

**Mount Mary University - Edited August 2019**  
**Policy on Sexual Harassment, Violence, and Other Related Misconduct**

**Purpose**

Mount Mary University (“University”) promotes an atmosphere of care and respect grounded in the University’s core values, Christian principles, and mission to develop the whole person. As such, the University has a zero tolerance policy for sexual harassment, violence, and other related misconduct. All members and guests of the Mount Mary community are required to conduct themselves in a manner that is respectful of others and does not infringe upon the rights of others or negatively adversely impact the academic environment, whether based on sex or otherwise.

Sexual harassment, violence, and other related misconduct are expressly prohibited by the University and are considered serious violations of University policy. All complaints of such misconduct will be taken seriously, and no student or employee making a good faith complaint will suffer retaliation or be subject to adverse action by the University. The University will not tolerate retaliation against any individual who alleges that they have been subjected to personal harassment or based on sexual misconduct.

When an allegation of misconduct is brought to an appropriate administrator’s attention for investigation, and an individual is found to have violated this policy, appropriate disciplinary action will be taken. Investigations and hearings in which the accused is a student will be conducted in accordance with the University’s student conduct procedures (see Mount Mary University Undergraduate and Graduate Student Handbooks). Investigations in which the accused is an employee will be conducted in accordance with the procedures set forth in the University’s employee handbooks (see Mount Mary University Faculty or Employee handbook).

Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the University reserves the right to impose different consequences, ranging from a written warning to suspension or expulsion, depending on the severity of the offense. The University will consider the concerns and rights of both the complainant and the accused in deciding on appropriate consequences.

**Scope**

This policy applies to all students and employees (faculty, staff and administration) of Mount Mary. While everyone within the Mount Mary community bears responsibility to ensure a safe and welcoming campus, the Title IX Coordinators are responsible for overseeing the process of investigations, providing related training, and assuring a fair and consistent process and accurate reporting, where appropriate.

**Definitions**

Sexual misconduct includes, but is not limited to, conduct prohibited by Wis. Stat. sec. 940.225.

- **Sexual Harassment** is unwelcome, gender-based verbal, written or physical conduct that is sufficiently severe or pervasive and objectively offensive that it unreasonably interferes with, limits or deprives someone of the ability to participate in or benefit from the University’s educational program and/or activities. The conduct may be based on power differentials, may create a hostile environment, may constitute retaliation, may unreasonably interfere with the employee’s or student’s performance, or may create an environment which is intimidating, hostile or offensive to the employee/student. Examples include, but are not limited to, the following:
  - Attempting to coerce a person into a sexual relationship
  - Repeatedly subjecting a person to unwelcome touching or sexual attention
  - Making sexually-oriented comments about a person’s body or lifestyle
  - Requesting sexual favors
  - Retaliating for a person’s refusal to comply with a sexually-based request
  - Conditioning a benefit on submitting to sexual advances
  - Inflicting sexual violence
  - Inflicting violence on an intimate partner
  - Stalking
  - Bullying based on gender

- **Non-Consensual Sexual Contact** is any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman, without consent and/or by force.
- **Non-Consensual Sexual Intercourse** is any sexual intercourse, however slight, with any object, by a man or woman upon a man or a woman, without consent and/or by force.
- **Sexual Exploitation** is the taking of non-consensual or abusive sexual advantage of a person for the perpetrator's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, where the behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples include, but are not limited to the following:
  - Invasion of sexual privacy
  - Prostitution of another
  - Non-consensual video or audio-taping of sexual activity
  - Voyeurism
  - Exposure of one's genitals in non-consensual circumstances
  - The persuasion of another to expose their genitals
  - Sexually-based stalking and/or bullying
- **Consent** is positive cooperation involving an act of free will, in the absence of coercion, intimidation, force or threat of force. A person cannot give consent if unable to comprehend what is going on. A person may not consent if they are unconscious, frightened, physically or psychologically pressured, or forced, intimidated, impaired because of a psychological condition and/or intoxicated by use of drugs or alcohol. Consent to one act does not imply consent to another. Silence and passivity do not equal consent. Sexual activity with someone whom one reasonably should know to be mentally or physically incapacitated (e.g., by alcohol or other drug use, unconsciousness or blackout) is non-consensual. Incapacitation is a state wherein the person cannot make rational reasonable decisions because they lack the capacity to give knowing consent to sexual interaction. This policy also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or the consumption of a rape drug. Possession, use and/or distribution of any of these substances is prohibited, and administering one of these drugs to another student or employee is a violation of this policy.
- **Force** is the use of violence or coercion, physical or psychological, to gain sexual access. Force includes threats, intimidation, implied threats, and coercion that overcomes resistance or produce consent such as saying, "Have sex with me, or I'll hit you." Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior. When a person makes clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point is coercive. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not, by definition, forced.

### **Complaint Process**

All students and employees are encouraged to report violations of this policy to the University. The following are several options available for victims of and witnesses to sexual harassment or other misconduct:

- **File a complaint with the Milwaukee Police Department** (see Resources section below for contact information).
- **Seek confidential support by contacting the campus Counseling Center** (see Resources section below for contact information). The Counseling Center staff can offer confidential resources, options and advice without any obligation to report, unless the individual requests or consents to reporting, or if the individual fears for their safety or the safety of others. If unsure of someone's duties and ability to maintain privacy, ask the individual before talking to him/her. Talking to a member of the Counseling Center staff does not constitute reporting the incident to the University.
- **Seek support from employees who are responsible to take action.** A person who believes themselves to be a victim or who has witnessed sexual harassment or other misconduct is encouraged to speak to University officials (otherwise known as "responsible employees," e.g., Vice President for Student Affairs, Public Safety employees, Human Resources employees, faculty) to report an incident of sexual misconduct. A "responsible employee" is someone who

has the authority to take corrective action or is perceived to have the authority to address sexual and gender-based misconduct on behalf of the University. When speaking with such a responsible employee, the reporting individual should be aware of the employee's confidentiality, privacy and mandatory reporting obligations. If the investigation reveals a need to protect the reporting individual or other members of the University community, personally identifiable information will be shared only as reasonably necessary and with as few people as feasible. All efforts will be made to protect the reporting individual's privacy.

- **File a confidential/anonymous complaint.** If a person who believes themselves to be a victim or who has witnessed sexual harassment or other misconduct prefers not to disclose their identity, they can file a confidential/anonymous complaint. The document for doing so can be found online on *MyMountMary*, under the *Campus Life* tab, on the page entitled *Sexual Misconduct and Harassment Anonymous Report Form*. In order for the University to investigate concerns properly, it is important for the reporting individual to provide as many details as possible about the alleged sexual harassment or other misconduct. Persons choosing to file confidential/or anonymous complaints need to understand that there may be limits on the University's ability to investigate and resolve a complaint on an anonymous basis. The University does, however, take such complaints seriously and will investigate and address complaints within the bounds of the confidentiality requested. While the University will take requests for confidentiality seriously, it must also consider its responsibility to provide a safe and nondiscriminatory environment for all students, including the student who reported the sexual violence, when that person is known to the University.
- **File a formal complaint with the University.** Contact one of the Title IX Coordinators listed below to file a formal complaint. The investigation of the complaint will be kept confidential to the extent feasible, and information will be disclosed only on a need-to-know basis. In the event of a report of non-consensual sexual contact/intercourse, the University must notify the police. The Title IX Coordinator(s) have the responsibility to provide training, determine equitable remedies, where appropriate, and oversee the investigatory process. The formal complaint process is outlined below in "Procedures for Addressing Complaints." The reporting individual will be informed of the various support services available through the University, including counseling, and they may choose to use or refuse these services.

### **Procedures for Investigating Complaints**

- Upon receipt of a complaint, the Coordinator(s) will notify the complainant (or the complainant's parents, if the complainant is under Age 18) before beginning an investigation.
  - If the complainant requests confidentiality or asks that the complaint not be pursued, the University will take responsible steps to investigate and respond.
  - If the complainant continues to request that their name or other identifiable information not be revealed, the University will evaluate the request in the context of its responsibility to provide a safe and non-discriminatory environment for all students. The University will inform complainant if it cannot assure confidentiality.
  - Complaints of sexual harassment, violence, or other misconduct will be treated in confidence to the extent feasible, given the University's legal obligation to conduct a thorough investigation and take corrective action.
- The Coordinator(s) will take immediate and appropriate steps to investigate what is claimed to have occurred and take prompt and effective action depending on the outcome of the investigation. The investigation will proceed whether or not a related criminal matter is pending.
- Consideration will be given to taking interim measures, such as a "no contact" order between the parties, interim suspension, room reassignment, job reassignments, academic accommodations and/or counseling. Mediation will not be used for sexual harassment or non-consensual sexual contact/intercourse cases.
- The Coordinator(s) will assign the matter to the appropriate campus investigator based on the circumstances. The investigator will complete the investigation in no more than 60 business days. As part of the investigation, the investigator will contact the complainant, the accused, and witnesses and examine the facts of the complaint as presented by all.

- Upon completion of the investigation, the investigator will submit a report to the Title IX Coordinator(s) with an opinion as to whether a violation of the policy occurred. The standard of proof is a preponderance of the evidence.
- The Title IX Coordinator(s) will review the report and, where appropriate, refer it to the student conduct system, in the case of a student, or to the Human Resources Department, in the case of an employee.
- The University will balance the rights of the accused with the complainant's Title IX rights in disciplinary action.
- Complainants and the accused will be notified at the same time, in writing, of the outcomes of related University investigations or conduct proceedings. The complainant and the accused will be required to acknowledge and respect the privacy of all involved.
  - The University will disclose to a victim of sexual misconduct any sanction imposed on the accused that relates directly to the victim, such as, but not limited to, a "no contact" order, transfer to different classes, transfer to a different job, reassignment or cancellation of housing, a suspension, or termination.
  - Both the complainant and the accused will be informed of their rights to appeal the University's decision; criteria for student appeals are listed in the Undergraduate and Graduate Student Handbook. Requests for appeals must be submitted in writing to Student Affairs (if the aggrieved party is a student) within five business days from the date of the letter notifying the complainant or the accused of the original decision. Failure to appeal within the allotted time will render the original decision final and conclusive.
  - The investigator will follow up with the complainant to ensure they have not experienced retaliation or further incidents.

### **Rights of Students and Employees**

Regarding any report of sexual harassment or other misconduct, students and employees can anticipate that:

1. The complainant and the accused will be treated with dignity and respect and in a non-judgmental manner.
2. The complaint of sexual harassment or other misconduct will be treated seriously regardless of the nature of the incident or the identity of the others involved.
3. The complaint will be addressed as promptly and completely as feasible.
4. Campus and community organizations and services that can assist students and employees will be identified.
5. A University "no contact" order may be filed to ensure that the parties in the matter are not in contact with one another. A complainant may request a "no contact" order.
6. A student complainant and the accused will be afforded the opportunity to request immediate on-campus housing relocation, transfer of classes, or other steps to prevent unnecessary or unwanted contact or proximity to one another when reasonably available.
7. All students and employees have the right to an environment free from sexual or physical intimidation, or any continuing disruptive behavior, by persons sharing rooms or work spaces or their guests, that would prevent a reasonable person from attaining their educational or workplace goals.
8. A student and an employee is entitled to know all evidence and testimony being considered in the decision of their complaint.
9. The sexual history of a complainant is not relevant to the investigation process, and will not be considered in the investigation or any proceedings which may follow.
10. The complainant and the accused will be notified at the same time in writing of the outcome of related University investigations or proceedings, and will also be notified of the process for appealing any such outcome.
11. The University will take steps to prevent recurrence of any sexual violence and remedy discriminatory effects on the complainant and others, if appropriate.

## Sanctions and Remedies

In addition to the Sanctions identified in the Student Conduct Code or in employee handbooks, and depending on the nature of the specific problem, the University will also consider whether any remedies for the complainant may be appropriate. These may include, but are not limited to:

- Providing an effective escort to ensure that the complainant can move safely between classes and activities;
- Ensuring the complainant and accused do not share classes or extracurricular activities;
- Moving the accused or complainant (if the complainant requests to be moved) to a different residence hall;
- Providing comprehensive, holistic support services including medical, counseling and academic support services, such as tutoring;
- Arranging for the complainant to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty; and
- Reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the sexual harassment, violence, or other misconduct and the violations that may have resulted in the complainant being disciplined.

The University will also consider whether there are any broader student population remedies that should be considered to satisfy its Title IX obligation to eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

## Resources

If you believe that you or another student or employee has been a victim of sexual harassment or other misconduct, the following resources are available to you and/or the other person:

RESOURCES	CONTACT INFORMATION
Milwaukee Police Department, District 7 (Non-Emergencies)	414-933-4444
Milwaukee Police Department, District 7 (Emergencies)	x911
Mount Mary University Public Safety	Bergstrom Hall, Lower Level 414-807-9560 414-930-3333
Confidential Support with Mount Mary University Counseling Center	Haggerty Library, Student Success Center 414-930-3485
Filing an Anonymous Report	<i>MyMountMary</i> , under <i>Campus Life</i> tab, on page entitled <i>Sexual Misconduct and Harassment Anonymous Report Form</i>

<p>Filing a Formal Complaint with the University's Title IX Coordinator(s)</p>	<p>Sarah Olejniczak (Lead and Student-Related Concerns)  Vice President for Student Affairs  Caroline Hall 145  414-930-3372 or olejnics@mtmary.edu</p> <p>Alisa Bendickson (Employee-Related Concerns)  Senior Director of Human Resources  Notre Dame Hall 252  414-930-3578 or bendicka@mtmary.edu</p>
<p>Healing Centers</p>	<p>24 hour telephone line: 414-219-5555</p> <p>Aurora Healing Center  130 W. Bruce Street, 4th Floor  Milwaukee, WI 53204  414-671-4325  Aurora Healing Center at Aurora Sinai Medical Center  945 N. 12th Street  Milwaukee, WI 53233  414-219-5938  Aurora Healing Center at Sojourner Family Peace Center  619 W. Walnut Street  Milwaukee, WI 53212  414-810-1498  Aurora Healing Center at Aurora West Allis Medical Center  8901 W. Lincoln Ave.  West Allis, WI 53227  414-219-5938</p>