

# GUIDANCE FOR POST-SECONDARY INSTITUTIONS THAT HAVE SIGNED THE PLEDGE

## Implementing the University NDA Pledge

Provided by *Can't Buy My Silence*

### Getting Started

Now that your university or college has committed to avoiding the use of non-disclosure agreements in cases of sexual harassment, discrimination, bullying and other misconduct, this guide will help you put some simple measures in place to ensure that students and staff can thrive in an NDA-free environment.

It contains practical steps to ensure your commitment to the Pledge is a success, and is designed to help make your campus safe and free of silencing. You may wish to enhance these steps with some ideas of your own.

### What The Pledge Means

Your commitment to the Pledge means you will neither require nor recommend that victims who report harassment, discrimination or other abuses sign NDAs:

- In advance of an investigation of a non-academic complaint or a mediation. (Some universities and colleges have asked students to sign indefinite confidentiality at the beginning of an investigation or mediation; these should be eliminated or replaced by confidentiality that covers only the period of the investigation or mediation)
- Before the complainant is able to access a decision/outcome
- As part of the resolution of a complaint

Stopping the use of NDAs includes the elimination of any requirement that prevent students from posting on social media, speaking with one another, or talking about their experience with counsellors or therapists. However, it may be appropriate to advise staff and students of the personal or legal risks of making public statements they may not be able to prove are true — including on social media.

Please review all staff and student guidance to see where confidentiality is mentioned to ensure the term is only used for the protection of intellectual property.

### Communications

Signing the Pledge should be followed up with communications to make faculty, staff, students and prospective students aware of the commitment the university has made. This will help embed the long-term commitment to honour the Pledge within the institution.

Make sure that your communications:

- Include all departments, student unions and constituent colleges (where applicable)

- Include key staff members involved with student and staff wellbeing and mental health, such as Human Resources (HR) and Equity, Diversity and Inclusion (EDI) teams. Make sure they understand the clause and how it will be implemented
- Show your commitment by displaying the Can't Buy My Silence logo on the university's homepage



- Reaffirm your commitment to the Pledge at regular intervals. This should be done every year to make sure new staff and students are aware of the policy
- Use your website to help clarify what is/isn't an NDA by posting the following informational resources, or linking to them on the CBMS website (<https://cantbuymysilence.com/recognizing-and-understanding-an-nda/>)
- Review all of your promotional materials and include references to your support of the Pledge wherever there is an opportunity

## Monitoring and Review

To ensure the efficacy of the Pledge, we recommend that you take these crucial steps:

- Establish a process to review and renew the commitment to the Pledge each year. This could be combined with existing process reviews to make it more efficient; for example, it could be done at the same time as you review safeguarding or misconduct processes.
- Set regular dates for reviewing the effectiveness of the changes you have made — perhaps each semester or term. This could include meeting with the Vice Chancellor as well as staff and student representatives, evaluating whether the changes are helping students and staff to feel safer raising complaints, whether more can be done, and whether anything needs to be done differently. Keeping the issue of NDAs on the agenda at the most senior levels will help create or maintain a culture that is free of NDAs.

## Cultural Change

The best way to avoid situations involving NDAs is to make sure your processes and procedures minimize the chances your staff and students experience misconduct. This is where changes to culture and processes can have a significant positive impact.

- We encourage universities and colleges to work towards a more open and transparent culture in handling non-academic complaints, and avoid falling back on informal alternatives to NDAs. For example, avoid conversations that warn students not to speak to others.
- Consider appointing an NDA Champion who would ensure the guidance in this document is implemented. This doesn't need to be a dedicated role, but could be an addition to an existing role — for example, as part of other student supports/services.

## **Set Up an NDA Amnesty**

In order to demonstrate your intent and honour the spirit of the Pledge, we recommend wherever possible:

- Nullifying existing NDAs, and notifying signatories that their NDAs have been cancelled
- Withdrawing from any NDA-related legal action currently underway

We wish you every success with your commitment to the Pledge and thank you for your support.