

# **Complaint Resolution Procedure:**

**Sex and Gender Harassment/Discrimination for Students**

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## I. Complaint and Resolution Procedure

This document outlines the complaint and resolution procedures by St. Norbert College (the “college”) in response to allegations of sex and gender harassment/discrimination (“Sexual Misconduct”) involving one or more college students. Please note that, for incidents in which the respondent is an employee, different resolution procedures apply.

## II. Purpose of Procedure

The purpose of this procedure is to provide clear guidance to complainants, respondents, Investigators, Process Advisors, Hearing Officers, Appeal Officers, and others who may be involved in the process of reporting, investigating, advising, or adjudicating student complaints of sexual misconduct.

## III. Scope of Procedure

This procedure applies to all complaints involving college students, brought under the policies in the [Sex and Gender Harassment/Discrimination Policy](#).

This procedure specifically relates to procedures when a student is the respondent. If the allegations of misconduct are alleged against a faculty/staff member of the college, the report will be shared with the Title IX Deputy Coordinator for Employees and processed under the complaint resolution procedure for employees.

## IV. Involved Parties

For the purpose of providing clarity and promoting equity for both parties of a sexual misconduct complaint, the following terms are utilized throughout this document:

**Complainant** is the individual who is an alleged victim or survivor of Sexual Misconduct as captured within the college’s policy.

**Respondent** is the individual who has been reported to be the alleged perpetrator of conduct that may constitute Sexual Misconduct under the college’s policy.

## V. Grievance Process Team

Different individuals – some of whom are college employees - fulfill roles in the complaint and resolution procedures outlined in this document. All individuals involved are free of bias and professionally trained to complete their roles. If a student is concerned about any potential bias that may impact the processing/outcome of their hearing, they should consult with the Title IX Coordinator immediately.

- A. **Title IX Coordinator** - oversees the [Sex and Gender Harassment/Discrimination Policy](#), processes to investigate concerns of Sexual Misconduct and Title IX, alternative resolution process, and all related compliance efforts for the college.
- B. **Title IX Deputy Coordinator** – supports the Title IX Coordinator in oversight of compliance efforts for assigned campus consistency.
- C. **Hearing Facilitator (Director of Student Judicial Affairs)** - supports facilitation of hearing processes and relevant assigned outcomes.
- D. **Investigator** - responsible for handling investigations into allegations of sexual misconduct, including interviewing the complainant, respondent, and witnesses.
- E. **Campus Safety Officer** - campus staff who may take a report for allegations of sexual misconduct, connect a student to community resources after hours, and/or support investigative activities.
- F. **Process Advisors** - volunteer faculty or staff at SNC who have been trained to be a resource to the complainant or respondent throughout the complaint resolution process, or individuals external to the institution, such as a lawyer, selected by a complainant or respondent to serve as their resource. Students are required to have a process advisor present during the hearing, or will have one appointed by the college. Process advisors are responsible for live cross examination during a hearing.
- G. **Support Person** – an identified individual, by the complainant or respondent, who can provide personal support to the student during investigations, meetings, or the hearing; this individual may be an identified Advocate. A support person and a Process Advisor are separate roles.
- H. **Hearing/Appeals Officer** – individuals who have training specific to facilitating judicial or appellate hearings for allegations of sex and gender discrimination/harassment. These individuals are coordinated through the Office of Title IX and Compliance, and may be individuals internal or external to the SNC community.
- I. **Translators** - available upon request, and provide services to support those whose primary language is not English.

## VI. Notice of Complaint, Investigation and Allegations

Prior to an investigation beginning, both the complainant and respondent will receive a formal letter, called the Notice of Complaint, Investigation and Allegations (NOIA), to document the activation of investigation processes under

the [Sex and Gender Harassment/Discrimination Policy](#). This notice will come from the Title IX Coordinator.

Full information on the NOIA is included in the [Sex and Gender Harassment/Discrimination Policy](#).

## VII. Supportive Measures

Supportive measures offered to both the complainant and respondent ([Request for Supportive Measures Form](#)) include accommodations and adjustments to course assignments, class attendance, on campus work responsibilities, and alterations to housing assignments. Specific accommodations and adjustments may necessitate the input of faculty, work supervisor, Residential Education and Housing office, or other campus departments to identify acceptable adjustments or options.

Full information on supportive measures is included in the [Sex and Gender Harassment/Discrimination Policy](#).

## VIII. Alternative Resolution

The college, rooted in the Catholic, Norbertine, and liberal arts traditions, is committed to the practice of subsidiarity. As such, every reasonable effort should be made to constructively resolve all conflicts between students, faculty, and staff. Alternative means of resolution may be used in lieu of these formal investigation and determination procedures.

Alternative resolution is not an option when the Title IX Coordinator and/or Title IX Deputy Coordinator determines a situation is not eligible for alternative resolution. Alternative resolution may be offered at different points in resolving a formal complaint and at the discretion of the Coordinator/Deputy Coordinator, such as with the issuance of an NOIA (Notice of Complaint, Investigation and Allegations) or after an investigation has been completed.

The following standards apply to any alternative resolution method that is utilized:

- a. The alternative process can only be used with both parties' voluntary cooperation after receiving a full disclosure of the allegations and their options for formal resolution, and with appropriate involvement by the institution (e.g., the Title IX Coordinator);
- b. The complainant will not be required to "work out" the problem directly with the respondent;
- c. Either party may terminate the alternative process at any time and elevate the complaint to the formal investigation/hearing procedures; and
- d. With the agreement of the parties involved and the college, a complaint may be alternatively resolved at any stage of these procedures.

Prior to commencing the alternative resolution process, the Title IX Coordinator will transmit a written notice to the parties that:

- Describes the parameters and requirements of the alternative resolution process to be utilized;
- Identifies the individual responsible for facilitating the alternative resolution (who may be the Title IX Coordinator, another college official, or a suitable third-party);
- Explains the effect of participating in alternative resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the formal complaint; and
- Explains any other consequence resulting from participation in the alternative resolution process, including a description of records that will be generated, maintained, and/or shared.

If an alternative resolution is reached, it will be documented in writing and signed by both parties and the Title IX Coordinator. Because alternative resolution is a voluntary and mutually agreeable process, a resolution reached via these alternative means cannot be appealed. Alternative resolution is not allowed in cases of employee Sexual Harassment of a student or in the absence of a formal complaint. The college cannot require people to consent to alternative resolution as a condition of their employment or enrollment with the college.

Additional information on options for alternative resolution is included in the [Sex and Gender Harassment/Discrimination Policy](#).

## **IX. Grievance Process**

The college provides a grievance process for instances of sex and gender harassment/discrimination which includes an investigation, live hearing, and appeals process. Specific information, outlining details for these different steps, are provided in the following pages of this procedural document. Equitable treatment for the complainant and respondent will be provided at all times.

The grievance process has no firm deadline for completion, and the length of the process varies depending on the complexity of each case. The college must be reasonably prompt, advise both the complainant and respondent about anticipated timelines for particular phases of the process, and notify both parties of any extensions to the timeline and reasons for the extension.

The grievance process includes a presumption that the respondent did not violate policy unless and until a determination is made, after a hearing, that the respondent is responsible for a violation.

All grievance process meetings, including investigatory meetings and the hearing, will be recorded (either through an audio recording or detailed note keeping). All participants will agree that they understand that the meeting/hearing is being recorded.

Facilitators of the grievance process, at all levels, are conflict and bias-free.

## **X. Investigation**

The investigation will entail interviews of the complainant, respondent, and any relevant witnesses, and the collection of all available evidence. The investigative process is meant to be equitable to all parties, and to be completed with a timely process after the formal complaint is submitted. The complainant and respondent will have the opportunity to review all interviews, submit comments, provide additional information, and identify witnesses they want interviewed.

The investigation process will seek to uncover both inculpatory and exculpatory evidence, therefore seeking all relevant evidence for presentation to the decision maker at the hearing. Upon completion of the investigation, a preliminary investigation case report and all evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint will be shared with each party and their advisor to review and provide written clarifications or responses. The complainant and respondent will have ten (10) business days to respond to the initial drafted report. Any noted suggestions will be added to the investigation report along with all other relevant documentation, and forwarded for documentation in the live hearing.

While the complainant may have initially opted for a full investigation process, the complainant can change their mind on participation in any of these options at any time. In situations where the reported incident is such that a threat to the college community exists, measures may still be taken to mitigate the threat or continue to investigate the incident.

### **A. Investigator Response**

Two trained investigators – one lead and one supporting – will be assigned to the case if the complainant or Title IX Coordinator decides to file a formal complaint under these procedures. The investigators have specialized training in sexual misconduct investigations, trauma responsive practices, bias-free investigations, and other best practice investigative techniques.

### **B. Content of Investigation**

During the investigation, the complainant will have the opportunity to describe their allegations and present supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and present supporting witnesses

or other evidence. Both parties will be asked to provide the Investigators with relevant documents and other evidence and to describe the effect of the alleged incident on their opportunity to benefit from the college's programs or activities.

Formal rules of evidence do not apply in any of the formal resolution processes specified below. Nonetheless, evidence that is irrelevant may be excluded from consideration. A complainant's sexual history will be excluded from consideration unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The investigators will review the statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint. Throughout the investigation, parties will be granted an opportunity to review and comment, in writing, any statements or evidence provided by the other party or any information independently developed by the Investigating Officer.

Parties will have ten (10) business days to review and respond to a drafted investigation report. The investigators will then finalize the report, in preparation for the hearing.

All parties and witnesses involved in the investigation are asked to cooperate and provide complete and truthful information.

## **XI. Respondent Takes Leave, Fails To Cooperate**

In the event that respondent decides to take an informal or formal leave from the college prior to, during, or preceding the hearings and before an outcome is delivered, the following may be put into effect:

- Investigation will continue with the opportunity granted for the respondent to participate, with a notation made on the student's transcript, indicating that the hearing is in process, or indicating any findings of responsibility (as founded);
- Respondent may not be able to re-enroll without the authorization of the Title IX Coordinator; and/or
- Formal complaint may be dismissed.



## **XII. Process Advisors**

St. Norbert College provides access to an individual (typically, a staff or faculty member) trained as a process advisor for both the complainant and respondent. The advisor will be available to accompany each student during all investigative meetings, hearings, and other meetings related to the complaint. Neither party is obligated to work with a process advisor provided by the college. Either party can elect to have an individual of their choosing serve as a process advisor.

The process advisor may assist the complainant or the respondent in preparing for the hearing and in navigating the related processes, and will conduct cross examination on all parties who make statements during the hearing.

Process advisors provided by the college have no legal training or knowledge and are not attorneys; they do not advocate or speak on behalf of the parties. At the request of a party, a process advisor will be made available within two (2) business days after an initial request for a process advisor is initiated by the complainant or respondent.

If a complainant or respondent does not provide their own advisor at a hearing, the college will provide a trained advisor. Students cannot participate in the hearing without an advisor present.

## **XIII. Hearing Officers**

Because of the unique and sensitive nature of these matters, these cases are heard by a specially trained Hearing Officer. The Hearing Officer may be an SNC staff/faculty or an externally hired expert, and is trained and provided by the Title IX Coordinator. Training for Hearing Officers includes: knowledge of Title IX and other sexual/gender based discrimination and harassment, the college policy and procedures, trauma-responsive practices, determining relevance of evidence presented, and other relevant topics.

The complainant and respondent will each have the opportunity to challenge a Hearing Officer on the basis of any perceived or actual bias. The Hearing Facilitator and Title IX Coordinator will discuss with the parties their reasons for opposition to a specific Hearing Officer if bias concerns are raised, and will make a determination on the perceived bias.

The college is committed to ensuring that its resolution processes are free from actual or perceived bias or conflicts of interest that would materially impact the outcome.

## **XIV. Support Person**

A complainant or respondent is permitted to have one (1) individual serve in a process advisor capacity, internal or external to the college, and one (1) support

person, internal or external to the college. These individuals can be present at all grievance process procedures, including at the live hearing. The support person can be an advocate, friend, family member, or other individual of the complainant or respondent's choosing. Support persons may not participate in any way.

## **XV. The Hearing**

When the complainant requests to file a formal complaint, or when the Title IX Coordinator files one on behalf of the institution, the Title IX Coordinator and Director of Student Judicial Affairs/Hearing Facilitator will coordinate the hearing for alleged violations of the [Sex and Gender Harassment/Discrimination Policy](#).

Once the investigation is complete and the investigative report is finalized, the college will schedule a hearing, giving each party at least ten (10) business days' notice of the hearing being scheduled.

College representatives will meet in a pre-hearing conference with the complainant and respondent to discuss their rights in the hearing, share about what will take place, and answer any questions that participants may need answered. This meeting is called a pre-hearing conference, and will take place at least five (5) business days prior to the hearing. Parties may bring their support person and/or process advisor to this meeting.

### **A. Party Opening Statements**

The complainant and the respondent may submit opening statements for the hearing, which they will read at the start of the hearing.

Statements must not exceed three (3) typed pages of 1500 words if single-spaced. The complainant and respondent can decide what information should be included within their statements, but may choose to discuss the impact of the alleged incident or how involvement in this case has impacted them individually.

All documents must be submitted at least three (3) business days prior to the hearing; instructions for submitting will be provided during the pre-hearing conference.

### **B. Subjection to Questioning**

Parties are encouraged to participate in the hearing, but are not required to do so. Witnesses will also be invited to participate in live cross examination.

Statements and other evidence provided during the investigation, along with statements during the hearing and cross-examination, may be considered for decision making by the Hearing Officer.

The Hearing Officer will not draw an inference about the determination regarding responsibility based solely on a party or a witness's absence from the live hearing and/or refusal to submit to questioning by the parties' advisors.

### **C. Hearing Format**

At the hearing, the complainant and the respondent will be given space in separate areas to convene and prepare for the hearing before being called into the hearing room. Both parties will be able to see the Hearing Officer and hear/see one another. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

An audio record will be kept of the proceedings and made available to each party for their audio review, at their written request. A copy of the audio recording is not available for dissemination or duplication, per college policy.

The hearing may also take place fully virtually, if necessary, to allow for a timely response to the allegations.

An outline of the hearing format will be provided to parties at the pre-hearing meeting, but will generally utilize the following format:

- Opening instructions and introductions;
- Review of the Rights of the parties;
- Opening statements by Complainant and Respondent;
- Questioning of the Complainant:
  - By Hearing Officer;
  - By Process Advisor for Complainant
  - By Process Advisor for Respondent;
- Questioning of the Respondent:
  - By Hearing Officer;
  - By Process Advisor for Respondent;
  - By Process Advisor for Complainant;
- Questioning of Witnesses (Including Investigator):
  - By Hearing Officer;
  - By Process Advisor for Complainant and Respondent;
- Closing statements by Complainant and Respondent
- Closing instructions
- Deliberation and Decision-Making

Following conclusion of the decision-making process, the Hearing Officer, with administrative support from the Title IX Coordinator and/or Director of Student Judicial Affairs (as needed to enter into Maxient, the campus data management system), will prepare a written decision that includes the following information:

- Identification of the allegations potentially constituting Sexual Misconduct made in the formal complaint;

- A description of the procedural steps taken by the college upon receipt of the formal complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location, and people who were present at or presented testimony at the hearing.
- Findings of fact that support the determination;
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Sexual Misconduct, including a determination regarding responsibility for each separate potential incident based on a standard of preponderance of evidence;
- Any sanctions to be imposed;
- Any ongoing supportive measures or other remedies as determined by the Title IX Coordinator; and
- A description of the process and grounds for appeal.

The Title IX Coordinator and/or Director of Student Judicial Affairs will be responsible for sharing the findings of the Hearing Officer concurrently, through SNC email, with the complainant and respondent. Parties will be notified within five (5) business days about the outcome of the hearing.

It is expected that everyone involved in the hearing process will follow all standards and expectations established for participants, as outlined in pre-hearing meetings.

## **XVI. Sanctions and Remedies**

If a complaint of Sexual Misconduct is found to be substantiated, the college will take appropriate corrective, disciplinary, and remedial action to stop the inappropriate conduct, address its effects, and prevent its recurrence. Students, faculty, and employees found to be in violation of this policy will be subject to discipline up to and including written reprimand, suspension, probation, demotion, termination, or expulsion. Affiliates and program participants may be removed from college programs and/or prevented from returning to campus.

The college will impose appropriate sanctions on a case-by-case basis, depending on the severity and/or pervasiveness of any violations. In determining appropriate sanctions, the Hearing Officer may examine and consider a number of factors, including, but not limited, to: 1) level of ongoing risk or harm to the community; 2) the nature and seriousness of the violation; 3) use of drugs or alcohol; 4) motivation underlying the respondent's behaviors; and 5) the Respondent's record of past misconduct, including prior violations of the same or similar type.

Sanctions will not be implemented until after the appeal deadline has passed or, if an appeal is filed, until after the appeal has concluded. However, the college will keep supportive measures in place until the decision is final and the Title IX Coordinator has notified parties that the supportive measures are no longer in place.

The following includes a list of the possible sanctions that may be imposed upon any respondent found to have violated the policy. The college has the authority to tailor sanctions, such as both punitive outcomes and educational outcomes, to address specific situations.

Possible sanctions include:

- a. Disciplinary Probation
- b. Suspension
- c. Expulsion
- d. Postponement of Graduation
- e. Withholding Proof of Degree
- f. Degree Recission
- g. Transcript Notation
- h. Prohibited Admission or Readmission
- i. Organizational Sanctions
- j. Counseling Referral
- k. Parental Notification
- l. Educational Outcomes, including training, discussion, and reflective opportunities
- m. Other Actions Designed to Avoid and Prevent Future Violations, including:
  - i. Limitations on residential assignments, such as removal or limited access to specific residence halls
  - ii. Limitations on co-curricular engagement, such as removal from a leadership position, athletics team, or on-campus employment
  - iii. Ongoing no contact order

In the event that a respondent is suspended or expelled because of a finding of responsibility under this policy, a notation will appear on their transcript. A hold may be placed on a student's account until completion of necessary sanctions.

If a finding of responsibility occurs through any of these complaint resolution procedures, the complainant is entitled to ongoing remedies designed to preserve or restore equal access to the college's education program or activity. The range of remedies available to a complainant include but are not limited to the [supportive measures](#) listed in the policy, but remedies are not required to be non-disciplinary or non-punitive and may burden a respondent.

## **XVII. The Appeals Process**

The complainant and the respondent have the right to file an appeal after a final outcome is shared with the parties. The appeal must be in writing and must be submitted within five (5) business days of the notification of the hearing outcome. Appeals must be submitted to the Title IX Coordinator through the form provided through the Office of Title IX and Compliance.

The appeal is not designed to provide a new hearing on the case facts already presented, but to review the specific grounds described below. Appeals that do not

recite sufficient grounds or comply with the requirements will be rejected without a hearing.

The Appeals Officer will determine if the appeal meets the specific criteria, and notify parties, within five (5) business days after receiving the appeal request.

## **XVIII. Grounds for an Appeal**

The complainant or respondent may appeal the determination of a complaint on the following grounds:

- A. Procedural Error:** there was a procedural error significant enough to call the outcome into question;
- B. New Evidence:** new evidence became available or discovered which would likely have impacted the outcome had the evidence been known and reviewed during the investigation or hearing. The party filing the appeal must present or describe the new evidence in writing and explain why the new evidence was unavailable prior to the investigation and/or hearing; or
- C. Substantiated Bias:** the party filing the appeal must demonstrate facts that show prejudice, bias, or conflict of interest on the part of the Investigating Officer or a member of a hearing panel.

If the request for appeal is granted, both parties would be invited to be present at the appeal review hearing and will have the opportunity to share an appeals statement, stating their support or disagreement with the appeal.

The Title IX Coordinator and/or Director of Student Judicial Affairs/Hearing Facilitator will facilitate any appeal review hearing necessary. The Hearing Officer of the initial hearing may be invited to the appeal review hearing to explain the outcome of the initial hearing. Any other participants of the previous hearing may be invited if necessary, based on the reason for appeal.

The appeals officer will make a determination on the final outcome within five (5) business days of an appeal review hearing.

After the appeals review hearing, the Title IX Coordinator and/or Director of Student Judicial Affairs/Hearing Facilitator will be notified of the outcome and will be responsible for sharing the findings of the appeals officer concurrently, through SNC email, with the complainant and respondent. Parties will be informed of the decision of the appeals officer within five (5) business days.

The Title IX Coordinator will be copied on all correspondence related to the hearing and outcomes.

## **XIX. Transcript Notations**

The official St. Norbert College transcript will include a permanent notation of disciplinary suspension or expulsion status for any student sanctioned under the academic honor code or the student standards of conduct, as noted in *The Citizen*. The Registrar's Office can answer questions about transcript notation.

## **XX. Request for Postponement**

Postponements of deadlines or hearings shall not be granted except when extenuating circumstances exist, as defined in this section. Extenuating circumstances or situations, which preclude the complainant or respondent from meeting the deadline or attending the hearing, are very limited. Examples of extenuating circumstances include either party suffering from an incapacitating medical condition or emergency, supported by a physician's note, or a death in the party's immediate family.

Unavailability of process advisors or a support person is not a reason for postponement. The complainant and respondent are expected to modify their personal calendars to meet the deadlines and hearing dates.

Some instances of Sexual Misconduct may also constitute criminal conduct. In the case where alleged criminal conduct has also been reported to law enforcement, the college may temporarily delay its investigation of the complaint where necessary to avoid interfering with law enforcement. However, the pendency of a criminal investigation does not serve as a substitute for these procedures and the investigation and resolution process will commence promptly once interference is no longer a concern.

In addition, because the standard of proof that applies in these procedures (i.e., preponderance of the evidence) is different than the standard necessary for a criminal conviction (i.e., proof beyond a reasonable doubt), the college's determination will not be held in abeyance due to the pendency of a criminal trial.

## **XXI. Participation**

All members of the college community are encouraged to fully cooperate with any investigation and resolution under these Complaint Resolution Procedures.

## **XXII. Deadlines**

All deadlines identified in this document are general target deadlines. The college reserves the right to use time beyond these limits in matters of extenuating circumstances.