

St. Mary's Seminary & University's Sexual Misconduct Policy and Procedures

The St. Mary's community fully supports and complies with all applicable local, state, and federal laws prohibiting rape, sexual assault, domestic and dating violence, and stalking. It is the responsibility of all students (which includes seminarians), faculty, and staff to be aware of and adhere to these laws and St. Mary's Sexual Misconduct Policy and Procedures (the "Procedures"). Further, it is our expectation that members of the St. Mary's community will respect the rights and dignity of all persons.

Although St. Mary's is not subject to Title IX because it does not accept qualifying federal funding, St. Mary's considers it a moral imperative to take immediate action to eliminate sexual harassment, including sexual misconduct, prevent its recurrence, and address its effects.

In applying, implementing, and interpreting these Procedures, St. Mary's complies with the Benchmarks for Seminary and House of Formation Sexual Misconduct Policies promulgated by the McGrath Institute for Church Life at the University of Notre Dame.

These Procedures apply to any allegation of sexual misconduct involving two or more members of the community (*i.e.*, students, faculty, and staff) or occurring on St. Mary's property or in the course of its programs and activities (whether on or off campus). All participants to proceedings under these Procedures will be treated with dignity, respect, and sensitivity by St. Mary's officials. St. Mary's encourages reporting of sexual misconduct involving a St. Mary's community member even where the respondent is a third party. For instance, participants in parish assignments are encouraged to report any suspected sexual misconduct or other concerns even if the respondent is a parish employee or community member unaffiliated with St. Mary's. Where St. Mary's does not have "control" over the respondent, St. Mary's ability to take action related to the respondent may be limited. However, St. Mary's will pursue opportunities to improve the living, educational, or working environment for the complainant.

As used in these Procedures, the term "complainant" refers to the person who alleges having experienced a violation of St. Mary's Policy, and the term "respondent" refers to the person the complainant alleges violated the Policy. All proceedings and resolutions under the Policy and these Procedures will be prompt and equitable and will provide an opportunity for both the complainant and the respondent to be heard.

St. Mary's strictly prohibits sexual misconduct, which for the purposes of the Sexual Misconduct Policy and Procedures includes:

Sexual Harassment: Unwelcome sex-based conduct that is objectively and

subjectively offensive and is so severe or pervasive that it results in a limitation or denial of a person's ability to participate in or benefit from St. Mary's education program or activities; based on the totality of the circumstances, unwelcome sex-based conduct that unreasonably creates a working or education environment that a reasonable person would perceive to be abusive or hostile; and/or a community member conditioning the provision of an aid, benefit, or service of St. Mary's on an individual's participation in unwelcome sexual conduct.

Sexual Assault: Any actual or attempted sexual act or sexual contact without consent, including rape, sexual violence, and the touching of an intimate body part of another (fondling). Consent is the voluntary agreement to engage in the particular sexual act or contact in question. Consent may not be obtained through force, threat, intimidation, coercion, or taking advantage of a victim's inability to understand the nature of the conduct being engaged in as a result of being under the influence of drugs or alcohol or for any other reason.

Domestic violence: A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim; or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Maryland.

Dating violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.

Reporting Sexual Misconduct on Campus

- a) If you believe you are a victim of sexual misconduct, you are encouraged to report the incident to the Vice Rector or the EI Associate Dean. You will be asked to give a statement to the Vice Rector or the EI Associate Dean (and investigating police officer, if applicable) at that time.
- b) If you believe you are a victim of sexual misconduct but do not want to report it to St. Mary's for investigation, you may access confidential rape crisis counseling from TurnAround, Inc., located 2300 N. Charles St., Baltimore, MD 21218 ((410) 837-7000) and 401 Washington Ave., Suite 300, Towson, MD 21204 ((410) 377-8111).

- c) If you are aware of an instance of sexual misconduct as identified and defined herein by an employee of St. Mary's Seminary & University, it should be reported to the Senior Vice President of Administration and Advancement who will refer the matter to the Vice Rector or EI Associate Dean to initiate an investigation consistent with the procedures described below. If you are aware of an instance of sexual misconduct as identified and defined herein by a seminarian or SOT faculty of St. Mary's Seminary & University, it should be reported to the Vice Rector who will initiate an investigation consistent with the procedures described below. If you are aware of an instance of sexual misconduct as identified and defined herein by a student or faculty of the EI, it should be reported to the EI Associate Dean who will initiate an investigation consistent with the procedures described below.
- d) In addition to the reporting options set forth above, you may report violations of the Sexual Misconduct Policy and Procedures or other concerns to Praesidium Inc. at (866) 607-7233. This organization is entirely independent of St. Mary's and any Diocese that sends Seminarians to St. Mary's, and it has knowledge and experience in the operation of Catholic seminaries and of ecclesiastical norms. Reporting concerns in good faith to Praesidium Inc. will not have any impact on the reporting party's education or employment (except that those self-disclosing their own violations may be subject to appropriate disciplinary action upon a finding that they violated the policies and procedures of St. Mary's).
- e) Any reports under the Policy and Procedures may be made anonymously, although the Seminary's ability to respond to an anonymous report may be limited due to the Seminary's inability to follow-up with the anonymous reporter for additional information and the reporter's inability to participate in the Seminary's sexual misconduct process.

Procedures for Addressing Reports of Sexual Misconduct

- a) Upon becoming aware that an act of sexual misconduct is alleged, the Vice Rector or EI Associate Dean will initiate an investigation and take actions deemed necessary to protect the safety and emotional well-being of the person(s) involved, as well as the educational environment of the Seminary community, including offering the assistance of the Victim Assistance Coordinator. The Victim Assistance Coordinator supports victims by explaining these policy/procedures, assisting in the provision of support measures (described in greater detail below), helping coordinate spiritual direction and counseling (where appropriate), and guarding against retaliation. The Victim Assistance Coordinator for seminarians, EI students and SOT and EI Faculty is Dr. Michael Gorman; the Victim Assistance Coordinator for staff is the Senior Vice President of Administration & Advancement.

- b) All investigations and proceedings will be conducted in a fair and impartial manner that respects the rights of all parties involved. Investigations may be conducted by the Vice Rector or EI Associate Dean or by their designees, which may include third-party, outside investigators retained by St. Mary's for this purpose.
- c) Prior to the start of the proceedings, the Seminary will provide notice, in an appropriate and sensitive format, to each person involved in the proceedings of the person's rights and options including the right to have a personal supporter of the person's choice at any hearing, meeting, or interview during the proceedings who may not be an attorney, except that in cases involving students, both parties will be notified of the right to have the assistance of an attorney or an advocate as an advisor and the legal service organizations and referral services available to provide such attorneys and advocates at free or reduced charge.
- d) The complainant and respondent will each have access to any evidence or information obtained during the investigation and which will be considered by the hearing panel. Both parties may submit evidence during the investigation, including offering witness lists and specific questions to be posed to the other party or witnesses.
- e) The Vice Rector or EI Associate Dean will inform the complainant of the right to file criminal charges or to decline to do so, and that the Seminary can assist in reporting the incident to appropriate law enforcement officials. The Vice Rector or EI Associate Dean will also inform the complainant of the importance of preserving evidence, that a Sexual Assault Forensic Exam (SAFE) may be performed at the Greater Baltimore Medical Center and Mercy Medical Center, both of which are equipped with the Department of State Police Sexual Assault Evidence Collection Kit, and that the Seminary can assist in providing transportation to either hospital to receive a SAFE exam or for medical care generally.
- f) The Vice Rector or EI Associate Dean will inform the parties of the possibility of using informal resolution where appropriate. Complaints of sexual assault may not be resolved via mediation or informal resolution. Mediation and informal resolution options, such as facilitated apologies, educational programming, academic modifications, no contact orders or restricted access, and restorative practices, are permitted for resolving other types of complaints, but only if the following conditions are met:
 - a. the complainant requests an informal resolution;
 - b. all parties involved in the complaint, and the Seminary, agree to the use of an informal resolution;

- c. the Seminary participates in the informal resolution by providing trained staff;
- d. any party involved may end the informal resolution and move to formal resolution at any time; and
- e. the alleged misconduct does not involve sexual assault or sexual coercion.

Where the parties and Seminary have agreed that a matter is satisfactorily resolved through informal resolution, upon the respondent satisfying the agreed upon informal resolution terms, the matter will be considered closed, and may not be reopened or referred for formal resolution. Accepting an informal resolution does not mean that the respondent admits responsibility, nor does it reflect a finding of a policy violation.

- g) Where informal resolution is not appropriate, the Vice Rector or EI Associate Dean will inform the complainant of the investigation and hearing panel process and of the complainant's option to request confidentiality. The Seminary makes every effort to respect requests for confidentiality, but must evaluate the request in the context of the Seminary's responsibility to provide a safe and non-discriminatory environment for all community members. Due to the fact that sexual misconduct often occurs in private settings, the Seminary may not be able to pursue disciplinary charges of sexual misconduct where the complainant requests confidentiality and will not serve as the primary witness. However, in cases where there may be another witness to the alleged violation, or in cases where the victim requests the Seminary to pursue the case even though he or she requests confidentiality, or in cases in which pursuing the case is necessary to ensure campus safety, the Seminary reserves the right to pursue the matter.
- h) The Vice Rector or EI Associate Dean will also inform the complainant and respondent of the availability of protective measures, such as no contact orders and changes to class schedules or living arrangements, if such alternatives are available and feasible. The purpose of support measures is to protect the working, living, and educational environment pending the outcome of these Procedures. In certain cases, the Seminary may place the respondent on interim suspension/administrative leave pending the outcome of the sexual misconduct process where it reasonably determines that this action is necessary for the community's safety and wellbeing.
- i) The Seminary will not impose a campus conduct action for a violation of any alcohol or drug use policies of the Seminary for a student who reports an incident of sexual misconduct or who participates in an investigation of sexual misconduct as a witness if the violation occurred during or near the time of the alleged sexual misconduct; the student is determined to have

made the report or participated in the investigation in good faith; and the violation was not an act that was reasonably likely to place the health or safety of another individual at risk. However, the Seminary may initiate a mandatory intervention for substance abuse when appropriate.

- j) The Vice Rector or EI Associate Dean may determine that a complaint will not move forward under this Policy and Procedures. St. Mary's may dismiss a complaint, at its discretion, at any time during the process:
 - a. If the complainant requests in writing to dismiss a previously filed complaint;
 - b. If the respondent is no longer enrolled or employed by the Seminary at the time the complaint is filed;
 - c. Specific circumstances prevent the Seminary from gathering evidence sufficient to reach a determination about the complaint or any allegation therein; or
 - d. The conduct alleged does not meet the definition of any prohibited conduct under the Policy and Procedures.

- k) In response to a report of sexual misconduct that is not dismissed in accordance with subsection J, the Vice Rector or EI Associate Dean will normally convene a sexual misconduct hearing panel, which will be comprised of three faculty members and the Vice Rector or EI Associate Dean. Panel members will be selected by the President-Rector in consultation with the EI Associate Dean. The Vice Rector or EI Associate Dean and any members of the hearing panel receive training on issues related to sexual harassment, dating violence, domestic violence, sexual assault, and stalking, and on how to conduct an investigation and hearing process that is fair, protects the safety of victims and the campus, and promotes accountability. No person with a conflict of interest may serve on the panel.

- l) The complainant and respondent will be provided with timely written notice of the reported violation, including the date, time and location of the alleged violation, the type of sexual misconduct alleged, the conduct allegedly constituting the violation, the range of potential sanctions associated with the alleged violation, and the rights and responsibilities under the Sexual Misconduct Policy and Procedures, including the right to be accompanied by an advisor, attorney, or personal supporter, and regarding other civil and criminal options. The complainant and respondent will be provided timely written notice of the date, time, and location of each hearing, meeting, or interview that the he or she is required or permitted to attend, a final determination made by the panel regarding whether a Sexual Misconduct Policy violation occurred and the basis for the determination, any sanction imposed, and the right to an appeal and a description of the appeal process.

- m) The respondent and complainant may each have no more than two people, defined as advisors, present throughout the entire process. The advisor's role is to provide private advice and support to a party. The advisor may be a personal supporter of the person's choice, including a parent or someone who is not a full-time member of the Seminary community. The advisor may not be an attorney, except that in cases involving a student, each party may choose as an advisor a licensed attorney or an advocate supervised by an attorney. The advisor may attend hearings, meetings, and interviews with the complainant or respondent; consult privately with the complainant or respondent during hearings, meetings, and interviews, except during questioning of the party they are advising at a hearing; and assist the party they are advising with the exercise of any right during the proceedings. The advisor is not allowed to address the investigators, address the hearing panel, or question witnesses. The advisor cannot serve as a witness. Both the complainant and the respondent can have an advisor of choice, which can include parents, attorneys, or others who are not full-time members of the Seminary community. Disruptive advisors will be removed from the process, and the process will continue. Parties are required to notify the Vice Rector or EI Associate Dean as soon as they have identified their advisors, but the parties must do so at least one Seminary business day in advance of the hearing date if a party plans to bring advisors. Advisors can request an outline of their role and expectations for their participation in this process. Complainants and respondents who are students or who were enrolled as students at the Seminary at the time of the incident that is the basis of the complaint may access attorneys paid for by the Maryland Higher Education Commission (MHEC) or who agree to participate on a pro bono (without charge) basis. Information regarding accessing counsel through MHEC can be found on the MHEC website, <https://mhec.state.md.us>. Students may knowingly and voluntarily choose not to have counsel. MHEC is not required to pay a student's attorney's fees for representation in a criminal or civil matter.
- n) Both the complainant and the respondent will be invited to present their testimony to the hearing panel. Both parties will have an equal opportunity to request that the hearing panel call relevant witnesses and to provide any other relevant evidence and information. Cross-examination is prohibited, although the parties may submit questions to the hearing panel to ask witnesses on their behalf. Any evidence supplied by a party, compiled by the Seminary during its investigation, or upon which the panel may rely will be made available to both parties, with personally identifiable or other information redacted as required by applicable law. The panel's proceedings will be documented.
- o) The complainant and respondent have the right to remain present during the panel's entire hearing, but neither may be present during the panel's deliberations, which are private.

- p) The complainant may choose to present his or her testimony to the panel without the respondent being present. In the situation where the complainant chooses not to present testimony in the presence of the respondent, the testimony presented to the panel will be recorded and replayed for the respondent to hear.
- q) Statements or questions regarding the past sexual history of the respondent or complainant with an individual other than a party to the proceedings generally may not be presented as evidence during the hearing except to prove the source of an injury, to prove prior sexual misconduct, to support a claim that a person has an ulterior motive, or to impeach a person's credibility after that person has put his or her own prior sexual conduct at issue. The hearing panel chair will determine if the evidence presented is germane to the case and will be allowed. Evidence regarding a medical history, including mental health counseling, treatment, or diagnosis, may not be presented without that party's consent.
- r) In any case in which the respondent claims that the victim consented, the burden of proof is on the respondent to establish consent.
- s) The degree of impairment of the complainant's ability to give or withhold consent may be introduced into evidence.
- t) The panel will use a "preponderance of evidence" standard (i.e., whether it is more likely than not that sexual misconduct has occurred). If the panel determines that the respondent violated the Sexual Misconduct Policy, the board will decide the appropriate sanctions in accordance with the appropriate handbook.
- u) Both parties will be notified of the outcome of the hearing in writing, simultaneously. This normally will be within five (5) working days of the last day of the hearing. Notice of the outcome will include a description of the basis for the decision and for any disciplinary sanctions imposed on the perpetrator as a result of the complaint. Overall, from the initial receipt of the complaint of sexual misconduct to the rendering of a decision usually entails about sixty (60) calendar days, unless the Seminary is requested to delay the Procedures by law enforcement officials during the evidence gathering phase of a criminal investigation.
- v) If the respondent is found responsible for a sexual misconduct violation, the respondent may appeal the decision in writing to the President-Rector. If the panel decides that there was not a violation of the Sexual Misconduct Policy, the complainant also may appeal the decision in writing to the President-Rector. The President-Rector may affirm the panel's decision, reverse it, or remand the matter to the panel for further

proceedings. The decision of the President-Rector is final, except where the case has been remanded for further proceedings.

- w) Any retaliation against a person who reports sexual misconduct, serves as a complainant, or participates as a witness in an investigation of sexual misconduct is strictly prohibited.
- x) Nothing in St. Mary's Policy and Procedures prevents St. Mary's from terminating an employee, expelling a student, or taking other appropriate action in lieu of proceedings under the Sexual Misconduct Policy and Procedures where the respondent's conduct violates other policies or standard of St. Mary's or, in the case of seminarians, a Diocese. Nothing in this Policy and Procedures alters the at-will nature of an employee's employment.
- y) Anyone who makes a report that is later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action. Similarly, a person who is later proven to have intentionally given false information during the course of an investigative or disciplinary process may be subject to disciplinary action. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation. No complaint will be considered "false" solely because it cannot be corroborated.

Systemic Training for Community Members

All seminarians, EI students enrolled in a degree program, SOT and EI faculty, and staff will receive training on St. Mary's Sexual Misconduct Policy and Procedures regularly (and no less than annually and upon starting employment or studies at the Seminary).

Proactive Assessment, Feedback, and Improvement

St. Mary's seeks to constantly improve upon its Sexual Misconduct Policy and Procedures to ensure that its methods of combatting Sexual Misconduct are effective and its culture supports reporting and addressing Sexual Misconduct in any form. On no less than a biannual basis, St. Mary's shall conduct a Sexual Misconduct climate survey, which seeks the feedback of community members on their perceptions of St. Mary's readiness and ability to address Sexual Misconduct, whether community members feel supported in this process, and whether community members feel St. Mary's is a safe place to live, learn, and work. In addition to issues related specifically to Sexual Misconduct, St. Mary's shall assess the broader climate and culture of the Seminary community and the appropriateness of relationships formed between seminarians, students, SOT and EI faculty, and staff. Although St. Mary's climate survey will serve as a principal

tool in assessing the effectiveness of its policies and procedures and the health of its culture, St. Mary's supports an environment of continuous improvement. Each report of misconduct, investigation, or concern raised is an opportunity to learn from and improve. St. Mary's will also regularly seek opportunities to leverage third-party legal, mental health, and risk management experts in the field of sexual misconduct prevention to improve its practices and environment on a proactive and ongoing basis.

Equity & Disability Coordinator. St. Mary's Seminary & University prohibits discrimination on the basis of race, color, national origin, religion (except for positions where religion is an occupational qualification or preference), age, sex, pregnancy, disability, genetic information, or other criteria protected by applicable law. The designated Equity & Disability Coordinator is the University Registrar.

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