

SEXUAL ASSAULT AND SEXUAL MISCONDUCT POLICY

Notre Dame de Namur University is committed to providing a safe and secure learning environment for all students. Acts of sexual assault and sexual misconduct are reprehensible and our community members have the right to be free from harassment, abuse, force, violence and threats of violence on the campus or during University activities. Furthermore, sexual assault is a crime punishable by both civil and criminal legal action and is a serious violation of University policy. The requirements of this policy are blind to the sexual orientation of individuals engaging in sexual activity. This policy pertains to incidents of sexual assault and/or sexual misconduct between students or where the alleged perpetrator is a student. This policy includes the following:

1. Information will be provided regarding the procedures students should follow if a sex offense occurs, including (1) procedures concerning who should be contacted, (2) the importance of preserving evidence for the proof of a criminal offense, and (3) to whom the alleged offense should be reported are explained in the Sexual Assault Response Network (SARN) brochure
2. Information will be provided about a student's option to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that institutional personnel will assist the student in notifying these authorities, if the student requests the assistance of these personnel is presented in SARN brochure
3. Information about existing on- and off-campus counseling, mental health, or other student services for victims of sex offenses is identified in SARN brochure
4. Information about available resources to assist and support and accommodate victims of sexual assault.
5. NDNU will change a victim's academic and living situations after an alleged sex offense if those changes are requested by the victim and are reasonably available.
6. Information about University disciplinary action in cases of an alleged sex offense are explained in the SARN brochure
7. Confidentiality will be maintain as much as possible.
8. Information concerning registered sex offenders in the local communities may be obtained <http://meganslaw.ca.gov/disclaimer.htm>

Definitions

Sexual Assault (Rape) is nonconsensual sexual intercourse (anal, oral or vaginal), however slight, with any object (including body parts), by a man or woman upon a man or woman, committed either by force or intimidation or through the use of the victim's mental or physical helplessness. It is an act of violence that should be reported immediately. Examples of sexual assault include but are not limited to the following: rape (sexual intercourse without consent whether by an acquaintance or a stranger); attempted rape; oral sex or anal intercourse, without consent; and instances in which the person subjected to sexual behavior is incapable of giving consent because of permanent or temporary mental or physical incapacity.

Sexual Misconduct: Any non-consensual physical contact of a sexual nature including, but not limited to nonconsensual sexual contact and sexual exploitation. Non-

consensual sexual contact is any intentional sexual touching, however slight, with any object (including body parts), by a man or a woman upon a man or woman, without effective consent. Examples of nonconsensual sexual contact include, but are not limited to: intentional touching, either of the victim or when the victim is forced to touch directly or through clothing, another person's genitals, breast, thighs, or buttocks. Sexual exploitation occurs when a student takes nonconsensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the person being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to: nonconsensual or unauthorized use of pictures, video or audio taping of sexual activity; going beyond the boundaries of consent (such as letting another person hide in the closet to watch you having consensual sex). To constitute lack of consent, the acts must be committed either by threat, force, and intimidation or through the use of the victim's mental or physical inability such as when the victim is physically or mentally incapacitated by alcohol or other drugs.

Consent: Effective consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity — who, what, when, where, why and how sexual activity will take place. To be effective, consent cannot be procured by use of physical force, compelling threats, intimidating behavior or coercion. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear that he/she does not want sex, wants to stop or does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. To give effective consent, one must be of legal age. If a person has sexual activity with someone he or she knows to be — or should know to be — mentally or physically incapacitated (alcohol or other drug use, unconsciousness or blackout), he or she is in violation of this policy. Consent to some form of sexual activity cannot be automatically taken as consent to any other sexual activity. Silence — without actions demonstrating permission — cannot be assumed to show consent.

Sexual Assault Coordinator

The Sexual Assault Coordinator coordinates campus prevention education programs designed to promote awareness of rape, acquaintance rape and other sexual crimes. The SARN is coordinated by the Sexual Assault Response Coordinator (SARC), this role is held by the Director of Health & Wellness. For further information please contact

Investigative Responsibility

NDNU strongly encourages an individual who has experienced a sexual assault to make an official report. A report of sexual assault will be immediately investigated. Confidentiality will be maintained as much as possible. NDNU is committed to provide resources for education about and prevention of sexual assault.

The Dean of Students/designee and Office of Public Safety are responsible for investigating instances of sexual assault when the alleged perpetrator is a student. The Dean of Students/designee will keep the victim informed of the status of the disciplinary process. As appropriate, the Dean of Students/designee and Office of Public Safety will work with the Belmont Police Department when criminal proceedings are involved.

Reporting

Immediate reporting is essential for your protection and for the apprehension and prosecution of your assailant. You are not obligated to bring formal charges if you report, but reporting may help you to gain some control over the situation.

To report conduct that an individual believes is a violation of this Policy when the person engaging in the conduct is a student, follow these procedures Sexual Assault Response Network brochure. To report a violation of this Policy when person engaging in the conduct is a faculty or staff member, contact the Director of Human Resources (650) 508-5160.

Any victim who wishes to file a student conduct complaint about an act of sexual assault or misconduct will be handled in accordance with the Misconduct Hearing Procedures.

Sexual Assault Response Network

The University has created a Sexual Assault Response Network (**SARN**) where students may report a sexual assault anonymously and receive support services confidentially. You are encouraged to contact any of the following departments to report the incident and seek assistance:

Center for Student Leadership	(650) 508-3725
Counseling Services	(650) 508-3578
Chaplain	
Director of Spirituality	
Housing & Residence Life	(650) 508-3424
Public Safety	
Emergency	911
General	(650) 508-3502
After Hours	(650) 504-0656 or (650) 740-1483
Sexual Assault Response Coordinator	(650) 508-3756
Student Conduct Coordinator	
Dean of Students	(650) 508-3415

All of these offices and staff members have access to a checklist protocol that outlines support services, reporting options, and other available resources. Reporting is a confidential process. For further information on the University's Sexual Assault Response Protocol, please visit: <http://www.ndnu.edu/campus-life/std-develop-respon/>

Community Resources

- Belmont Police Department (650) 595-7400
- San Mateo County Medical Center (650) 573-2222
- Rape Trauma Hotline (650) 692-7273

The University's definition of sexual assault and sexual misconduct is the basis for university judicial action. Any victim who wishes to file a student conduct complaint

about an act of sexual assault or misconduct will be handled in accordance with the Misconduct Hearing Procedures.

Disciplinary Actions and Legal Consequences

The University may impose sanctions if the prohibited conduct occurs on University premises or in connection with a person's participation in a university-sponsored organization, program or activity, or if the conduct poses a risk of harm to any member of the campus community. The possible sanctions can be reviewed in the Student Handbook.

In addition to University disciplinary actions, a person who engages in a sexual assault may be the subject of criminal prosecution and/or civil litigation. A police report must be made in order for criminal prosecution to be considered by the local District Attorney. The chances of successful prosecution are greater if the report is timely and is supported by the collection of medical-legal evidence

Victim Rights

It is the goal of the University to ensure that students alleging sexual misconduct have access to needed resources, services, and information including:

- Victims have the right to be treated with respect by University officials;
- The right of both accuser and accused to have the same opportunity to have others present (in support or advisory roles) during a student conduct hearing;
- The right not to be discouraged from reporting by University officials;
- The right to be informed of the outcome and sanction of any student conduct hearing involving sexual assault;
- The right to be informed of their options to notify proper law enforcement authorities, including Public Safety and the Belmont Police Department, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses. This also includes the right not to report, if this is the victim's desire;
- The right to be notified of available counseling, mental health or student services for victims of sexual assault both on campus and in the community;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available;
- The right not to have irrelevant prior sexual history admitted in a student conduct hearing;
- The right not to have Non-Consensual Sexual Intercourse charges mediated (as opposed to adjudicated);
- The right to make a victim-impact statement to the Student Conduct Board and to have that statement considered by the Board in determining its sanction;
- To right to a campus restraining order against another student who has engaged in or threatens to engage in stalking, threatening, harassing or improper behavior that presents a danger to the welfare of the complaining student;
- The right to have complaints of sexual misconduct responded to quickly and with sensitivity by University officials.

- The right to appeal the finding and sanction of the Student Conduct Board, in accordance with the standards for appeal established in the Student Code of Conduct section of the Handbook.

Educational Resources

Students, staff and faculty are strongly encouraged to take advantage of on-campus educational outreach resources and are encouraged to actively participate in prevention efforts. The University provides educational materials and programs concerning sexual assault and provides rape awareness and self defense training including:

- Mandatory new student orientation workshop
- Sexual Awareness Week
- Educational flyers
- Educational displays
- Akido self defense program
- Electronic safety messages
- Residence hall programs, e.g., STD, discussions, presentations
- Social norm campaign
- Contests