

Sexual Assault Policy

Sacred Heart University is committed to maintaining a learning, living, and working environment for the University community free of sexual assault. The Sexual Assault Policy describes the University's policy toward sexual assault and zero tolerance policy towards rape. It also provides guidance for those who have been sexually assaulted, outlines the University's disciplinary response to alleged incidents of sexual assault, and identifies the relevant organizations within the University responsible for managing the policy and programs associated with it. Sacred Heart University's policy is intended to comply with relevant state and federal statutes and it applies to faculty, staff and students.

I. Policy Statement

Sacred Heart University is committed to an environment that promotes a spirit of responsibility, dignity, and respect in matters of sexual conduct. All students and employees are entitled to pursue their work and education free of sexual assault or sexual violence in any form, including acquaintance or date rape. When sexual assault or sexual violence occurs at Sacred Heart University, the standards of the University, as well as the criminal laws of the state of Connecticut, are violated.

Sacred Heart University is dedicated to preventing sexual assault by providing information resources to the Sacred Heart University community about the risks and myths that contribute to sexual assault; providing assistance, support and procedures to a person who has experienced a sexual assault; and by providing a process for investigation and adjudication that includes appropriate disciplinary sanctions for those who commit sexual assaults.

All complaints or reports of sexual assault will be investigated.

Sexual assault committed by students, whether on or off campus, is prohibited and will not be tolerated. This applies to academic, educational, co-curricular, athletic, study abroad, residential and off-campus conduct, and other University programs. Sacred Heart University urges people who have been sexually assaulted to pursue criminal charges against the person or persons they believe to have committed the sexual assault. A person who has experienced a sexual assault involving a member of the campus community is also urged to make a complaint to the University. A criminal charge and an internal complaint may be pursued at the same time. Retaliation against an individual who brings a complaint, participates in an investigation or pursues legal action is prohibited and will not be tolerated.

Students, faculty members, and staff members should understand that apparently consensual sexual relationships, particularly those between individuals of unequal status, may be or become a violation of this policy. Anyone who engages in a sexual relationship with a person over whom the individual has any degree of formal power or authority must understand that the validity of the consent involved can and may be questioned. The University particularly abhors the abuse potentially inherent in sexual relationships between staff or faculty members and students, and between supervisors and their employees.

II. Definitions

Sexual assault - Attempted or actual sexual contact performed without the active, verbal consent of another Individual. Sexual assault is any form of non-consensual sexual contact. Sexual assault can be committed by any gender against a person of the same or opposite gender. Sexual assault can be committed by current or former lovers, friends, acquaintances, or strangers.

Rape – Under this policy, rape is the act of sexual penetration (oral, anal or vaginal) committed against a person's will by means of force, violence, duress, threat, or fear of immediate and unlawful bodily injury. Sexual penetration is non-consensual and, therefore, rape when the person is incapable of giving consent because the individual is incapacitated from alcohol and/or drugs, or if a mental disorder or developmental or physical disability renders the victim incapable of giving consent. Any sexual penetration, however slight, is sufficient to complete the offense.

Rape includes:

Non-Consensual or forced Sexual Intercourse - Unwilling or non-consensual penetration of the mouth, genitalia, or anus with any object or body part. This includes, but is not limited to, penetration of the mouth, genitalia, or anus with any object or body part that occurs without consent or through the use of coercion either by force, threat intimidation, or through exploitation of another's mental or physical conditions of which the respondent was aware or should have been aware.

Sexual Battery- Under this policy, is defined as the non-consensual touching of an intimate part of another person, whether directly or through the clothing of the person committing the offense.

Sexual battery includes:

Non-Consensual Sexual Contact-The non-consensual touching of an unwilling or person's intimate parts (such as genitalia, groin, breast, buttocks, mouth, and/or clothing covering them) with one's own intimate parts; or forcing an unwilling person to touch another's intimate parts.

Sexual Contact-The touching of a person's intimate parts and touching a person with one's own intimate parts. Intimate parts include genitalia, groin, breast, buttocks, mouth and/or clothing covering them.

Sexual Intercourse-**Intercourse** is not synonymous with penetration. Intercourse includes: vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue or finger; and oral copulation (mouth to genital contact or genital to mouth contact).

Consent

Sexual Contact- Sexual Intercourse -Both parties who have the capacity to act freely must receive verbal agreement or physical cooperation for sexual contact or sexual intercourse to be considered consensual under this Policy.

With both sexual contact and sexual intercourse, a verbal "no," even if it may sound indecisive or insincere, constitutes a lack of consent. The absence of a verbal "no" does not mean "yes." Lack of protest does not imply consent.

Consent cannot be given under the following circumstances:

1. If either participant is unable to provide positive cooperation either due to unconsciousness or incapacitation.
2. If a participant has a mental disability that renders he/she unable to appreciate the fact, nature, or extent of the sexual situation and that is known or reasonably knowable to a non-disabled sexual partner.
3. Either party uses physical force, threats, intimidation, or coercion to gain consent.

Past consent of sexual activities does not imply ongoing future consent. Consent to some form of sexual activity does not necessarily imply consent to other forms of sexual activity.

If at any time during a sexual interaction any confusion or ambiguity should arise on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify the other's willingness to continue.

Incapacitation-This term includes, but is not limited, to the following: persons who are intoxicated, passed out, or asleep. Use of alcohol or drugs shall not diminish one's responsibility to obtain consent and does not excuse conduct that constitutes sexual assault under this policy.

Sexual Exploitation- Occurs when a person takes non-consensual or abusive sexual advantage of another for the individual's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Prostituting another
- Non-consensual video, photographing, or audio-taping of sexual activity and/or distribution of these materials via mediums such as the Internet.
- Going beyond the boundaries of consent (e.g., allowing people to watch consensual sex without knowledge from the participants)
- Voyeurism
- Knowingly transmitting an STI (STD) or HIV to another individual

III. Confidentiality of Information

Sacred Heart University will preserve student confidentiality to the extent possible and allowed by law. The degree to which confidentiality can be protected, however, depends upon whether or not the individual is legally protected to withhold this information. The person being consulted should make these limits clear before any disclosure of facts. An individual can speak confidentially with certain persons in legally protected roles at Sacred Heart University including counselors at the Health Center, medical clinicians, and clergy.

As required by law, all disclosures to Sacred Heart University employees of an on-campus sexual assault are tabulated for statistical purposes by the Public Safety Department, without personal identifying information. In compliance with federal law, these statistics and other mandated crime statistics are reported annually. The Title IX officer will also be notified, in writing, that a sexual assault complaint has been filed.

The Family Educational Rights and Privacy Act (FERPA) prohibits the disclosure of conduct records to any third party without written permission from the student(s) involved. Requests from parents, family members, and concerned students for information about the complainant and/or the respondent will not be honored without written permission from the student(s) involved.

IV. Jurisdiction

Sacred Heart University will adjudicate incidents of sexual assault in the following situations:

- A. Incidents that occur on- or off-campus;
- B. The alleged violator is a current student;
- C. Reports of sexual assault from an individual outside of the University community and not relating to University conduct may be investigated if Sacred Heart University determines the described conduct described in the complaint constitutes a sufficient threat to the University community to warrant investigation.

The complainant can file a report as long as the respondent is still a student at Sacred Heart University. If the respondent is not a student, individuals are advised to file a report with the Police Department. Students are advised that a delay in reporting could have a negative impact on evidence.

V. Options Following a Sexual Assault

Sacred Heart University encourages students who have been sexually assaulted to file an official report. Students are also advised to seek medical attention as soon as possible and within 72 hours of a sexual assault. Students can choose one of a combination of options to create the most appropriate plan for them.

Obtain Medical and Counseling Attention

1. Medical - Legal Evidence Collection

A person who has experienced a sexual assault (particularly rape, forcible oral copulation, or sodomy) is encouraged to request collection of medical-legal evidence. Collection of evidence entails interaction with police and a police report. Prompt collection of physical evidence is essential should a person later decide to pursue criminal prosecution and/or a civil action. The sooner a sexual assault is reported, the more likely evidence will still be present.

2. Medical Treatment

A person who has experienced a sexual assault is urged to seek appropriate medical evaluation as promptly as possible, ideally within 72 hours of the incident.

3. Obtaining Information, Support, and Counseling

Counselors at a variety of agencies both on- and off-campus can help a person decide what steps to take, such as seeking medical attention, preserving evidence, obtaining counseling, and reporting to authorities. Information, support and advice are available for anyone who wishes to discuss issues related to sexual assault, whether or not a sexual assault has actually occurred, and whether or not the person seeking information has been assaulted, has been accused of a sexual assault, or is a third party.

4. Students may consult:

- Sacred Heart University Health Services (201-371-7838)
- Dean of Students Office (203-371-7916)
- Office of Campus Ministry (203-371-7840)
- Title IX Coordinator, Julia Nofri (203-365-4837)

File a Sexual Assault Report

1. File a Report with the Police Department

For a sexual assault that took place on-campus or in a Sacred Heart University facility, students can contact Public Safety at (203-371-7999) and/or call the respective (Fairfield or Bridgeport) Police Departments directly at 911 to file a report with the police. Campus authorities can assist in notifying the local police if the student chooses.

2. File a Report with the Dean of Students Office

Whether a student elects to report a sexual assault to the police, he or she is urged to make an official report directly to the Dean of Students. Public Safety can also assist in this process, particularly if the assault is being filed after business hours. Public Safety can be reached at (203-371-7999). The Dean of Students Office phone number is (203-371-7916) and is located at 5151 Park Avenue, Fairfield, Connecticut. A report should be filed with the Title IX Coordinator, Julia Nofri (203-365-4837).

The Dean of Students Office will first suggest that the student attend to any medical needs immediately. The student will receive information on hospital procedures and resources available. Accompaniment to the hospital will be provided if desired by the student.

The student will be informed of their right to press charges against the respondent on campus and/or with the police and will be given a copy of the campus Sexual Assault Policy. The student has the right to determine whether formal charges will be filed against the respondent either on campus or with the police; but if the situation indicates that the student or others may be in danger, a University officer will be appointed, and investigation will take place immediately, and action may be taken against the respondent by the University in the absence of a formal complaint by the student.

Students who have been sexually assaulted have access to other available assistance in changing academic and living situations after an alleged incident, if so requested by the student and if such changes are reasonably available (no formal complaint, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:

- Change of an on-campus student's housing to a different on-campus location;
- Assistance from University support staff in completing the relocation;
- Arranging to dissolve a housing contract and pro-rating a refund;
- Exam (paper, assignment) rescheduling;
- Taking an incomplete in a class;
- Transferring class sections';
- Temporary withdrawal;
- Alternative course completion options.

3. No Contact Letter

The Dean of Students will issue a no contact letter upon a receipt of a report of sexual misconduct in which the accused is a Sacred Heart University student. Students may also request a no contact letter towards the other student who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complaining student or others. The Dean of Students will issue this document on behalf of the student initiating the request.

VI. Investigating an Allegation of Sexual Assault

1. Initiating a Complaint

Students at Sacred Heart University who believe that they have been sexually assaulted or any faculty, staff, administrator, or student who witnesses sexual assault should promptly report the incident to the Dean of Students Office or the Title IX Coordinator to initiate a complaint.

Immunity for Sexually Assaulted Students Policy

While the University does not condone underage drinking or violation of other University policies, it considers reporting assaults to be of paramount importance, and will therefore extend immunity to students who have been sexually assaulted to foster reporting and adjudication of sexual assaults on campus. This policy solely applies to instances of sexual assault.

Immunity for Reporting Policy

Students who report assaults, or other behaviors that violate this policy, or who assist victims of policy violations, but who might be policy violators themselves will be given consideration up to and including immunity in instances of students who file a sexual assault complaint.

1. Filing a Report

The Title IX Coordinator will supervise an investigation into the incident.

The Title IX Coordinator or her designee will meet with the complainant to review the details of the allegation and to explain the subsequent steps involved in a sexual assault investigation. The

Title IX Coordinator has the discretion to consult with and/or refer the complainant to Public Safety which will assist the complainant to write the Incident Report. The completed Incident Report will be promptly forwarded to the Title IX Coordinator. The complainant may also directly submit the Incident Report to the Title IX Coordinator.

Immediate Response. The Title IX Coordinator in coordination with the Dean of Students will initiate an immediate response to separate the complainant and respondent from engaging each other in common areas, residence halls, campus buildings, and student activities; and will outline options to change the complainant's or respondent's academic and/or living situations if those changes are requested by the complainant or respondent and are reasonably available. The Title IX Coordinator and the Dean of Students have the discretion to remove the complainant or respondent from a hostile living situation. All Incident Reports and directions to the respondent and complainant will be forwarded to the Director of Public Safety.

3. Preliminary Investigation

Both parties will be informed of the respective time and place of the interviews and that contact between the parties will be limited to necessity. During this stage of investigation, the complainant and respondent have the right to be accompanied by an advocate who is not a lawyer during interviews

The Title IX Coordinator will investigate the incident by separately questioning the complainant, respondent, and any identified witnesses. The purpose of the preliminary questioning is to ascertain to reasonable suspicion if there may have been a violation of Sacred Heart University's Sexual Assault Policy and what immediate responses need to occur. Should this questioning not produce a reasonable suspicion, the hearing will not proceed. However, complainants may still seek options such as filing a no contact letter and reporting the incident to the local police department. At the conclusion of the Interviews, a preliminary report of the findings of the investigation will be prepared for presentation to the Hearing Panel as well as the complainant and respondent.

During any stage of the investigation, if the Title IX Coordinator or the Dean of Students reasonably suspects that the respondent poses an imminent threat of harm or disruption to the campus community, he or she may immediately be removed from campus housing and/or be restricted from movement on campus.

4. Hearing Panel

The Title IX Coordinator will assemble a panel chosen by the respective division Vice President composed of three (3) representatives one each from Student Affairs, the faculty, and Human Resources. The panel will hear the facts of the case from both parties and shall determine by a preponderance of the information gathered whether the respondent has violated the specific charge under the Sexual Assault Policy. Ordinarily, no information will be permitted concerning the sexual history of the complainant or respondent except in those instances where there was a prior sexual relationship between the parties and the testimony may be relevant to the issue of consent.

The hearing will be closed to the public, and although an advocate may accompany either party, neither party may be accompanied by an attorney. Either party may make a request for accommodations during the hearing procedures such as indirect questioning, special seating arrangements in the hearing room, or speaking to the panel without the other party and the corresponding advocate present in the hearing room provided the other party has audible access to the testimony.

The panel will select a chair from among its membership. Panel members will deliberate in private and the chair will issue the panel's decision to the Title IX coordinator regarding whether the respondent is found to be responsible or not responsible for the charges. The deliberations of the panel will not be recorded.

5. Disciplinary Sanctions

Sanctions against a student who has violated the Sexual Assault Policy will vary depending on the severity of the violation. The Hearing Panel will recommend sanctions to the Dean of Students, who has final approval. Action against a student found to have violated the policy may include expulsion from campus housing, mandated brief intervention, and/or may include censure, suspension, or expulsion from the University. In congruence with a Zero Tolerance Policy, any student found to have committed rape as defined in this Policy will be expelled from Sacred Heart University.

Both the complainant and respondent must be informed of the outcome of a sexual assault proceeding within three (3) business days of the panel's decision. To assist the Title IX Coordinator in formulating appropriate sanctions, the complainant may make a statement of the impact of the assault.

6. Appeal Process

Any disciplinary action against a student who has violated the Sexual Assault Policy may be appealed to the Academic Vice President of the University who shall report his/her decision to the President. The President has the discretion to review the decision and the sanctions or defer to the Academic Vice President's decision which will then be final.

7. Recording Investigative Materials and Reports

The permanent disciplinary record of a student who violates the Sexual Assault Policy will reflect this violation if and only if the allegations of the complainant are found to be true.

However, a separate file including the incident report, findings of the hearing panel, and the Title IX Coordinator's final report will be kept for at least seven (7) years from the date of the final report.

8. Disciplinary Action for Faculty and Staff

A violation of this policy will be addressed according to applicable faculty and staff personnel policies. For a proven violation, possible sanctions range from censure to separation from the University.

VII. Legal Options

In addition to University disciplinary actions, a person who engages in a sexual assault may be the subject of criminal prosecution and/or civil litigation.

A police report must be made for criminal prosecution to be considered by the state's prosecuting authority. The chances of successful prosecution are greater if the report is timely and is supported

by the collection of medical-legal evidence.

VIII. Managing the Interests of the Alleged Respondent

It must be recognized that the alleged respondent in a University investigation has legal and other rights, and that complaints in which each of the parties are members of the campus community are the most ethically and legally complex. A presumption of guilt should not be made as the result of any allegations.

Insofar as it is possible, the University shall act to protect the identity of the respondent until such time as allegations against the individual are confirmed through the procedures outlined in this policy.

In the event that a student is accused of sexually assaulting another individual and a formal complaint is lodged with the Title IX Coordinator, the respondent shall be encouraged to seek advice from a member of the University community on the following:

- a copy of any relevant documentation about conduct proceedings;
- depending on the nature of the allegation, the respondent should consider seeking qualified legal advice should criminal or civil action result; and
- the student's capacity to access confidential counseling from someone with no contact with the complainant.

The respondent has a right to select a non attorney advocate, within the guidelines of this policy. Counseling and/or support can only be offered to a respondent who is a Sacred Heart University student.

When the parties are members of the University community, arrangements will be made limiting or ceasing any on-going contact during the investigation phase. This will occur in conjunction with Public Safety and the Dean of Students or designee.

IX. Education & Prevention: Departmental Responsibilities

Division of Student Affairs - creates, supports, and evaluates education and support programs aimed at the eradication of sexual assault involving members of the Sacred Heart University student community. To support these programs the Dean of Students shall assign an administrator responsible for to coordinate sexual assault education and prevention programs. As necessary and appropriate, the Dean of Students will allocate funds to this program each year to advance the goals of this policy.

The Division of Student Affairs shall mandate a yearly orientation of new students and shall make known to all students:

- The existence of the Sexual Assault Policy and the University's commitment to enforce it;
- The process and responsibility of reporting sexual assault offenses to the Title IX Coordinator, the Dean of Students or any Vice President of the University;
- Sexual assault awareness and resources for students who have been sexually assaulted and accused of sexual assault;

- How to be a knowledgeable and supportive peer presence;
- On-going wellness promotion programs that address issues including, but not limited to, sexual health and wellness, drug and alcohol education.

X. institutional Responsibilities

1. Public Notification of Incidents

As required by state and federal law, the University collects and reports annually statistical information concerning sexual assaults occurring in its jurisdiction. To promote public safety, Campus Public Safety also alerts the campus community to incidents and trends of immediate concern.

2. Policy Revision

Policy will be reviewed to coincide with the law.

XI. Policy Enforcement

This policy was authorized and approved by the President of Sacred Heart University and is enforced under the authority of the Dean of Students and the Title IX Coordinator.