SECTION 4: SEXUAL VIOLENCE PROTOCOLS

4-4 REPORTING

A guiding principle in the reporting of domestic violence, dating violence, sexual assault, and stalking is to avoid possible re-victimizing of the complainant by forcing the individual into any plan of action. It is recommended that a person who has been assaulted consider each of the following:

1. Getting to a safe place.

2. Avoiding the destruction of evidence by bathing, douching, changing clothes, or cleaning up in any way. Preserve evidence in a paper bag for possible future action. Also, keep copies of emails, text messages, and voice messages.

3. Pursuing medical treatment. Post-assault medical care can be performed at a local emergency room. Altru Hospital has Sexual Assault Nurse Examiners (SANE*) on staff who can complete an exam for victims of sexual violence. Such an exam can help the victim receive an appropriate medical assessment and treatment, and can preserve evidence for possible future action.

   - This exam is voluntary. The decision to participate in all or part of the exam is made by the victim.

   - Altru providers file reimbursement forms for the survivor to cover the cost of the initial exam. See ND Century Code 12.1-34-07

   - *NOTE: What is a Sexual Assault Nurse Examiner (SANE)? Sexual Assault Nurse Examiners (SANE) are registered nurses who have completed specialized education and clinical preparation in the medical forensic care of the patient who has experienced sexual assault or abuse. The role of a SANE includes taking a history from the victim for the purpose of diagnosis and treatment of health care concerns; conducting a complete physical assessment; performing a thorough genital exam; collecting and documenting any forensic evidence; providing appropriate information and referrals; working with the victim advocate and other SART members to assure coordinated service; and providing courtroom testimony when needed. (Retrieved from http://www.ndcaws.org/what_we_do/sane/overview.html)

In North Dakota, Sexual Assault Nurse Examiners are available at:

   - Altru Hospital (altru.org) Emergency Dept 1600 Columbia Road Grand Forks, ND 58201 701-780-3442

   - Coalition Against Sexual Assault in North Dakota (ndcaws.org) 418 East Rosser Avenue #320 Bismarck, ND 58501 Office - 701-255-6240
4. Pursuing counseling services with appropriate agencies (e.g., University Counseling Center (UCC), CVIC, or private providers). Calling someone that is known and trusted, such as a friend or counselor, and discussing with this person the assault can help to evaluate the trauma to sort out next steps.

5. Making a police report. You can initiate a campus and/or criminal complaint. You may obtain assistance from campus authorities in this notification.

6. Making a report to a campus security authority (CSA), Title IX coordinator, deputy title IX coordinator, or other responsible employee under Title IX.

7. Making an anonymous report. An anonymous report to the police notifies them that an act of sexual violence has occurred but gives no names or identification.

**CONSIDER FILING A POLICE REPORT**

A report to the police can empower the complainant by exercising her/his legal rights and can aid in the protection of others. UND staff will encourage the complainant to file a police report and will assist the complainant in notifying the police if requested. The police will then advise the complainant of the legal process.

1. On-campus investigation is typically conducted by UPD. UPD has both an administrative role and a law enforcement role.

2. Off-campus cases are usually investigated by the Grand Forks Police or other law enforcement agency. When an investigation or legal proceedings occur off-campus, services are still available through the University.

There may be consequences to waiting to file a police report. Early reports may improve the preparation of a viable prosecution. Filing a police report immediately following the incident does not force the complainant to file charges and prosecute the respondent. However, it does aid in the preservation of valuable evidence if the complainant decides to pursue charges at a later date.

The States Attorney makes all decisions regarding the prosecution of alleged crimes reported to law enforcement.

**ALTERNATIVES TO IMMEDIATELY FILING A POLICE REPORT**

1. Report the crime at a later date.

2. Make a complaint to a CSA, Title IX coordinator, or deputy Title IX coordinator. Such a complaint may be used for actions which include, but are not limited to, on-campus administrative proceedings.

3. Make an anonymous report to the police (a report that notifies the police that a domestic violence, dating violence, sexual assault, or stalking incident has occurred, but gives no names or identification).
4. Contact a referral agency for help: the Housing Office, Women’s Center, Title IX coordinator, Human Resources, Dean of Students, and/or CVIC.
5. Make a complaint to the Title IX coordinator. Such a complaint may be used for actions which include, but are not limited to, on-campus administrative proceedings.
6. Contact the Title IX coordinator or a deputy Title IX coordinator for more information concerning the administrative process. Students may reference the campus judicial process in the Code. Faculty and staff may consult with Human Resources or the Title IX coordinator.

If the complainant does not choose to file a police report, s/he may still file an administrative complaint. The complainant will be referred to other agencies if appropriate. Specifically, a complainant may be encouraged to seek assistance at UCC, the Women’s Center and/or EAP. Support may also be sought from Student Health, the Title IX coordinator, and/or various community resources such as CVIC.

The complainant may decline to notify campus police and campus authorities.

On-Going Care

Students may seek assistance at any time from the UND Counseling Center at no additional charge. Referrals may be made upon request for relatives, partners, and friends of either the complainant or respondent to various support agencies.

Students may seek assistance from UND’s Student Health Services. Post-assault medical care includes testing and treating for sexually transmitted diseases (STDs). Costs for testing may be paid directly by the student or billed through insurance.

On-campus Investigation and Adjudication

UND’s response to domestic violence, dating violence, sexual assault, or stalking incidents may involve a number of individuals and agencies (e.g., UPD, Dean of Students Office Care Team, medical and counseling services personnel, and CVIC). In addition, for cases involving campus community members, there is a timely, campus-based investigation which is private and protects individual rights and process. The complainant is presented with options about how s/he may pursue the complaint.

Title IX complaints, including those reporting violence or concerned about UND’s compliance with Title IX or Department of Education policies, may be directed to the Title IX coordinator or the U.S. Department of Education. Complaints may also be directed to any other federal agency.

FOR STUDENTS

The Code describes the procedures followed when a violation of the Code is reported to a student conduct administrator (SCA). Reports of violence involving students are generally directed to the DOS Office, which manages investigations, and may act as SCAs or judicial officers when charges are brought.

Mediation, including referral to the Conflict Resolution Center for the purpose of mediation between the parties, will not be used to resolve sexual violence complaints.

The Code outlines the process and protection of rights of both the complainant (the student who brings the grievance or makes the complaint) and the respondent (the student or individual about whom the grievance or complaint is brought). Both complainant and respondent have certain shared or complementary rights in disciplinary hearings.
1. The complainant and the respondent have the right to be assisted by an advisor, including an advisor they choose at their own expense.

2. The advisor may be an attorney; in such cases, note that Guidelines for Attorneys who accompany accused students are available on the Dean of Students Office website. Included in these guidelines is a requirement of a five business day notice to the University of a student’s intent to be accompanied by an attorney.

3. The complainant and the respondent have the right to access and review any information that will be used in the hearing.

4. The complainant and the respondent will be advised of the date, time, and location of a hearing, when scheduled. Both may attend and participate.

5. The SCA may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, respondent, and/or other witness during the hearing, in whatever manner and as determined in the sole judgment of a senior student conduct administrator (SSCA), to be appropriate.

6. The SCA shall render the decision to the respondent and the complainant simultaneously and in writing within five business days. The Code provides for the disclosure to the complainant of the final results of any disciplinary proceeding regarding a complaint of domestic violence, dating violence, sexual assault, or stalking.

7. Decisions may be appealed in accordance with the Code, as applicable. All parties will be informed in writing of the outcome of any appeal.

The standard of proof that exists for campus disciplinary proceedings is preponderance of evidence, (i.e., more likely than not the event(s) occurred).

A student’s privacy concerns are weighed against the needs of UND to respond to certain incidents and crimes. To the greatest extent possible, all reports will remain private. However, information may be shared with appropriate departments and agencies under a need-to-know basis when it pertains to investigative needs and safety concerns of the campus community.

FACULTY and STAFF
If a faculty or staff member is involved as the complainant or respondent:

1. All incidents are to be reported to the Title IX coordinator.

2. Based on the initial report of the incident, the Title IX coordinator, with assistance from UPD, Human Resources and/or Dean of Students Office, will implement any temporary safety measures immediately.

3. The Title IX coordinator will then assign a Title IX investigator or investigators to investigate the incident.

4. The Title IX investigator(s) will investigate the incident and submit a final written report to the Title IX coordinator.

5. If it is determined that discipline or dismissal of a faculty or staff member is warranted, the following policies and procedures will be followed:
   a. Faculty – Faculty Handbook;
   c. Employees excluded from the broadbanding system who are not faculty – SBHE policy 608.2.

6. Both the complainant and respondent will be notified in writing of the final results of the investigation and any resulting actions.

7. Both the complainant and respondent may appeal the final determination pursuant to the Faculty Handbook and NDUS Human Resource Policy Manual section 27, Appeal Procedures.
The standard of proof that exists for campus disciplinary proceedings is preponderance of evidence, (i.e., more likely than not the event(s) occurred).

If a complainant requests that his or her name not be revealed to the respondent or asks UND not to investigate or seek action against the respondent, UND will be limited in its ability to respond fully to the incident.

Title IX complaints, including the reporting of violence or the concerns about the compliance of UND with its, or Department of Education policies may be directed to:

Donna M. Smith, J.D.
Director
Equal Employment Opportunity/Affirmative Action
Title IX and ADA/504 Coordinator
264 Centennial Drive, Room 401
Grand Forks, ND 58202
Office: 701-777-4171
Fax: 701-777-2077
donna.smith@und.edu

or to the:

Office for Civil Rights (OCR)
U.S. Department of Education
500 West Madison
Suite 1475
Chicago, IL 60611-4544
Customer Service Hotline #: (800) 421-3481
Telephone: (312) 730-1560
Facsimile: (312) 730-1576
TDD#: (800) 877-8339
Email: OCR.Chicago@ed.gov

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