process.

#### The Investigation

Those appointed to conduct the investigation will receive instructions on procedures to follow from the Chair of the Conduct Grievance Board and/or the University's General Counsel. The Inquiry Committee, General Counsel, or independent investigator shall conduct the investigation and submit findings and recommendations to the Board as expeditiously as possible. Allegations shall be investigated in as impartial and confidential manner as possible. The investigator(s) shall keep a written record of its proceedings. Upon completion of its investigation, the investigator(s) shall prepare a written report, including findings of fact and conclusions, and submit the report to the Chair of the Conduct Grievance Board. The investigator(s) may include a recommendation regarding resolution or disposition of the complaint with the report.

If, in the course of the investigation, it is determined that university policies in addition to, or other than, those alleged in the complaint have been violated, the investigator(s) shall include such violations in the investigation and may recommend filing of additional written complaints.

It may be necessary for the investigator(s) 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 complainant to be present at the same time as the respondent.

The investigator(s) shall make a point to ask the complainant to describe what outcome he or she hopes for 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 investigator(s) 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 and civil procedure applied in courtroom proceedings do not apply to the investigations of the Conduct Grievance 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 investigator(s) may ask anyone believed to have relevant information about the matter who is not a member of the university community to appear before it or provide a statement. The investigator(s) 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 an investigation of the Conduct Grievance Board. Any student, faculty, or staff member who refuses to cooperate or who provides false information may be subject to disciplinary action.

Each person interviewed during an investigation shall have the option 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 or her role is limited to support. If a person appearing before the investigator(s) elects to have a support person present, he or she must notify the investigator(s) at least 24 hours in advance, providing the support person's name and nature of the relationship he or she has with the support person. In cases where the investigation is conducted by an Inquiry Committee, the University reserves the right to have its General Counsel present at all meetings and hearings of the committee.

#### Standard of Evidence

A preponderance of the evidence (i.e. "it's more likely than not that the alleged conduct occurred") 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 investigator(s) shall submit a written report of their findings and conclusions to the Conduct Grievance Board. The report may provide a recommendation about whether a preponderance of the evidence shows the respondent 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 decide whether misconduct occurred and university policy was violated. It is also 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 investigator(s) included a recommended disposition in its report, the Board may accept, reject, or modify the recommendation. The Board also may authorize further investigation and/or instruct investigators to supplement their report.

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, 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 Conduct Grievance Board 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 such persons and 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 five 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 General Counsel serves in an advisory capacity to the Board. The University's General Counsel attends meetings of the Board.

New members shall participate in an orientation process overseen by the University's General Counsel.

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.

Each member of the Conduct Grievance Board 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 a 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**

*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*

*v. 09292020*

*[www.umary.edu/sites/default/files/2021-11/Conduct-Grievance-Board-1.pdf](http://www.umary.edu/sites/default/files/2021-11/Conduct-Grievance-Board-1.pdf)*