

## **UNIVERSITY OF SIOUX FALLS – SEXUAL ASSAULT POLICY**

### **I. SCOPE OF POLICY**

The policy regarding sexual assault includes any student or employee who commits a sexual act against another university student, faculty, or staff member, occurring on university property or at a university sponsored event. A sexual act committed against another person with or without consent may be classified as a felony or misdemeanor violation of South Dakota Codified Law. Any person having knowledge, who does not have legal privilege, is required to report felonies to law enforcement.

### **II. DEFINITION OF SEXUAL ASSAULT**

Sexual assault is any unwanted physical contact of a sexual nature, whether by an intimate partner, friend, acquaintance or stranger, that occurs without consent by both individuals or that occurs under threat or coercion.

Persons who are unable to give consent because of their physical or mental capacity, or the influence of alcohol, marijuana or other illegal controlled substance, or who are under hypnosis at the time that they are subjected to the sexual assault shall be presumed incapable of effective consent.

A sexual act committed against another person with or without consent may be classified as a felony or misdemeanor violation of South Dakota Codified Law.

### **III. PROCEDURES IN THE EVENT AN ASSAULT OCCURS**

As soon after the alleged assault occurs, USF Campus Safety should be contacted. Campus Safety will make appropriate contacts including the Sioux Falls Police Department. Residence Life staff should also be notified if the assault is related to University Housing facilities. The Safe Campus Advocate will assist victims and bystanders with emotional and safety concerns. The Director of Judicial Affairs will be notified for disciplinary action on campus. These individuals shall be notified on a need-to-know basis.

This policy is intended to provide the maximum encouragement for reporting and prosecuting sexual assault and sexual contact while making the victim's rights and confidentiality of top importance. The Safe Campus Advocate can appropriately refer a person who has been victimized for services including medical, legal, counseling, emotional, and other environmental services. Specifically, the Safe Campus Advocate can assist with the following referrals:

#### **A. Medical Treatment**

For life threatening emergencies, call 911.

For treatment of less serious injuries, victims should: consult resources on final page.

For evaluation of sexually transmitted diseases and pregnancy, victims should: consult resources on final page.

#### **B. Evidence Collection**

A person who has experienced sexual assault is encouraged to request collection of medical-legal evidence. Collection of medical-legal evidence is conducted by the Sioux Falls Police Department.

Prompt collection of medical-legal evidence is necessary for subsequent legal action against the perpetrator.

The Safe Campus Advocate shall also notify the victim of their right to report the incident to law enforcement and will assist with making that report if requested by the victim.

### **C. Options**

The victim also has an opportunity to receive assistance in changing academic and living situations after an assault occurs, if these changes are requested by the victim and are reasonably available.

## **IV. CONFIDENTIALITY**

The University will make every effort to maintain a victim's privacy and protect the confidentiality of any information disclosed under this policy. Information shall be disclosed on a need-to-know basis. Some responders such as counselors and clergy may have a legal privilege that allows them to maintain complete confidentiality, while other responders may be legally required to report evidence of a sexual assault to local law enforcement. Any professional being consulted regarding a sexual assault shall explain their ability to preserve confidentiality prior to disclosure of assault details.

In the event that an incident reported under this policy indicates that the perpetrator poses an immediate threat to others at the University, the designated campus security authority may issue a timely warning, as required by federal law. In the event such a warning is issued, the victim's identity shall be protected.

The alleged perpetrator and victim will be notified of the judicial and appeals process prior to the occurrence of these events. Pursuant to federal law, upon the conclusion of the student disciplinary process, both the alleged perpetrator and the victim will be informed of the outcome.

In addition, the designated campus security authority is required to report the occurrence of sexual assault. This report is for statistical purposes pertaining to campus safety and does not disclose individual identities.

## **V. JUDICIAL AND LEGAL ACTION**

The victim has the right to report the assault to university officials and to the Sioux Falls Police Department. University personnel will assist the student in notifying these authorities. While the university encourages students to assist in prosecuting any sexual assault case to the fullest extent of the law, students who have been sexually assaulted need to maintain control over how they wish to proceed legally and personally.

For students accused of a violation of this policy, the disciplinary process will be handled in accordance with the procedures set forth in the Student Judicial Process. The accused and the victim shall have a right to be present at any hearing conducted during that process.

For employees accused of a violation of this policy, the disciplinary process will be handled in accordance with the procedures set forth in the faculty/staff handbook.

## **VI. SANCTIONS**

Maximum sanctioning for the offense of sexual assault could be disciplinary expulsion from the University of Sioux Falls with lesser sanctions also a possibility, including, but not limited to, counseling evaluation session, restrictions on participation in campus activities, removal from campus residence life, and disciplinary suspension or probation.

Employees, independent contractors, volunteers and agents of the University may be subject to discipline for a violation of this policy, up to and including termination, cancellation of contract, and/or removal from campus.

## **VII. IMMUNITY CLAUSE**

If the victim is found to be in violation of campus policies at the time the sexual assault occurs, the victim may be granted immunity from disciplinary sanctions (e.g. alcohol consumption, co-habitation outside of marriage, inter-visitation, etc.)

## **VIII. EDUCATION AND PREVENTION**

The University of Sioux Falls is concerned with the personal safety of students, faculty, and staff. In addition to measures taken by the Campus Safety Office, the University of Sioux Falls also provides awareness and education opportunities assisting in a person's ability to be responsible for his or her own safety. Education and awareness topics include risk reduction and response to sexual assault, including rape, as well as other forcible and non-forcible sexual offenses. Several departments assist in this programming, including USF Campus Safety, the U-SaFety Program, Residence Life, and the University Counseling Office.

## **RESOURCES IN THE EVENT OF A SEXUAL ASSAULT**

In the event of sexual assault, the following services are available at the University of Sioux Falls:

USF Campus Safety On-Call = 605-321-6400 or 605-359-7571

Sioux Falls Police Department Non-Emergency = 605-367-7000 or Emergency 911

Safe Campus Advocate = 605-331-6613 or 605-321-0652

University Counselor = 605-331-6619 or 605-271-3094

Emergency Ambulatory Care = 911

Center for Family Medicine (USF Health Services) = 605-339-1783

Sanford Emergency Room = 605-333-6688

Avera McKennan Emergency Room = 605-322-2000

U-SaFety Walk = 605-321-6400