

## SEXUAL VIOLENCE RESPONSE POLICY

In accordance with the Students' Bill of Rights, reporters of sexual violence 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:

### I. REPORTING:

To disclose *confidentially* the incident to one of the following college officials, who by law may maintain confidentiality, and can assist in obtaining services (more information on confidential reporting is available in the Options for Confidentially Disclosing Sexual Violence Policy):

- Student Counseling Service, 440 Lenox Road Apt 1-M, (718) 270-1408;
- Student & Employee Health, 440 Lenox Road Apt 1-S, (718) 270-1995/2018;
- Employee Assistance Program, (718) 270-1489

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:

- SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints/>;
- Legal Momentum: <https://www.legalmomentum.org/>;
- NYSCASA: <http://nyscasa.org/responding>;
- NYSCADV: <http://www.nyscadv.org/>;
- Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>;
- GLBTQ Domestic Violence Project: <http://www.glbtqdv.org/>; and
- RAINN: <https://www.rainn.org/get-help>.
- Safe Horizons: <http://www.safehorizon.org/>.

*(Note that 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. Victims/survivors 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. These 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 justice 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:

- Title IX Coordinator
- Dean of Students; and
- University Police (24 hours/day, 7 days a week).

To file a criminal complaint with University Police and/or with local law enforcement and/or the New York State Police:

- University Police – (718) 270-2626, University Hospital Room A1-339
- New York City Police Department, 67<sup>th</sup> Precinct – 911 or (718) 287-3211, 2820 Snyder Avenue, Brooklyn, NY 11203 (between Nostrand and Rogers Avenues)
- New York State Police 24 hour hotline to report sexual assault on a NY College Campus: 1-844-845-7269.

To receive assistance by the Office of Student Affairs or the Title IX Coordinator 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 Downstate Medical Center 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 his/her identity anonymous, he or she may call anonymously to discuss the situation and available options:

- Shaundelle Moore Goldsmith, Title IX Coordinator, (718) 270-1738

When the accused is an employee, a reporting individual may also report the incident to the Downstate Medical Center Office of Labor Relations or may request that one of the above referenced confidential or private employees assist in reporting to the Office of Labor Relations. 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 college, college 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 college policy.

- Office of Labor Relations, (718) 270-3019, 420 Lenox Road

You may withdraw your complaint or involvement from the Downstate Medical Center process at any time.

Regardless of which SUNY Downstate representative that the reporting individual contacts or submits a report to, at the first instance of disclosure, the reporting individual shall be informed that, under New York State Law: You have the right to make a report to University Police or Campus Security, local law enforcement, and/or State Police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.

## **II. RESOURCES**

To obtain effective intervention services.

- Student Counseling Service, 440 Lenox Road Apt 1-M, (718) 270-1408. There is no charge for services.
- Student & Employee Health, 440 Lenox Road Apt 1-S, (718) 270-1995/2018. Some services may be billed to your insurance.
- Kings County Hospital, 451 Clarkson Avenue, (718) 245-5209. Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Testing for STIs and emergency contraception is available; fees will be charged for services, insurance is accepted. The Kings County Hospital Emergency Department has a Rape Crisis Program with a trained Sexual Assault Response Team (SART).
  - 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](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.

### III. PROTECTION AND ACCOMMODATIONS

- When the accused is a student, to have the college issue a “No Contact Order,” consistent with SUNY Downstate 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 SUNY Downstate policies. Parties may submit evidence in support of their request.
- To have assistance from University Police or other college 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 accused’s responsibility 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.
- 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 college 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 SUNY Downstate 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 college 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 following offices can serve as a point to assist with these measures:
  - Office of Diversity and Inclusion – (718) 270-1738
  - Office of Student Affairs – (718) 270-2187

### IV. STUDENT CONDUCT PROCESS

- To request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the Downstate Medical Center Student Handbook, [http://sls.downstate.edu/student\\_affairs/handbook.html](http://sls.downstate.edu/student_affairs/handbook.html), 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:
  - 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;
  - The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial 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.
  - 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.
  - 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.
  - 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.
  - The right to offer evidence during and to review available relevant evidence in the case file (or otherwise held by SUNY Downstate).
  - The right to present evidence and testimony at a hearing where appropriate.
  - The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
  - 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.
  - 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.
  - The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
  - 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.
  - The right to know the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding and the reason for the actual sanction imposed. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
  - 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.
  - The right to have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five years.
  - Contact the Office of Student Affairs for more information about the student conduct process (718) 270-2187, Basic Sciences Building, Room 1-114.
  - The right to choose whether to disclose or discuss the outcome of a conduct hearing.
  - The right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.