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**NOTRE DAME OF MARYLAND UNIVERSITY**

**POLICY ON SEXUAL MISCONDUCT AND OTHER  
RELATED MISCONDUCT**

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## Notre Dame of Maryland University Notice of Non-Discrimination

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Notre Dame of Maryland University (“University” or “NDMU”) values safety, cultural and racial diversity, social responsibility, lifelong learning, equity, and civic engagement. Consistent with these principles, the University does not discriminate in offering equal access to its educational programs and activities or with respect to employment terms and conditions on the basis of age, ancestry, color, creed, disability, gender, gender identity or expression, genetic information, marital status, national origin, race, religion, sex, sexual orientation, or protected veteran’s status in accordance with applicable federal, state, and local laws and regulations including but not limited to Title IX of the Education Amendments of 1972 as amended (Title IX), Title VI of the Civil Rights Act of 1964 as amended (Title VI), Title VII of the Civil Rights Act of 1964 as amended (Title VII), Section 504 of the Rehabilitation Act of 1973 (Section 504), Americans with Disabilities Act of 1990 as amended (ADA), and Age Discrimination in Employment Act of 1967 as amended.

Inquiries concerning the University’s Notice of Non-Discrimination and applications of Title IX may be referred to:

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## SEXUAL MISCONDUCT POLICY

### I. Policy Statement

Notre Dame of Maryland University seeks to foster and maintain an atmosphere of mutual respect and concern for all members of the University community, including students, faculty, staff, employees, interns, volunteers, contractors, guests, and others who are within the University's control (the "University Community"). The University is committed to providing an academic and work environment free from all forms of harassment, discrimination, and misconduct on the basis of sex (including pregnancy), gender, sexual orientation, and gender identity or expression (collectively referred to as "Protected Status"), examples of which can include acts of sexual and gender based harassment, sexual violence, intimate partner violence, sexual exploitation, sexual intimidation, and sex and gender based stalking.

In keeping with this commitment, the University maintains a strict policy prohibiting all forms of sexual and gender-based misconduct and unlawful discrimination and discouraging conduct that, while not unlawful, could reasonably be considered sexual misconduct and/or unlawful discrimination. All members of the University community share responsibility for fostering this environment by adhering to the standards of conduct outlined in this policy.

This policy applies to all members of the University Community and prohibits unlawful sexual and gender-based misconduct and/or harassment in any form. It also prohibits retaliation of any kind against individuals who file complaints or who assist in a University investigation.

This policy applies to behavior on campus, off campus at university-sponsored events and activities (including academic, educational, extracurricular, athletic or other programs), and may apply to behavior that takes place fully off campus at other University events and activities. Under federal law, campus officials who receive a report of misconduct, regardless of the source of the information, must share that information with the appropriate University authorities for investigation and follow-up. The University is obligated under the law to investigate the complaint, to take action to eliminate sexual misconduct, prevent its recurrence, and address its effects. All members of the University community who learn of instances of sexual misconduct are encouraged to report this behavior immediately to the appropriate University officials in order to ensure prompt, proper investigation into these matters.

The University also recognizes the centrality of its academic mission. In the event that instructional materials for scholarly purposes are involved in a Sexual Misconduct complaint, the University will review the materials recognizing the importance of academic freedom and balancing the need to keep the University environment free of Sexual Misconduct.

## **II. Prohibited Conduct and Definitions**

### **A. Sexual Misconduct**

Sexual Misconduct (sometimes referred to as “Prohibited Conduct”), as defined below in this policy, is prohibited. For the purposes of this policy, Sexual Misconduct is defined as a form of sex discrimination, which includes Sexual and Gender-Based Harassment, Sexual Violence, Intimate Partner Violence, Sexual Exploitation, Sexual Intimidation, and Sex and Gender Based Stalking, as defined below. This policy applies to instances where the accused party (the “Responding Party”) is a current or past student, an employee, and/or a third-party doing business with the University. This policy also prohibits acts of Retaliation against anyone who files a complaint under this policy or participates in the investigation of a complaint. Further, this policy prohibits bringing False Allegations of Sexual Misconduct.

Sexual Misconduct can occur between strangers or acquaintances, including people involved in intimate or sexual relationships. Sexual misconduct can be committed by men or women and can occur between people of the same or different sex.

#### **1. Sexual and Gender Based Harassment**

For the purposes of this policy, Sexual and Gender Based Harassment includes Quid Pro Quo Harassment and Hostile Environment Harassment.

##### **a) Quid Pro Quo Harassment**

Quid Pro Quo Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person with power or authority over a member of the University Community based on the member’s Protected Status, where submission to, or rejection of, such unwelcome conduct is used, explicitly or implicitly, as the basis for any decision affecting a University Community member’s education, employment, or participation in a University sponsored, recognized, or approved program, visit, or activity.

##### **b) Hostile Environment Sexual and Gender Based Harassment**

Hostile Environment Sexual and Gender Based Harassment is defined as any unwelcome sexual advance, unwelcome request for sexual favors, unwelcome verbal, physical, electronic or other conduct of a sexual nature, that targets a University Community member because of their Protected Status, when: such conduct is sufficiently severe or pervasive that it alters the conditions of education, employment, or participation in a University sponsored, recognized, or approved program, visit, or activity; and creates an environment that a reasonable person in similar circumstances would find intimidating, hostile, humiliating, demeaning or sexually offensive. An isolated incident, unless sufficiently severe, does not amount to Hostile Environment Sexual and Gender Based Harassment.

Hostile Environment Sexual and Gender Based Harassment is also defined as harassment for exhibiting what is perceived as a stereotypical characteristic for one’s sex or gender or for

failing to conform to stereotypical notions of masculinity and femininity, regardless of the individual's actual or perceived sex, gender, sexual orientation, or gender identity or expression. Sexual harassment may include, but is not limited to, any or all of the following behavior, if pervasive and continuous:

- Offensive conversation, remarks, slurs, commentaries or epithets of a sexual nature; sexual jokes; sexual comments about appearance, clothing, body; comments concerning sexual relations; sexual flirtations; propositions; vulgar talk
- Leering, making sexual gestures
- Displaying offensive sexually oriented objects, pictures, cartoons, posters or electronic programs or email outside a scholarly context and purpose
- Offensive conversation, remarks, slurs, commentaries based on a person exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity or femininity

Some examples of possible Sexual Harassment include:

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and/or in the residence hall in which they both live.
- Explicit sexual pictures are displayed in a professor's office or on the exterior of a residence hall door
- Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in his/her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. He/she probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.
- Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations" and Weight Watchers.
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

## **2. Sexual Violence**

For the purposes of this policy, Sexual Violence includes physical sexual acts that are performed without consent or in instances when a person cannot give consent. Non-consensual sexual violence can occur between members of the University Community and between members and non-members of the University community. Sexual violence includes, but is not limited to: rape, sexual assault, sexual battery, and sexual coercion. Sexual violence, in any form, is a criminal act, and may include the following:

### **a) Sexual Assault I**

Sexual Assault I is defined as any act of non-consensual sexual intercourse without consent. Non-consensual sexual intercourse means any sexual intercourse (however slight) with any object by a person upon another person that is without consent and/or by force. Sexual intercourse includes vaginal or anal penetration by a penis, object, tongue, finger, oral copulation (mouth to genital contact), or other body part; no matter how slight the penetration or contact.

### **b) Sexual Assault II**

Sexual Assault II is defined as any act of non-consensual sexual contact without consent. Non-consensual sexual contact means any intentional sexual touching (however slight) with any object by a person upon another person without consent and/or by force. Sexual contact includes intentional contact of the intimate body parts of another person, causing another person to touch someone's intimate body parts, or disrobing or exposure of another person. Intimate body parts may include genitalia, groin, breast, buttocks, or clothing covering them, or any other body part that is touched in a sexual manner. Non-consensual sexual contact also includes attempted non-consensual sexual intercourse.

## **3. Sexual Exploitation**

Sexual Exploitation is defined as non-consensual or abusive sexual advantage of another person for the purpose of one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited. Sexual Exploitation may take many forms, subtle and indirect, or blatant and overt.

Examples of Sexual Exploitation may include, but are not limited to the following:

- Invasion of sexual privacy;
- Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person;
- Causing the prostitution of another person;
- Non-consensual digital, video, or audio recording of nudity or sexual activity;
- Unauthorized sharing or distribution of digital, video, or audio recording of nudity or sexual activity.
- Allowing third parties to observe private sexual acts of a participant without the participant's consent;
- Voyeurism (spying on others who are in intimate or sexual situations);
- Knowingly exposing someone to or transmitting an STI, STD, or HIV to another person; and
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals.

#### **4. Intimate Partner Violence**

For the purposes of this policy, intimate partner violence is defined as any instance of violence or abuse – verbal, physical, or psychological – that occurs between those who are in or have been in an intimate relationship with each other. Intimate partner violence also encompasses domestic violence and dating/relationship violence under NDMU policy.

##### **a) Domestic Violence**

Domestic Violence is defined as physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual, or economic abuse committed by the victim's current or former spouse, current or former intimate partner, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law. Domestic violence includes behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound another person. Domestic violence can be a single act or a pattern of behavior.

##### **b) Dating/Relationship Violence**

Dating/Relationship Violence is defined as physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual, or economic abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; the frequency of interaction between the persons involved in the relationship. Dating/Relationship violence includes behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound another person. Dating/Relationship violence can be a single act or a pattern of behavior.

#### **5. Sexual Intimidation**

Sexual Intimidation is defined as threatening to sexually assault another person and/or stalking – such as sex and gender-based stalking, including cyber stalking; or engaging in indecent exposure.

#### **6. Sex and Gender Based Stalking**

Stalking is defined as a form of Sexual Intimidation, when there is a course of conduct (repetitive and menacing) that is directed (pursuit, following, harassing, or interfering) at a specific person on the basis of actual or perceived membership in a Protected Status that is unwelcome and would cause a reasonable person to feel fear.

Examples of stalking can include, but are not limited to:

- repeated unwanted, intrusive, and frightening communications from the perpetrator by phone, mail, and/or e-mail;
- repeatedly leaving or sending victim unwanted items, presents, or flowers;
- following or laying in wait for the victim at places such as home, school, work, or

- recreation place;
- making direct or indirect threats to harm the victim, the victim’s children, relatives, friends, or pets;
- damaging or threatening to damage the victim’s property;
- harassing the victim through the internet;
- posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth;
- obtaining personal information about the victim by accessing public records, using internet search services, hiring private investigators, going through the victim’s garbage, following the victim, contacting victim’s friends, family, work, or neighbors, etc.

## **B. Retaliation**

This Policy prohibits Retaliation. For the purposes of this Policy, Retaliation is defined as intimidating, threatening, coercive, or discriminatory action, inaction, conduct, or words, taken against a University Community member, for the purpose of interfering with any right or privilege secured by law or this Policy that is intended to discourage a reasonable person from engaging in a protected activity. Retaliation does not include petty slights and annoyances. Violations of a University issued No Contact Order can constitute Retaliation under this Policy.

Protected activity includes a University Community member’s: good faith participation in filing, reporting, investigating, or resolving an alleged violation of this Policy; opposition to policies, practices, or actions that a University Community member has a good faith and reasonable belief are in violation of this Policy; providing assistance to another University Community member in filing or reporting an alleged violation of this Policy; or participation as a witness in an investigation of an alleged violation of this Policy. Protected activity does not include unlawful activities such as acts or threats of violence.

A Reporting Party, Responding Party, or witness who is threatened in any way should immediately report these concerns to the Title IX Coordinator, Deputy Title IX Coordinator for Human Resources, and/or Deputy Title IX Coordinator for Student Life.

## **C. False Allegations**

False accusations of sexual misconduct can seriously injure innocent people. It is a violation of this policy, therefore, for anyone knowingly to make false accusations of harassment or discrimination. A determination that a complaint is not meritorious however is not necessarily equivalent to a false allegation. A finding for the Responding Party does not constitute a finding that the complaint was in bad faith

## **D. Related Concepts used in this Policy**

### **1. Coercion**

Coercion is defined as unreasonable pressure to persuade or compel a person to engage in any conduct or behavior, including sexual activity.

## **2. Confidentiality**

In all instances and to the extent possible, the University will protect the privacy of all parties to a report of sexual misconduct. Under federal law, campus officials (with the exception of those listed under Confidential/Quasi-Confidential Resources) who receive a report of misconduct, regardless of the source of the information, must share that information with the appropriate University authorities for investigation and follow-up. The University is obligated under the law to investigate the complaint, to take action to eliminate sexual misconduct, prevent its recurrence, and address its effects.

Confidentiality will be maintained to the extent possible. The University will take steps to protect the identity of a person making a report, but the University may be obligated to conduct an investigation regardless of the Reporting Party's requests. In the course of the administrative investigation, information will be shared as necessary with people who need to know, such as investigators, witnesses, and the Responding Party. Any response by the University may be limited by the Reporting Party's requests for anonymity and/or inaction.

Under Maryland law, if a student wishes the details of an incident to be kept strictly confidential, she or he can speak with a pastoral or professional counselor, a health provider, or an off-campus rape crisis resources, such as TurnAround Inc., the rape crisis center for Baltimore City and County. In accordance with Maryland law, these individuals will honor confidentiality unless there is an imminent danger to the student or to others. See Article III, Section A below for more details.

## **2. Consent**

Consent is defined as knowing, voluntary, and affirmatively communicated willingness to mutually participate in a particular sexual activity or behavior. Consent must be given by a person with the ability and capacity to exercise free will and make a rational and reasonable judgment. Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity or behavior. It is the responsibility of the person who wants to engage in the sexual activity or behavior to ensure that he/she has consent of the other to engage in the activity or behavior. Conducting sexual activity or behavior with someone you know or should know is incapacitated is a violation of this policy.

- Consent cannot be inferred from silence, passivity, or a lack of resistance.
- Consent must be present throughout the entire sexual activity or behavior, and may be withdrawn at any time. Once consent is withdrawn, the sexual activity or behavior must cease immediately.
- Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation, or through the use of one's mental or physical helplessness or incapacity. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the sexual activity or behavior cease until the confusion is resolved.
- Consent cannot be implied based upon the mere fact of a previous or existing consensual dating or sexual relationship. In the context of a current relationship, consent for future sexual activity or behavior cannot be implied.

- Consent to one form of sexual activity or behavior cannot automatically imply consent to engage in other forms of sexual activity or behavior.
- In order to give consent, one must be of legal age.

### **3. Employees**

Employees refer to any person currently or previously employed by the University. Employees include faculty and staff regardless of the nature of the employment relationship.

### **4. Amnesty**

At times, Students and/or Employees may be hesitant to report the occurrence of Sexual Misconduct because they are concerned that they themselves, or witnesses to the misconduct, may be charged with other policy violations, e.g., alcohol or drug violations. These behaviors are not condoned by the University, but the importance of dealing with alleged Sexual Misconduct outweighs the University's interest in addressing lesser violations. Accordingly, in these cases, the University may choose not to pursue disciplinary action against a Student and/or Employee who advises the University of Sexual Misconduct and/or against Students/Employees named as witnesses to the incident.

### **5. Incapacitation**

Incapacitation is a state in which a person's decision-making ability is impaired such that the person lacks the ability to understand the "who, what, where, why, or how" of their sexual activity or behavior. Incapacity is a state in which someone cannot make a decision because they lack the ability to fully understand what is happening and therefore cannot consent even if they appear to be a willing participant. Incapacitation is a state beyond drunkenness or intoxication. Incapacitation is a state in which a person lacks the ability to understand the nature of their sexual activity or behavior. Also, when an individual passes from a state of drunkenness or intoxication to a state of Incapacitation, they no longer have the ability to give consent under this Policy.

Incapacitation may result from sleep or unconsciousness, temporary or permanent mental or physical disability, or the influence of alcohol, drugs, and other substances used to facilitate date-rape or Sexual Misconduct, or legally prescribed medication. Incapacitation may also occur when a person is physically restrained, without their consent, so the person is physically unable to resist sexual activity or behavior.

### **6. Interim Protective Measures**

Interim Protective Measures are defined as reasonably available steps the University may take to protect the University Community members in response to an allegation of Prohibited Conduct under this Policy. See Article V.

### **7. Students**

Students refer to any current or past students of the University and may include students currently enrolled and/or enrolled within the past year.

## **8. Responsible University Employee**

A Responsible University Employee includes any university administrator, supervisor, faculty member, coach or trainer. See Article III.

## **9. Reporting Party**

The Reporting Party is defined as the party, who has been subjected to conduct that constitute a Prohibited Conduct under this Policy, regardless of whether the Reporting Party makes a report or seeks redress under this Policy. In instances when the University receives notice of a potential Sexual Misconduct violation but no one has filed a complaint, the University may investigate without a Reporting Party.

## **10. Responding Party**

The Responding Party is defined as the party, organization, team, or individuals acting collusively, alleged to have committed an act that constitutes Prohibited Conduct under this policy.

## **11. Third Parties**

Third Parties refer to individuals whose relationship with the University is based on a contractual relationship with third-parties doing business with the University and other University partners.

### **III. University Employee Reporting Obligations**

The University values the privacy of its students, faculty, and staff and will make every effort to respect and safeguard the information they share. Information related to a report made under this Policy will only be shared with others, on a limited need-to-know basis. However, pursuant to federal and state law, in some circumstances, certain University Community members have specific reporting obligations.

#### **A. Confidential Resources**

The University understands that some individuals may not be prepared to make a report to law enforcement or to the University. Therefore, the University has Confidential Resources available to provide confidential counseling, crisis support, medical care, and/or advocacy services for University Community members affected by an incident of Prohibited Conduct.

**Pastoral Counseling:** Professional, licensed, ordained clergy, who provide pastoral counseling to members of the University Community at the University are Confidential Resources.

**Professional Licensed Mental Health Providers:** Professional, licensed mental health providers who provide mental-health counseling to members of the University Community, and also those who act in roles under the supervision of a licensed counselor, through the

Counseling Center (for students) and the Employee Assistance Program (for employees) are Confidential Resources.

All of the above employees will maintain **confidentiality** except in extreme case of immediate threat or danger, abuse or neglect of a minor or dependent adult, or there is a legal obligation to reveal such information under an enforceable court order. Notification to any of the Confidential Resources, identified above, does not constitute notice to the University nor does it trigger an obligation on the part of the University to investigate the alleged Prohibited Conduct.

## **B. Quasi-Confidential Resources**

Non-Licensed Counselors and/or Advocates who work or volunteer at the Counseling Center, Campus Ministry, or as the Sexual Violence Resource Coordinator are Quasi-Confidential Resources. Conversations with these Quasi-Confidential Resources can remain **confidential** *unless*, there is a continuing threat of harm, as determined in the sole discretion of the University, or there is a legal obligation to reveal such information (for example in cases of mandatory reporting related to abuse or neglect of minors or dependent adults, or in response to a legally sufficient subpoena).

In order to identify patterns or systemic problems related to sexual misconduct and for Clery Act purposes, Quasi-Confidential Resources will report incidents of Prohibited Conduct under this Policy, **without any identifying information**, to the University's Title IX Coordinator.

## **C. Responsible Employees (Non-Confidential)**

The University recognizes that some University Community members may be most comfortable disclosing information about an incident of Prohibited Conduct to someone they know. Many University employees have been designated as Responsible Employees. For purposes of this Policy, a Responsible Employee is defined as including any University Community member who (1) has the authority to take action regarding Prohibited Conduct covered under this Policy; (2) is an employee who has been given the duty of reporting Prohibited Conduct under this Policy; or (3) is someone another University Community member could reasonably believe has this authority or duty. **Responsible Employees** are **Non-Confidential** which means they will safeguard the University Community member's privacy, however they are required to immediately share the known details of an incident of Prohibited Conduct (date, time, location, names of parties involved, description of the incident, etc.), to the Title IX Coordinator and other need-to-know University officials.

Responsible Employees will try to ensure that any University Community member making a disclosure to a Responsible Employee, understands the Responsible Employee's reporting obligations. Those identified below have been designated as Responsible Employees:

- Title IX Coordinator
- All Title IX Team Members (excluding confidential resources)
- All employees in Human Resources
- All Public Safety Personnel
- All NDMU Administrators (President, Provost, Vice Presidents, Associate Vice

- Presidents, Deans, Associate Deans, Directors, Department Chairs)
- All NDMU Supervisors
  - All NDMU Faculty (including Adjuncts)
  - All NDMU Graduate Assistants
  - All NDMU Academic Advisors
  - All NDMU Athletic Coaches (including Volunteer Coaches), Trainers, and Advisors
  - All NDMU Community Assistants

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of Prohibited Conduct of which they become aware, is a violation of university policy and can be subject to disciplinary action for failure to comply with university policy.

#### **D. Disclosures to Others on Campus Not Designated As Confidential or Quasi-Confidential Resources or Responsible Employees**

All members of the University Community are strongly encouraged to forward all information received about an incident of Prohibited Conduct to the Title IX Coordinator and/or other Designated Responsible Employees. However, if a University Community member receives information about a child being abused or neglected, this information must be immediately reported to Public Safety and local police.

### **IV. Reporting Allegations of Misconduct**

The University has a variety of ways for University Community members to raise concerns and report instances of Prohibited Conduct. While there are multiple reporting options available across the University, the University recognizes that centralized reporting is an important tool in addressing, ending, and preventing Prohibited Conduct under this Policy. The University encourages University Community members to report and/or seek support, regardless of when or where an incident occurred.

The University understands that at the time a report is made, the Reporting Party may only want to seek resources and support and may not be prepared to decide what steps in the process they want to take. Choosing to make a report and informing the University of the Reporting Party's preferred method of addressing the report, can unfold over time as the process proceeds. The University recognizes that the decision whether or not to make a report of Prohibited Conduct is personal, and that there may be barriers and influences, both individual and societal, to reporting. A Reporting Party can choose to pursue both a report under this Policy and a criminal investigation at the same time.

In all instances of reporting, Reporting Parties will receive written notification of their rights and options on and off-campus.

#### **A. Making a Report to a Designated Responsible Employee**

Under the policy, a Reporting Party can make a report to the University by contacting and informing a **Designated Responsible Employee**. Designated Responsible Employees are **non-confidential**, which means they will disclose the details of the incident to the Title IX Coordinator and other need-to-know University administrators.

Reports of incidents of Prohibited Conduct can be made to any of the Designated Responsible Employee identified below:

**Title IX Coordinator**

Gregory FitzGerald  
Chief of Staff  
Gibbons Hall #106A  
(410) 532-5109  
[TitleIX@ndm.edu](mailto:TitleIX@ndm.edu)

**Deputy Title IX Coordinator for Student Life**

Brandy Garlic  
Associate Vice President for Student Life  
MBK #218  
(410) 532-5195  
[bgarlic@ndm.edu](mailto:bgarlic@ndm.edu)

**Deputy Title IX Coordinator for Human Resources**

Terri Shrader  
Director of Human Resources  
Theresa Hall #207  
(410) 532-5155  
[tshrader@ndm.edu](mailto:tshrader@ndm.edu)

**Public Safety**

Gene Taylor  
Director of Public Safety  
Gibbons Hall, #002  
(410) 532-5324  
[gtaylor@ndm.edu](mailto:gtaylor@ndm.edu)

*Please Note – Since these positions may change from time to time, Reporting Party is advised to check the University website for the current list.*

Individuals may also report an incident of Sexual Misconduct to any Responsible University Employee (See Article III, Section 3). The Responsible University Employee will promptly refer the matter to the Title IX Coordinator and/or Deputy Title IX Coordinators.

**B. Making a Report to a Quasi-Confidential Resource**

Under the Policy, a Reporting Party can make a report to the University by contacting and informing a Quasi-Confidential Resource. Quasi-Confidential Resources will report incidents of Prohibited Conduct under this Policy **but will not share any identifying information** to the University's Title IX Coordinator.

Reports of incidents of Prohibited Conduct can be made to any of the following Quasi-Confidential Resources identified below:

## **Sexual Violence Resource Coordinator**

Jessie Sell  
Theresa Hall #003  
(410) 532-5303  
[jsell@ndm.edu](mailto:jsell@ndm.edu)

### **C. Anonymous Reporting**

Any University Community member may make an anonymous report of Prohibited Conduct to the University without disclosing one's name and without identifying the Responding Party or requesting any action. Based upon the amount of information provided about the incident and the University Community member's involved, the University's response to an anonymous report may be limited.

### **D. Initial Complaint**

When a matter is referred to the Title IX Coordinator and/or Deputy Title IX Coordinators, information will be gathered to understand the nature of the complaint. Matters must generally be filed within one year of the date of the incident. The University may in its discretion investigate matters brought to its attention that took place outside of this limitation period. Because the investigation of these matters may be negatively impacted by the passage of time and the availability of witnesses and other evidence, individuals are encouraged to report matters of Sexual Misconduct as soon as possible.

In each instance, the University will still provide any fair and reasonable support and resources to a Reporting Party designed to end the Prohibited Conduct, prevent its recurrence, and address its effects.

The initial complaint may include:

- name, address, and telephone number of the Reporting Party;
- the nature of the complaint;
- date(s) and location(s) of the alleged occurrence(s);
- names and contact information for any witnesses
- evidence on which the complaint is based; and
- the resolution or redress sought by the Reporting Party.

Upon receipt of the complaint, the Title IX Coordinator will refer the matter to the appropriate Title IX Deputy Coordinator, or other trained designee(s) as appropriate, to initiate an investigation and determine appropriate Interim Protective Measures, if applicable (see Article V). For matters involving a Responding Party who is a Student, the Deputy Title IX Coordinator for Student Life will initiate the investigation. For matters involving a Responding Party who is an Employee or Third Parties, the Deputy Title IX Coordinator for Human Resources will initiate the investigation.

### **E. Time Frame for Resolution**

The University will seek to resolve every report of Prohibited Conduct within approximately sixty (60) calendar days after receiving the report. The time frame may be extended for good cause, as determined on a case-by-case basis, as necessary to ensure the integrity and completeness of an investigation, comply with a request by law enforcement, reasonably accommodate the availability of witnesses, reasonably accommodate delays by the parties, account for University closures, or address other legitimate reasons, including the complexity of the investigation (e.g. the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged Prohibited Conduct.

#### **F. Criminal Charges Reporting Process**

The University shall inform the Reporting Party of the right to file criminal charges with the appropriate law enforcement officials, and, if requested, assist the Reporting Party in filing such a report. The University may also report such incidents to appropriate law enforcement officials when the safety of the campus is in jeopardy or the Reporting Party/potential Reporting Party cannot do so him/herself. Information obtained through the criminal investigation may be used for consideration in the University disciplinary process.

#### **G. Simultaneous Process**

The filing of a report of Prohibited Conduct that constitutes Sexual Misconduct under this Policy is independent of any criminal investigation or proceeding, which means a report made to law enforcement, does not preclude a person from proceeding with a complaint of Sexual Misconduct under this Policy. The University is required to conduct an investigation in a timely manner, which means in most cases, the University will not wait until a criminal investigation or proceeding is concluded before conducting its own investigation or implementing Interim Protective Measures to protect the safety of the Reporting Party and/or the entire University Community, if necessary. However, at the request of law enforcement, the University's investigation may be delayed temporarily, during the initial evidence gathering stage of the criminal investigation, as long as the delay does not inhibit the University's ability to respond to the Prohibited Conduct in a prompt manner. If such a request is made, appropriate law enforcement will submit the request in writing to the Title IX Coordinator, and the Reporting Party and Responding Party will be notified. In addition, when possible, in cases where there is a co-occurring criminal investigation by municipal or state police or the local prosecutor's office, the University will work collaboratively and supportively with each respective agency within the parameters outlined above.

#### **V. Interim Protective Measures**

Interim Protective Measures are temporary actions taken by the University prior to concluding the investigation which may be applied to the Reporting Party, Responding Party, and other involved University Community members as appropriate to ensure their safety and well-being and to limit unnecessary campus access. Interim Protective Measures may be requested by the Reporting Party or the Responding Party, or the University can initiate the Interim Protective Measures in the absence of a request, at any time, during the process. Individuals can make a request for Interim Protective Measures in-person or in-writing to the Title IX Coordinator or appropriate Deputy Coordinator.

When a report is received, the appropriate Deputy Coordinator, in consultation with the Title IX Coordinator, can impose reasonable and appropriate Interim Protective Measures.

Interim Protective Measures are taken based on the information available at the time and are not intended to be permanent resolutions. Interim Protective Measures may be withdrawn or amended as additional information is discovered. The University will take appropriate, responsive, and prompt action to enforce Interim Protective Measures and to respond to any reports about the inadequacy or failure of another University Community member to abide by the Interim Protective Measures. The range of Interim Protective Measures can include, but are not limited to:

- Access to counseling and medical service and assistance in setting up initial appointments, both on and off campus
- Imposition of a campus “No-Contact Order”.
- Rescheduling of exams and assignments.
- Providing alternative course completion options.
- Change in class schedule, including the ability to drop a course without penalty or to transfer sections.
- Change in work schedule or job assignment.
- Arranging for class incompletes, a leave of absence, or withdrawal.
- Change in campus housing assignment or housing agreement.
- Providing alternative campus parking arrangements.
- Assistance from University support staff in completing University housing relocation.
- Restricting access to certain University facilities, resources, or activities pending resolution of the report.
- To the extent practicable, preserving eligibility for academic, athletic, or other scholarships, institution-based financial aid, or program eligibility.
- Providing academic support services, such as tutoring.
- University-imposed leave or suspension for the Responding Party.

### **Assignment of Sexual Violence Resources Coordinator or Campus Advocate**

Whenever the University receives a report of sexual misconduct, the Reporting Party will be referred to a Sexual Violence Resource Coordinator (SVRC), who will serve as a resource person to the Reporting Party to identify, explain and navigate the Reporting Party’s reporting options and the available support services. This can include referrals to counseling, educational support, pastoral care, medical treatment, and information about the University and legal processes. **Notre Dame of Maryland University’s SVRC is Jessie Sell, and she can be reached by calling (410) 532-5303 or via email at [jsell@ndm.edu](mailto:jsell@ndm.edu).**

## **VI. Disciplinary Actions or Sanctions**

This Policy prohibits a broad range of conduct, which is serious in nature. In keeping with the University’s commitment to fostering an environment that is safe, respectful, inclusive, and free of Prohibited Conduct, this Policy allows for wide latitude in the imposition of disciplinary actions or sanctions tailored to the facts and circumstances of each report, the impact of the Prohibited Conduct on the Reporting Party and surrounding University

Community members, and accountability for the Responding Party. The imposition of disciplinary actions (in employment context) or sanctions (in educational context) are designed to eliminate Prohibited Conduct under the Policy, prevent its recurrence, and remedy its effects, while supporting the University's mission and federal obligations. Disciplinary actions or sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, so harmful to the individuals involved and the entire University Community, or so deleterious to the educational or working environment, that it requires severe disciplinary action, up to and including termination from the University, for faculty and staff, or severe sanctions, up to and including dismissal from the University, for students.

Disciplinary actions which may be imposed on faculty, staff, and student employees in the employment context, can include the following: no contact orders, a letter of reprimand, censure, service to the University, counseling, retraining, transfer, demotion, suspension (without pay), and/or termination. The University reserves the right to delay or refuse considerations for promotions during pendency of an investigation.

Sanctions which may be imposed on students in the academic context, can include the following: no contact orders, housing restrictions (including removal from on-campus housing), community service, educational requirements, written warning, reprimand, probation, suspension, and/or dismissal. Further, the University reserves the right to delay or refuse the conferring of an academic degree – undergraduate or graduate – during the pendency of an investigation.

Individuals who commit certain Prohibited Conduct in violation of federal, state, or local law may also be subject to criminal charges and penalties.

In certain circumstances, even when there are no disciplinary actions or sanctions imposed, the University reserves the right to impose certain conditions, similar to the Interim Protective Measures, upon any party who is subject to this Policy. These conditions are designed to prevent any Prohibited Conduct under the Policy, cultivate a safe academic and employment environment, and maintain public order on campus, while supporting the University's mission and federal obligations. These conditions are not to be construed as disciplinary or as sanctions.

## **VII. Additional Resources**

### **A. Resources for Confidential Medical, Counseling, and Pastoral Care**

It is especially important for people who have been sexually assaulted to seek immediate and appropriate medical treatment. *Mercy Medical Center* (345 St. Paul Place, Baltimore, MD 21202) has a specially trained sexual assault team available 24 hours a day, seven days a week to assist victims on a confidential basis. Under Maryland law, the tests and procedures at the hospital are free of charge if treatment is sought within 120 hours/five days of the assault. Emergency Room staff may ask if the student wishes to speak to the police; this decision is up to the student.

The University will ensure the student or employee has transportation to medical care when the Title IX coordinator or Sexual Violence Resource Coordinator is notified that the student

requests medical attention. The Office of Public Safety can also provide the above arrangement for after-hours calls.

The confidential resources listed below are available to all Notre Dame of Maryland University students including accused students and witnesses in sexual misconduct and sexual violence cases:

- University **Counseling Services** is staffed by trained professionals who can provide specialized support and assistance to students who have been assaulted. Current students may seek counseling at any time, whether it is days, months, or years after the incident. The confidential services are available to the student who was assaulted and their friends who may need support in assisting the student. Counseling Services can be reached at (410)532-5384.
- **TurnAround Inc.** is the sexual assault/domestic violence center for Baltimore. TurnAround Inc. is staffed by trained professionals and volunteer advocates who are available 24 hours a day. Free and confidential counseling is also available. They have a 24 hour helpline which can be reached at (443) 279-0379.
- The clergy in **Campus Ministry** are trained to provide confidential pastoral counseling and quasi-confidential support to students who have been sexually assaulted, or to friends who wish to support and assist them. Campus Ministry can be reached at (410) 532-7145.

#### **B. Additional Resources on Campus**

Office of Public Safety	410-532-5360
Student Life Professional On Duty	443-900-5320

#### **C. Off- Campus Resources**

TurnAround Inc. (Sexual Assault & Domestic Violence Center)	410-377-8111
Baltimore County/Baltimore City/State Police	911
Maryland Coalition Against Sexual Assault	800-983-RAPE (7273)
RAINN-Rape, Abuse & Incest National Network	800-656-HOPE (4673)
Sexual Assault Legal Institute	301-565-2277
Maryland Courts (Peace/Protective Orders) – <a href="https://www.courts.state.md.us/legalhelp/domesticviolence">https://www.courts.state.md.us/legalhelp/domesticviolence</a>	

**In accordance with State regulations, all student parties are entitled under State law access to a list of licensed attorneys who have indicated that they will represent reporting and responding parties in Title IX proceedings on a pro bono basis or for reduced legal fees. This list is available through the Maryland Higher Education Commission website ([www.mhec.maryland.gov](http://www.mhec.maryland.gov)).**

## **D. Educational Programs and Risk Reduction Resources**

- **Sexual Assault Education:** The Title IX Coordinator has been designated as the central repository for all campus based education and prevention programming materials, information, policies and procedures.
- **Distribution of Sexual Assault Policy and Procedures:** This policy will be published each year in the appropriate University publications, the University Catalog, and the University's website.

## **E. Preservation of Evidence by Sexual Misconduct Victims**

Instances of Sexual Misconduct may constitute both a violation of this policy and criminal activity. As a result, the University encourages everyone to seek immediate assistance from the Office of Public Safety or local law enforcement. Seeking assistance promptly may be important to ensure physical safety, to obtain medical care, or for other support including assistance with peace/protective orders. It may also be necessary to preserve relevant evidence, particularly forensic evidence, which can assist the University and/or law enforcement in responding effectively. The following is a list of recommended actions to take in order to preserve evidence.

If you believe that you may at any time choose to pursue a legal remedy related to Sexual Misconduct, please request that the hospital perform a free Sexual Assault Forensic Examination (SAFE). Agencies vary as to the exact length of time, but physical evidence is most effectively obtained within 5 days (120 hours) of a sexual assault. Maryland law allows a hospital to provide the SAFE exam free of charge, and there is no requirement for you to report an attack to the police; you can remain anonymous and the evidence will be held for a time with no identification. Mercy Hospital (at 301 St. Paul Place in Baltimore; ER 410-332-9477) is the designated hospital in Baltimore City and performs SAFE exams.

If you are planning to have a SAFE examination, please preserve all physical evidence of the assault. The recommended process requests that victims do not bathe, shower, douche, brush your teeth, or eat or drink. Please do not wash or throw away any articles of clothing worn during the assault and place in a brown paper bag.

## **VIII. Clery Act Compliance and Release of Information**

In handling reports related to Prohibited Conduct, the University remains responsible for complying with the requirements of the Crime Awareness and Campus Security Act of 1990 ("Clery Act") and its amendments. The University will comply with Clery Act requirements, including crime recording and reporting requirements, where compliance is not otherwise reached by actions under this Policy.

Pursuant to the Clery Act anonymous statistical information regarding reported criminal incidents must be shared in real time with the NDMU Office of Public Safety for inclusion in the daily crime log, and for consideration for timely warnings and/or emergency notifications. This information will be included in the University's Annual Security Report

and the University may also share aggregate and non-personally identifiable data about reports, outcomes, and sanctions.

#### **IX. University Sexual Assault Climate Survey**

On or before March 1, 2016, and at least every two (2) years thereafter, the University will: (1) develop an appropriate Sexual Assault campus climate survey using nationally recognized best practices for research and climate surveys; and (2) administer the Sexual Assault campus climate survey to students in accordance with the procedures set by the Maryland Higher Education Commission (MHEC). On or before June 1, 2016, and at least every two (2) years thereafter, each institution shall submit to MHEC a report in accordance with the requirements set forth in Md. Code Annotated, Education Article, Section 11-601(g).

#### **X. University Procedures for Responding to Reports of Prohibited Conduct**

Procedures on Sexual Misconduct and Other Related Misconduct – Reports alleging Prohibited Conduct by students, faculty, and staff under this Policy shall be reviewed in accordance with the Procedures on Sexual Misconduct and Other Related Misconduct.

Procedures for Reports of Prohibited Conduct against Interns, Contractors, Volunteers, Guests, Visitors, and/or Other Third Parties: If a member of the University Community is subjected to Prohibited Conduct under this Policy by an intern, contractor, volunteer, guest, visitor, or other third party, the University can/may request that a formal letter be issued to deny their access to the University.

## **XI. Important Contact Information**

### **Title IX Coordinator**

Gregory Fitzgerald  
Chief of Staff  
Gibbons Hall #106A  
(410) 532-5109  
[TitleIX@ndm.edu](mailto:TitleIX@ndm.edu)

### **Deputy Title IX Coordinator for Student Life**

Brandy Garlic  
Associate Vice President for Student Life  
MBK #218  
(410) 532-5195  
[bgarlic@ndm.edu](mailto:bgarlic@ndm.edu)

### **Deputy Title IX Coordinator for Human Resources**

Terri Shrader  
Director of Human Resources  
Theresa Hall #207  
(410) 532-5155  
[tshrader@ndm.edu](mailto:tshrader@ndm.edu)

### **Public Safety**

Gene Taylor  
Director of Public Safety  
Gibbons Hall, #002  
(410) 532-5324  
[gtaylor@ndm.edu](mailto:gtaylor@ndm.edu)

### **Sexual Violence Resource Coordinator (Quasi-Confidential)**

Jessie Sell  
Theresa Hall #003  
(410) 532-5303  
[jsell@ndm.edu](mailto:jsell@ndm.edu)

*Please Note – Since these positions may change from time to time, Reporting Party is advised to check the University website for the current list.*

## **External Reporting Agencies:**

In addition to or as an alternative to the University's procedures for reporting Prohibited Conduct, reports of Prohibited Conduct, may be filed with the following agencies:

Office for Civil Rights  
U.S. Department of Education  
The Wanamaker Building  
100 Penn Square East, Suite 515  
Philadelphia, PA 19107-3323  
Phone: 215.656.8541  
Website: <http://www2.ed.gov/about/offices/list/ocr/index.html>

Equal Employment Opportunity Commission (EEOC)  
City Crescent Building  
10 S. Howard Street, Third Floor  
Baltimore, Maryland 21201  
Phone: 1.800.669.4000  
Website: [www.eeoc.gov](http://www.eeoc.gov)

Maryland Commission on Civil Rights (MCCR)  
19 William Donald Schaefer Tower  
6 St. Paul Street, Ninth Floor  
Baltimore, Maryland 21202  
Phone: 410.767.8600  
Website: [www.mccr.maryland.gov](http://www.mccr.maryland.gov)

*Individuals who wish to file complaints with these external agencies should make contact as soon as possible, to verify any applicable filing time limits and deadlines.*