COORDINATED RESPONSE TO THE SEXUAL ASSAULT OF STUDENTS

Purpose

The University at Albany is committed to the maintenance of an educational environment that is supportive of its primary educational mission and free from all exploitation and intimidation. The University will not tolerate sexual assault, including rape and any other form of nonconsensual sexual activity.

It is essential that students who are sexually assaulted receive medical treatment and support as soon as possible. This document outlines the procedures that will allow members of the University community to be effective at introducing victims of assault to medical, psychological, and legal resources. The University at Albany Community Rights and Responsibilities - Student Code of Conduct provides additional information for students.

This policy does not substitute or supersede the standards of conduct outlined and available to students in Community Rights & Responsibilities located at: albany.edu/judicial/conduct.shtml. In addition, the Office of Human Resources Management has policies in place for students, faculty and staff who are employed by the University. These policies are located on the Web at: hr.albany.edu/.

As presented in the University at Albany Community Rights and Responsibilities - Student Code of Conduct, Penal Code Section 130 of New York State Law governs the criminal prosecution of sexual offenses.

Definitions

As presented in the University at Albany Community Rights and Responsibilities consent is defined as follows: The term “active consent” means that each person involved in sexual contact not only agrees to the sexual activity but also agrees freely and knowingly. A person who has been threatened or coerced, whose judgment is substantially impaired by drugs or alcohol or by physical or mental impairment even if temporary, or who is unconscious or asleep, cannot give consent to sexual contact. A person under the age of 17 years is deemed incapable of giving consent.

The University Prohibits the Following Behaviors:

Sexual Assault I: By a stranger or acquaintance, 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) where active consent was not established. Where the victim purported to give consent, but the accused used force, threat, intimidation, or the victim’s mental or physical helplessness, the charge of Sexual Assault I also applies. Mental or physical helplessness would include, but not be limited to, sleep, as well as the inability to consent due to excessive alcohol or drug use or consumption.

Sexual Assault II: By a stranger or acquaintance, touching a person’s intimate parts (defined as genitalia, groin, breast, or buttocks), whether directly or through clothing, where active consent was not established. Sexual Assault II also includes forcing an unwilling person to touch another’s intimate parts. Where the victim purported to give consent, but the accused used force, threat, intimidation, or the victim’s mental or physical helplessness, the charge of Sexual Assault II also applies. Mental or physical helplessness would include, being asleep or consuming an excessive amount of alcohol and/or other drugs.

Sexual Exploitation: Nonconsensual, 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 sexually transmitted infection (STI) prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the nonconsenting 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 University resources or that such conduct creates an intimidating, hostile or sexually offensive environment for learning, working or living on campus.

Title IX Coordinator: Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. Sec., 1681, et seq., states that all students have equal educational opportunity free from sex discrimination, including sexual harassment and sexual assault. The Title IX coordinator is responsible for the University’s compliance with this regulation including, but not limited to systematically monitoring and evaluating policy and procedures that effectively and efficiently respond to complaints of sex discrimination. Individuals with questions or concerns related to Title IX may contact the Title IX Coordinator at (518-956-8110).
Incidents that do not constitute sexual assault might nonetheless be considered sexual harassment or threatening and abusive behavior, and as such violate Community Rights and Responsibilities.

Procedures for Responding to a Student Who Has Been Assaulted

In the aftermath of a sexual assault, it is important for victims to regain a sense of control over their environment and their bodies. These students are often traumatized by the incident and concerned about confidentiality. They may require a deliberate and specific clarification of the supportive and legal options available to them. Please use care and consideration as you provide necessary information. Ultimately, decisions about how to proceed must be made by the victim.

I. INSURE THE VICTIM’S SAFETY

If the victim is in danger call the University Police at 911 from an on campus phone (or 518-442-3131 from a cellular phone) or, if off campus or on the East Greenbush campus, call the nearest police department: Albany City Police at 911 (or 518-438-4000, nonemergency); Colonie Police at 911 (or 518-783-2744, nonemergency); Guilderland Police at 911 (or 518-356-1501, nonemergency) or East Greenbush Police at 518-479-1212. It is crucial that you and the victim are safe and that you not place yourselves in a dangerous situation. Note that 911 calls placed from a cellular phone are automatically routed to State Police, so you will need to specify the city you are calling from as well as the address.

II. SEEK IMMEDIATE MEDICAL TREATMENT

NOTE: VICTIMS SHOULD BE ADVISED OF THE FOLLOWING:

• If she/he is considering reporting the incident to the police, whether now, or at some future point, an evidentiary medical exam (“rape kit”) is strongly recommended. This will greatly enhance the likelihood of successful prosecution of the assailant, should the victim report the incident.

• It is important to encourage the victim not to bathe, wash, or change clothes before seeking medical attention. In addition, it is best that the victim not take fluids or empty her/his bladder before the medical exam.

• Evidence should be collected within 96 hours post the incident. Even if 96 hours have elapsed, or if the victim has bathed, etc., an exam is still recommended.
• Explain to the victim that the forensic medical exam does not commit her/him to reporting the attack. In the event that the victim decides not to report to the police, the evidence collected will be destroyed after 30 days. The forensic medical exam is free.

• Note that materials collected as evidence are likely to include some articles of clothing and/or personal effects.

• Inform the victim that compensation may be available for certain individuals through the New York State Crime Victims Assistance Program CVSVC (518-447-5500) if they go to a hospital emergency room and agree to a forensic medical exam and/or if they report the crime and cooperate with authorities.

• Inform the victim that he/she can receive medical care, whether they have insurance or not.

Help arrange transportation for the victim to the hospital as soon as possible. Remember, not all injuries are immediately apparent. A medical evaluation can provide needed attention to injuries (internal and external) and provide medications to prevent sexually transmitted infections, HIV, and pregnancy. The mode of transportation depends on the victim’s condition and stated preferences. For transport from the uptown or downtown campus to a local hospital, the following can help if desired: Five Quad Ambulance (911 from an on campus phone or 518-442-3131 from an off campus or cellular phone), and/or University Police (911 from a campus phone or 518-442-3131 from an off campus phone). In a medically emergent situation off campus or on the East Greenbush campus, call 911. The Coordinator for Sexual Assault Prevention (518-442-5800) can also be of assistance in providing information and referrals to resources both on and off campus.

**AN ALTERNATIVE: GO TO THE UNIVERSITY HEALTH CENTER**

The University Health Center offers confidential services that entail providing information, medical care and referral including:

• With the victim’s consent, referral to Albany Medical Center Hospital’s (AMCH) Sexual Assault Forensic Examiner Program or Memorial Hospital’s Sexual Assault Nurse Examiner Program, for care and a rape examination.

• With the victim’s consent, contact Albany County’s Crime Victim and Sexual Violence Center (CVSVC) to be present to assist and support the student at AMCH or Memorial Hospital.

• If the student refuses referral to an area hospital ER, the University Health Center will offer medical care and follow up, including attention to injuries and evaluation for STIs and pregnancy.
• Referral for services at the University Counseling Center or Albany County’s CVSVC. It is typical for victims to go through a process of feeling traumatized, helpless, frustrated and even guilty. It can be helpful to talk to a psychologist or counselor.

• Referral to the University Police Department (UPD) for legal action. UPD will make every effort to offer female victims an opportunity to have a female officer present during all interviews.)

**Levels of Disclosure and Confidentiality**

The Sexual Assault Prevention Program (518-442-5800), the University Counseling Center (518-442-5800) and the University Health Center (518-442-5229) provide strictly confidential services to students.

However, with a student's written consent and at her/his request, staff from these offices will notify the Office of the Vice President for Student Success (518-956-8140) for a coordinated response as in III.

Incidents that come to the attention of the Vice President for Student Success, University Police or Residential Life may be shared with appropriate offices on a need-to-know basis, to the extent allowed by policy, law or the privacy interests of those involved.

The student should be reminded that their confidentiality could be jeopardized if court proceedings are initiated.

**III. INFORM THE UNIVERSITY**

Students are encouraged to report all incidents of sexual assault to the University in order to receive help in accessing support services and in prosecuting the sex offender. However, this decision must be made by the victim and shall be respected by the University. Although University personnel may be required to report the time, date, and location of incidents to the appropriate administrative office, the employee receiving the report from the victim should not ask for this information nor accept it without first telling her/him how it may be used.

When University personnel are informed of a sexual assault incident they will seek the victim's consent to notify the Vice President for Student Success or designee (518-956-8140). All University personnel (except University Counseling Center, Sexual Assault Prevention Program, and University Health Center, as noted in section II) should notify the Vice President for Student Success of every incident by date, time and location, if known. All campus security personnel (defined for the University at Albany as staff in the Department of Residential Life, the Office of Student Involvement & Leadership,
Disability Resource Center, Career Services, Intercultural Student Engagement, EOP, University Police Department, the Office of Conflict Resolution and Civic Responsibility, the Department of Athletics, the Office of Undergraduate Education and the Office of Diversity and Inclusion) are required to make such a report.

Without the victim’s consent, it is not necessary to provide an exact address for location nor will a name nor other identifying information will be reported.

Remember, the Sexual Assault Prevention Program (518-442-5800) can assist in appropriate referrals and the University Counseling Center (518-442-5800) can provide a confidential psychological consultation.

With a victim’s consent the Vice President for Student Success (518-956-8140) or their designee will provide a coordinated response. The following is a list of available services to provide support to the victim. **It will be up to the victim to choose.**

**A) Criminal Process**
The University Police Department will help to file a complaint or legal charges against the alleged sex offender for on campus incidents. University Police are also available to consult with victims about criminal prosecution, campus judicial review, and referrals to appropriate authorities for off-campus incidents.

**B) Campus Conduct Review**
The Director of the Office of Conflict Resolution and Civic Responsibility (518-442-5501) and/or the Associate Director of the Department of Residential Life/Quad Supervisor (518-442-5875) will assist in filing a complaint for possible University disciplinary action against the alleged sex offender.

**D) Sex Discrimination Complaints and Investigations**
A student can speak with the Title IX Coordinator if he/she has questions or concerns related to Title IX, or to file a complaint about inequitable policy and procedures including those governing investigations and hearings. This process is different from any law enforcement investigation, and a law enforcement investigation does not relieve the University from its Title IX obligation to take appropriate action to investigate and end sexual violence, prevent its recurrence and address its effects. The Title IX Coordinator may be reached at (518) 956-8110.
IV. RESOURCES

With a victim’s consent, the Vice President for Student Success or designee will provide a coordinated response that includes a variety of resources. A student's friends and family can also be a source of support; however, friends and family should only be contacted with the student’s expressed permission. The following is a list of available services to provide support to the victim. **It will be up to the victim to choose.**

**University Resources:**

- The Coordinator for Sexual Assault Prevention (518-442-5800) for information and referrals to resources on and off campus;
- The University Counseling Center for mental health services (518-442-5800);
- The University Health Center for health services (518-442-5454);
- The Department of Residential Life, for housing accommodations if the student lives in University housing (Main Office 518-442-5875);
- Offices of Undergraduate Education (518-442-3950) and Graduate Studies (518-442-3980) and/or teaching faculty to facilitate academic accommodations;
- Disability Resource Center (518-442-5490), Office of International Student Services (518-591-8189), Office of Intercultural Student Engagement (518-442-5566), Office of Student Involvement and Leadership (518-442-5566), as appropriate;
- Title IX Coordinator, who oversees all sex discrimination complaints (518-956-8110);
- The Interfaith Center staff for spiritual support to the student (518-489-8573);

**Off-Campus Resources:**

- Crime Victim and Sexual Violence Center (CVSVC) 518-447-7716).

Materials describing all campus resources and providing additional information will be distributed to sexual assault victims assisted by the aforementioned offices or in this protocol.
V. REPORTS TO POLICE

All students are encouraged to report incidents of sexual assault to police. Students who wish to press charges may contact the police in the jurisdiction where the assault occurred.

It is very important that the victim make a decision about whether to file criminal charges without pressure from any individual or group. For students who are uncertain about whether to prosecute, it may be important for them to first obtain information about what to expect from police agencies, the process of investigation and prosecution. There are resources where students may seek such information: Albany County’s CVSVC (518-447-7100), Sexual Assault Prevention Program (518-442-5800) and the University Counseling Center (518-442-5800).

On-Campus Incidents The University Police Department conducts investigations of on-campus sexual assaults, and they can be reached 24 hours a day at 518-442-3131 (or 911 from an on campus phone). As a community policing organization, the UPD makes every effort to be sensitive to the needs of victims. All members of the University community should inform the victim that such reporting does not obligate her/him to cooperate in pressing charges. Other reasons for the victim to inform police include: 1) giving themselves the option of pressing charges at a later date; 2) making police aware of potential danger to other students; and 3) having an incident report on file in case the same assailant harms someone else.

Community Notification The Vice President for Student Success will evaluate, on a case by case basis, those instances which suggest potential danger to other members of the University community. In such cases, the University administration must report the crime to the University community. Consideration will be given to the victim’s welfare. As soon as is reasonably possible, the victim will be notified that a community notification will be sent. The notification will never contain any identifying information of the victim.

Off-Campus Incidents If the assault took place off-campus, the victim may report the incident to the police department with jurisdiction (e.g., Albany, Colonie, or Guilderland Police). The student may request that a victim's advocate (from Albany County’s CVSVC) accompany her/him throughout the criminal proceedings.

University Police can document a report of an off campus assault, but do not take an official report leading to criminal charges. This must be done by the victim at the local police agency. UPD will seek the victim’s consent to notify the appropriate off-campus authorities. Neither the name nor other identifying information will be disclosed without the victim’s consent (note that identifying information includes the names or residential addresses of either the victim or
perpetrator). This is meant to ensure that the victim decides whether or not an investigation is pursued. However, it is the practice of UPD to report that a felony may have been committed in the jurisdiction of another police department. The incident may be reported to off-campus police by date, time, approximate location, and type of crime. In such cases, a designated representative from UPD will share information with a designated representative from the off-campus police department.

V. RETALIATION AND DELAYED REPORTING

RETALIATION

Retaliation is an intentional act taken against an individual who initiates any sexual misconduct complaint, including stalking or intimate partner violence, pursues legal recourse for such a complaint, or participates in any manner in the investigation of such a report. Any act of retaliation is prohibited and is subject to disciplinary action. Reports of retaliation should be made to the Director of the Office of Conflict Resolution and Civic Responsibility at 518-442-5501 and/or the Associate Director of the Department of Residential Life/Quad Supervisor (518-442-5875) who will assist in filing a complaint for University disciplinary action.

DELAYED REPORT OF AN INCIDENT

In the event of a delay in the report of an incident, ensure safety, medical care and support as above. Medical care and/or an official rape exam continue to be important. Police reporting is an option no matter how much time has elapsed. However, timeliness of the report may affect the ability of law enforcement to obtain corroborative evidence.