

ADMINISTRATIVE POLICY: Students

Sexual Assault, Domestic Violence and Stalking Prevention

Last Reviewed: April 2018

Responsible University Officer: Chief of University Police

Policy Owner: Chief of University Police

Policy Contact: Chief of University Police



POLICY STATEMENT

Upstate Medical University aims to protect members of the University community from sexual assault, domestic violence and stalking. The University has in place programs for prevention and prosecution of these crimes that occur within the jurisdiction of Upstate Medical University Police.

DEFINITION OF AFFIRMATIVE CONSENT

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 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- Consent may be initially given but withdrawn at any time.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- When consent is withdrawn or can no longer be given, sexual activity must stop.

DEFINITIONS, PROHIBITED ACTS AND BEHAVIORS, AND THE LAW

Sexual Assault: NYS Law contains the following legal provisions defining the crimes related to sexual assault:

1. Section 130.20 - Sexual Misconduct
This offense includes sexual intercourse without consent and deviate sexual intercourse without consent. The penalty for violation of this section includes imprisonment for a definite period to be fixed by the course up to one year.
2. Section 130.25/.30/.35 - Rape
This series of offenses includes sexual intercourse with a person incapable of consent because of the use of forcible compulsion or because the person is incapable of consent due to mental defect, mental incapacity, or physical helplessness. This series of offenses further includes sexual intercourse with a person under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed four years up to imprisonment for a period not to exceed 25 years.
3. Section 130.40/.45/.50 - Criminal Sexual Act
This series of offenses includes oral or anal sexual conduct with a person incapable of consent because of the use of forcible compulsion or because the person is incapable of consent due to a mental defect, mental incapacity, or physical helplessness. This series of offenses further includes oral or anal sexual conduct with a person under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed four years to imprisonment for a period not to exceed 25 years.
4. Section 130.52 - Forcible Touching
This offense involves the forcible touching of the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. Forcible touching includes the squeezing, grabbing, or pinching of such other person's sexual or other intimate parts. The penalty for violation of this section includes imprisonment for a period of up to one year in jail.
5. Section 130.55/.60/.65 - Sexual Abuse
This series of offenses includes sexual contact with a person by forcible compulsion, or with a person who is incapable of consent due to physical helplessness, or due to the person being under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed three months up to imprisonment for period not to exceed seven years.

6. Section 130.65a/.66/.67/.70 - Aggravated Sexual Abuse

This series of offenses occurs when a person inserts a finger or a foreign object in the vagina, urethra, penis, or rectum of another person by forcible compulsion, when the other person is incapable of consent by reason of being physically helpless, or when the other person is under the age of consent. The level of this offense is enhanced if the insertion of a finger or foreign object causes injury to the other person. The penalties for violation of these sections range from the imprisonment for a period not to exceed seven years up to imprisonment for a period not to exceed 25 years.

7. Section 130.75/.80 - Course of Sexual Conduct Against a Child

This series of offenses involves sexual conduct against a child that occurs for not less than three months in duration. A person is guilty when: 1) They engage in two or more acts of sexual conduct with a child (11 years or older = 2nd degree / less than 11 years = 1st degree); 2) In the case that the offender is 18 years old or older and the victim is less than 13 years old. A second degree violation is a Class D Felony and a person cannot be subsequently prosecuted for any other sexual offense involving the same victim within the same time period as charged under this section. The penalties for these sections range from 6 to 25 years.

8. Section 130.85 - Female Genital Mutilation

A person guilty of this offense knowingly circumcises, excises, or infibulates the labia majora or labia minora or the clitoris of another person under the age of 18. A legally responsible custodian of a child under 18 years of age who knowingly consents to the acts listed above is also guilty of this offense. Medical necessity and when performed by a medical professional do not constitute a violation. This is a Class E Felony and the penalty is up to four years imprisonment.

9. Section 130.90 - Facilitating a Sex Offense with a Controlled Substance

This offense is possessing or administering any controlled substance or compound to another person without their consent with the intent to commit a Rape, a Criminal Sexual Act, Sexual Abuse, or Aggravated Sexual Abuse. The penalty for violating this section includes imprisonment for a period not to exceed seven years.

Stalking is the term used to describe repeated harassing or threatening behavior toward another person. A stalker can be a stranger or someone the victim knows including a partner, an ex-partner, or a family member. Stalking is generally considered to be any unwanted contact between a stalker and their victim that directly or indirectly communicates a threat or places the victim in fear. Anyone can be a victim of stalking.

Domestic Violence, also called family offenses, is criminal activity motivated by the perpetrator's relationship, or family dynamics with the victim.

Domestic Violence related crimes have received attention in recent years, the laws in New York State have added provisions to enhance victims' safety and hold offenders accountable, such as mandatory arrest.

OPTIONS FOR CONFIDENTIALLY DISCLOSING SEXUAL VIOLENCE

The State University of New York and Upstate Medical University want you to get the information and support you need regardless of whether you would like to move forward with a report of sexual violence to campus officials or to police. You may want to talk with someone about something you observed or experienced, even if you are not sure that the behavior constitutes sexual violence. A conversation where questions can be answered is far superior to keeping something to yourself. Confidentiality varies, and this document is aimed at helping you understand how confidentiality applies to different resources that may be available to you.

In this Policy:

- Privileged and Confidential Resources;
- Non-Professional Counselors and Advocates;
- Privacy versus Confidentiality;
- Requesting Confidentiality: How the College/University Will Weigh the Request and Respond;
- Public Awareness/Advocacy Events;
- Anonymous Disclosure; and
- Institutional Crime Reporting.

Privileged and Confidential Resources:

Individuals who are *confidential* resources 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 Upstate Medical University, this includes:

- Student Counseling Services: <http://www.upstate.edu/currentstudents/support/scc/index.php>; 315-464-3120
- Upstate Medical University physicians, licensed medical professionals or supervised interns when they are engaged in a physician/patient relationship: <http://www.upstate.edu/currentstudents/support/health/index.php>

Off-campus options to disclose sexual violence *confidentially* include (note that these outside options do not provide any information to the campus):

- Off-campus counselors and advocates. Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency.
 - o Vera House, 6181 Thompson Rd., Suite 100; 315-422-7273 (hotline); info@verahouse.org
 - o Upstate Emergency Department is a NYS Designated SAFE program and has SANE (Sexual Assault Nurse Examiners) services. Contact information: Emergency Room (Downtown Campus), 750 East Adams Street; 883-5617; <http://www.upstate.edu/emergency/healthcare/safe.php>

- Off-campus healthcare providers
 - Note that medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered. 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 compensation. More information may be found here: http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf, or by calling 1-800-247-8035. Options are explained here: <http://www.ovs.ny.gov/helpforcrimevictims.html>.

Note that even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to themselves or others and the mandatory reporting of child abuse.

Non-Professional Counselors and Advocates:

Non-professional counselors and advocates can also assist without sharing information that could identify individuals. At Upstate Medical University, this includes members of the Student Affairs staff (<http://www.upstate.edu/currentstudents/support/index.php>). These individuals will report the nature, date, time, and general location of an incident to the Title IX Coordinator, but will consult with you to ensure no personally identifying details are shared without consent. These individuals are not considered confidential resources as discussed above.

Privacy vs. Confidentiality:

Even Upstate Medical University offices and employees who cannot guarantee *confidentiality* will maintain *privacy* to the greatest extent possible. The information provided 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 or designee, who is responsible under the law for tracking patterns and spotting systemic issues. Upstate Medical University will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

Requesting Confidentiality: How Upstate Medical University Will Weigh the Request and Respond:

If you disclose an incident to an Upstate Medical University employee who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality or do not consent to the institution's request to initiate an investigation, the Title IX Coordinator must weigh your request against our obligation to provide a safe, non-discriminatory environment for all members of our community, including you.

We will assist you with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of your reporting choices. While reporting individuals may request accommodations through several college offices, the following office can serve as a primary point of contact to assist with these measures: Office of Student Affairs, 1225 Weiskotten Hall, 315-464-4816. We also may take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify you or the situation you disclosed.

We may seek consent from you prior to conducting an investigation. You may decline to consent to an investigation, and that determination will be honored unless the Upstate Medical University's failure to act does not adequately mitigate the risk of harm to you or other members of the Upstate Medical University community. Honoring your request may limit our ability to meaningfully investigate and pursue conduct action against an accused individual. If we determine that an investigation is required, we will notify you and take immediate action as necessary to protect and assist you.

When you disclose an incident to someone who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality, Upstate Medical University will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- Whether the accused has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation, such as a situation that previously involved sustained stalking;
- The increased risk that the accused will commit additional acts of violence;
- Whether the accused used a weapon or force;
- Whether the reporting individual is a minor; and
- Whether we possess other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location or by a particular group.

If the Upstate Medical University determines that it must move forward with an investigation, the reporting individual or victim/survivor will be notified and the Upstate Medical University will take immediate action as necessary to protect and assist them.

Public Awareness/Advocacy Events:

If you disclose a situation through a public awareness event such as "Take Back the Night," candlelight vigils, protests, or other public event, the Upstate Medical University is not obligated to begin an investigation. The Upstate Medical University may use the information you provide to inform the need for additional education and prevention efforts.

Anonymous Disclosure:

Anonymous reports of sexual violence can be made to Upstate Medical University Police by calling 315-464-4000. The Hotline is for crisis intervention, resources and referrals and is not a reporting mechanism. New York State Hotline for Sexual Assault and Domestic Violence: 1-800-942-6906.

Institutional Crime Reporting

Reports of certain crimes occurring in certain geographic locations will be included in the Upstate Medical University Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the reporting individual or victim/survivor. The University 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 reporting individual or victim/survivor). A reporting individual will never be identified in a timely warning.

The Family Educational Rights and Privacy Act (FERPA) 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 tax return. The Upstate Medical University will not share information about a report of sexual violence with parents without the permission of the reporting individual.

STUDENTS' BILL OF RIGHTS

The State University of New York and Upstate Medical University 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 College/University-wide and campus 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:

- Make a report to local law enforcement and/or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- 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;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from courteous, fair, and respectful health care and counseling services, where available;
- 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;
- Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident;
- Be free from retaliation by the institution, the accused and/or respondent, and/or their friends, family, and acquaintances within the jurisdiction of the institution;
- Access to at least one level of appeal of a determination;
- 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;
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the Upstate Medical University.

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 or anonymously disclose a crime or violation (for detailed information on confidentiality and privacy, visit: http://www.upstate.edu/universitypolice/students_faculty/anonymous.php);
- Make a report to:
 - An employee with the authority to address complaints, including the Title IX Coordinator, a Student Affairs Employee, or a Human Resources Employee;
 - University Police;
 - Local Law Enforcement; and/or
 - Family Court or Civil Court

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:

Reporting:

- To disclose *confidentiality* the incident to one of the following university officials, who by law may maintain confidentiality, and can assist in obtaining services (more information on confidential report is available in the Options for Confidentiality Disclosing Sexual Violence Policy. Anonymously via an internet reporting system:
 - University Police: http://www.upstate.edu/universitypolice/students_faculty/anonymous.php; 315-464-4000
 - Student Counseling Services: <http://www.upstate.edu/currentstudents/support/scc/index.php>; 315-464-3120

- 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 1-800-942-6906), and assistance can also be obtained through:
 - o SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints/>;
 - o Legal Momentum: <https://www.legalmomentum.org/>;
 - o NYCASA: <http://nycasa.org/responding>;
 - o NYSCADV: <http://www.nyscadv.org/>;
 - o Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>;
 - o GLBTQ Domestic Violence Project: <http://www.glbtqdv.org/>;
 - o RAINN: <https://www.rainn.org/get-help>; and
 - o Safe Horizons: <http://www.safehorizon.org/>.

Note: 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. The 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 just 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 at 711 Jacobsen Hall, 315-464-5234, ODAA@upstate.edu;
 - o Student Affairs, 1225 Weiskotten Hall, 315-464-4816; and
 - o University Police, Building 49, 315-464-4000
- To file a criminal complaint with University Police and/or with local law enforcement and/or state police:
 - o University Police, Building 49, 315-464-4000
 - o Syracuse City Police, Emergency, 911; Abused Persons Unit, 315-435-3016
 - o State police 24-hour hotline to report sexual assault on a NY college campus: 1-844-845-7269
- To receive assistance 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 Upstate Medical University 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 their identity anonymous, they may contact the Title IX Coordinator at 711 Jacobsen Hall, 315-464-5234, ODAA@upstate.edu;
- When the accused is an employee, a reporting individual may also report the incident to the Upstate Medical University, 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 university, university 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 *persona non grata* letter, subject to legal requirements and university policy.
 - o Human Resources: Jacobsen Hall, 315-464-5872, <http://www.upstate.edu/hr/intra/about/directory/laborissues.php>
- You may withdraw your complaint or involvement from the Upstate Medical University 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, local law enforcement, and/or State Police or choose not to report; to report the incident to Upstate Medical University; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from Upstate Medical University."
- Alcohol and/or Drug Use Amnesty in Reporting 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. Upstate Medical University 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 or other serious health-related emergency occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Upstate Medical University strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault and other health-related emergencies (e.g. overdose) 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 or other health-related emergencies to Upstate Medical University officials or law enforcement will not be subject to Upstate Medical University'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 or other incident.

Resources:

To obtain effective intervention services:

- Student Counseling Services: <http://www.upstate.edu/currentstudents/support/scc/index.php>; 315-464-3120. There is no charge for on campus counseling for students.
- Upstate Medical University Student Health Services: <http://www.upstate.edu/currentstudents/support/health/index.php>; There is no charge for On Campus Health Center services for students. Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Testing for STIs and emergency contraception is available through the Onondaga County Health Department's STD Center, Room 80, 421 Montgomery Street, Syracuse; 315-435-3236; <http://ongov.net/health/STD.html>. There are no fees for testing or treatment.
- Additional Resources: Title IX Coordinator at 711 Jacobsen Hall, 315-464-5234, ODAA@upstate.edu; Student Affairs, 1225 Weiskotten Hall, 315-464-4816; University Police, Building 49, 315-464-4000
- 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 1-800-247-8035. 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.

Protection and Accommodations:

- When the accused is a student, to have the university 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 university policy. Parties may submit evidence in support of their request.
- To have assistance from University Police or other university 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 responsibility of the accused 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 University Police 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 University Police or, if outside of the jurisdiction or 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 university 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 university policies and rules.
- When the accused is not a member of the college community, to have assistance from University Police or other college officials in obtaining a persona non grata letter, subject to legal requirements and university 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 Dean of Student Affairs Office can serve as a point to assist with these measures: 1225 Weiskotten Hall, 315-464-4816.

Student Conduct/Disciplinary Process:

- To request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the Code of Student Conduct in Student Handbook: <http://www.upstate.edu/currentstudents/documents.php?cid=123>, 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:
 - o 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;
 - o 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.
 - o 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.

- o 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.
- o 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 university).
- 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 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 or fair record of a student conduct hearing, which shall be preserved and maintained for a least five years.
- o The right to choose whether to disclose or discuss the outcome of a conduct hearing.
- o The right to have all information obtained during the course of the conduct or judicial process by protected from public release until the appeals panel makes a final determination unless otherwise required by law.

Copies of this policy or informative summaries with links or information to access the full policy shall be distributed annually to students, made available on the University's website, and posted in campus residence, and student union or campus center.

Judicial Affairs, 1217 Weiskotten Hall, 315-464-4816

INFORMATION, SUPPORT AND EDUCATION

Victims of this type of misconduct may seek support services as well as the assistance described above. Student Counseling Services and Student Health are valuable resources and may be reached via a telephone at 315-464-3120 and 315-464-4260, respectively.

Victims of these crimes should:

- Get to a safe place as soon as possible.
- Try to preserve all physical evidence; do not bathe, douche, or change clothes.
- Contact State University of New York at Upstate Medical University Police immediately (call 315-464-4000 in an emergency, or use a Emergency Call Box or other campus emergency phone).

As part of the university's educational mission, the University Police Department attempts to teach members of the campus community how to reduce their chances of being a victim of a crime. Department staff members have been trained in crime prevention techniques and serve as crime prevention officers. The University's crime prevention program is based upon the dual concepts of 1) reducing or eliminating criminal opportunities, and 2) encouraging students and employees to be responsible for their own security and the security of others.

The following is a listing of the University's crime prevention programs and projects:

Escort Service: Available 24 hours a day, 7 days a week for anyone to any on campus location.

Personal Safety Committee: Charged by the President this group of faculty, staff and students meets to discuss campus safety and makes an annual report to the President with recommendations on how to enhance campus safety and security.

Personal Security: Crime prevention presentations are made available on a regular basis at new student and employee orientations. Custom presentations or surveys are made at the request of any group.

Emergency Telephone: Emergency telephones and call boxes, linked directly to the University Police, are located throughout the campus. Additionally University Police can be reached by dialing 911 from any campus phone.

Architectural Design: The University Police Department has significant input into the design of all new and renovated campus facilities as related to physical and electronic security systems.

Facilities Surveys: The University Police Department and the Personal Safety Committee conduct periodic surveys of exterior lighting, exterior doors and campus grounds. Results of these surveys are forwarded to Physical Plant for prompt action.

Rape Awareness: Rape awareness education and prevention presentations are made periodically to the campus community.

ADDITIONAL CONTACTS

DEAN OF STUDENT AFFAIRS
TITLE IX COORDINATOR
ASSOCIATE DEAN OF STUDENT AFFAIRS (Judicial Coordinator)

RESPONSIBILITIES

Student policies and their effectiveness are reviewed annually as the Student Handbook is updated.