

SUNY Policies on Sexual Violence Prevention and Response

Students' Bill of Rights

The State University of New York and SUNY Orange are committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in SUNY Orange programs, activities, and employment. All victims/survivors of these crimes and violations, regardless of race color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad:

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressures from the institution.;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident.
8. Be free from retaliation by the institution, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College.

Options in Brief:

Victims/survivors have many options that can be pursued simultaneously, including one or more of the following:

- Receive resources, such as counseling and medical attention;
- Confidentially disclose a crime or violation by contacting the Wellness

Center and speaking with a licensed mental health professional and/or a registered nurse; and

- Anonymously disclose a crime or violation by utilizing the blue light emergency phones or red phones available on campus.

Make a report to:

- An employee with the authority to address complaints, including the Title IX Coordinator or Deputy Coordinators, an employee from the Office of the Vice President for Student Services, or a Human Resources employee;
- Safety and Security;
- Local law enforcement; and/or
- Family Court or Civil Court

Definition of Terms

Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time.

Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

When consent is withdrawn or can no longer be given, sexual activity must stop.

Sexual assault is defined as any unwanted physical contact, or attempts to have physical contact, of a sexual nature without the clear and express consent of both individuals, or under threat of coercion. A sexual assault can be committed by a male or a female on a member of the opposite or same sex. Sexual assault can occur forcibly and/or against a person's will. It can also occur when a person is incapable of giving consent or is unable to give consent. Examples of sexual assault include, but are not limited to, rape (whether by an acquaintance

or stranger) including penetration with a body part of foreign object, sodomy, oral copulation, sexual abuse, sexual battery, fondling (e.g., unwanted touching or kissing for purposes of sexual gratification), and threats of sexual assault.

Dating violence is defined as any act of 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 shall be determined based on the victim's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. This definition does not include acts covered under domestic violence.

Domestic violence is defined as any violent felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.

Stalking is defined as intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional damage.

Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy, or alarm him or her.

Confidential Reporting means reporting to individuals who are *confidential* resources and will not report crimes to law enforcement or college officials without your permission, except for extreme circumstances such as a health and/or safety emergency. At SUNY Orange this includes the personal counselors and nurses at the Wellness Center.

Privacy vs. Confidentiality means that even SUNY Orange offices or employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator who is responsible under the law for tracking patterns and spotting systemic issues.

Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases

The health and safety of every student at the State University of New York and its State operated and community colleges is of utmost importance. SUNY Orange recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to

fear of potential consequences for their own conduct. SUNY Orange strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to SUNY Orange officials or law enforcement will not be subject to SUNY Orange's Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

Sexual Violence Response Policy

In accordance with the Students' Bill of Rights, reporting individuals shall have the right to pursue more than one of the options below at the same time, or to choose not to participate in any of the options below:

I Reporting:

- To disclose *confidentially* the incident to one of the following college officials, who by law may maintain confidentiality, and can assist in obtaining services (more information on confidential report is available in the Options for Confidentially Disclosing Sexual Violence Policy):

- Anonymously via campus blue light phones or red phones
- Wellness Center 3414870

- To disclose *confidentially* the incident and obtain services from the New York State, New York City or county hotlines:

<http://www.opdv.ny.gov/help/dvhotlines.html>.

Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages:

<http://www.opdv.ny.gov/help/index.html> (or by calling 18009426906), and assistance can also be obtained through:

- SurvJustice: <http://survjustice.org/ourservices/civilrightscomplaints/>;
- Legal Momentum: <https://www.legalmomentum.org/>;
- NYSCASA: <http://nyscasa.org/responding>;
- NYSCADV: <http://www.nyscadv.org/>;
- Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>;
- GLBTQ Domestic Violence Project: <http://www.glbtqdv.org/>; and
- RAINN: <https://www.rainn.org/gethelp>.
- Safe Horizons: <http://www.safehorizon.org/>.
- Rape Crisis Services Mental health Association in Orange County: www.mhaorangenyc.com/rapecrisis
- Safe Homes of Orange County: <http://www.safehomesorangecounty.org>

(Note that these hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any

information to the campus. Reporting individuals are encouraged to additionally contact a campus confidential or private resource so that the campus can take appropriate action in these cases).

- To disclose the incident to one of the following college officials who can offer *privacy* and can provide information about remedies, accommodations, evidence preservation, and how to obtain resources. Those officials will also provide the information contained in the Students' Bill of Rights, including the right to choose when and where to report, to be protected by the institution from retaliation, and to receive assistance and resources from the institution. These college officials will disclose that they are private and not confidential resources, and they may still be required by law and college policy to inform one or more college officials about the incident, including but not limited to the Title IX Coordinator. They will notify reporting individuals that the criminal justice process uses different standards of proof and evidence than internal procedures, and questions about the penal law or the criminal process should be directed to law enforcement or district attorney:
 - o Title IX Coordinator or Deputy Coordinator;
 - o Safety and Security; and
 - o Office of the Vice President for Student Services.
- To file a criminal complaint with Safety and Security and/or with local law enforcement and/or state police:
 - o Safety and Security, Middletown Campus. 8453414710, 1st floor, Horton Hall
 - o Safety and Security, Newburgh Campus. 8453419533, Tower Building Lobby
 - o State Police 24hour hotline to report sexual assault on a NY college campus: 18448457269.
 - o Middletown Police Department. 8453433151, 2 James Street, Middletown
 - o Newburgh Police Department. 8455613131, 55 Broadway, Newburgh
- To receive assistance by Safety and Security in initiating legal proceedings in family court or civil court.
- To file a report of sexual assault, domestic violence, dating violence, and/or stalking, and/or talk to the Title IX Coordinator for information and assistance. Reports will be investigated in accordance with SUNY Orange policy and the reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy. If a reporting individual wishes to keep his/her identity anonymous, he or she may call the Office of Human Resources, Safety and Security or the Office of the Vice President for Student Services anonymously to discuss the situation and available options:
 - o Wendy Holmes, Title IX Coordinator, 8453414662, Office of Human resources, Orange Hall, Middletown NY ; wendy.holmes@sunyorange.edu
 - o Ed Kiely, Safety and Security, 8453414710, 1st floor, Horton Hall, Middletown, NY, ed.kiely@sunyorange.edu
 - o Chris Clark, Safety and Security, 8453419533, Tower Building, Newburgh, NY, chris.clark@sunyorange.edu

- o Madeline Torres Diaz, Title IX Deputy Coordinator, 8453414470, 3rd fl, Shepard Center, Middletown, NY madeline.torresdiaz@sunyorange.edu
- o Wayne Smith, Title IX Deputy Coordinator for Athletics, 8453414261, Physical Education Building, Middletown, NY wayne.smith@sunyorange.edu

When the accused is an employee, a reporting individual may also report the incident to the SUNY Orange Office of Human Resources or may request that one of the above referenced confidential or private employees assist in reporting to Human Resources. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the college, college officials will, at the request of the reporting individual, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a personal non grata letter, subject to legal requirements and college policy.

- o Human Resources Office, 8453414662, Orange Hall, Middletown, NY
- You may withdraw your complaint or involvement from the SUNY Orange process at any time.
- Every college shall ensure that, at a minimum, at the first instance of disclosure by a reporting individual to a college representative, the following information shall be presented to the reporting individual: “You have the right to make a report to University Police or Campus Security, local law enforcement, and/or State Police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.”

II Resources:

- To obtain effective intervention services.
 - o Wellness Center, 2nd fl Shepard Center, Middletown, 8453414870. There is no charge for mental health or nursing services.
 - o Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Testing for STIs and emergency contraception is available through Planned Parenthood, 18002307526, <http://www.plannedparenthood.org/plannedparenthoodmidhudsonvalley>. There may be charges for these services.
 - o Sexual Assault Nurse Examiners Program through Rape Crisis Services, 18008321200, http://www.mhaorangenyny.com/rapecrisis/rapecrisis_sane.html. There is no charge for these services.
- Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services. The New York State Office of Victim

Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found here: http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf, or by calling 18002478035. Options are explained here:

<http://www.ovs.ny.gov/helpforcrimevictims.html>.

- To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.

III Protection and Accommodations:

- When the accused is a student, to have the college issue a “No Contact Order,” consistent with college policy and procedure, meaning that continuing to contact the protected individual is a violation of college policy subject to additional conduct charges; if the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person. Both the accused/respondent and reporting individual may request a prompt review of the need for and terms of a No Contact Order, consistent with SUNY Orange policy. Parties may submit evidence in support of their request.
- To have assistance from Safety and Security or other college officials in initiating legal proceedings in family court or civil court, including but not limited to obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.
- To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a college official who can explain the order and answer questions about it, including information from the Order about the accused’s responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s).
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- To have assistance from Safety and Security in effecting an arrest when an individual violates an Order of Protection or, if outside of New York State, an equivalent protective or restraining order within the jurisdiction of Safety and Security or, if outside of the jurisdiction or if Campus Security does not have arresting powers to call on and assist local law enforcement in effecting an arrest for violating such an order.
- When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subject to interim suspension pending the outcome of a conduct process. Parties may request a prompt review of the need for and terms of an interim suspension.
- When the accused is not a student but is a member of the college community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and SUNY Orange policies and rules.

- When the accused is not a member of the college community, to have assistance from Safety and Security or other college officials in obtaining a persona non grata letter, subject to legal requirements and college policy.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Parties may request a prompt review of the need for and terms of any interim measures and accommodations that directly affect them. While reporting individuals may request accommodations through any of the offices referenced in this policy, the following office can serve as a point to assist with these measures:
 - Office of the Vice President for Student Services, (845) 341- 4000

IV Student Conduct Process:

- To request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the SUNY Orange Code of Conduct as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.
- Throughout conduct proceedings, the respondent and the reporting individual will have:
 - The same opportunity to be accompanied by an advisor of their choice who may assist and advise the parties throughout the conduct process and any related hearings or meetings. Participation of the advisor in any proceeding is governed by federal law and the Student Code of Conduct;
 - The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made, and other issues related to sexual assault, domestic violence, dating violence, and stalking.
 - The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
 - The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Accused individuals will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions.
 - The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary

delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.

- o The right to offer evidence during an investigation and to review available relevant evidence in the case file (or otherwise held by the College).
- o The right to present evidence and testimony at a hearing, where appropriate.
- o The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
- o The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in college disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
- o The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present.
- o The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- o The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.
- o The right to written or electronic notice about the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
- o Access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest.
- o The right to have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five years.

Office of the Vice President for Student Services, 3rd fl Shepard Center,
Middletown, NY; (845) 341-4000.

- o The right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

V. Sanctions:

If found responsible, sanctions include:

- **Dating Violence** – no contact order, loss of privileges, probation, suspension for a period of one top four semesters; expulsion from the College.
- **Domestic/Intimate Partner Violence** - no contact order, loss of privileges, probation, suspension for a period of one top four semesters; expulsion from the College.
- **Stalking** - no contact order, loss of privileges, probation, suspension for a period of one

top four semesters; expulsion from the College.

- **Sexual Assault** - no contact order, loss of privileges, probation, suspension for a period of one top four semesters; expulsion from the College.

Policy for Transcript Notations for Crimes of Violence

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act, SUNY Orange shall make a notation on the transcript of any student found responsible after a conduct process that they were “suspended after a finding of responsibility for a code of conduct violation” or “expelled after a finding of responsibility for a code of conduct violation.”

For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, SUNY Orange shall make a notation on the transcript that the student “withdrew with conduct charges pending.”

Students may appeal seeking removal of the transcript notation for a suspension through written request to the Vice President for Student Services. The notation shall not be removed prior to one year after the conclusion of the suspension. Notations for expulsion may not be appealed and will not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation will be removed.

