



The University of Vermont

Policy V. 3.4.6.2

Responsible Official: Senior Vice
President and Provost

Effective Date: March 14, 2011

Sexual Misconduct and Assault - Students

Policy Statement

Sexual misconduct and assault are prohibited and will not be tolerated at the University of Vermont. Any act that falls within the definition of sexual misconduct or assault or attempted sexual misconduct or assault is a violation of University policy. Disciplinary sanctions for any member of the University community engaging in such an act may include suspension or expulsion from the University, termination of University employment and referral for criminal investigation and prosecution under Vermont law. University officials, as defined in this policy, are required to report such incidents to UVM Department of Police Services. All other members of the University community are encouraged to report such incidents to UVM Department of Police Services. Victims of sexual misconduct or sexual assault are encouraged to contact the Victim's Advocate at the Women's Center for support and assistance (services are available to all regardless of gender identity and expression or sexual orientation). Victims of sexual misconduct, sexual assault or attempted sexual assault are also encouraged to notify the UVM Department of Police Services immediately.

Reason for the Policy

The University of Vermont is committed to creating and maintaining a community in which its members are free from all forms of harassment, exploitation, intimidation, and violence. The University of Vermont recognizes the long-lasting and detrimental effects of sexual misconduct and assault on the individual, on our entire community, and on our mission to prepare UVM students to lead productive, responsible, and creative lives. University policy prohibits any form of sexual violence.

Strategic Direction

This policy supports the following goal in the University's Strategic Plan:

- Build a diverse and globally aware university community sustained by an inclusive, supportive, and just campus climate.

This policy also supports the goal of creating an environment that is consistent with and promotes the climate and community as reflected in “Our Common Ground”.

Applicability of the Policy

This policy applies to all members of the University of Vermont community.

Policy Elaboration

See procedures.

Definitions

Coercion: To compel or force one to act based on pressure, harassment, threats, or intimidation.

Consent: Willingly giving permission or agreement to a particular sexual activity or behavior, without coercion, fear or threat of harm or other unwanted consequences. Consent is an informed, voluntary agreement to participate in a specific act. Consent is communicated either by words or clear, unambiguous actions that are not achieved through manipulation, intimidation, fear or other acts that a reasonable person would construe as coercion. Consent cannot be given by one who is mentally or physically incapable of giving clear consent at the time of the sexual activity. It is the responsibility of any person who wants to engage in a sexual activity with another person to ensure that they have the consent of that other person to engage in the particular sexual activity. Neither silence, lack of protest nor lack of resistance means consent. Relying solely on non-verbal communication can lead to misunderstanding. The existence of a dating relationship between the persons involved or the fact of a past sexual relationship is not a sufficient basis to assume consent. Consent is present only where an individual is fully conscious and is not incapacitated due to physical challenge, and/or helplessness or incapacitation by alcohol or other substances.

Incapacity: A mental or physical state where a person is rendered temporarily or permanently incapable of making decisions for any reason or is otherwise unable to give clear consent.

Mental incapacitation means that a person is temporarily or permanently incapable of appreciating or controlling their conduct or understanding the nature or consequences of their conduct. Such incapacity may be the result of the influence of a controlled or intoxicating substance. *Physical challenge and/or helplessness* resulting in incapacity to consent means a person is unconscious or physically unable to communicate consent and also includes physical incapacity or inability to resist unwanted sexual advances regardless of the cause for that inability.

Lack of consent due to mental or physical incapacitation will be found where the accused individual knew or reasonably should have known of the other person’s incapacitation. However, intoxication of the accused is not a defense to lack of consent.

Sexual Assault: Any sexual contact forced on another person through any means including, but not limited to, threats to harm them or another, actual harm or force, intimidation, coercion, or lack of consent. If someone is pressured or intimidated into sexual contact, or is otherwise mentally or physically incapable of consent, the University of Vermont considers this sexual assault. Sexual assault is prohibited regardless of sexual orientation or gender of the perpetrator or victim. *Rape* is a form of sexual assault that includes penetration (oral, anal, or vaginal).¹

Sexual Contact: Behavior relating to sexual activities including, but not limited to, kissing and touching body parts, (e.g., chest, breasts and buttocks) through clothing or direct contact. Sexual contact also includes sexual intercourse, defined as contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another.

Sexual Misconduct: A broad term including any non-consensual act of a sexual nature. Sexual misconduct may vary in its severity and includes a range of behaviors and attempted behaviors.

University Official: University officials include, but may not be limited to, a supervisor, manager or higher level employee; a chair, director or dean of an academic unit; any other person with a title at the level of Director or higher; Student Affairs personnel with oversight responsibilities for students or employees. University officials also include any employee of the University who has significant responsibility for student and campus activities, but does not have a legally recognized confidential relationship with the person providing information, such as a professional medical or counseling services provider. Individuals should contact the Office of General Counsel for assistance or clarification if there is any doubt as to whether a community member is a "University Official".

Victim: As used in this document, a "Victim" is a student of the University who believes that they have been subjected to sexual misconduct or sexual assault.²

The above standards apply to acts committed by University of Vermont students, faculty and staff. UVM students and employees may be held to this policy as well as to federal and state law.

¹ Sexual Assault may be a form of Sexual Harassment. In addition to the reporting, support and investigatory offices identified in this policy, any person who believes they are a victim of sexual assault as a form of sexual harassment may report the incident to the Title IX Coordinator/Director of the Office of Affirmative Action and Equal Opportunity in accordance with the University's policy on Sexual Harassment: Students.

² An individual who is not a member of the University community, but who believes they have been subjected to sexual misconduct or sexual assault by a member of the University community should contact University Police Services.

Procedures

Support and Assistance to Victims:

Victim's Advocate

Confidential and free support and assistance to victims are available through the Victim's Advocate. Other University offices and services are expected to refer victims to the Victim's Advocate.

The Victim's Advocate can provide:

- Information, referral and support in receiving services for counseling, relief from abuse orders, medical care, criminal justice, campus conduct processes;
- Support and assistance and/or referral if a victim would like to request changes to the victim's on-campus residential situation and/or to an academic schedule or enrollment; and
- Information, assistance and support to the victim regarding options to report the sexual misconduct or assault to University Police Services, other appropriate local law enforcement agency and/or the Chittenden Unit on Special Investigations.

Reporting and Investigating Sexual Misconduct or Sexual Assault

- The length of time between an incident and making a report of sexual misconduct or sexual assault will not affect the willingness of the University to investigate the allegations or to provide support and other services to the student reporting sexual misconduct or assault. However, a prompt report will significantly impact the ability of University officials to conduct a full investigation and enhance the effectiveness of any criminal and/or University process that may result. Individuals are therefore strongly encouraged to report to University Police Services incidents of sexual misconduct and assault immediately following the occurrence.
- Victims of sexual misconduct or sexual assault should take the following actions to protect themselves and to provide the best opportunity for a thorough investigation:
 - If there is any threat or fear of further imminent harm, call 911 and get to a safe place where there are other people.
 - Seek medical attention for physical injury, testing for sexually transmitted disease and/or pregnancy and to collect and preserve any available evidence.
 - Contact UVM Police Services. Police Services can: (i) assist the victim in contacting other sources of assistance and support, including the Victim's Advocate, when needed, (ii) assist the victim in obtaining medical care, and (iii) begin collecting evidence that is necessary should the victim decide to participate in an investigation of the misconduct or assault. A victim may decide whether to participate in a criminal investigation, but a victim is encouraged to participate and cooperate in any investigations to maximize the victim's options and to enhance the safety of the victim and the campus community.

- Preserving Evidence. Victims of sexual misconduct or assault should attempt to preserve all possible physical evidence. Victims should not shower or wash their clothing or bedding. If they change their clothing, they should put all clothing that they were wearing at the time of the misconduct or assault in a paper bag to preserve it. They should seek medical attention to obtain any necessary medical treatment as well as to preserve any further evidence.
- **A note about reporting:** The University is required by law to maintain data centrally on the number of sexual assaults reported on campus property and on property controlled by the University. All University Officials as defined in this policy are required by law to notify Police Services of all reported incidents of sexual assault. At the victim's request, the required report may be made without personally identifying the victim.

Campus Student Conduct Process

Victims have the right to initiate and participate in a student conduct process if the individual accused is a student. In a student conduct proceeding involving allegations of sexual misconduct or sexual assault, both the complainant and respondent have the right to have others present during a student conduct hearing.

- **Outcome of Campus Student Conduct Process:** Both the complainant and respondent will be informed of the outcome of the disciplinary process, including the final determination with regard to the asserted sexual offense and any sanction imposed. Procedures applicable to student disciplinary proceedings are found in the Code of Students Rights and Responsibilities.

Counseling and Health Services

Students who are victims of sexual misconduct or sexual assault may seek services at the Center for Health and Wellbeing's Counseling and Psychiatry Services, Women's Health Office, or Student Health Medical office. Each of these sites can provide assistance with both direct treatment and referral to community support resources.

University Members Accused of Sexual Misconduct or Sexual Assault: Rights and Process for University Members Accused of Sexual Misconduct or Sexual Assault:

Reporting Allegations of Sexual Misconduct or Assault: When a University Official receives information that a member of the University community has been accused of sexual misconduct or assault, that information will be forwarded to the Victim Advocate's Office and the University Official will report the incident to University Police Services when the incident is alleged to have occurred on or near University owned or controlled property.

Employees Accused of Sexual Misconduct or Assault Against a Student: When the accused is an employee or volunteer acting on behalf of the University, the information will be forwarded to the Vice President to whom the employee's or volunteer's supervisor reports. Investigation and adjudication will proceed pursuant to applicable University policy, Staff Handbook

provisions, and/or collective bargaining unit agreement. An employee found responsible for sexual misconduct or assault under this policy is subject to discipline up to and including discharge from employment.

Students Accused of Sexual Misconduct or Assault:

Investigation and Referral

- When the accused is a University student and the person alleging sexual misconduct or assault has provided information to Police Services for an investigation and wishes to proceed with a University process, the investigative report will be forwarded to the Dean of Students Office and to the Center for Student Ethics and Standards. In cases where there is evidence to support a finding of ongoing threat of harm to the campus community, the Dean of Students Office will implement any interim administrative action necessary to protect the campus community. Depending on available facts and circumstances, interim measures may include changes in housing, academic schedule, no contact orders, interim suspension and other possible administrative actions.

Dean of Students Office Response

- When a preliminary report is received from Police Services, the Dean of Students Office will contact the accused student and:
 - Provide the accused student with information about the availability of counseling services;
 - Provide the accused student with information about any changes to the accused student's status pending resolution of the charges, and any interim administrative measures to be implemented pending final resolution of the charges.

Refer the student to the Center for Student Ethics and Standards for information related to the student conduct process should the accused student be charged with violation(s) of the University Code of Student Rights and Responsibilities.

Center for Student Ethics and Standards Response

- When the Center for Student Ethics and Standards ("CSES") receives an official police report of an investigation, the processes outlined in the Code of Student Rights and Responsibilities will be followed.
 - A student found responsible for sexual misconduct or assault is subject to discipline up to and including temporary or permanent separation from the University. Sanctions will be determined pursuant to the standards in the Code of Student Rights and Responsibilities and include, but are not limited to the following: Disciplinary Warning, Educational Sanctions, Community Restitution, Restitution to a victim, Fines, Suspension from Residence Halls, Suspension from the University, Dismissal from the University.

Retaliation against any individual alleging a violation of this policy or any individual supporting a victim or involved in the process is prohibited and may result in independent disciplinary action, up to and including separation from the University as a student and/or termination of employment.

Education and Prevention Programs

The University of Vermont supports and sponsors a number of education and prevention programs to educate the campus community on what conduct constitutes sexual misconduct or assault and the services available to aid victims of sexual misconduct or assault. These programs are intended to assist with preventing sexual misconduct and assault and creating a safe campus community. Information about these programs and when they are offered is available at:

- Center for Health and Wellbeing/Student Health Promotions
- Police Services
- Women's Center
- LGBTQA Center

Enforcement of Policy

The processes and student services set forth in this policy are required and must be provided as requested by any student victim. Any assertion that the processes and services set forth in this policy were denied to a student or have not been provided promptly and appropriately shall be investigated and enforced by the Department Director or Vice President of the unit that is alleged to have failed or refused to provide the processes or services. Additionally, any individual who believes his or her rights under the Campus Security Act (also known as the Jeanne Clery Act) have been breached, may file a complaint with the United States Department of Education by contacting the appropriate regional office: <http://www.ed.gov/about/contacts/gen/regions.html>

Forms

Gender Violence Report form

http://www.uvm.edu/~women/?Page=contact_us/anonreportform.html&SM=contact_us/sub_men.html

CARE Report Form <http://www.uvm.edu/dos/care>

Report a Crime Link <http://www.uvm.edu/~police/?Page=reportcrime/index.php>

Contacts

Questions related to the daily operational interpretation of this policy should be directed to:

Campus Victim's Advocate

http://www.uvm.edu/~women/?Page=prog_events/cap/cap.html&SM=prog_events/cap/sub_men.html

Women's Center

34 South Williams Street

656-7892

advocate@uvm.edu

For assistance after the Victim's Advocate hours, 24-hour community services are available in the greater Burlington community for all victims of sexual violence, relationship violence or stalking:

Women's Rape Crisis Center	863-1236
Women Helping Battered Women	658-1996
SafeSpace (Lesbian, Gay, Bisexual, Transgendered, Queer, and Questioning survivors).	863-0003
UVM Police Services http://www.uvm.edu/~police/	656-3473 or 911(for emergencies)

Additional support and resources related to this policy:

Center for Health and Wellbeing Counseling and Psychiatry Services http://www.uvm.edu/~CHWB/psych/	656-3340
Women's Health Office http://www.uvm.edu/~CHWB/health/?Page=women.html&SM=womenmenu.html	656-0603
Student Health Medical Office http://www.uvm.edu/~CHWB/health/	656-3350
Women's Health Clinic http://www.uvm.edu/~CHWB/health/?Page=women.html&SM=womenmenu.html	656-0603
Employee Assistance Program http://www.uvm.edu/eap/	656-2100
Dean of Students Office http://www.uvm.edu/~dos/	656-3380
Title IX Coordinator/Director of the Office of Affirmative Action and Equal Opportunity	656-3368

Responsible Official

The Senior Vice President and Provost is the official responsible for the interpretation and administration of this policy.

Related Documents/Policies

The Campus Advocacy Program
http://www.uvm.edu/~women/?Page=prog_events/cap/cap.html&SM=prog_events/cap/sub_menus.html
Domestic Abuse & Violence Prevention and Responsibility
http://www.uvm.edu/policies/general_html/domabuse.pdf
Campus Crime Report/Clery Report
<http://www.uvm.edu/police/?Page=reports/index.php&SM=reports/nav.html>

Code of Student Rights and Responsibilities_

<http://www.uvm.edu/policies/student/studentcode.pdf>

Sexual Harassment: Students Policy

<http://www.uvm.edu/policies/student/sexharasstudent.pdf>

Effective Date

Approved by the President on March 14, 2011