

**Policy #:** **SA4.05** (31 pages)  
**Classification:** Student Affairs  
**Category:** Campus Community Standards/Student Conduct  
**Topic:** **Sexual Misconduct Policy and Procedures**  
**Approved by:** Executive Council  
**Signature:** *Dianna C Dale*  
**Title:** Vice President for Enrollment and Student Affairs  
**Original Date:** August 2009  
**Latest Review:** July 2017  
**Latest Revision:** July 2017

## **SEXUAL MISCONDUCT POLICY AND PROCEDURES FOR NEUMANN UNIVERSITY STUDENTS**

<b>I.</b>	<b>POLICY OVERVIEW.....</b>	<b>2</b>
<b>II.</b>	<b>POLICY .....</b>	<b>2</b>
	A. Scope and Jurisdiction.....	2
	B. Prohibited Conduct.....	3
	C. Definitions.....	3
	D. Resources.....	8
	1. Reporting an Emergency and Getting Medical Attention.....	8
	2. Preservation of Information and Tangible Material.....	8
	3. Interim Relief and Remedial Measures.....	11
	E. Reporting Alleged Violations.....	11
	1. Privacy and Confidentiality.....	11
	2. Timeframe for Reporting.....	13
	3. Amnesty for Students who Report Sexual Misconduct.....	13
	4. Coordination with Law Enforcement.....	13
	F. Non-Retaliation Statement/Good Faith Reporting.....	14
<b>III.</b>	<b>DISCIPLINARY PROCESS FOR ALLEGED VIOLATIONS OF THE SEXUAL MISCONDUCT POLICY.....</b>	<b>14</b>
	A. Procedures that may apply.....	14
	B. Evidentiary Standard .....	15
	C. Resolution of a Complaint .....	15
	1. Timeframe for Resolution of a Complaint .....	15
	2. Advisors .....	15
	3. Initial Review and Charge .....	16
	4. Administrative Meetings .....	17
	5. Information Resolution .....	18
	6. Formal Resolution .....	18

**IV. ROLE OF THE UNIVERSITY’S TITLE IX COORDINATOR .....24**  
**V. EDUCATION AND TRAINING .....24**  
**VI. RELATED POLICIES .....25**  
**VII. POLICY UPDATES AND REVISIONS .....25**  
**APPENDIX A .....26**  
**APPENDIX B .....31**  
**APPENDIX C .....32**  
**APPENDIX D .....33**

**I. POLICY OVERVIEW**

Neumann University (“Neumann” or the “University”), following the Catholic Franciscan tradition, embraces the profound reverence that Francis had for all creation and especially for the human dignity of each person. Consistent with its mission and institutional values, the University is committed to providing a learning, living, and working environment for all members of the University community that is free of the threat of sexual assault, sexual harassment, sexual exploitation, domestic violence, dating violence, and stalking (for purposes of this Policy, this conduct may be referred to, collectively, as “Sexual Misconduct”). Sexual Misconduct undermines the mission and character of the University and will not be tolerated. Sexual Misconduct, as defined by the University, may also constitute a crime.

**II. POLICY**

**A. SCOPE AND JURISDICTION**

This Policy applies to University students, whether Complainant or Respondent, and regardless of sexual orientation or gender identity, who are registered or enrolled for credit or non-credit bearing coursework.<sup>1</sup>

The University prohibits Sexual Misconduct on its campus, on non-campus property owned or controlled by the University, and at University-sponsored events or programs (occurring either on- or off-campus, including University-sponsored study abroad programs). The Policy applies to any off-campus behavior of students, even if unrelated to a University-sponsored event or program which has actual or potential adverse impact on the University or any member of the University

---

<sup>1</sup> The University prohibits Sexual Misconduct by all members of the Neumann community, including students, faculty, administrators, staff, independent contractors, and volunteers, and by third parties, regardless of sexual orientation or gender identity. The Harassment Policy and Procedure which is the Policy applicable to Faculty, Administrator, and Staff Complainants and Respondents, is available at IP 1.03.

Where the Respondent is a third party, independent contractor or volunteer, the University’s ability to take corrective action against the Respondent will be determined by the nature of the relationship of the Respondent to the University. The Title IX Coordinator will determine the appropriate manner of resolution consistent with the University’s commitment to a prompt and equitable process consistent with federal law, federal guidance, and this Policy.

community.

## B. PROHIBITED CONDUCT

Conduct prohibited by this Policy (the “Prohibited Conduct”) includes:

1. Sexual Misconduct
  - a. Sexual Assault
  - b. Sexual Harassment
  - c. Domestic Violence
  - d. Dating Violence
  - e. Sexual Exploitation
  - f. Stalking
2. Retaliation
3. Intimidation

## C. DEFINITIONS

The Prohibited Conduct and other important terms and concepts relevant to this Policy are defined as follows:

**Sexual Misconduct:** An umbrella term encompassing a range of behavior, including Sexual Assault, Sexual Harassment, Gender-Based Harassment, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking (as each term is further defined below).

**Sexual Assault:** Having Sexual Intercourse or Sexual Contact with another individual by the use or threat of force, violence, or any other form of Coercion or intimidation; without consent; or where the other individual is incapacitated.

- **Sexual Intercourse** is any penetration (anal, oral, or vaginal), however slight, with any object or body part performed by one person upon another person.
- **Sexual Contact** is any touching, other than Sexual Intercourse, with any body part or object by one person upon another person, for purposes of sexual gratification of the touching party. Sexual Contact includes touching of intimate body parts (including, but not limited to, genitals, buttocks, groin, or breasts, and even if clothed) and the removal of another’s clothing for purposes of sexual gratification. *Non-consensual Sexual Contact therefore includes the non-consensual removal of another’s clothing, indecent contact (i.e., the unwanted touching of intimate body parts), and causing another to have indecent contact with intimate body parts.*
- **Sexual Assault is also prohibited by federal and Pennsylvania law.** For purposes of this Policy, prohibited Sexual Assault includes: Rapes, Statutory Sexual Assault, Sexual Assault, Indecent Assault, Fondling, and Incest as those acts are defined by the

FBI's Uniform Crime Reporting Program (available at <http://www.fbi.gov/about-us/cjis/ucr/nibrs/nibrs-user-manual>), or the Pennsylvania Criminal Code. Applicable definitions from the Pennsylvania Criminal Code are provided in Appendix A.

**Sexual Harassment:** Unwelcome conduct of a sexual nature, including unwelcome requests for sexual favors, sexual advances, and other verbal, nonverbal, graphic, or physical conduct of a sexual nature, when: (1) submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo); or (2) such conduct creates a Hostile Environment.

**Gender-Based Harassment:** Unwelcome conduct (whether or not of a sexual nature), including acts of aggression, intimidation and hostility, and other verbal, nonverbal, graphic, or physical conduct based on or motivated by a student's actual or perceived gender, sexual orientation, gender identity, gender expression, or nonconformity with gender stereotypes when: (1) submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo); or (2) such conduct creates a Hostile Environment.

**Hostile Environment:** The environment caused by unwelcome verbal or physical conduct that: (1) is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from an education program or creates a hostile or abusive educational environment, or (2) explicitly or implicitly affects an individual's employment or educational environment, unreasonably interferes with an individual's work performance or educational environment, or creates an intimidating, hostile or offensive environment. In determining whether Sexual or Gender-Based Harassment created a Hostile Environment, consideration will be given not only to whether the conduct was unwelcome to the person who feels harassed, but also to whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive.

**Sexual Exploitation:** Taking non-consensual or abusive sexual advantage of another for the benefit of anyone other than the one being exploited, where that behavior does not otherwise constitute one of the other Sexual Misconduct offenses defined in this Policy. Sexual exploitation includes, but is not limited to:

- non-consensual video or audio recording or photographing of private sexual activity and/or a person's intimate body parts;
- non-consensual dissemination, streaming, or posting images of private sexual activity and/or a person's intimate body parts;
- allowing third parties to observe private sexual activity from a hidden location (e.g. closet) or through electronic means (e.g. Skype or live-streaming of images);
- engaging in voyeurism (e.g. watching private sexual activity without the consent of the participants or viewing another person's intimate body parts without consent and in a place where that person would have a reasonable expectation of privacy);

- knowingly transmitting a sexually transmitted infection to another;
- exposing one's genitals in non-consensual circumstances;
- prostituting another individual; or
- inducing Incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

**Consent:** Words or actions that reasonably demonstrate to another a knowing and voluntary agreement to engage in mutually agreed upon sexual activity.

- Consent is active; not passive.
- An affirmative statement or action does not constitute Consent if such Consent is the product of threat or Coercion or is given by a person who is unable to make a reasonable judgment concerning the nature or harmfulness of the activity because of:
  - incapacitation;
  - unconsciousness; or
  - mental disability or incapacity.
- In whatever way Consent is communicated, it must be mutually understandable.
- Silence, in and of itself, or the absence of resistance, cannot be interpreted as Consent.
- It is the responsibility of the initiator of sexual contact to make sure that they understand fully what the person with whom they are involved wants and does not want sexually.
- A current or previous dating relationship, or prior consensual sexual activity, are not sufficient in and of themselves to constitute Consent.
- Consent to one form of sexual activity does not imply Consent to other forms of sexual activity.
- Consent to engage in sexual activity with one person does not imply Consent to engaged in sexual activity with another.
- Consent can be withdrawn through words or action at any time.

**Incapacitation:** The inability, temporarily or permanently, to give Consent. A person may be incapacitated because they are mentally and/or physically helpless, asleep, unconscious, or unaware that the sexual activity is occurring. Incapacitation may result from the use of alcohol and/or drugs—Incapacitation is a state beyond drunkenness or intoxication.

The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching Incapacitation may include slurring speech, vomiting, unsteady gait, acting confused or incoherent, and/or emotional volatility.

Evaluating Incapacitation due to alcohol and/or drug consumption requires an assessment of how the consumption of alcohol and/or drugs affects an individual's:

- Decision making ability;
- Awareness of consequences;
- Ability to make informed judgments; and
- Capacity to appreciate the nature and quality of the act.

Evaluating Incapacitation, and its impact on Consent, also requires an assessment of whether a Respondent should have been aware of the Complainant's Incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position.

**Coercion:** Unreasonable pressure for sexual activity, such as blackmail, threats of violence, etc. Coercive behavior differs from seductive behavior.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined by giving deference to the victim's characterization of the relationship, but also taking into consideration the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of 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:** A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner 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 the Commonwealth 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 the Commonwealth of Pennsylvania.

- While there is no distinct definition of "Domestic Violence" under the Pennsylvania Crimes Code, it should be noted that if a criminal complaint is made to law enforcement outside of the University, the standard of probable cause set forth in Appendix B will apply to that criminal complaint.

- Note: The Pennsylvania standard is different than the procedures which apply to on-campus student conduct matters, which are set forth later in the Policy.

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or to suffer emotional distress.

- An individual engages in an impermissible course of stalking conduct if they engage in two or more acts that include, but are not limited to, acts in which the individual directly, indirectly, or through third parties—by any action, method, device, or means—follows, monitors, observes, surveils, threatens, or communicates to or about a person in a way prohibited as described above or interferes with a person's property.
- 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/un-solicited communication of any kind including communication through a third party.
- Stalking, as defined herein, includes 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.

**Retaliation:** Any act or attempted act to seek retribution against anyone who has reported an alleged violation of this Policy or against anyone who has participated in an investigation or related proceeding under this Policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, and discrimination. Retaliation does not include good faith actions lawfully pursued in response to a report of Sexual Misconduct.

**Intimidation:** Any act to deter an individual from making a report of an alleged violation of this Policy or participating in an investigation or related proceeding under this Policy by imposing fear through threats of physical or emotion harm to anyone.

**Complainant:** The person alleged to have been subjected to conduct in violation of this Policy. *Note: The University may investigate a report or complaint of Sexual Misconduct regardless of whether the Complainant desires the University to pursue the report or complaint, if the University has cause to believe that the action reported or complained of may constitute a violation of this Policy, breach of applicable law, or a threat to the University community.*

**Respondent:** An individual accused of conduct that might be a violation of this Policy.

**Reporter:** An individual reporting alleged conduct prohibited by this Policy. The Reporter may be the Complainant or any other person (but not a Responsible Employee).

**Responsible Employee:** University employees required to report instances of Sexual Misconduct of which they become aware. With the limited exceptions identified below, the University has designated all employees, including faculty, adjunct and visiting faculty, administrators, staff, and student-employees (e.g., Resident Assistants) as Responsible Employees.

- If a Responsible Employee becomes aware of an alleged act of Sexual Misconduct that could violate this Policy, then they *must promptly contact the Title IX Coordinator and report what they know.*

- **Exceptions (Confidential Reporting Locations):** University employees who are professional and/or licensed counselors and pastoral counselors, including clergy, meaning those who have been appointed to serve at the University or were hired and are acting in the role of providing mental health counseling or pastoral/spiritual care to members of the University community ***will not report any information about an incident reported to them in these capacities*** (as opposed to reports that may be made to them in their roles as administrators, faculty, or otherwise). These are the University's Confidential Reporting Locations.

## **D. RESOURCES**

The University encourages all members of the University community who believe that they have witnessed, experienced, or are aware of conduct that constitutes Sexual Misconduct in violation of this Policy to seek immediate medical attention, take steps to preserve pertinent information and tangible materials, and/or report the violation, as applicable.

When Sexual Misconduct occurs, the University will take all necessary and reasonable steps to stop the alleged conduct and provide support to the Complainant and the Respondent and, as necessary, to other members of the University community. Law enforcement, medical, mental health, victim advocacy and legal resources are identified below. The University will also provide assistance with immigration and student financial aid issues, and offer other services that may be relevant, all to be coordinated by the Title IX Coordinator or a Deputy Title IX Coordinator.

The University will provide a written explanation of rights and options to any student or employee who reports to the University that they have been a victim of Sexual Misconduct regardless of whether the offense occurred on or off campus.

### **1. Reporting an Emergency and Getting Medical Attention**

Options for Contacting Law Enforcement:

**Contact Campus Safety and/or local law enforcement if you are in any immediate danger.**

- **Neumann University Department of Campus Safety**  
The Department of Public safety is available 24-hours a day, year-round  
Call (610) 558-5555 or x5555 from any campus phone
- **Aston Township Police Department**  
Emergency: 911  
Phone: (610) 497-2633  
Location: 5021 Pennell Rd, Aston, PA 19014



Options for Seeking Medical Attention:

An individual who believes that they have been subjected to Sexual Misconduct is urged to be medically examined as soon as possible. Treatment for injuries, medication for sexually transmitted infections (STI) and HIV, and forensic exams are all options.

Both the Crozer Keystone and Main Line Health Systems have on-call Sexual Assault Nurse Examiners (“SANE Nurses”) who are trained to assist victims of sexual violence. The Crozer Keystone and Main Line Health 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

A forensic exam, completed by a medical practitioner, is the process through which physical evidence is collected and may include a rape kit. Please note that obtaining a forensic exam, or taking other steps to gather evidence, does not require the individual to file a police report. There is a limited window of time (typically 72 to 96 hours) following an incident of Sexual Assault to preserve physical evidence. Physical evidence can include photo documentation of injuries, collection of fluids (blood, semen, urine, saliva) and other identifiable objects (e.g. hair, clothing with potential DNA). If you choose to have a forensic medical exam, you should not bathe, douche, brush your teeth or hair, drink, eat, smoke, or change your clothing, if possible. If you need to change your clothing, you should place it in a paper bag.

The University encourages individuals to bring a support person for accompaniment during medical treatment, including forensic exams. Campus Safety officers are also available to transport you to a medical exam.

On-Campus Health Resources

- **Neumann University Counseling Center for Wellness**  
Location: 603B Convent Road  
Phone: 610-358-4540  
Hours: Monday through Friday, 8:00 a.m. to 5:00 p.m.
- **Health Services Office:**  
Location: RM 235 Bachmann Main Building  
Phone: (610) 558-5540  
Hours: Mon, Wed: 8:30 a.m. - 5:30 p.m.  
Tues, Thurs: 8:30 a.m. - 4:30 p.m.  
Fri: 8:30 a.m. - 3:00 p.m.

### Off-Campus Resources

The following off-campus resources provide advocacy, legal, financial, and/or counseling assistance:

- **Delaware County Women Against Rape**  
Victims of Sexual Assault 24-hour Hotline: 610-556-4342  
Victims of other Serious Crimes Hotline: 610-566-4386
- **Women Organized Against Rape**  
24-Hour Hotline: (215) 985-3333  
Phone: (215) 985-3315  
<http://www.woar.org>
- **National Domestic Violence Hotline**  
1-800-799-SAFE (7223) OR 1-800-787-3224 (TTY)
- **Pennsylvania Coalition Against Domestic Violence**  
Phone: (717) 545-6400  
Toll Free: (800) 932-4632  
<http://www.pcadv.org>
- **Women Against Abuse**  
Hotline: (866) 723-3014  
<http://www.womenagainstabuse.org>
- **The U.S. Department of Education, Office for Civil Rights**  
Phone: (215) 656-8541  
Email: [OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov)  
The Wanamaker Building  
100 Penn Square East, Suite 515  
Philadelphia, PA 19107-3323

While off-campus counselors and advocates may maintain confidentiality vis-à-vis the University, they may have reporting or other obligations under state or federal law. You should inquire of each as to the level of confidentiality they can provide.

## **2. Preservation of Information and Tangible Material**

Preservation of information and tangible material is essential for both law enforcement investigations and campus disciplinary processes and may assist in proving that the alleged criminal offense occurred and may be helpful in obtaining a Protection From Abuse Order. Therefore, potential information and materials including, but not limited to, clothing, drinks, glasses, bed linens, electronic communications (e.g. text messages, emails), and photographs should be preserved, if possible.

### 3. Interim Relief and Remedial Measures

Interim relief and remedial measures may be requested and/or offered and instituted at any time following a reported violation of this Policy in order to ensure the safety and wellbeing of members of the Neumann community.

Examples of interim and remedial measures include: assistance in academic, living, transportation, and working situations, and protective measures such as options to obtain modification of or relief regarding financial aid, obtain on-campus escort services from the Department of Campus Safety, etc. The University may also issue no contact orders, which restrict contacts between Complainant and Respondent.

In assessing or delivering such interim relief or remedial measures, the University will attempt to keep personally identifiable information about the Complainant confidential (i.e., shared only with persons with a need to know) to the extent that maintaining such confidentiality would not impair the ability of the University to provide such support. The University will make an individualized assessment about the propriety of a particular interim or remedial measure in each case, and as to a particular Complainant and Respondent.

#### E. REPORTING ALLEGED VIOLATIONS

Neumann University encourages any individual who believes he or she has been the victim of Sexual Misconduct or is aware of such Misconduct, to report the incident immediately to an on-campus reporting resource and/or local law enforcement. *If safety is an immediate concern, contact Campus Safety or call 911 to reach the local police department for assistance.*

A non-confidential report of an alleged violation of this Policy may be reported to the Title IX Coordinator, a Deputy Title IX Coordinator, or any Responsible Employee. Confidential Reports may be made to a Confidential Reporting Location, as defined above in Section II.C (under the definition of Responsible Employee).

#### 1. Privacy and Confidentiality

##### Privacy

Neumann is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under this Policy. The University will accordingly make every effort to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the allegation(s).

Information related to a report under this Policy will only be shared with those University employees who “need to know” in order to assist in the review, investigation, or resolution of the report.

All University employees or others involved in the University’s Title IX response, including the Title IX Coordinator, the Deputy Title IX Coordinators, members of the Department of Campus Safety, Office of the Dean of Students, investigators and adjudicators, receive specific training and guidance about safeguarding private information.

### Confidentiality

If a Reporter discloses an instance of alleged Sexual Misconduct to a non-confidential reporting source (e.g. Responsible Employee, Title IX Coordinator) but wishes to maintain confidentiality, or a Reporter or Complainant (if different) requests that no investigation into a particular incident be conducted or disciplinary action taken, the University will weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all members of the Neumann community, including the Complainant and Respondent.

The Title IX Coordinator or a Deputy Title IX Coordinator will evaluate requests for confidentiality and/or that no investigation into a particular incident be conducted or disciplinary action taken. When evaluating such a request, the Title IX Coordinator/Deputy Title IX Coordinator may conduct a preliminary investigation into the alleged Sexual Misconduct and will weigh and consider a range of factors including, but not limited to, the increased risk that the alleged Respondent will commit additional acts of Sexual Misconduct, as well as:

- whether there have been other Sexual Misconduct complaints about the same Respondent;
- whether the Respondent has a history of arrests or records from a prior workplace or school indicating a history of violence;
- whether the Respondent threatened further Sexual Misconduct or other violence against the Complainant or others;
- whether the incident was committed by multiple Respondents;
- whether the incident was perpetrated with a weapon;
- whether the Complainant is a minor;
- whether the University possesses other means to obtain relevant evidence of the Sexual Misconduct (e.g. security cameras or personnel, physical evidence); and
- whether the information provided reveals a pattern of perpetration (e.g. via illicit use of drugs or alcohol) at a given location or by a particular group.

In order to provide a safe, non-discriminatory environment for all members of the Neumann community, there are times when the University may not be able to honor a request for confidentiality and/or that no investigation into a particular incident be conducted or disciplinary action taken. In this circumstance, the University will inform the requesting party if it cannot ensure confidentiality and the University will respect the privacy of those involved to the greatest extent possible. The University will also take immediate action as necessary to protect and assist the Complainant (and, in appropriate circumstances, the Reporter).

If the University is able to honor the request for confidentiality, a Reporter (and Complainant, if different) will be informed, and must understand, that the University's ability to meaningfully

investigate the incident and/or pursue disciplinary action against the alleged Respondent may be limited. Even if the University cannot take disciplinary action against the Respondent because the Reporter/Complainant insists on confidentiality or request that the complaint not be investigated or adjudicated, the University will take prompt and appropriate 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 interim or remedial measures as indicated in this Policy.

## **2. Timeframe for Reporting**

As explained above, it is best to report alleged Sexual Misconduct immediately. If at all possible, it is best to report Sexual Misconduct prior to the last date of enrollment or employment of the Respondent. Prompt reporting allows evidence to be preserved, witnesses to be interviewed, and any disciplinary/resolution process to move forward most effectively. ***While prompt reporting is important, reports may be made to the University at any time.*** It is important, however, to understand that the ability to investigate a report, and take action against a Respondent, becomes more limited as time goes on.

Reports may be made to external law enforcement at any time.

## **3. Amnesty for Students who Report Sexual Misconduct**

The University encourages reporting. The University recognizes, however, that a student who has been drinking or using drugs at the time of alleged Sexual Misconduct may be hesitant to make a report because of potential consequences for his/her own conduct. A student who reports Sexual Misconduct will not be subject to disciplinary action by the University for his/her own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The University may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

## **4. Coordination with Law Enforcement**

The University encourages, but does not require, Complainants to pursue criminal action for incidents of Sexual Misconduct that may also be crimes under Pennsylvania law. In certain circumstances, the University may report a Sexual Misconduct allegation to the appropriate law enforcement agency, even if the Complainant does not, because of the unique circumstances presented (e.g., a any discernible threat to the safety of others).

It is important to emphasize, however, that neither law enforcement's decision of whether or not to prosecute a Respondent, nor the outcome of any criminal prosecution, will determine whether a violation of this Policy has occurred. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

In certain circumstances, the University may need to delay temporarily the fact-finding portion of its internal disciplinary process while law enforcement officials are gathering evidence, but once notified that law enforcement has completed its gathering of evidence—but not the ultimate outcome of the investigation or the filing of any charges—the University will promptly resume and complete its internal disciplinary process.

Regardless of whether a criminal complaint is filed, the University will pursue its own internal processes to address the alleged conduct, and it expects that all those involved will participate in the process. The fact that an individual (Complainant, Reporter, Respondent and/or witness) refuses to participate in the University process does not mean that the disciplinary process will not take place if the University deems it appropriate to proceed.

#### **F. NON-RETALIATION STATEMENT/GOOD FAITH REPORTING**

Neumann University will not engage in nor tolerate Retaliation of any kind against any individual who makes a complaint or third-party report of Sexual Misconduct or who participates in the investigation or disciplinary process (e.g. as a witness) of such a complaint. Complaints of Retaliation will be investigated and addressed in the same manner as any other complaint brought under this Policy.

Reports made in good faith under this Policy will not result in any adverse action against the Reporter, and no other person who participates in good faith in the disciplinary/resolution process will be treated adversely because of that participation. However, if an investigation results in a finding that the Reporter knowingly falsely accused another of an act of Sexual Misconduct, then the Reporter will be subject to appropriate sanctions, up to and including expulsion.

### **III. DISCIPLINARY PROCESS FOR ALLEGED VIOLATIONS OF THE SEXUAL MISCONDUCT POLICY**

#### **A. PROCEDURES THAT MAY APPLY**

Any Neumann student who believes that they have been subjected to Sexual Misconduct by another student or a Neumann faculty member, administrator, or staff member may choose to participate in: (1) both the University disciplinary process and an outside law enforcement process; (2) the University disciplinary process only; (3) an outside law enforcement process only; or (d) neither the University disciplinary process nor an outside law enforcement process.

The University will provide a prompt, fair, and impartial disciplinary process—starting with the initial report through to the final result—conducted by officials who are trained annually on issues related to Sexual Assault, Sexual Harassment, Domestic Violence, Dating Violence, and Stalking, as well as on how to conduct a process that protects the safety of victims and promotes accountability.

*Student complaints involving student Respondents* will be resolved pursuant to the procedures set forth below in this Section III of the Policy.

*Student complaints involving faculty, administrator, or staff Respondents* will be resolved pursuant to the University's Harassment Policy and Procedure, IP 1.03.

*For student complaints where the Respondent is an individual unaffiliated with the University*, the University can assist the Complainant in many ways, even though it cannot pursue disciplinary action against the Respondent. For example, the University can ensure that the Complainant receives appropriate medical care, interim and remedial measures; coordinate reporting and follow-up with local police, if desired; issue University no contact orders and/or campus bans, and provide support during off-campus procedures such as court appearances.

## **B. EVIDENTIARY STANDARD**

All allegations of Prohibited Misconduct in violation of this Policy will be resolved under a “preponderance of evidence” standard. This means that the Sexual Misconduct Board must find, in light of all of the information made available and considered, that a violation of this Policy is more likely to have occurred than not.

## **C. RESOLUTION OF A COMPLAINT**

### **1. Timeframe for Resolution of a Complaint**

Neumann University will strive to complete the formal resolution process, including the investigation, the hearing process, and rendering of a resolution, within sixty (60) days of receipt of a complaint; however, extenuating circumstances may arise that require the extension of the 60-day timeframe. Extenuating circumstances may include, but are not limited to, the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

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 Complainant and the Respondent of that fact and provide a timeframe for completing the investigation, and provide additional updates/extensions as appropriate.

In general, a Complainant and Respondent can expect to receive periodic updates as to the status of the review or investigation. In the event that the investigation and resolution exceed the anticipated timeframe, the University will notify all parties in writing of the need for additional time, and best efforts will be made to complete the process in a timely manner while balancing principles of thoroughness and fundamental fairness with promptness.

### **2. Advisors**

The Complainant and Respondent both have the right to be assisted by an advisor of their choosing (“Advisor”) during the informal and formal disciplinary processes under this Policy. The decision to invite, or not invite, an Advisor to any meeting is solely that of the Complainant and the Respondent.

An Advisor serves as guide to the Complainant/Respondent through the disciplinary process. At any stage in the process, the individual may seek guidance from the Advisor, and the Advisor may give advice to the Complainant/Respondent. However, the Advisor may not speak for the Complainant/Respondent or otherwise direct questions to or address others present in any disciplinary process meeting or hearing (e.g. the Investigator, opposing party, witnesses, and/or the person conducting the meeting or hearing). An Advisor cannot also serve as a witness, or perform any other role during the disciplinary process.

The University may remove or dismiss an Advisor who becomes disruptive or who does not abide



by the restrictions on their participation, as determined by the person conducting the meeting/hearing.

### **3. Initial Review and Charge**

The Title IX Coordinator, or a Deputy Title IX Coordinator, makes an initial review of every report of an alleged violation of this Policy. The initial review will consider the nature of the report, the safety of all parties and of the campus community, and the Complainant's expressed preference for resolution, if any. As part of the initial review, the Title IX Coordinator/Deputy Title IX Coordinator will determine whether the report, if true, could constitute a violation of the Policy and is thus sufficient for a formal charge to be made.

If the Title IX Coordinator/Deputy Title IX Coordinator finds that the report, if true, could constitute a violation of the Policy, the Respondent will receive a Notice of Charge, which shall state:

- the nature of the alleged Sexual Misconduct;
- the Respondent's obligation to attend an Administrative Meeting by the date designated in the Notice of Charge;
- the right to be accompanied by an Advisor at any disciplinary meeting, interview, or proceeding, and advise them of the role, and limitations, of such an Advisor; and
- that the deadline to attend an Administrative Meeting can be extended solely at the discretion of the Dean of Student or his/her designee.

The Reporter, and Complainant, if different, will also receive a copy of the Notice of Charge and be put on notice that they must also schedule an Administrative Meeting.

If the report, if true, could not constitute a violation of the Policy, but might otherwise constitute a violation of another University policy, the report will be referred to the Office of the Dean of Students. Reporter (and Complainant, if different), and Respondent will receive written notice of the referral.

If the report, if true, could not constitute a violation of the Policy, nor of any other University policy, the Reporter (and Complainant, if different), will be notified in writing and the matter will be closed.

During the Initial Review, the Title IX Coordinator or Deputy Title IX Coordinator will also review and assess whether there is reasonable cause to believe that a Respondent poses a significant threat of harm to the health, safety, and welfare of others or the University community and if he/she does, whether interim suspension is appropriate from Residence life or University. This decision will be made by the Title IX Coordinator or Deputy Title IX Coordinators in conjunction with the Office of the Dean of Students and consistent with the University's Student Conduct and an individualized and particularized basis in each case.

***Note: The University may delay the conferral of a degree and place a hold on the Respondent's transcript/file pending the outcome of an investigation conducted under this Policy.***



#### **4. Administrative Meetings**

##### Administrative Meeting with Complainant

During an Administrative Meeting with the Complainant, the Dean of Students or his/her designee will:

- Notify the Complainant of the range of interim and remedial measures available;
- Remind the Complainant of the right to contact law enforcement and seek medical treatment;
- Provide the Complainant with information about on- and off-campus resources, including confidential resources;
- Explain the charges against Respondent;
- Explain the Sexual Misconduct disciplinary process and procedural options;
- Explain the University's policy prohibiting Retaliation; and
- Advise the Complainant of his/her right to an Advisor in any disciplinary meeting, interview, or proceeding, and advise them of the role, and limitations, of such an Advisor.

##### Administrative Meeting with Respondent

During an Administrative Meeting with the Respondent, the Dean of Students or his/her designee will:

- Provide the Respondent with information about on- and off-campus resources, including confidential resources;
- Explain the charges against Respondent;
- Explain the Sexual Misconduct disciplinary process and procedural options;
- Explain the University's policy prohibiting Retaliation; and
- Advise the Respondent of his/her right to an Advisor in any disciplinary meeting, interview, or proceeding, and advise them of the role, and limitations, of such an Advisor.

During his/her Administrative Meeting, the Respondent may:

- choose not to contest the charge(s) by signing a form verifying this decision; or
- choose to contest the charge(s).

In cases where the Respondent chooses not to contest the charge(s) and/or admits to a violation of the Policy, the Dean of Students or his/her designee will determine appropriate sanctions.

If a Respondent fails to attend an Administrative Meeting within the prescribed time, the facts will be reviewed by the Dean of Students or his/her designee and a decision—on both responsibility and sanctions—will be rendered in the Respondent's absence. The decision as to responsibility and sanctions will be made within 5 (five) days of the date on which the Administrative Meeting had been scheduled to take place and will be immediately communicated, in writing, to Respondent and Complainant.

## **5. Informal Resolution**

If the Complainant and Respondent agree, certain complaints of Sexual Misconduct may be resolved informally. All Informal Resolution processes will be conducted by the Dean of Students or the Dean's designee and overseen by the Title IX Coordinator or a Deputy Title IX Coordinator. Under no circumstances will a Complainant be directed to resolve a matter directly with Respondent. Informal Resolution may be unavailable if the Title IX Coordinator or Deputy Title IX Coordinator determines that it is inappropriate based on the facts and circumstances of the particular case, or where a possible outcome is suspension, expulsion, or revocation of a degree. This means, among other things, Informal Resolution is never used in the case of alleged Sexual Assault.

During the Informal Resolution process, both the Complainant and Respondent will have the ability to present information and suggest witnesses related to an allegation of Sexual Misconduct to the Dean of Students/designee. The Complainant and Respondent will each have equal and timely opportunity to review any information that will be used by the Dean of Students/designee in meetings and deliberations associated with the Informal Resolution process, consistent with FERPA and in a manner intended to protect confidential and privileged information.

After considering all of the information available, the Dean of Students/designee will use the preponderance of the evidence standard to conclude if the Respondent is in violation of the Policy. If the Dean of Students/designee concludes that the Respondent is in violation of the Policy, the Dean of Students/designee will apply an appropriate sanction, including but not limited to an official warning, disciplinary probation, and/or the suspension of specific student rights and privileges for a designated period of time.

The Complainant and Respondent will receive written notification of the outcome of the Informal Resolution process. A copy of the written outcome and notice will also be placed in the Respondent's educational record.

Either the Complainant or the Respondent may withdraw their agreement to proceed informally at any time 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 process may not be used as evidence in the formal University conduct process. However, the Title IX Coordinator or a Deputy Coordinator may consider such statements in determining whether to impose interim and remedial measures.

## **6. Formal Resolution**

### **a. The Investigation**

Once a Notice of Charge has been issued and the Administrative Meetings are completed, if Informal Resolution is not appropriate/not selected, the University will initiate an investigation. The investigation is designed to provide a thorough, impartial, and fair gathering of facts, and all individuals will be treated with appropriate sensitivity and respect throughout the process.

The University may designate an Investigator of its choosing from either inside or outside of the University. The University will typically designate a member of Campus Safety or a Deputy Title

IX Coordinator to conduct an investigation, but may also choose to engage an external Investigator at its discretion. The Investigator will be an individual who has specific training and experience (and who receives annual training on) investigating allegations of Sexual Misconduct and how to conduct an investigation that protects the safety of Complainants and promotes accountability.

The University will seek to conduct the investigation within 30-45 days of receiving the complaint. This time may be extended depending on the complexity of the circumstances of each case.

The Investigator will coordinate and conduct fact gathering from the Complainant, the Reporter (if different from the Complainant), the Respondent, and any other individuals who may have information relevant to the ultimate determination of responsibility under the Policy. The Investigator will also gather any available physical or medical evidence, including documents, communications between the parties, and electronic records as appropriate. The first step of an investigation will usually be an interview of the Complainant. The interview of the Complainant will inform next steps. It may be, and often will be, appropriate to interview other witnesses before the Respondent.

After the investigation is complete, as soon as feasible, the Investigator shall prepare a Draft Investigation Report that summarizes the information gathered and outlines what information was contested and what was uncontested.

The Complainant and the Respondent will have an opportunity to review, but will not be given copies of, the Draft Investigation Report. The Complainant and Respondent, after receiving the Draft Investigation Report, may also: (a) meet with the Investigator; (b) submit additional comments and information to the Investigator; (c) identify any additional witnesses or evidence for the Investigator to pursue; and (d) submit any further questions that they believe should be directed by the Investigator to the other party or to any witness. The Investigator will designate a reasonable time for this review and response by the parties, not to exceed ten (10) calendar days.

In the absence of good cause, information discoverable and witnesses identifiable through the exercise of due diligence that is not provided to the Investigator during the designated review and response period will not be considered by the Sexual Misconduct Board and will not be considered in the determination of responsibility for a violation of the Policy.

Unless there are significant additional investigative steps requested by the parties or identified by the Investigator, within seven calendar days after receipt and consideration of any additional comments, questions and/or information submitted by the parties during the designated review and response period, the Investigator will prepare a Final Investigation Report.

The Final Investigation Report will include assessments of credibility, a recommended finding as to responsibility, and recommended sanctions, if appropriate. In making the responsibility determination, the Investigator will use a “preponderance of the evidence” standard, as that standard is defined in Section III.B of this Policy.

The Investigator will deliver the Final Investigation Report to the Dean of Students.

**b. A Note on Evidence**

Information that does not directly relate to the facts at issue, but instead reflects upon the reputation, personality, qualities, or habits of an individual is character evidence and is not relevant to the determination of whether there is a policy violation and will not be included in the Final Investigative Report nor considered by the Sexual Misconduct Board.

An individual's character or reputation with respect to other sexual activity is not relevant and will not be considered as evidence. Similarly, an individual's prior or subsequent sexual activity is typically not relevant and will only be considered as evidence under limited circumstances. For example, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve other questions raised by the report. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.

Where the parties have a prior sexual relationship with one another, and the existence of Consent is at issue, the sexual history between the parties *may* be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether consent was sought and given during the incident in question. However, this does not assume that the prior sexual history was consensual and this should be a factor in considering relevance.

**c. Notice of Hearing**

Within seven days of receipt of the Final Investigation Report, the Dean of Students or designee will issue a written Notice of Hearing to the Complainant and Respondent. The Notice of Hearing provides the parties with notice of the date, time, and place of the hearing. The hearing will generally be set for a date within 20 calendar days of the date on which the Notice of Hearing is sent. Either party can request to have a hearing rescheduled for good cause. Absent extenuating circumstances, requests to reschedule must be submitted to the Dean of Students at least seven (7) business days prior to the hearing. The Dean of Students shall be the sole authority for determining whether good cause exists to reschedule the hearing.

The Notice of Hearing will also identify the individuals who will serve as Sexual Misconduct Board members at the hearing. The Complainant and Respondent may object, in writing, to the inclusion of a Board member on the basis of a potential conflict of interest. Such objection must be received by the Dean of Students within three days of the issuance of the Notice of Hearing. The Dean of Students shall evaluate the objection and determine whether to replace the Board member.

**d. Pre-Hearing Review of Documents**

Complainant and Respondent will each be given the opportunity to review the Final Investigative Report and any additional information that will be provided to the Sexual Misconduct Board for use at the hearing, which may include materials redacted consistent with FERPA. Complainant and Respondent will not be provided with copies of the Final Investigative Report or other information and may not take any photographs of the records (whether via camera, phone, etc.). The

Complainant and Respondent are not entitled to review, or to copies of, the Investigator's personal/underlying notes, if any.

Advisors may accompany the Complainant and Respondent during their review, but sharing of the report by either party, their families, advisors, or outside counsel with any other person is strictly prohibited.

**e. Hearing Witnesses**

The Complainant, Respondent, and members of the Sexual Misconduct Board all have the right to call witnesses to participate in the hearing. Witnesses must have information relevant to the incident and cannot participate solely to speak about an individual's character.

In general, neither the Complainant nor Respondent will be permitted to call as a witness anyone who was not interviewed by the Investigator as part of the University's investigation. If either the Complainant or Respondent wishes to call witnesses, whether or not they were previously interviewed as part of the University's investigation, the following must be submitted to the Dean of Students in writing no later than seven (7) calendar days before the hearing:

- The names of the party's proposed witnesses;
- A description of why the witness's presence is relevant to making a decision about responsibility at the hearing, if the witness was not previously interviewed by the Investigator; and
- The reason why the witness was not interviewed by the investigator, if applicable and known.

The members of the Sexual Misconduct Board may only propose to call witnesses previously interviewed by the Investigator.

The Dean of Students or designee has sole discretion to determine if the proposed list of witness(es) has relevant information and if there is sufficient justification for permitting the attendance of a witness who was not interviewed by the Investigator.

If witnesses are approved to be present, the Respondent and Complainant will be provided with a list of witnesses and any relevant documents related to their appearance at the hearing no later than three (3) business days before the hearing.

**f. Sexual Misconduct Board**

The Sexual Misconduct Board (the "Board") assigned to preside over the hearing will consist of three non-student members of the University's Student Conduct Board.

The Dean of Students or designee serves as an administrative advisor to the Sexual Misconduct Board. The administrative advisor is a non-voting member of the Board and is responsible for the administration of the hearing process, including procedural matters and decisions leading up to the hearing, determinations about information that will be considered or not at the hearing, appropriate and inappropriate lines of questioning, and the overall decorum and conduct of the proceedings.

The Board will receive the Final Investigation Report seven (7) calendar days in advance of the hearing.

**g. The Hearing**

*Note: There may be circumstances when a Complainant decides he/she no longer wishes to participate in the investigative or disciplinary processes once they have commenced, including by ceasing his/her participation in advance of hearing. In these situations, the University reserves the right to step into the shoes of the Complainant if it chooses and to keep the process moving forward.*

The hearing will begin with a reading of the University's Mission Statement, recitation of the responsibilities of the Sexual Misconduct Board, and a statement of confidentiality to which all participants must agree to abide. The Complainant and Respondent will not be in the hearing room together, unless both parties agree in writing. The Complainant and Respondent (and their advisor, as applicable) will have audio or video access to the hearing via telephone, videoconference, or other means when not present in the hearing room.

The hearing will be held in private. Only the person being interviewed (and that person's Advisor, if applicable) will be present in the hearing room during interviews. The Investigator will be the first witness interviewed by the Board, followed by Complainant, Respondent, and then any remaining witnesses. The Board has wide latitude when questioning witnesses and deciding which witnesses shall be called, including the Investigator, Complainant, and Respondent.

Only the Board may ask questions of witnesses, including the Investigator, Complainant, and Respondent. During the course of the hearing, Complainant and Respondent may propose, in writing, specific questions that they believe important to ask of the other party or witnesses and submit them to the Board. The administrative advisor to the Board will determine the relevance as well as the appropriateness of the proposed questions, and may accordingly place restrictions on, include, or exclude testimony or other information from the hearing.

**h. Sanctioning Phase**

After the hearing concludes, the Board (excluding the administrative advisor) will convene in private to deliberate and render a decision, by majority vote, regarding whether the Respondent violated the Policy by a "preponderance of the evidence." The Board will make this determination as to each charge against Respondent. No member may abstain from the deliberations. If the Board determines that the Respondent is responsible for one or more violations of the Policy, it will then deliberate as to an appropriate sanction for any such violation. The Board will be permitted to consider Respondent's prior policy violations, if any, in determining an appropriate sanction.

Sanctions for a violation of the Sexual Misconduct Policy may include any of the sanctions that are available for violations of the University's Student Code of Conduct, including disciplinary probation, suspension or loss of residence life privileges, suspension from the University, expulsion from the University, or revocation of the conferral of a degree.

The Board will arrive at its conclusion as expeditiously as possible and will promptly advise both

the Complainant and Respondent, as well as the Dean of Students, in writing of its decision with respect to responsibility and, if applicable, sanctions. In keeping with guidelines for timely resolution, the written decision will be provided as soon after the conclusion of the hearing as possible. The Dean of Students will provide Complainant and Respondent with a written explanation of appeal rights.

Decisions made by the Board are considered final, subject only to appeal as outlined below.

**i. Appeal of Outcome and/or Sanctions**

The Board's decision (as to both outcome and sanctions) is subject to appeal by either party on the limited grounds of:

- Substantial procedural error(s) that had a material impact on the outcome of the process;
- New, material evidence not reasonably available at the time of the hearing; and/or
- A decision or sanction clearly contrary to the weight of the evidence.

***Dissatisfaction with the outcome of the hearing, or a sanction, is not grounds for appeal.***

An appeal must be submitted in writing to the Title IX Coordinator no more than ten (10) days after the date of the Board's decision. Letters of appeal should explain in detail the grounds for appeal. The letter of appeal will be immediately shared with the non-appealing party. The non-appealing party may provide a written response to the appeal. Any response by the non-appealing party must be submitted within five (5) business days from receipt of the appeal.

An Appellate Officer shall be named from the pool of trained Sexual Misconduct Board members not yet involved in the resolution of the complaint. The Appellate Officer's responsibility will be strictly limited to determining if there was substantial procedural error that materially affected the outcome, new evidence not reasonably available at the time of the hearing, and/or a decision and/or sanction that is clearly contrary to the weight of the evidence. If any or all are found by the Appellate Officer, the appeal will be granted. If the appeal is denied, the matter is closed, and the Board's decision and any sanctions stands.

There are two (2) possibilities in the event that an appeal is granted. The Appellate Officer may, in its discretion:

1. Remand the case to the Board and provide instructions regarding the nature and extent of its reconsideration. The Board will act promptly to reconsider the matter consistent with those instructions. Following reconsideration, the finding of the Board or the sanction imposed by the decision-maker will be final and not subject to further appeal.
2. Modify the decision and/or sanction consistent with his/her decision to grant the appeal. The modified decision and/or sanction will be final and not subject to further appeal.



#### **IV. ROLE OF THE UNIVERSITY'S TITLE IX COORDINATOR**

David W. Brownlee is the University's Title IX Coordinator. In his role as Title IX Coordinator, Mr. Brownlee coordinates the University's compliance with Title IX and oversees the University's investigation and resolution process for reports of Sexual Misconduct. Mr. Brownlee is supported by several trained University personnel who serve as Deputy or Co-Title IX Coordinators and who may assist Mr. Brownlee in the discharge of his responsibilities.

Mr. Brownlee and the Deputy Title IX Coordinators are knowledgeable and trained in state and federal laws that apply to matters of Sexual Misconduct, as well as University policy and procedure.

Contact information for the Title IX and Deputy Title IX Coordinators, who can be contacted by telephone, email, or in person during regular office hours, is as follows:

**David W. Brownlee**

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

**Bridget A. Haines-Frank**

Dean of Students // Deputy Title IX Coordinator  
Bachmann Main Building, Room 139  
[hainesb@neuman.edu](mailto:hainesb@neuman.edu) / 610-361-5494

**Chuck Sack**

Director of Athletics and Recreation // Deputy Title IX Coordinator  
Miranda Center (MCSSCD), Room 220  
[sackc@neumann.edu](mailto:sackc@neumann.edu) / 484-840-4711

**Christy Fleagle**

Associate Athletic Director for Compliance  
Miranda Center (MCSSCD), Room 219  
[malonec@neumann.edu](mailto:malonec@neumann.edu) / 484.840.4710

**Michael Webster**

Director of Residence Life // Deputy Title IX Coordinator  
Living and Learning Center I  
[websterm@neumann.edu](mailto:websterm@neumann.edu) / 610-558-5657

**Maria Marx**

Campus Minister // Deputy Title IX Coordinator  
Bachmann Main Building, Room 131  
[marxm@neumann.edu](mailto:marxm@neumann.edu) / 610-558-5525



## **V. EDUCATION AND TRAINING**

Neumann University is committed to providing programming designed to educate the University community about Sexual Misconduct in all of its forms and to prevent its occurrence. Such programming includes, but is not limited to *Everfi* 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.

The University also provides specific training to faculty and staff members who may be responsible for responding to, investigating or adjudicating complaints of Sexual Misconduct.

## **VI. RELATED POLICIES**

Human Resources IP 1.03

## **VII. POLICY UPDATES AND REVISIONS**

The Title IX Coordinator will initiate an annual review of this Policy. Additional review will be conducted and additional revisions completed as needed to comply with legal requirements.

**APPENDIX A**  
**Sexual Assault under Pennsylvania Crimes Code**

*In addition to the definitions identified above in Section II.C, the following definitions are applicable to this Policy. The conduct described in each definition below is prohibited by this Policy as a form of Sexual Assault.*

Each definition is pulled directly from Title 18 of the Pennsylvania Crimes Code; the section number (e.g., § 3121, § 3122, etc.) is also pulled directly from the Pennsylvania Crimes Code. The pertinent definitions are:

**§ 3121. Rape.**

*(a) Offense defined.--A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:*

*(1) By forcible compulsion.*

*(2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.*

*(3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.*

*(4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.*

*(5) Who suffers from a mental disability which renders the complainant incapable of consent.*

*(b) **Rape of a child.**--A person commits the offense of rape of a child, a felony of the first degree, when the person engages in sexual intercourse with a complainant who is less than 13 years of age.*

*(c) **Rape of a child with serious bodily injury.**--A person commits the offense of rape of a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is under 13 years of age and suffers serious bodily injury in the course of the offense.*

**Link:** <http://www.legis.state.pa.us/cfdocs/legis/LI/con-sCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=21&subsctn=0>

**§ 3122.1. Statutory sexual assault.**

(a) *Felony of the second degree.--Except as provided in section 3121 (relating to rape), a person commits a felony of the second degree when that person engages in sexual intercourse with a complainant to whom the person is not married who is under the age of 16 years and that person is either:*

*(1) four years older but less than eight years older than the complainant;  
or*

*(2) eight years older but less than 11 years older than the complainant.*

(b) *Felony of the first degree.--A person commits a felony of the first degree when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is 11 or more years older than the complainant and the complainant and the person are not married to each other.*

**Link:**  
<http://www.legis.state.pa.us/cfdocs/legis/LI/con-sCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=22&subsctn=1>

**§ 3123. Involuntary deviate sexual intercourse.**

(a) *Offense defined.--A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant:*

*(1) by forcible compulsion;*

*(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;*

*(3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;*

*(4) where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;*

*(5) who suffers from a mental disability which renders him or her incapable of consent; or*

*(6) (Deleted by amendment).*

*(7) who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.*

*(b) Involuntary deviate sexual intercourse with a child.--A person commits involuntary deviate sexual intercourse with a child, a felony of the first degree, when the person engages in deviate sexual intercourse with a complainant who is less than 13 years of age.*

*(c) Involuntary deviate sexual intercourse with a child with serious bodily injury.--A person commits an offense under this section with a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is less than 13 years of age and the complainant suffers serious bodily injury in the course of the offense.*

**Link:** <http://www.legis.state.pa.us/cfdocs/legis/LI/con-sCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=23&subctn=0>

### **§ 3124.1. Sexual assault.**

*Except as provided in section 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.*

**Link:** <http://www.legis.state.pa.us/cfdocs/legis/LI/con-sCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=24&subctn=1>

### **§ 3125. Aggravated indecent assault.**

*(a) Offenses defined.--Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse) and 3124.1 (relating to sexual assault), a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures commits aggravated indecent assault if:*

- (1) the person does so without the complainant's consent;*
- (2) the person does so by forcible compulsion;*
- (3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;*
- (4) the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring;*
- (5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;*
- (6) the complainant suffers from a mental disability which renders him or her incapable of consent;*
- (7) the complainant is less than 13 years of age; or*

(8) *the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.*

(b) *Aggravated indecent assault of a child.--A person commits aggravated indecent assault of a child when the person violates subsection (a)(1), (2), (3), (4), (5) or (6) and the complainant is less than 13 years of age.*

**Link:**

<http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/18/00.031..HTM>

### **§ 3126. Indecent assault.**

(a) *Offense defined.--A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and:*

(1) *the person does so without the complainant's consent;*

(2) *the person does so by forcible compulsion;*

(3) *the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;*

(4) *the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring;*

(5) *the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;*

(6) *the complainant suffers from a mental disability which renders the complainant incapable of consent;*

(7) *the complainant is less than 13 years of age; or*

(8) *the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.*

**Link:** <http://www.legis.state.pa.us/cfdocs/legis/LI/con->

<sCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=26&subsctn=0>

### **§ 4302. Incest.**

(a) *General rule.--Except as provided under subsection (b), a person is guilty of incest, a felony of the second degree, if that person knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood.*

*(b) Incest of a minor.--A person is guilty of incest of a minor, a felony of the second degree, if that person knowingly marries, cohabits with or has sexual intercourse with a complainant who is an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood and:*

*(1) is under the age of 13 years; or*

*(2) is 13 to 18 years of age and the person is four or more years older than the complainant.*

*(c) Relationships.--The relationships referred to in this section include blood relationships without regard to legitimacy, and relationship of parent and child by adoption.*

**Link:** <http://www.legis.state.pa.us/cfdocs/legis/LI/con-sCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=43&sctn=2&subsctn=0>

**Appendix B**  
**Standard for Probable Cause under Pennsylvania Crimes Code**

*While there is no distinct definition of “Domestic Violence” under the Pennsylvania Crimes Code, it should be noted that if a criminal complaint is made to law enforcement outside of the University, the following standard of probable cause will apply. NOTE: This is being provided for informational purposes only. This standard is different than the procedures which apply to on-campus disciplinary matters, as set forth in this Policy.*

**§ 2711. Probable cause arrests in domestic violence cases.**

*(a) General rule.--A police officer shall have the same right of arrest without a warrant as in a felony whenever he has probable cause to believe the defendant has violated section 2504 (relating to involuntary manslaughter), 2701 (relating to simple assault), 2702(a)(3), (4) and (5) (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2706 (relating to terroristic threats) or 2709.1 (relating to stalking) against a family or household member although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence. For the purposes of this subsection, the term "family or household member" has the meaning given that term in 23 Pa.C.S. § 6102 (relating to definitions).*

**Link:**

<http://www.legis.state.pa.us/cfdocs/legis/LI/con-sCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=27&sctn=11&subsctn=0>

## Appendix C *Where to Look:*

### A Guide for Neumann University Students to Navigating University's Sexual Misconduct Policy and Procedures

#### What types of conduct are prohibited under the Policy?

- All Sexual Misconduct—including Sexual Assault, Sexual Harassment, Domestic Violence, Dating Violence, Sexual Exploitation, and Stalking, as well as Retaliation and Intimidation related to sexual misconduct.
- Section II.C of the Policy defines each of these terms.

#### Where can I learn more about the resources available to victims of Sexual Misconduct?

- Section II.D of the Policy explains where to go to get emergency help and medical attention, and provides contact information for on- and off-campus resources.
- Section II.D.3 of the Policy explains that interim relief/remedial measures—including, for example, assistance in making changes to your academic, living, transportation, and working situations, and protective measures such as options to obtain modification of or relief regarding financial aid that might also be available.

#### What are the options for reporting Sexual Misconduct?

- *If safety is an immediate concern, contact Campus Safety at 610-558-5555 or call 911 to reach the [Aston] local police department for assistance. Note that such reports will not necessarily be confidential.*
- Section II.E of the Policy provides details on how to make a non-confidential report of Sexual Misconduct to the Title IX Coordinator.
- If you want to keep your report **confidential**, contact the Neumann University Counseling Center for Wellness at 610-358-4540 or Health Services: 610-558-5540. Section II.E of the Policy explains how confidentiality works.

#### If I decide to pursue a complaint, or a complaint is filed against me, how will the student conduct process work?

- Reminder: any Neumann student who believes that they have been subjected to Sexual Misconduct by another student or a Neumann faculty member, administrator, staff member, volunteer, visitor or vendor may choose to participate in: (1) both the University conduct process and an outside law enforcement process; (2) the University student conduct process only; (3) an outside law enforcement process only; or (d) neither the University student conduct process nor an outside law enforcement process.
  - Section III of the Policy explains the University's disciplinary procedures applicable to complaints about students.

Student complaints about faculty, administrator, or staff will be resolved pursuant to the University's Harassment Policy and Procedure, IP 1.03.



## Appendix D

### SEXUAL MISCONDUCT REPORTING GUIDE

**IF YOU BELIEVE YOU ARE THE VICTIM OF SEXUAL MISCONDUCT, YOU ARE ENCOURAGED TO IMMEDIATELY SEEK MEDICAL ATTENTION AND/OR ASSISTANCE FROM LAW ENFORCEMENT.**

**Emergency resources are available from the following:**

**Department of Campus Safety**

Available 24-hours/day, year-round  
610-558-5555 or x5555 from campus phone

**Aston Township Police Department**

5021 Pennell Road, Aston, PA 19014  
Emergency: 911 / Non-Emergency 610-497-2633

**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

#### What is “Sexual Misconduct”?

**Sexual Misconduct** encompasses a range of behavior that is prohibited by Neumann University, including Sexual Assault, Sexual Harassment, Gender-Based Harassment, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking.

These forms of prohibited conduct are defined in Section II.C of the University’s *Sexual Misconduct Policy and Procedures for Neumann University Students*.

This conduct may also be criminal or a violation of the law.

The *Sexual Misconduct Policy and Procedures for Neumann University Students* is available at <https://www.neumann.edu/life/default.asp>.

#### What if I have questions?

The University’s Title IX Coordinator, David W. Brownlee, is available to answer questions about University Policy, support resources, etc. He can be contacted at:

610-558-5628 // [dbrownle@neumann.edu](mailto:dbrownle@neumann.edu)

Deputy Title IX Coordinators are:

Bridget Haines-Frank, Dean of Students

610-361-5494 // [hainesb@neumann.edu](mailto:hainesb@neumann.edu)

Chuck Sack, Dir. of Athletics and Rec.

484-840-4711 // [sackc@neumann.edu](mailto:sackc@neumann.edu)

Michael Webster, Dir. of Residence Life

610-558-5657 // [websterm@neumann.edu](mailto:websterm@neumann.edu)

Maria Marx, Campus Minister

610-558-5525 // [marxm@neumann.edu](mailto:marxm@neumann.edu)

Christy Malone Fleagle, Assoc. Athletic Dir. for Business Operations

484-840-4710 // [malonec@neumann.edu](mailto:malonec@neumann.edu)

#### Where Can I Report Sexual Misconduct?

To report Sexual Misconduct, you may contact any or all of the following. Note that these conversations may or may not be confidential, depending on the information reported and the obligations of the University/law enforcement:

- Department of Campus Safety – (610) 558-5555
- Aston Township Police – (610) 497-2633
- David W. Brownlee, Title IX Coordinator  
Rocco Abessinio Building, Rm. 404  
610-558-5628 / [dbrownle@neumann.edu](mailto:dbrownle@neumann.edu)

To have a **confidential** conversation, contact:

- **University Counseling Center for Wellness**  
Location: 603B Convent Road  
Phone: (610) 358-4540  
Hours: Mon. – Fri., 8:00 a.m. to 5:00 p.m.

- **Health Services Office:**  
Location: rm 235 Bachmann Main Building  
Phone: (610) 558-5540  
Hours: Mon, Wed: 8:30 a.m. - 5:30 p.m.  
Tues, Thurs: 8:30 a.m. - 4:30 p.m.  
Fri: 8:30 a.m. - 3:00 p.m.

For additional information on reporting, see Section II.E of the University’s *Sexual Misconduct Policy and Procedures for Neumann University*

**What Student Conduct Process Applies to Complaints of Sexual Misconduct?**

*Student complaints against other students* will be resolved pursuant to the procedures set forth in Section III of Sexual Misconduct Policy and Procedures for Neumann University Students, available at <https://www.neumann.edu/life/default.asp>.

*Student complaints against faculty, administrators, or staff* will be resolved pursuant to the University's IP 1.03 policy and procedures applicable to faculty/administrator/staff available at <https://www.neumann.edu/about/humanresources/>.