



Clergy Privacy FAQs

North Dakota



Chaplains and campus ministers can often provide confidential support for people in campus communities who have experienced sexual and domestic violence. Because of mandatory reporting laws and Title IX reporting requirements on campus, privileged communications may provide the most privacy protection for these survivors. Privileged communications may be possible with victim advocates and medical staff on campuses in certain jurisdictions, but sometimes chaplains and campus ministers are the only privileged professionals on campus who are not required to report a disclosed sexual assault.¹ Office on Violence Against Women (OVW)-funded victim service providers (VSPs) who work on campuses need to be able to explain to the people they serve how private any communication with chaplains or campus ministers will be and when these clergy may be required to report abuse, neglect, or sexual assault. These FAQs are meant to help VSPs understand the legal parameters for these communications.

These FAQs describe the clergy-penitent privilege and the mandatory reporting laws in the identified jurisdiction. We include legal citations so that you can read more about the laws and make sure they are current. None of the information in these FAQs is legal advice and you should always check with an attorney about how these laws work in your jurisdiction. The FAQs are a part of our Campus Privacy Toolkit. To receive an electronic copy of the Toolkit, or to ask privacy questions related to your OVW-funded work, please email us at TA@victimrights.org.

1 **What is the cleric-penitent privilege in North Dakota?** “An individual has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the individual to a cleric in the cleric’s professional character as spiritual adviser.” N.D. R. Evid. 505(b).

2 **Who is a “cleric”?** “Cleric’ means a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed so to be by the person consulting the cleric.” N.D. R. Evid. 505(a)(1).

3 **What is a “confidential communication”?** “Confidential communication” means a communication “made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.” N.D. R. Evid. 505(a)(2).

4 **Who may claim the privilege?** “The privilege under this rule may be claimed by an individual or the individual’s guardian or conservator, or the individual’s personal representative if the individual is deceased. The individual who was the cleric at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the communicant.” N.D. R. Evid. 505(c).

¹ Even if a communication is protected from campus reporting by clergy privilege, jurisdictions may require clergy to report abuse of minors, elders, and persons with disabilities.

How are clerics excepted from, or included in, North Dakota’s mandatory reporting laws?
 (This is not necessarily an exhaustive list of the abuse, neglect, or injuries that must be reported in this jurisdiction.)

Type of abuse or neglect	Rule and exceptions
Child abuse or neglect	Members of the clergy are mandatory reporters of child abuse or neglect but are not required to report “if the knowledge or suspicion is derived from information received in the capacity of spiritual adviser.” N.D. Cent. Code Ann. § 50-25.1-03(a).
Abuse or neglect of vulnerable adults	Members of the clergy are mandatory reporters of vulnerable adult abuse or neglect but are not required to report “if the knowledge or suspicion is derived from information received in the capacity of spiritual adviser.” N.D. Cent. Code Ann. § 50-25.2-03(1). “Vulnerable adult” is defined as “an adult who has a substantial mental or functional impairment.” N.D. Cent. Code Ann. § 50-25.2-01(17).

