

Title IX Confidentiality Protocol 2015

Options for Reporting and Confidentially Disclosing Sexual Misconduct

Mount Vernon Nazarene University (MVNU) encourages victims of sexual misconduct to report incidents of such misconduct to designated University employees, so that victims receive the support they need, and so that the University can respond appropriately to the misconduct. Different employees on campus have different abilities to maintain a victim's confidentiality, depending upon their roles and responsibilities.

- Some employees are required to maintain nearly complete confidentiality; talking to them is sometimes called a "privileged communication."
- Other employees may talk to a victim in confidence, and generally only report to the University that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger an investigation into an incident against the victim's wishes.
- Thirdly, some employees are required to report all the details of an incident (including the identities of the victim and alleged perpetrator) to the Title IX Coordinator. A report to these employees (deemed "responsible employees") constitutes a report to the University, and generally obligates the University to investigate the incident and to take appropriate steps to address the situation.

This protocol informs students of the reporting and confidential disclosure options available under Title IX rights (i.e., freedom from gender-based discrimination), so they can make informed decisions about whom to contact should they experience sexual misconduct. The University encourages victims to talk to someone identified in one or more of these groups.

Confidentiality Options

No Disclosure – Privileged and Confidential Communication

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the University community, and including those who act in that role under the supervision of a licensed counselor, are not required to report any information about an incident to the Title IX Coordinator without a victim's permission. By virtue of their responsibilities, the following provide privileged and confidential communication:

- Eric Browning (Eric.Browning@mvnu.edu or 740-397-9000, ext. 4611)
- Carolyn Swallow (Carolyn.Swallow@mvnu.edu or 740-397-9000, ext. 4613)
- Candace Krabill (Candace.Krabill@mvnu.edu or 740-397-9000, ext. 4615)
- Kendra Lambert (Kendra.Lambert@mvnu.edu or 740-307-9000, ext. 4137)

Limited Disclosure

Individuals who work or volunteer in Student Health Services, are a member of the University Wellness Committee or serve as resident assistants for the University (i.e., non-professional counselors or advocates) can generally talk to a victim without revealing any personally identifying information about an incident to the University. A victim can seek assistance and support from these individuals without triggering a University investigation that could reveal the victim's identity or that the victim has disclosed the incident.

While maintaining a victim's confidentiality, these individuals should report the nature, date, time, and general location of a sexual misconduct incident to the Title IX Coordinator. This limited report, which includes no information that would directly or indirectly identify the victim, informs the coordinator of the general extent and nature of sexual misconduct on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, the non-professional counselors or advocates will consult with the victim to ensure that no personally identifying details are shared with the Title IX Coordinator.

The following constitutes the slate of non-professional counselors and advocates:

- Denise Smith (Denise.Smith@mvnu.edu or 740-397-9000, ext. 4632)
- Mary Lou Sinzinger (MaryLou.Sinzinger@mvnu.edu or 740-307-9000, ext. 4632)
- Brad Whitaker (bwhitake@mvnu.edu or 740-397-9000, ext. 4281)
- John Ballenger (jballen1@mvnu.edu or 740-397-9000, ext. 4612)
- Student Mentors

A victim who speaks to a professional or non-professional counselor or advocate must understand that, if the victim wants to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.

Even so, these counselors and advocates will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. These counselors and advocates will provide the victim with assistance, if the victim indicates such.

A victim who at first requests confidentiality may later decide to file a complaint with the University or report the incident to local law enforcement, and thus have the incident fully investigated.

NOTE. While these professional and non-professional counselors and advocates may maintain a victim's confidentiality to the University, they may have reporting or other obligations under city or state law, including, but not limited to:

- Mandatory reporting to law enforcement agencies in case of minors;
- Imminent harm to self or others; and
- Requirement to testify, if subpoenaed, in a criminal case.

ALSO NOTE: If the University determines that the alleged perpetrator(s) pose(s) a serious and immediate threat to the University community, University officials may issue a timely warning to the community. Any such warning should not include any information that identifies the victim. For this warning purpose, the University Campus Safety authorities include:

- Campus Safety officers;
- Vice President for Student Life;
- President; or
- Emergency Response Team members.

Required Disclosure by “Responsible Employees”

A “responsible employee” is a University employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty.

When a victim tells a responsible employee about an incident of sexual violence, the victim has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee must report to the Title IX Coordinator, as soon as practical, all relevant details about the alleged sexual violence shared by the victim and that the University will need to determine what happened, including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the University’s response to the report. A responsible employee should not share information with law enforcement officials without the victim’s consent or unless the victim has also reported the incident to a law enforcement agency.

The following employees (or categories of employees) are identified as University’s responsible employees by their roles and responsibilities:

- Faculty (including adjunct)
- Student Life personnel
 - Dean of Students
 - Director of Intercultural Life
 - Resident Directors/Resident Assistants
- Director of Faculty & Student Services, GPS
- Athletic Director
- Campus Safety representative
- Coaches (contract and volunteer)
- Director of Human Resources
- Assistant Director of Human Resources
- Director of Admission
- President
- Vice presidents
- Trip advisors (supervisors)
- Assistant Director of Facilities Services
- Director of Housekeeping

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee’s reporting obligations and, if the victim wants to maintain confidentiality, direct the victim to confidential resources.

If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should inform the victim that the University will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title

IX Coordinator, the responsible employee will also inform the Coordinator of the victim's request for confidentiality.

Responsible employees will not pressure a victim to request confidentiality, but will honor and support the victim's wishes, including for the University to investigate fully an incident. By the same token, responsible employees will not pressure a victim to make a full report if the victim is not ready to.

Weighing the Request for Confidentiality

If a victim discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University must weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all students, including the victim.

If the University honors the request for confidentiality, a victim must understand that the University's ability to investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when the University may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students.

The University has designated the following individuals to evaluate requests for confidentiality once a responsible employee is on notice of alleged sexual misconduct:

- Title IX Coordinator
- Director of Human Resources (for requests involving a University employee)
- Chaplain/Administrator for Student Life (for requests involving a traditional student)
- Vice President for Graduate and Professional Studies and Enrollment (for requests involving a non-traditional student)

When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, those evaluating the request will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual misconduct, such as:
 - Whether there have been other sexual misconduct complaints about the same alleged perpetrator;
 - Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of misconduct;
 - Whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
 - Whether the sexual violence was committed by multiple perpetrators;
- Whether the sexual misconduct was perpetrated with a weapon;
- Whether the victim is a minor;
- Whether the University possesses other means to obtain relevant evidence of the misconduct incident (e.g., security cameras or personnel, physical evidence, etc.);
- Whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the University will likely respect the victim's request for confidentiality.

University Response to a Confidential Request

If the University determines that it cannot maintain a victim's confidentiality, the University will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response.

The University will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or University employees, will not be tolerated. The University will:

- Assist the victim in accessing available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance on and off campus (see Options for Assistance Following an Incident of Sexual Misconduct);
- Provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for course assignments; and
- Inform the victim of the right to report a crime to Campus Safety officials or local law enforcement, and assist the victim, if requested.

The University will not require a victim to participate in any investigation or disciplinary proceeding.

Because the University is under a continuing obligation to address the issue of sexual misconduct campus-wide, reports of misconduct (including non-identifying reports) will also prompt the University to consider broader remedial action; these may include increased monitoring, supervision or security at locations where the reported sexual violence occurred, increasing education and prevention efforts to targeted populations; conducting climate assessments or victimization surveys, and revisiting its policies and practices.

If the University determines that it can respect a victim's request for confidentiality, the University will also take immediate action as necessary to protect and assist the victim.

- **Approved (October 2015). Drafted protocol to meet requirements of the final rule (found at 34 CFR Part 668) implementing Campus Sexual Violence Elimination Act (Campus SaVE Act) of 2013 and to follow the model protocol template provided by the White House Task Force to Protect Students from Sexual Assault. Protocol approved by the Title IX Committee on Tuesday, September 15, 2015. The Senior Leadership Team reviewed the protocol on Tuesday, October 6, 2015.**