
Policy: Sexual Violence Response Policy
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SEXUAL VIOLENCE RESPONSE POLICY

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I. Introduction

SUNY Sullivan strives to maintain a respectful, safe, and nonthreatening environment for its students, faculty, staff, and visitors. The College does not tolerate sexual violence of any kind, which includes sexual harassment, sexual assault, intimate partner violence and stalking. This policy establishes procedures for responding to incidents of sexual violence and sets forth available resources for individuals reporting sexual violence (Complainant) and for individuals accused of or responding to allegations of sexual violence (Respondent).

II. Student's Bill of Rights

The State University of New York and SUNY Sullivan is committed to providing options, support, and assistance to members of the SUNY Sullivan community that are affected by sexual assault, sexual harassment, intimate partner violence, domestic violence, dating violence and/or stalking to ensure that they can continue to participate in college and campus programs, activities, and employment, regardless of whether the crime or violation occurred on campus or off campus. The rights listed below are afforded to all students reporting sexual violence, as well as all students accused of sexual violence, 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, status as a domestic violence victim, or criminal conviction.

SUNY Sullivan values the dignity of individuals and will take the necessary measures to ensure that individuals who report offenses are treated in a compassionate manner.

All SUNY Sullivan students have the right to:

- a. Make a report to any law enforcement agency of their choosing and/or the SUNY Sullivan Office of Public Safety.
- b. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously.
- c. 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 pressure from the institution.
- d. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard:
 1. To receive written, advanced notice of a disciplinary hearing involving the Respondent.

2. Student has the right to request a postponement of disciplinary conferences and/or hearings for reasonable cause. Such requests must be made in writing to Chair of the Student Conduct Committee or the Dean of Student Development Services and must include the reason for the request. Should the victim wish to not be present in the same room as the Respondent during the disciplinary hearing, alternative arrangements may be made as is reasonable.
 3. Be accompanied by an advisor of choice who may assist and advise a Complainant, or Respondent throughout the judicial or conduct process including during all meetings and hearings related to such process. The advisor may not present statements, arguments, or question witnesses or participate directly in any hearing, but may speak privately to their advisee during the proceeding. The advisor or the advisee may request a brief recess to consult which will be granted at the discretion of the Student Conduct Committee Chair. Members of the Student Conduct Committee may not serve as a student's advisor at the hearing.
 4. To only have information pertinent to the case be presented and not have unrelated prior behavior presented against him/her.
 5. To question the Respondent and witnesses and to call witnesses during disciplinary proceedings. The Complainant has the right to participate in disciplinary proceedings via technology.
 6. To present a statement of impact in disciplinary proceedings if the Respondent is found in violation of the Code of Conduct.
 7. To be informed simultaneously and in writing of the results of disciplinary proceedings, any appellate procedures available, any changes to the results that may occur prior to the time that the result becomes final, and when the results become final.
 8. To appeal the findings/sanctions on the same grounds afforded to the charged student (see Student Code of Conduct Chapter XIV; Appeals) in cases of sexual harassment, sexual assault, rape or violence. The Appeal must be considered by a duly constituted panel of the Student Conduct Committee.
- e. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available.
 - f. Be free from any suggestion that the Complainant is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such

crimes or violations;

- g. Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident.
- h. Be free from retaliation by the institution, and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
- i. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College. This means that we will not schedule meetings or hearings on days of religious observance (for instance, holding a hearing on a Friday night when the Complainant or respondent is a religious Jewish person), require a student to undergo medical procedures that they say are forbidden by their religion, or otherwise require a Complainant to have to choose between their religion or belief system and reporting to the institution.
- j. To request changes in housing and/or class schedule which would enhance the safety and security of the victim when those changes are reasonably available.

The Student Code of Conduct can be accessed here:

<http://sunysullivan.edu/student-code-of-conduct/>

III. Institutional Crime Reporting

Reports of certain crimes occurring in certain geographic locations will be included in SUNY Sullivan's Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the Complainant or victim/survivor.

SUNY Sullivan is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the Complainant or victim/survivor). A Complainant will never be identified in a timely warning.

The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either

parents' prior year federal income tax return. Generally, SUNY Sullivan will not share information about a report of sexual violence with parents without the permission of the Complainant.

IV. Scope of this Policy

This policy applies to all members of SUNY Sullivan community and its guests, without regard to an individual's race, color, national origin, religion, creed, age, disability, sex, gender identity, gender expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. Employees, students, applicants or other members of the College community (including but not limited to vendors, visitors and guests) may not be subjected to harassment that is prohibited by law, or treated adversely or retaliated against based upon a protected characteristic. This policy applies both on-campus and off-campus, as described below:

On-campus violations: This policy forbids acts of sexual violence anywhere on campus. "Campus" includes College-owned or leased property, streets and pathways contiguous to College property, or in the immediate vicinity of campus. It also includes the property, facilities, and leased premises of organizations affiliated with the College, including College housing and College-recognized housing. College housing includes all types of College residence housing, such as halls and apartments.

Off-campus violations: Off-campus violations, including online behavior, that affect a clear and distinct interest of the College are subject to disciplinary sanctions. For example, sexual violence by a student is within the College's interests when the behavior:

- a. Involves conduct directed at a College student or other member of the College community;
- b. Occurs during College sponsored events (e.g., field trips, social or educational functions, College-related travel, student recruitment activities, internships, and service learning experiences);
- c. Occurs during the events of organizations affiliated with the College, including the events of student organizations;
- d. Poses a disruption or threat to the College community; or
- e. The effects of the violence are such that they create a hostile environment within the College community.

V. Definitions

A. Terms used throughout this policy:

Accused individual: (Respondent) A person accused of a violation who has not yet entered a judicial or institutional administrative conduct or review process.

Affirmative consent: 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.

Complainant: Encompasses the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report of a violation.

Reporting Individual- Any person who submits a statement alleging that a student violated the SUNY Sullivan Code of Conduct.

Respondent: A person accused of a violation who has entered an institutional administrative review process or administrative student conduct process.

Sexual assault: Any physical sexual act committed without consent.

Sex discrimination: Includes all forms of sexual misconduct by employees, students, or third parties against employees, students, or third parties. Students, College employees, and third parties are prohibited from harassing other students and/or employees whether or not the incidents of harassment occur on the College campus and whether or not the incidents occur during working hours.

Sexual violence: The term sexual violence as used throughout this policy includes sexual harassment, sexual assault, and domestic violence, dating violence, intimate partner violence and stalking.

Sexual harassment: Unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the College's educational program and/or activities, and is based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.

B. Federal and State Laws referred to throughout this policy

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act

This federal law, passed in 1990, the “Clery Act” requires all colleges and universities who receive federal funding to share information about crime on campus and their efforts to improve campus safety through the publishing of an annual security report. Additionally, the act requires institutions to provide survivors of sexual violence with reasonable accommodations and assistance in reporting and it requires institutions to outline specific policies and procedures for the prevention of sexual violence in their annual security reports.

New York State Education Law Article 129-B

New York State Education Law Article 129-B, also known as “Enough is Enough”, requires all colleges in the State of New York to adopt a comprehensive set of policies and guidelines, including a uniform definition of affirmative consent, a statewide amnesty policy, and expanded access to law enforcement.

Title IX of the Education Amendments of 1972

Title IX of the Education Amendments of 1972 is a comprehensive federal law that protects people from discrimination based on sex in education programs or activities which receive Federal financial assistance. The law prohibits discrimination on the basis of sex in any federally funded education program or activity. Colleges must promptly respond to known instances of gender discrimination, which includes sexual harassment and sexual violence, in a way that limits its effects and prevents its recurrence.

Violence Against Women Act ("VAWA") Reauthorization Act of 2013

This federal law requires colleges and universities to: (1) report dating violence, domestic violence, sexual assault, and stalking, beyond crime categories the Clery Act already mandates; (2) adopt certain student discipline procedures, such as for notifying purported victims of their rights; and (3) adopt certain institutional policies to address and prevent campus sexual violence through the education and training of an institution’s community.

C. Prohibited Conduct: Community Rights and Responsibilities

The following conduct is prohibited by SUNY Sullivan Rights and Responsibilities and is applicable to students:

Intimate Partner Violence

Intimate Partner Violence includes Dating Violence and Domestic Violence, both of which are further defined below. Intimate Partner Violence can occur in relationships of the same or different genders.

Dating Violence –Any act of violence, including physical, sexual, psychological, and verbal violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Dating Violence can occur as a single act, or it can consist of a pattern of violent, abusive, or coercive acts that serve to exercise power and control in the context of a romantic or intimate relationship. 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 the 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.

Domestic Violence – Any violent felony, non-violent felony, or misdemeanor crime, as those terms are defined by the laws of the State of New York and of the federal government 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.

Retaliation

Engaging, directly or indirectly, in any action or attempting to harass, intimidate, retaliate against, or improperly influence any individual involved with the Student Conduct System. An intentional act taken against an individual who initiates any sexual misconduct complaint, including stalking of intimate partner violence, pursues legal recourse for such a complaint, or participants in any manner in the investigation of such a report. Any act of retaliation is prohibited and is subject to a student conduct referral.

Sexual Assault I

Sexual intercourse or any sexual penetration, however slight, of another person’s oral, anal, or genital opening with any object (an object includes but is not limited to parts of a person’s body) without the active consent of the victim.

Sexual Assault II

Touching a person’s intimate parts (defined as genitalia, groin, breast, or buttocks), whether directly or through clothing, without the active consent of the victim. Sexual Assault II also includes forcing an unwilling person to touch another’s intimate parts.

Sexual Exploitation

Non-consensual, abusive sexual behavior that does not otherwise constitute Sexual Assault I, Sexual Assault II or Sexual Harassment. Examples include but are not limited to: intentional, nonconsensual

tampering with or removal of condoms or other methods of birth control and STI prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the non-consenting party; nonconsensual video or audio taping of sexual activity; allowing others to watch consensual or nonconsensual sexual activity without the consent of a sexual partner; observing others engaged in dressing/undressing or in sexual acts without their knowledge or consent; trafficking people to be sold for sex; and inducing incapacitation with the intent to sexually assault another person.

Sexual Harassment

Unwelcome verbal or physical conduct of a sexual nature that is sufficiently severe or pervasive to effectively alter or deny the individual reasonable access to College resources or that such conduct creates an intimidating, hostile or sexually offensive environment for learning, working or living on campus.

Stalking

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 intimate, annoy or alarm him or her. Stalking does not require direct contact between parties and can be accomplished in many ways, including through the use of electronic media such as internet, pagers, cell phones, or other similar devices.

D. Prohibited Conduct: Criminal Offenses in the State of New York

The New York State Penal Law defines criminal conduct in the state of New York. Definitions of criminal offenses can be accessed here: <http://ypdcrime.com/penal.law/> The Penal Law is applicable to all members and guests of SUNY Sullivan community within the State of New York.

For questions or information or questions regarding conduct prohibited by New York State and Federal Law, please contact the SUNY Sullivan Office of Public Safety.