



NEUMANN UNIVERSITY

SEXUAL MISCONDUCT, SEXUAL VIOLENCE AND  
SEXUAL HARASSMENT POLICY

January, 2016

**SEXUAL MISCONDUCT, SEXUAL VIOLENCE  
AND SEXUAL HARASSMENT POLICY**

**Table of Contents**

|  |          |
|--|----------|
| <b>Policy Overview.....</b>  | <b>1</b> |
| <b>Steps to Take in an Incident of Sexual Misconduct, Sexual Violence or Sexual Harassment .....</b> | <b>2</b> |
| <b>Education for Prevention of Sexual Misconduct, Sexual Violence and Sexual Harassment.....</b>     | <b>2</b> |
| <b>Risk Reduction Tips.....</b>  | <b>3</b> |
| <b>Definitions.....</b>  | <b>3</b> |
| <i>Dating Violence .....</i>   | <i>3</i> |
| <i>Domestic Violence .....</i>   | <i>3</i> |
| <i>Sex-Based Harassment.....</i>   | <i>4</i> |
| <i>Sexual Harassment.....</i>  | <i>4</i> |
| <i>Gender-Based Harassment .....</i>   | <i>4</i> |
| <i>Sexual Assault .....</i>  | <i>4</i> |
| <i>Sexual Exploitation .....</i>   | <i>4</i> |
| <i>Stalking, .....</i>   | <i>4</i> |
| <i>Consent .....</i>   | <i>5</i> |
| <b>Filing A Complaint of Sexual Misconduct, Sexual Violence or Sexual Harassment .....</b>           | <b>5</b> |
| <b>Confidentiality.....</b>  | <b>5</b> |
| <b>Interim Protections .....</b>   | <b>6</b> |
| <b>Internal Investigation, Hearing, and Resolution.....</b>  | <b>6</b> |
| <i>Investigation.....</i>  | <i>6</i> |
| <i>Hearing and Resolution .....</i>  | <i>6</i> |
| <b>Accuser Requests Confidentiality.....</b>   | <b>6</b> |
| <b>Accuser Requests Informal Resolution.....</b>   | <b>7</b> |
| <b>Sanctions .....</b>   | <b>8</b> |
| <b>Appeals.....</b>  | <b>8</b> |
| <b>Prohibition of Retaliation.....</b>   | <b>8</b> |
| <b>Title IX.....</b>   | <b>8</b> |
| <b>Title IX Coordinator .....</b>  | <b>9</b> |
| <b>Title IX Coordinators .....</b>   | <b>9</b> |
| <b>Other Relevant University Policies.....</b>   | <b>9</b> |

## **SEXUAL MISCONDUCT, SEXUAL VIOLENCE AND SEXUAL HARASSMENT POLICY**

Neumann University, following the Franciscan tradition, embraces the profound reverence that Francis had for all creation and especially for the human dignity of each person

In recognition of that reverence and the human dignity of each person, Neumann University prohibits sexual misconduct, sexual violence and sexual harassment in any form and is committed to fostering an educational and working environment that is free from such behavior. Neumann University is committed to responding to and investigating reports of sexual misconduct, sexual violence and sexual harassment experienced by any student, faculty member, administrator, staff, or visitor who believes that he or she has experienced any such incident. Sexual misconduct, sexual violence and sexual harassment in any form are unacceptable and are a violation of this policy.

The University will handle all complaints of a sexual nature with due regard to the parties' concerns of confidentiality. If any occurrences of a sexual nature pose a general threat to the University community, Neumann will take steps to notify students, faculty and staff of the potential danger. As inherent to Neumann's values and culture of caring, Neumann will provide support for victims/survivors and urges victims/survivors to seek assistance using any appropriate resources. The alleged victim may choose to speak with any University official about the matter including, but not limited to, the dean of students, the nurse, counselors, and director of residence life. Any of these University personnel will assist the alleged victim in notifying authorities and getting appropriate resources. Alleged victims will also be assisted in obtaining counseling services from internal or external sources, depending on the alleged victim's desire.

Sexual misconduct, sexual violence and sexual harassment offenses include, but are not limited to:

- Dating Violence
- Domestic Violence
- Sex Based Harassment
- Sexual Harassment
- Gender Based Harassment
- Sexual Exploitation
- Stalking

Detailed definitions are included in the definition section of this policy.

### **STEPS TO TAKE IN AN INCIDENT OF SEXUAL MISCONDUCT, SEXUAL VIOLENCE OR SEXUAL HARASSMENT**

If you believe that you have been a victim of sexual misconduct, sexual violence or sexual harassment or you believe that such an incident has occurred, you should, as soon as possible:

- Find a safe place away from any potential danger.
- If on-campus, report the incident immediately to Campus Safety at (610) 558-5555 or extension 5555 from any campus phone. You may also report the incident to appropriate resources on campus such as the Residence Life staff or the Title IX Coordinator or Title IX Co-Coordinators.
- If off-campus, call 911 to contact the local authorities.
- Contact someone you trust to stay with you.
- You can contact the Sexual Assault Crisis Hotline for Delaware County at 610-556-4342 for assistance 24 hours a day, seven days a week.
- If possible, preserve any evidence. Please resist the urge to change clothes or shower, if you can. If you change clothes, please place each garment in a separate bag.
- Seek medical attention as soon as possible.
- There are specially trained SANE nurses (Sexual Assault Nurse Examiners) who are trained to assist victims of sexual violence. If you are in Delaware County, hospitals in both the Crozer Keystone and Main Line Health Systems have on-call SANE nurses. Hospitals closest to Neumann's campus are:

Crozer Chester Hospital  
 1 Medical Center Boulevard  
 Upland, PA 19013  
 610-447-2000

Riddle Memorial Hospital  
 1068 W Baltimore Pike  
 Media, PA 19063  
 484-227-9400

- Seek the support of family, friends, and/or a counselor.
- Make the decision as to whether or not to pursue the incident through the local police or the University. Please see section of this policy for filing a complaint.

Neumann University faculty and staff are legally required to report any and all instances of bullying, dating violence, domestic violence, any form of discrimination, harassment (including cyber bullying and cyber harassment), intimidation, retaliation, sexual assault, sexual violence and stalking to the Title IX Coordinator or Co-Coordinators as listed in a separate section of this policy.

## **EDUCATION FOR THE PREVENTION OF SEXUAL MISCONDUCT, SEXUAL VIOLENCE AND SEXUAL HARASSMENT**

Neumann University is committed to providing programming designed to educate the University community about sexual misconduct, sexual violence and sexual harassment and prevent its occurrence. Such programming includes, but is not limited to *My Student Body* on-line educational modules; campaigns such as the *Red Flag* and *It's on Us!*; the PACT bystander intervention program; and programs offered through new student orientation, welcome back activities and during the course of the academic year. The University also requires all employees to complete an on-line educational program.

## **RISK REDUCTION TIPS**

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention of victim-blaming and in understanding that the University recognizes that only those who

commit sexual misconduct, sexual violence or sexual harassment are responsible for those actions, there are suggestions that may help reduce the risk of such behaviors.

These suggestions include, but are not limited to:

- use clear and firm language with an aggressor telling him or her to stop;
- try to remove yourself from the physical presence of an aggressor;
- find someone nearby and ask for help;
- know that alcohol and other drugs may make you vulnerable to sexual misconduct, sexual violence and sexual harassment;
- take care of your friends and ask that they take care of you.

The following suggestions may help you reduce your risk of being accused of sexual misconduct, sexual violence or sexual harassment:

- understand and respect personal boundaries;
- do not make assumptions about consent,
- if there is any question or ambiguity, you do not have consent;
- do not take advantage of someone being incapacitated due to alcohol and other drugs or other impairment;
- realize that your potential partner could be intimidated by you or fearful – do not abuse that power.

## **DEFINITIONS**

### **Dating Violence:**

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be based on a consideration of the following factors:

- length of time the relationship has existed
- type of the relationship
- frequency of the interaction between the persons involved in the relationship

Dating Violence shall mean the use of abusive behaviors, including, but not limited to, internet, electronic (e-mail, text messages, social media platforms, etc.), written, verbal, sexual or physical contact by a person to harm, threaten, intimidate or control a current or former dating partner, regardless of sex, sexual orientation or gender identity.

### **Domestic Violence:**

Domestic violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic violence or family violence laws of Pennsylvania, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

### **Sex-Based Harassment:**

Includes sexual harassment and gender-based harassment.

**Sexual Harassment:**

Includes unwelcome conduct of a sexual nature, requests for sexual favors, and other gender-based verbal or physical conduct that is severe, persistent or pervasive enough to unreasonably interfere with an individual's educational experience or living conditions. Sexual harassment also occurs when submission to or rejection of such conduct denies or limits someone's ability to participate in or benefit from any University educational program or activity; or by creating an intimidating, hostile or offensive environment for another person.

**Gender-Based Harassment:**

Includes unwelcome conduct of a nonsexual nature based on a student's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes.

**Sexual Assault:**

Sexual assault is any sexual physical contact that involves the use or threat of force or violence or any other form of coercion or intimidation; any sexual physical contact/indecent contact with another person without that person's consent, or any such contact with a person who is unable to consent due to incapacity or impairment, mental or physical. Incapacity or impairment normally includes, but is not limited to: being under the influence of alcohol or drugs; and any violation of the Pennsylvania Crimes Code.

**Sexual Exploitation:**

Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another person to benefit anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct or sexual violence offenses. Sexual exploitation includes, but is not limited to: invasion of sexual privacy; prostituting another individual; non-consensual video or audio-taping of sexual activity; going beyond the boundaries of consent; engaging in voyeurism; knowingly transmitting a sexually transmitted infection to another individual; exposing one's genitals in non-consensual circumstances; or inducing another person to expose their genitals.

**Stalking:**

Stalking includes any behaviors or activities occurring on more than one occasion that collectively instill fear in a victim, and/or threaten his or her safety, mental health, or physical health. Examples of stalking include, but are not limited to unwelcome and repeated visual or physical proximity to a person; repeated oral or written threats; and unwelcome/unsolicited communication of any kind including communication through a third party. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person.

**Consent:**

With all cases of a sexual nature, "consent" is defined as positive cooperation in act or behavior. The person consenting must act freely and voluntarily, have knowledge of the nature of the act and be capable of making a reasonable judgment concerning the nature of the act. Members of

the community should be aware that by intoxication, youth or mental disability, a person may not be capable of valid consent. The University does not consider a lack of protest to imply consent. Further, a current or previous dating relationship is not sufficient to constitute consent. Any member of the University community who encourages, aids, assists or participates in any act of sexual misconduct against another is in violation of the Student Code of Conduct and employee regulations.

Sexual contact without consent includes, but is not limited to:

- Intentional touching, either of the victim or when the victim is forced to touch directly or through clothing another person's genitals, breast, thighs, or buttocks.
- Sexual intercourse without consent, whether by an acquaintance or stranger.
- Attempted sexual intercourse.
- Oral sex or anal intercourse without consent.
- Sexual penetration with an object without consent.

### **FILING A COMPLAINT OF SEXUAL MISCONDUCT, SEXUAL VIOLENCE OR SEXUAL HARASSMENT**

Neumann University encourages any individual who believes he or she has been the victim of sexual misconduct, sexual violence or sexual harassment such as dating violence, domestic violence, sexual assault, sexual exploitation, sexual harassment, or stalking and/or retaliation to report the incident immediately to Campus Safety at 610-558-5555 or file a complaint with the Title IX Coordinator or Co-Coordinators. If safety is an immediate concern, contact Campus Safety or contact 911 to reach the local police department for assistance.

Student victims of sexual misconduct, sexual violence or sexual harassment may choose to pursue the incident internally through the University's Student Conduct Process. University employees may choose to pursue the incident internally through University's employee disciplinary procedures. Students and employees may choose to prosecute the incident externally through the police; or may choose both options for investigation and resolution. Once an incident of sexual misconduct, sexual violence or sexual harassment is reported, the University may have a responsibility to investigate the incident even if the victim chooses not to cooperate with the investigation process. See accuser requests confidentiality section of this policy.

### **CONFIDENTIALITY**

Neumann University will keep the complaint and investigation confidential to the extent possible. Apart from the University's respect for the accuser's confidentiality, the University will disclose information relating to instances of sexual misconduct, sexual violence or sexual harassment to appropriate legal authorities where it has a legal obligation to do so (e.g., if there is suspected abuse or neglect of a minor).

### **INTERIM PROTECTIONS**

Neumann University will take interim measures as necessary to prevent the victim from being subject to further sexual misconduct, sexual violence, sexual harassment or retaliation during the investigation process. The University may, at any point in the complaint and investigation

process, place the accused student on an interim suspension from the University or its residence halls, make alternate living arrangements, issue no contact orders, or take other measures to ensure the safety and well-being of the victim and the campus community. The University may, at any point in the complaint and investigation process, place the accused employee on interim suspension from employment, reassign work assignments or work space locations, issue no contact orders, or take other measures to ensure the safety and well-being of the victim and the campus community.

### **INTERNAL INVESTIGATION, HEARING, AND RESOLUTION**

Neumann University will strive to complete the formal investigation, the hearing process and render a resolution within sixty (60) days of receipt of a written complaint or within 60 days after it is determined that a written complaint will not be provided. If an investigation, hearing process and a resolution cannot be completed within sixty (60) days of receipt of the complaint, the University will notify both the accuser and the accused of that fact and provide a timeframe for completing the investigation.

#### **Investigation**

In conducting an internal investigation, Neumann University may interview those involved including the accuser, accused, and any other persons believed to have relevant factual knowledge, as well as review relevant documents and statements as appropriate.

#### **Hearing and Resolution**

Upon conclusion of the internal investigation, hearings in all cases involving students will follow the Student Code of Conduct Process and Procedures. In cases involving University employees, the University's employee disciplinary policies will apply. A "preponderance of the evidence" will be used to determine if a violation of University policy has occurred. Both the accuser and the accused will be notified of the internal resolution simultaneously.

### **ACCUSER REQUESTS CONFIDENTIALITY**

If the accuser requests confidentiality, the University is still required to investigate and take reasonable action in response to the accuser's request. The accuser should be informed that in such situations that the University's ability to take action is likely to be limited.

The University will evaluate the accuser's request that the complaint not be adjudicated or remain confidential due to the University's legal and moral obligation to provide a reasonably safe and non-discriminatory environment for all students, employees and visitors. In order to make such an evaluation, the University may conduct a preliminary investigation into the alleged sexual misconduct and will weigh the accuser's request for confidentiality against the several factors including the increased risk that the alleged perpetrator will commit additional acts of sexual or other violence.

The University will inform the accuser if it cannot ensure confidentiality. Even if the University cannot take disciplinary action against the accused because the accuser insists on confidentiality or that the complaint not be adjudicated, the University will take prompt and effective action to limit the effects of the alleged sexual misconduct and to prevent its recurrence. The University reserves the authority to issue a no-contact order and other measures as indicated in this policy.

## **ACCUSER REQUESTS INFORMAL RESOLUTION**

An accuser who wishes to file an official complaint within the University, but who does not wish to pursue the formal student or employee conduct processes, may request a less formal proceeding, known as Informal Resolution. Informal Resolution is an adjudicative process; it is not mediation.

Informal Resolution provides an opportunity for the accuser to confront the accused in the presence of and facilitated by a Title IX Coordinator or Co-Coordinator, and to communicate his or her feelings and perceptions regarding the incident, the impact of the incident and his or her wishes and expectations regarding protection in the future. The accused will have an opportunity to respond.

Both the accuser and the accused may each choose an advisor to accompany them throughout the Informal Resolution process. The advisor may advise the accuser or accused during the Informal Resolution. However, the advisor may not address the Title IX Coordinator or Co-Coordinator during the course of the proceedings, question witnesses or participate directly in the Informal Resolution proceedings. In cases involving students, the Title IX Coordinator or Co-Coordinator may elect to be assisted by a member of the Sexual Misconduct Hearing Board.

Informal Resolution for students cannot result in the formal sanctions of suspension or expulsion from the University's residence halls or the University of the accused. For University employees, Informal Resolution cannot result in suspension or dismissal from employment of the accused. Informal Resolution may, however, result in imposing protective actions agreed upon by the parties. Without such agreement, the Title IX Coordinator or Co-Coordinator may impose protective actions based on information derived from the proceedings, taken together with any other relevant information known to the University at the time of the Informal Resolution.

The University or the accuser may, at any time prior to the conclusion of the Informal Resolution, elect to end such proceedings and initiate the formal University conduct processes instead. In such cases, statements or disclosures made by the parties in the course of the Informal Resolution may not be used as evidence in the formal University conduct processes. However, the Title IX Coordinator or Co-Coordinator may consider such statements and impose protective actions as deemed necessary until all formal University conduct processes are completed including the Appeals Processes.

In order to promote honest and direct communication, information disclosed during Informal Resolution will remain confidential while the Informal Resolution is pending, except where disclosure may be required by law or authorized in connection with duties on behalf of the University.

The investigation and Informal Resolution typically conclude within sixty (60) days.

## **SANCTIONS**

Sanctions for students found in violation of the Sexual Misconduct, Sexual Violence and Sexual Harassment Policy include, but are not limited to, disciplinary probation, suspension or loss of residence life privileges, suspension from the University, or expulsion from the University. A

complete listing of sanctions for student violations can be found in the Sanctions for Violations section of the Student Code of Conduct.

Sanctions for University employees found in violation of the Sexual Misconduct, Sexual Violence and Sexual Harassment Policy include, but are not limited to, suspension, probation and/or dismissal.

### **APPEALS**

Both the accuser and the accused will be afforded an opportunity to file an appeal of the resolution. Students can do so in accordance with the Procedures for Appeal as stated in the Student Code of Conduct. Employees are to follow procedures as stated in the University's employee disciplinary procedures.

### **PROHIBITION OF RETALIATION**

Neumann University will not engage in nor tolerate retaliation of any kind against a student, employee or visitor who reports an incident of sexual misconduct, sexual violence or sexual harassment. Prohibited retaliation will be addressed in the same manner as any other violation under the Sexual Misconduct, Sexual Violence and Sexual Harassment Policy and will be subject to further action.

### **TITLE IX**

Neumann University reaffirms its long-standing philosophy and principles of non-harassment and non-retaliation against any person having business with the University, whether a student, employee or third party. The University is committed to offering campus and University-related activities to all students and employees that are free from offensive and unwelcome conduct, actions, and words directed at anyone, but especially because of one's membership in a protected class. This includes, but is not limited to, sexual violence, any type of sexual misconduct, discrimination, discriminatory harassment or retaliation. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable or unable to give consent. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion. Neumann University is committed to a Zero-Tolerance Harassment policy. It is the practice of Neumann University that immediate effective action be taken to eliminate any hostile environment, prevent its recurrence, and remedy effects on the victim regarding any harassment (e.g. sexual bullying) that interferes with or limit's a student's or an employee's ability to participate in, or benefit from school or employment, including all activities and services.

The University encourages any individual who believes he or she has been the victim of harassment or retaliation to immediately report the incident or incidents giving rise to such concerns. Neumann University complies with Title IX and identifies the Title IX Coordinator as the Vice President for Human Resources and Risk Management, David W. Brownlee, who can be reached at [dbrownle@neumann.edu](mailto:dbrownle@neumann.edu), 610-558-5628, RAB 404, or Human Resources, One Neumann Drive, Aston, PA 19104.

Any student, employee, or applicant for admission or employment, who believes that he or she has been discriminated against on the basis of sex may file a complaint with the Title IX Coordinator or Co-Coordinators. The Title IX Coordinator or Co-Coordinator will assist the

complainant in identifying the applicable policy, and if necessary, its grievance/appeal procedures, to resolve the complaint in an impartial and timely manner.

All employees of the University who have information regarding, are witness to, or become aware by any means of, any form of sexual harassment, sexual misconduct, inappropriate sexual behavior, and/or criminal activity that occurs on campus involving a student, employee, or a visitor are required by law to report the incident immediately. Reports may be made to the Title IX Coordinator or the Title IX Co-Coordinators. All Title IX issues, inquiries, and concerns should be directed to these trained members of the University community.

#### **TITLE IX COORDINATOR**

David W. Brownlee, Vice President for Human Resources and Risk Management  
Room 404, Rocco Abessinio Building, [dbrownle@neumann.edu](mailto:dbrownle@neumann.edu), 610-558-5628

#### **TITLE IX CO-COORDINATORS**

Bridget A. Haines-Frank, Dean of Students  
Room 139, Bachmann Main Building, [hainesb@neuman.edu](mailto:hainesb@neuman.edu), 610-361-5494

Chuck Sack, Director of Athletics and Recreation  
Room 220, Mirinda Center (MCSSCD), [sackc@neumann.edu](mailto:sackc@neumann.edu), 484-840-4711

Michael Webster, Director of Residence Life  
Living and Learning Center 1, [websterm@neumann.edu](mailto:websterm@neumann.edu), 610-558-5657

Anyone who wishes to inquire or file a complaint with the Office of Civil Rights (OCR) may do so through the mail, email or online. For more information on filing a complaint, please visit the OCR website at <http://www2.ed.gov/about/offices/list/ocr> or call 800-421-3481 for the U.S. Department of Education office that serves your area.

#### **OTHER RELEVANT UNIVERSITY POLICIES**

Based on the nature of the incident and the complaint, sexual misconduct, sexual violence and sexual harassment may constitute violations of other University policies and the Student Code of Conduct including, but not limited to: Bullying and Harassment including Hate Crimes.