

## Sexual Assault and Sexual Misconduct Policy

Sexual misconduct of any kind is inconsistent with the University's values and incompatible with the safe, healthy environment that the Notre Dame community expects. The most egregious form of sexual misconduct is sexual assault, which is an affront to justice that will not be tolerated at Notre Dame. Sexual assault is prohibited by federal and state law as well as by University policy; students found responsible for sexual assault will ordinarily face disciplinary sanctions up to and including dismissal from the University.

Sexual misconduct offenses that are prohibited are:

- **Non-consensual sexual intercourse**, which is any sexual intercourse by any person upon another without consent. It includes oral, anal and vaginal penetration, however slight, with any object. It is referred to as "sexual assault" in this policy.
- **Non-consensual sexual contact**, which is any sexual touching with any object, by any person upon another, without consent. Sexual touching is contact of a sexual nature, however slight.
- **Other forms of sexual misconduct include, but are not limited to:**
  - Sexual exhibitionism
  - Prostitution or the solicitation of a prostitute
  - Peeping or other voyeurism
  - Going beyond the boundaries of consent, e.g., by allowing others to view consensual sex or the non-consensual video or audiotaping of sexual activity

**Consent** means informed, freely given agreement, communicated by clearly understandable words or actions, to participate in each form of sexual activity. Consent cannot be inferred from silence, passivity, or lack of active resistance. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. By definition, there is no consent when there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. A person who is the object of sexual aggression is not required to physically or otherwise resist the aggressor; the lack of informed, freely given consent to sexual contact constitutes sexual misconduct.

Intoxication is not an excuse for failure to obtain consent. A person incapacitated by alcohol or drug consumption, or who is unconscious or asleep or otherwise physically impaired, is incapable of giving consent.

The University will take seriously every report of sexual misconduct it receives by conducting an investigation and working to ensure that both complainants and accused students are given appropriate support. The University encourages students to report all incidents of sexual misconduct. Any threat of retaliation or other attempt to prevent the report of an incident of sexual misconduct is itself prohibited and will result in disciplinary sanctions.

At times, students are hesitant to report the occurrence of a sexual assault to University officials because they are concerned that they themselves, or witnesses to the misconduct, may be charged with other policy violations, e.g. pariets or alcohol violations. These behaviors are not condoned by the University, but the importance of dealing with them pales in comparison to the need to address instances of alleged sexual misconduct. Accordingly, in these cases, the University will not pursue disciplinary action against a student who claims to be the victim of a sexual assault in connection with the reporting of that sexual assault, or against students named as witnesses to the incident.

## How To Report Sexual Misconduct

The University encourages students to report all incidents of sexual assault to the police. If the incident occurred on Notre Dame property, Notre Dame Security Police is the appropriate agency. Off-campus incidents will likely fall in the jurisdiction of the South Bend, St. Joseph County or Mishawaka police departments; Notre Dame Security Police can assist with contacting the appropriate agency. Notre Dame Security Police can be reached by dialing 911 or (574) 631-5555. Incidents of sexual misconduct involving students that are reported to the Notre Dame Security Police are referred to the Office of Student Affairs for follow-up.

Sexual misconduct involving students, including sexual assaults whether or not they have been reported to a police agency, may also be reported to the Office of Student Affairs or the Office of Residence Life and Housing. The Office of Student Affairs can be reached by dialing (574) 631-5550 and the Office of Residence Life and Housing can be reached at (574) 631-5551.

A student can also file a report of sexual misconduct by another student with one of the University's Sexual Assault Resource Persons, who will forward the report to the Office of Student Affairs. The Sexual Assault Resource Persons can help inform victims about the processes, procedures, and policies that apply in sexual misconduct cases. Other services provided by the Sexual Assault Resource Persons include making referrals as appropriate, furnishing materials for support services on and off campus, and providing information on civil and criminal investigation and adjudication processes. Students can make direct contact with the Sexual Assault Resource Persons by calling (574) 631-7728.

## Privacy and Confidentiality

As stated above, the University encourages the reporting of all incidents of sexual assault. To the extent possible, the University will protect the privacy of all parties to a complaint of sexual misconduct. Under federal law, if a student makes a formal report about a sexual assault to a University official (e.g., officials within Student Affairs, Sexual Assault Resource Persons, deans, campus security personnel, and certain other administrators with supervisory responsibilities), the University has an obligation to investigate the complaint. If the University receives a formal report, it will be treated in a confidential manner. At the same time, information will be shared as necessary in the course of an investigation with people who need to know such as investigators, witnesses, and the accused.

When the University, through a report to a University official, becomes aware of an incident of sexual assault that occurred on-campus and there is a potential for bodily harm or danger to members of the campus community, University administrators must issue a timely warning to the campus. While the University will provide enough information to safeguard the campus community, a student's name or other personally identifying information will not be disclosed.

Under Indiana law, if a student wishes the details of an incident to be kept strictly confidential, she or he can speak with counselors at the University Counseling Center, health providers, or off-campus rape crisis resources, such as S-O-S, the rape crisis center for St. Joseph County. Residence hall rectors and campus ministers will also honor a student's request for confidentiality. These individuals will honor confidentiality unless there is an imminent danger to the student or to others.

**For more information about reporting sexual assault and sexual misconduct, please visit [csap.nd.edu](http://csap.nd.edu).**

### **Resources for Medical, Counseling and Pastoral Care**

It is especially important for students who have been sexually assaulted to seek immediate and appropriate medical treatment. University Health Services is open 24 hours a day during the academic year and is equipped to provide confidential and professional medical care. University Health Services (UHS) can be reached in St. Liam Hall, (574)631-7567 (24 hours). While the UHS staff is unable to perform procedures related to the collection of evidence for the purposes of pursuing criminal prosecution, they can provide assistance and support when a student requests or requires transportation to the hospital. St. Joseph's Regional Medical Center has a specially trained sexual assault team available 24 hours a day, seven days a week; Memorial Hospital also offers these services. Under Indiana law, the tests and procedures at the hospital are free of charge if treatment is sought within 96 hours 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 Counseling Center 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 of the UCC are available to the student who was assaulted and her or his friends who may need support in assisting the student. The Counseling Center can be reached at (574)631-7336 (24 hours); in addition, a Walk-In Crisis Service is available in St. Liam Hall, Monday-Friday, 9 a.m. – 5 p.m. For further information, go to [ucc.nd.edu](http://ucc.nd.edu).

S-O-S is the rape-crisis center for St. Joseph County. S-O-S is staffed by trained professionals and volunteer advocates who are available 24 hours a day. The staff can provide confidential counseling and recovery services, as well as support and information about communication with the police, family and friends. S-O-S Volunteer Advocates provide emotional support and information on the phone and in person at area hospital Emergency Departments around the clock. Specially trained professionals offer confidential counseling, group therapy, information, and referrals. The S-O-S Advocate acts as a liaison between the student and the legal process, and can accompany them to court, if desired. The 24-hour telephone number for the Rape Crisis Center is (574)289-4357.

The Campus Ministry staff is trained to provide confidential pastoral counseling and support to students who have been sexually assaulted, or to friends who wish to support and assist them. Campus Ministry can be reached at (574)631-7800 or at [campusministry.nd.edu](http://campusministry.nd.edu).

A student victim may request assistance with academic matters or a change in housing. To the extent these requests are reasonable and can be accommodated, every effort will be made to do so.

### **Disciplinary Process for Sexual Misconduct**

If a student chooses to proceed with a disciplinary complaint, he or she will prepare a written report of the incident, and the student's role within the disciplinary process will be that of a "complainant." In some instances, the University may, in its discretion, choose to initiate a disciplinary complaint on its own. The University may ask ORLH, NDSP, or a designee to conduct further investigation before proceeding with the disciplinary process in some cases.

An accused student will be informed of the nature of the charges by ORLH, and may, in instances where there is a student complainant, obtain a copy of the complainant's written statement after preparing his or her own written description of the incident. In turn, the accused student's written description will be shared with the student complainant, if any.

Reports of sexual misconduct by a student shall be addressed through the University's student disciplinary process, which can be found online at <http://orlh.nd.edu/dulac>, except that, for matters alleging sexual misconduct the complainant:

- will have the opportunity to be present throughout the entire Disciplinary Conference or Disciplinary Hearing;
- will be entitled to the same opportunity to have others present during a Disciplinary Conference or an Disciplinary Hearing as is provided to the accused student; and
- shall be informed of the outcome of the Disciplinary Conference or Disciplinary Hearing conducted in connection with his or her complaint.

During the Disciplinary Conference or Disciplinary Hearing, testimony regarding any party's past sexual conduct will ordinarily not be permitted, except in those instances where there was a prior sexual relationship between the parties and the testimony may be relevant to the issue of consent. If the accused student is found responsible for the conduct alleged in the complaint, his or her past sexual misconduct, if any, may be considered in determining the appropriate sanction.

**For more information about resources, please visit [csap.nd.edu](http://csap.nd.edu).**

# **Important Information Regarding Sexual Assault & Sexual Misconduct**



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