

Saint Mary's College
Student Policy on
Sexual Misconduct, Relationship Violence and Stalking

OVERVIEW AND PURPOSE

Saint Mary's College has a zero tolerance policy for sexual misconduct, relationship violence and stalking. Saint Mary's College has developed the Sexual Misconduct, Relationship Violence and Stalking Policy that reaffirms its commitment to maintain a campus environment emphasizing the dignity and worth of all members of the College community. Violence and abuse threaten the survivor's safety, well-being, and educational experience and affect every aspect of his/her life. Furthermore, they are harmful to both the learning environment and the sense of community the College fosters among students, faculty, staff and administrators. Saint Mary's College will not tolerate sexual misconduct, relationship violence and stalking.

In an ongoing effort to prevent sexual misconduct, relationship violence and stalking on the Saint Mary's College campus, the College provides education and prevention programs for the Saint Mary's community. The College is committed to fostering a community that promotes prompt reporting of violations of this policy as well as timely and fair adjudication of reported cases.

In addition, Saint Mary's provides support and advocacy services to survivors of violence and abuse. This policy applies to all Saint Mary's College students.

As a recipient of Federal funds, the College is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. ("Title IX")¹, which prohibits discrimination on the basis of sex in education programs or activities. Sexual misconduct, as defined in this policy, is a form of sex discrimination prohibited by Title IX.

DEFINITIONS

Consent

- Individuals choosing to engage in sexual activity of any type with each other, **must provide clear consent.**
- Consent is a clear "yes" to the sexual activity in question. Under this policy, "no" always means "no".
- Consent is informed, knowing and voluntary.
- Consent is active, not passive.
- Silence, in and of itself, cannot be interpreted as consent.
- 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.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Previous relationships or previous consent does not imply consent to future sexual activity.
- In order to give effective consent, an individual must be of legal age.

Coercion

- Consent cannot be procured by the use of physical force, compelling threats, intimidating behavior, or coercion.
- Coercion is unreasonable pressure for sexual activity.
- Coercive behavior differs from seductive behavior based on the type of pressure an individual uses to get consent from another. When an individual makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- Consent cannot be given in the presence of physical force, violence, threats, or intimidation.
- Coercing someone into sexual activity violates this policy just as much as physically forcing someone into sex.
- A person who is the object of sexual aggression is not required to physically or otherwise resist the aggressor.

Incapacitation

- Incapacitation is a state where an individual cannot make a rational, reasonable decision because he/she lacks the ability to understand the who, what, when, where, why, or how of his/her sexual interaction.
- Attempts to have sexual activity with someone you know to be, or reasonably should know to be, mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout) violates this policy.
- Sexual activity with someone whose incapacitation results from, but is not limited to, mental disability, sleep, or involuntary physical restraint is also prohibited.

SEXUAL MISCONDUCT

Sexual misconduct is a broad term outlined below. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can occur between people of the same or different sex.

This Policy identifies four forms of sexual misconduct.

1. Sexual Harassment

Unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive so that it, reasonably interferes with, denies or limits someone's ability to participate in or benefit from the College's educational program and/or activities, and is, based on power differentials (*quid pro quo*), the creation of a hostile environment and/or retaliation.

Examples of sexual harassment include, but are not limited to, the following:

- An attempt to coerce an unwilling person into a sexual or romantic relationship;
- Repeatedly subjecting a person to egregious, unwelcome sexual attention;
- Punishing a refusal to comply with a sexual based request;
- Providing a benefit on submitting to sexual advances, sexual violence, intimate partner violence, or stalking;
and
- Gender-based bullying.

If a student has been found responsible for violating this policy she may be suspended from the College for no less than one year.

2. Non-consensual Sexual Intercourse

Non-consensual sexual intercourse is (anal, oral or vaginal) any sexual intercourse, however slight, with any object, by a person of any sex upon another person of any sex, without consent and/or by force (as defined above).

Examples of sexual intercourse include, but are not limited to, the following:

- Vaginal penetration by a penis, object, tongue, or finger; anal penetration by penis, object, tongue or finger; or oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.
- Attempts to commit non-consensual sexual intercourse are also prohibited by this policy.

If a student has been found responsible for violating this policy she will be dismissed or expelled from the College.

3. Non-Consensual Sexual Contact

Non-consensual sexual contact is any intentional sexual touching, however slight, using any body part or object, by a person of any sex upon a person of any sex, without consent and/or by force (as defined above).

Examples of sexual contact include, but is not limited to, the following:

- Intentional contact with the breasts, buttocks, groin or genitals with an object, or touching another individual with any of these body parts or an object; or making another individual touch you or themselves with or on any of these body parts or an object; and/or
- Any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth, or other orifice.
- Attempts to commit non-consensual sexual contact are also prohibited by this policy.

If a student has been found responsible for violating this policy she may be suspended or expelled from the College.

4. Sexual Exploitation

Occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit or to benefit anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses.

Examples of sexual exploitation include, but are not limited to, the following:

- Invasion of sexual privacy;
- Prostituting another individual;
- Electronically recording, photographing, or transmitting intimate or sexual utterances, sounds, images, or information of another person;
- Going beyond the boundaries of consent;
- Engaging in voyeurism;
- Knowingly transmitting a sexually transmitted infection (STI) or HIV to another individual;
- Exposing one's genitals in non-consensual circumstances;
- Inducing another to expose their genitals; and
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

If a student has been found responsible for violating this policy, she may be put on probation, suspended or expelled from the College.

RELATIONSHIP VIOLENCE

Relationship violence refers to a pattern of manipulative behavior aimed to gain power or control over an intimate or romantic partner. Forms of relationship violence include:

- Emotional abuse includes words and/or actions which manipulate or hurt an individual emotionally and psychologically.
- Physical abuse refers to actions that threaten or harm an intimate or romantic partner's physical safety.
- Resource abuse includes words and/or actions which manipulate the financial or legal situation of an intimate or romantic partner.
- Sexual abuse (see sexual misconduct).
- Spiritual abuse refers to the utilization of a partner's spiritual or religious beliefs to manipulate and/or hurt a partner. It may also include forcing or preventing a partner to practice certain beliefs.
- Verbal abuse is the use of words or the withholding of conversation to manipulate and/or hurt a romantic or intimate partner.

Examples of relationship violence may include, but not be limited to, the following:

- Leaving his/her partner somewhere with no way to get home;
- Pulling hair or pinching skin as a form of punishment;
- Blocking a partner's exit when he/she tries to leave the room;
- Throwing, smashing, or breaking objects;
- Hitting, punching, grabbing, choking or pushing his/her partner;
- Telling his/her partner that he/she is crazy, ugly, stupid, etc.;
- Constantly calling or texting his/her partner when they are not together;
- Threatening to "out" the victim if in a same-sex relationship;
- Insisting on always knowing the location his/her partner;
- Refusing to acknowledge a problem that his/her partner feels is important;
- Persuading partner from doing something he/she wants to do;
- Insisting how his/her partner should dress;
- Calling someone a degrading names;
- Withholding sex and/or affection as a form of punishment;
- Forcing another faith practice on his/her partner;
- Mocking, ridiculing, or insulting his/her partner's religious or spiritual beliefs;
- Threatening to expose private or damaging information to his/her partner's faith community;
- Criticizing how his/her partner spends his/her money;
- Harassing his/her partner at his/her workplace; and /or
- Hiding or destroying visas or immigration paperwork

If a student has been found responsible for violating this policy she may be suspended from the College for no less than one semester.

STALKING

Stalking often occurs in the context of both relationship violence and sexual misconduct. Stalking often begins with phone calls, emails, social networking posts and/or letters and can sometimes escalate to violence.

This Policy identifies two types of stalking.

1. Stalking

- Stalking is a course of conduct directed at a specific individual that would cause a reasonable person to feel fear.
- A course of conduct refers to a pattern of behavior composed of two or more acts over a period of time, however short, that evidence a continuity of purpose.

2. Cyberstalking

- Cyberstalking is the use of the internet or other electronic means to stalk or harass an individual, a group of individuals, or an organization.
- It may include larger than usual volume of email or text communications, false accusations, monitoring, making threats, identity theft, intentional damage to data or equipment, or gathering information in order to harass.

Stalking behavior may include, but not be limited to, the following:

- Non-consensual communication including in-person communication, telephone calls, voice messages, text messages, email messages, social networking site postings, instant messages, postings of pictures or information on web sites, written letters, gifts, or any other communications that are undesired and/or puts another person in fear;
- Intentionally following, pursuing, waiting for, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by a person;
- Surveillance and other types of observation, whether by physical proximity or electronic means;
- Trespassing;
- Vandalism;
- Non-consensual touching;
- Direct physical and/or verbal threats against a person or a person's loved ones;
- Gathering of information about a person from family, friends, co-workers, and/or classmates;
- Manipulative and controlling behaviors such as threats to harm oneself, or threats to harm someone close to the survivor; and
- Defamation or slander against the survivor.

If a student has been found responsible for violating this policy, she may be placed on probation for no less than one year.

PROCEDURES

All complaints are taken seriously and no one making a good faith complaint of sexual misconduct, relationship violence or stalking, including third parties, will suffer retaliation or reprisal from the College. Complaints of sexual misconduct will be treated in confidence to the extent feasible, given the need to conduct a thorough investigation of all complaints and to take the necessary corrective action.

FILING A REPORT

A student who has experienced sexual misconduct is encouraged to promptly report the incident to Campus Security at 574-284-5000. The student will be informed of the various support services available through the College, including counseling, advocacy services and medical assistance. Students have the right of self-determination concerning their medical, psychological and legal support.

If a student decides to file a report, she may file an anonymous report on the Campus Security website(<http://www3.saintmarys.edu/campus-safety/anonymous-crime-reportwebsite>) or file an incident report on the Residence Life website (<https://publicdocs.maxient.com/incidentreport.php?>).

Following any report, the College, obligated by law, will investigate the report, take action to eliminate sexual misconduct, prevent its recurrence and address its effects. The College will advise the student of the Code of Student Conduct process and the reporting procedures. Incidents of sexual misconduct, relationship violence, and stalking may have serious legal consequences. If a civil or criminal suit is filed, the College reserves the right to conduct its own investigation and proceedings regardless of the status or resolution of any civil or criminal litigation. A conduct hearing will be conducted to take into account the totality of all information available, from all relevant sources.

COLLEGE RESPONSE MEASURES

Saint Mary's College reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct, relationship violence, and stalking in order to protect students' rights and personal safety. Such measures include, but are not limited to, modification of living arrangements, interim suspension from campus pending a hearing, and reporting to the local authorities. Not all forms of sexual misconduct, relationship violence, and stalking will be deemed to be equally serious offenses, and the College reserves the right to impose differing sanctions, ranging from verbal warning to suspension or expulsion, depending on the severity of the offense. The college will consider the concerns and rights of both the complainant and the respondent. The use of alcohol or other drugs will never function to excuse violations of this policy.

DISCLOSURE OF INFORMATION

The sexual history of the complainant is not considered relevant to the truth of the allegation; therefore, information regarding sexual history external to the relationship between the survivor and the alleged assailant will not be considered in discipline hearings.

CONFIDENTIALITY

The degree to which confidentiality can be protected depends upon the professional role of the person being consulted. An individual can speak confidentially with certain persons in legally protected roles. They include counselors and health care providers at Women's Health, pastoral ministers at Campus Ministry and the director of the Belles Against Violence Office. Health care providers, counselors, and/or social workers employed by the College in another role cannot serve as a confidential reporter for students. However, physicians, nurses, psychologists, psychiatrists and social workers must report crimes committed against a person under 18 years and vulnerable adults. They must also report if they have any knowledge that a person is a threat to themselves or others.

If a student reports such an incident to any other College employee (faculty, staff or administration), those individuals are obligated by federal legislation to report the incident to College Security or the vice president for student affairs. The vice president for student affairs or his/her designee must investigate all alleged violations of this policy.

SAFETY ACCOMMODATIONS

Saint Mary's College is committed to supporting survivors of sexual misconduct, relationship violence and stalking by providing necessary safety and support services. Students are entitled to reasonable accommodations. The Vice President of Student Affairs or his/her designee will initiate an immediate response which may include:

- No-contact order;
- Change in an academic schedule;
- Provision of alternative housing opportunities;
- The imposition of an interim suspension on the respondent; and
- The provision of resources for medical and/or psychological support.

CAMPUS NOTIFICATIONS

If the College determines that there is a serious ongoing or imminent threat to the College community, a notification will be sent to the entire community. If the survivor has directly reported the incident to College personnel, the student will be informed of the necessary campus notification.

RELATED DOCUMENTS

Code of Student Conduct

http://www3.saintmarys.edu/files/Code%20of%20Student%20Conduct_0.pdf

Discriminatory Harassment Policy

<http://www3.saintmarys.edu/files/Student%20Discriminatory%20Harassment%20Policy%202011.pdf>

Medical Amnesty and Good Samaritan Policy

http://www3.saintmarys.edu/files/Code%20of%20Student%20Conduct_0.pdf

Updated 4/25/12

Endorsed by the President's Cabinet 5/1/12