

SEXUAL VIOLENCE POLICY

Approved by University Council on March 16, 2006 and approved by the President on May 25, 2006.

Please Note: Due to recent guidance from the Office for Civil Rights, the process for *Student on Student* Sexual Offense violations will follow the Community Standards process and **not** the process stated below. An update to the entire policy is forthcoming.

A. Purpose

It is the purpose of this document to state Saint Joseph's University's (SJU) policy on sexual offenses and to identify and describe procedures and resources available to those individuals who believe they have been a victim or victims of a sexual offense, and to identify the possible sanctions for violations of this policy, the appeals procedures and educational programs.

B. Policy

Saint Joseph's University will not tolerate sexual offenses, whether forcible or non-forcible, on its campus or at University-sponsored events, by any member of the SJU community (faculty, students, administrators, and staff including union members). A definition of sexual offenses is contained in C below. The University also reserves the right, in its sole discretion, to take action under this Policy for off-campus behavior. Sexual offenses are not only a violation of law and reprehensible in any context, but are a matter of particular concern in an academic community in which students, faculty and staff are related by strong bonds of dependence and trust.

A member of the Saint Joseph's community charged with a sexual offense may be prosecuted under applicable criminal statutes of the location where the offense occurred, and may, whether or not criminal charges are filed, be subject to internal University disciplinary proceedings.

An individual who believes that he or she has been a victim of a sexual offense is encouraged to report the matter immediately to the Office of Public Safety and Security (610-660-1111), and/

or the local police (911). Evidence including clothing, drinks, glasses, bed linens, etc. should be preserved. In order to preserve evidence of body hairs and fluids, a victim should be medically examined as soon as possible and before any showering, bathing or other clean up occurs. Support is available as set forth later in this policy under Section H. These support services are also available for individuals who are not sure if they are victims of a sexual offense.

While it is best to report the offense immediately, it can be reported at any time.

C. *Sexual Offenses*

The Federal Uniform Crime Reporting Program defines a forcible sexual offense as any sexual act directed against that person's will; or not forcibly against the person's will where the victim is incapable of giving consent. Non-forcible sexual offenses are acts of unlawful, non-forcible sexual intercourse and include incest and statutory rape. Certain conduct that may be a violation of the University's Sexual Offense Policy may also be considered crimes under Pennsylvania law (See, among other websites, <http://www.pitt.edu/~weinberg/sexual.htm>). Such potential crimes include, but are not limited to:

1. Rape. Sexual intercourse obtained through force or threat of force or without the victim's consent. Sexual intercourse includes vaginal, anal, or oral sex. Ejaculation is not necessary, but there must be some penetration, however slight.
2. Involuntary deviate sexual intercourse. Oral or anal sexual intercourse obtained through force or threat of force or without the victim's consent.
3. Sexual assault. Sexual intercourse or deviate sexual intercourse without the victim's consent.
4. Aggravated indecent assault. The penetration, however slight, of the genitals or anus by a part of the offender's body for any purpose other than good faith medical, hygienic or law enforcement procedures, by force or threat of force or without the victim's consent.
5. Indecent assault. Any touching of the intimate parts of a person, by force or threat of force or without the victim's

consent.

6. Indecent exposure. Exposure of genitals in any public place or any place where the conduct is likely to offend, affront or alarm.

There are situations when a person may be considered incapable of giving consent such as, if he/she is: asleep, unconscious and/or losing and regaining consciousness, or clearly mentally or physically incapacitated, for example, by alcohol and/or other drugs. A verbal “no” even if it may sound indecisive or insincere, constitutes lack of consent. Further, it is not necessary that an individual resist an attack or otherwise affirmatively express lack of consent.

Use of alcohol and/or other drugs shall not diminish one’s responsibility to obtain consent. Being in an on-going relationship does not preclude the possibility of sexual misconduct occurring within that relationship.

D. Report Procedures

1. Office of Public Safety and Security (610-660-1111). A report of a sexual offense should be made to the Office of Public Safety and Security. This can be done by calling (610) 660-1111. The Office of Public Safety and Security will provide information about filing criminal charges. If the person making the report of a sexual offense so desires, the Office of Public Safety and Security will assist her or him in contacting the local police. This office will also provide information for contacting a member of REPP (Rape Education and Prevention Program; beeper number 610-733-9650, available 24 hours a day) if she or he so desires.

2. Police. The matter may be reported directly to the police in the location where the offense occurs. Nine-one-one (911) may be called for both the Philadelphia and Lower Merion police. If the police are handling the matter, the Office of Public Safety and Security may defer or postpone its investigation.

3. Reports to Campus Security Authorities. Any University “campus security authority” as defined by the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime



Policies, Regulations, Statements and Guidelines

Statistics Act, who receives a report of a sexual offense, must report the offense to the Office of Public Safety and Security. A "campus security authority" is defined as: (1) a campus police or security department; (2) any other individual who has responsibility for campus security, e.g., an individual who is responsible for monitoring entrance into the University's property; or (3) an official of an institution who has significant responsibility for student and campus activities, including student housing, student discipline and campus judicial proceedings.

Specifically exempted from the definition of campus security authorities are pastoral or professional counselors when acting in that capacity. A pastoral counselor is defined as "a person associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of recognition as a pastoral counselor." A professional counselor is defined as "a person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her license or certification."

Examples in the federal regulations of persons with "significant responsibility for student and campus activities" include an administrator who oversees student housing, a student center, or student extra-curricular activities; a director of athletics or team coach; or a faculty advisor to a student group. The federal regulations further provide: "A single teaching faculty member is unlikely to have significant responsibility for student and campus activities, except when serving as an advisor to a student group. A physician in a campus health center or a counselor in a counseling center whose only responsibility is to provide care to students is unlikely to have significant responsibility for student and campus activities. Also, clerical staff are unlikely to have significant responsibility for student and campus activities."

Student resident assistants or other persons with significant responsibility for student and campus activities who receive a report of a sexual offense must report the offense to the Office of Public Safety and Security within twenty-four (24) hours of

receiving report of the alleged offense.

E. University Response When There is a Report of a Sexual Offense

1. Immediate medical and/or psychological assistance will be made available to the person making the report of a sexual offense. Security will provide transportation to a hospital that specializes in rape treatment, if appropriate, and the University Counseling Center staff member on duty will be notified, if requested.

2. The Office of Public Safety and Security will provide guidance to the individual concerning the preservation of relevant evidence.

3. The Director of Residence Life, in consultation with other offices, as necessary, will make changes in the academic, living and/or employment situation of a student who has reported a sexual offense if such changes are reasonably feasible. The appropriate Administrative Officer (defined in E8) will make changes in the academic or employment situation of an employee or faculty member who has reported a sexual offense if such changes are reasonably feasible.

4. Any member of the University community who is charged with a violation of this policy may be placed on immediate suspension, and/or barred from University property, pending the outcome of the process, if that individual poses a threat to the health, safety or welfare of the University community, as determined by the Administrative Officer (or in the case of a student, by the Vice-President for Student Life) with the authorization of the President. In the case of an employee or faculty member, the Administrative Officer shall also determine whether such suspension is to be with or without pay.

5. The Office of Public Safety and Security will conduct a prompt and thorough investigation and prepare a factual report that will be conveyed to the Administrative Officer (defined below in E8) and/or if the alleged offender is a student, to the Student Life Administrator, as defined by the Community Standards set forth in the Student Handbook.

6. **Student Process.** When the alleged offender is a student, the offense will be handled under the Community Standards and Disciplinary Process as a violation, along with any other alleged violations of the Community Standards in connection with the incident. In most cases, allegations of a sexual offense shall be heard by the Community Standards Board, consistent with published Community Standards processes. Both parties (the accused and the alleged victim) may have a support person from the SJU community who may accompany him/her during the hearing. The support person may only speak to the respective accused/alleged victim and/or respond to questions put directly to him/her from the administrator during the hearing. Either party shall have the right to appeal the decision.

7. **Non-Student Process.** When the alleged offender is a faculty member or non-faculty employee, the following shall occur:

a. The investigative report from the Office of Public Safety and Security will be made available to the appropriate Administrative Officer (defined below in E8) in preparation for administrative review. Both formal and informal administrative review procedures will be available and are specified below according to whether the accused is a non-faculty employee or faculty member. Both parties (the accused and the alleged victim) may have a support person from the SJU community accompany him/her during any of the procedures of this policy. The support person may only speak to the respective accused/alleged victim and/or respond to questions put directly to him/her from the administrator during the hearing.

b. The appropriate Administrative Officer will promptly review the facts developed by the investigation and make a determination as to whether there is reason to believe that a violation of this policy has occurred, that is, s/he will determine that either an offense may have occurred, did occur, or that there is insufficient evidence to substantiate the allegation(s) of an offense. If the Administrative Officer finds such reason, s/he may attempt to bring about an informal resolution between the person making the report of a sexual offense and the accused. However, the person making the report of a sexual offense shall not be pressured or required to enter into any such informal resolution.

c. In the event that an informal resolution is not reached, the following procedures will be pursued:

(i) When the accused is a non-faculty employee (including union members):

The Administrative Officer will conduct a hearing and/or meet with all parties involved. The Administrative Officer will prepare a written report, including findings and recommended sanction(s) and convey it to both parties. The Administrative Officer shall implement the sanction(s) in consultation with the Vice President overseeing the employee's department.

(ii) When the accused is a member of the faculty:

The Administrative Officer will prepare a written report, including findings and recommended sanction(s) and convey it to both parties. The Administrative Officer shall implement the sanction(s) in consultation with the University's Chief Academic Officer. If dismissal is recommended, the procedures outlined in the Faculty Handbook regarding Separation and Appeals Procedures shall be followed.

d. Either party has the right to appeal as set forth below (Section G). The outcome of the appeal process will be final.

8. Administrative Officer. The administrative officers are:

Alleged Offender	Administrative Officer
Faculty	Faculty Member's Dean
Non-Faculty Employees (including union members)	Director of Human Resources

The Administrative Officer may designate another individual to act in his or her place. In a situation where the President concludes that the participation of any of these individuals would compromise the impartiality of the process or have the appearance of partiality, the President may designate another individual to act as the Administrative Officer. The alleged offender may appeal this appointment in writing directly to the President, giving reasonable and specific cause for his/her appeal of the President's appointment. Should the President deny that appeal, the alleged offender may appeal the President's appointment through established University grievance procedures.

F. Sanctions

A sanction will be imposed for violation of this policy. The

University has wide discretion as to the sanctions that may be imposed.

Faculty and Non-Faculty Employees (including Union Members). The sanctions that will be imposed for violation of this policy may include discipline, suspension and/or dismissal. If the sanction is suspension, then the applicable Administrative Officer shall identify whether it is with or without pay.

Students. The sanctions that may be imposed for violation of this policy include, but are not limited to, removal from the residence community, removal from participation in extracurricular activities, suspension from the University and/or expulsion from the University. Appropriate sanctions may also be imposed upon groups or organizations found to have violated this policy. Both the accuser and accused shall be informed of the University's final determination in a disciplinary proceeding and any sanction imposed against the accused.

G. Appeal Procedures

1. Students. Appeals shall be heard by the Vice President for Student Life and Provost in accordance with the procedures set forth in the Student Handbook, provided that either the alleged offender or alleged victim may appeal a decision of the Student Life Administrator.

2. Non-Faculty Employees (including Union Employees). Either party may appeal a decision by the Administrative Officer by notifying the Appeals Officer identified below in writing within 5 business days of the decision of the Administrative Officer. The Appeals officer will convey his/her decision in writing to both parties. The decision made on appeal will be final, subject to any further rights of appeal under an applicable collective bargaining contract.

Alleged Offender	Appeals Officer
Non-Faculty Employees	Vice President for Financial Affairs
Union Employees	Vice President for Administrative Services

3. Faculty. Either party may appeal a decision by the Administrative Officer to the University's Chief Academic Officer, by written notice of appeal within 5 business days of

the decision of the Administrative Officer. With respect to any sanction, faculty shall have such appeals rights as are set forth in the Faculty Handbook.

H. Resources

Saint Joseph's University has developed a Rape Education and Prevention Program (REPP) and trained teams to assist an individual who has reported a sexual offense. The team will consist of at least two community members who have received training in rape crisis counseling. One person will be designated as the advocate who will stay with the individual throughout all examinations and questioning, if desired. The role of the advocate will be to provide support, inform the individual of all options and rights, advise regularly about the status of the case and accompany the individual throughout disciplinary, administrative or criminal proceedings, as needed.

REPP's web site, http://www.sju.edu/cas/sociology/rape_education/index.html contains information about reporting sexual offenses, medical treatment, victims' rights, criminal and disciplinary proceedings, the need for professional counseling, campus personnel and services available for victim assistance, information about testifying in court, feelings and reactions experienced by most victims and ways to deal with feelings. The purpose of this information and the advocate is to enable the individual who reports a sexual offense to make informed choices, NOT to pressure or convince her/him to take any particular course of action.

The Counseling Center (610-660-1090) offers confidential counseling to students for a wide variety of concerns, including the psychological effects of sexual offenses. Referral for in-patient or outpatient psychiatric care is also available to students, faculty and staff.

Resources

- Security
- REPP
- Counseling Center
- Human Resources

Phone Numbers

- 610-660-1111
- 610-733-9650
- 610-660-1090
- 610-660-3309

I. Education

Rape education and prevention resources are available on the

University web site at http://www.sju.edu/academics/cas/sociology/rape_education/index.html The Office of Public Safety and Security annually publishes campus security reports that include statistics on campus crimes and arrests for certain specified categories of offenses. The report also describes policies related to campus security. The reports are distributed electronically to all current students and employees and, upon request, to applicants for enrollment or employment, and are available on the University's web site at http://www.sju.edu/security/annual_report.htm The student newspaper regularly publishes "incidents of crime" on and around campus. These periodic reports are supplied by the Office of Public Safety and Security on a weekly basis during the fall and spring semesters. In addition, the Office of Public Safety and Security conducts an annual security presentation to incoming first year students and transfer students at Orientation. This presentation includes information about how to develop personal protection plans, including protection against rape. The distribution of the Student Handbook which contains the Sexual Offense Policy, and additional programming during new student orientation and during the first few weeks of the semester continues this educational effort.

During the course of the academic year, Student Life sponsors or co-sponsors at least one program each semester on acquaintance rape and/or gender issues.

J. Consultation regarding this Policy, Sexual Offenses, and Sexual Harassment

A sexual offense differs from sexual harassment. Examples of sexual offenses are identified in Section C of this document. Sexual harassment is defined in Section IV of the Policy Prohibiting Harassment. This latter policy can be found on the University web site at <http://www.sju.edu/resources/humanresources/harassment.html> and in the faculty, staff, and student handbooks.

Any member of the Saint Joseph's university community may contact the Chair or any member of the Harassment Advisory Team if s/he feels that s/he is the victim of sexual harassment. (<http://www.sju.edu/resources/humanresources/harassment.html>)

K. Records

Records of reported sexual offenses shall be maintained by

the Office of Public Safety and Security and will be included in campus security reports. The investigative report by the Office of Public Safety and Security will be kept on file in the Office of Public Safety and Security and kept confidential except for the access afforded to the appropriate administrators outlined in this policy, others in the University Administration with a need to know, and/ or as required by law.



Policies, Regulations, Statements and Guidelines