

SEXUAL ASSAULT POLICY STATEMENT

Updated Summer 2009

(The Sexual Assault Policy Statement* provides information related to **Section 4** of the **Southeast Missouri State University's Statement of Student Rights and Code of Student Conduct.**)

SEXUAL MISCONDUCT

Definition: Any unwanted sexual exploitation, which may include, but is not limited to:

1. Nonconsensual sexual intercourse:

- Any sexual intercourse
- Anal, oral or vaginal
- However slight
- With any object
- By a man or a woman
- Upon a man or a woman
- Without effective consent

- Effective consent is equal to verbal agreement; both parties have to agree to have intercourse
- Silence is not effective consent

2. Nonconsensual sexual contact:

- Any sexual touching
- However slight
- With any object
- By a man or a woman
- Upon a man or a woman
- Without effective consent

- Effective consent is equal to verbal agreement; both parties have to agree to have sexual contact
- Silence is not effective consent

3. Incapacitation (mutually incapacitated sexual contact) means being in a state where a person:

- Lacks the capacity to appreciate the fact that the situation is sexual
- Cannot appreciate (rationally or reasonably) the nature and/or extent of that situation

NOTE: A physically incapacitated person is one who is physically incapacitated as a result of alcohol or other drug consumption (voluntary or involuntary), or who is unconscious, unaware, or otherwise physically helpless and incapable of giving consent. One may not engage in sexual

activity with another person who one knows or should reasonably have known that person to be physically incapacitated.

SEXUAL HARASSMENT

According to the Equal Employment Opportunity Commission (EEOC), Federal Government Title VII and IX, sexual harassment is any unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made a term or condition of employment (explicitly or implicitly);
- Submission or rejection to such conduct is used as a basis for employment decisions; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment

SEXUAL EXPLOITATION

- When a person takes nonconsensual, unjust or abusive advantage of another for his/her own advantage or benefit;
- Or to benefit or advantage anyone other than the one being exploited; and
- That behavior does not otherwise constitute nonconsensual sexual intercourse, sexual assault or sexual harassment

STATEMENT OF INTENT

Southeast Missouri State University is a community of trust whose very existence depends on strict adherence to standards of conduct set forth by its members. Sexual misconduct is a crime punishable by both civil and criminal legal action and a serious violation of Code of Student Conduct. It will not be tolerated within our University community. Students at Southeast Missouri State University are charged with the responsibility of being familiar with and abiding by the standards of conduct outlined in this and all University publications.

UNIVERSITY'S STATUTE OF LIMITATIONS

As long as the accused Student maintains a relationship with Southeast Missouri State University charges may be brought against them under this policy regardless of the date of the incident.

GOOD SAMARITAN CLAUSE

A person will have limited immunity if sexual misconduct is reported. Example: Amy reports that she is a victim of a sexual assault and she did not consent. During the investigation, it is learned that Amy had been drinking. Amy would not be charged with violating the University's alcohol policy.

JURISDICTION

Reports of sexual misconduct will be considered to have a substantial impact on the campus community and will be investigated fully regardless of whether the incident occurs on or off campus.

STUDENT GROUP OR ORGANIZATION INFRACTION

A student group or organization may be held responsible for the action(s) of its members. The group or organization may be subject to judicial action under the University's Code of Student Conduct.

STATEMENT OF VICTIM'S RIGHTS

Victims of sexual misconduct have the following rights:

- The right to be treated with respect by University officials
- The right to have others present (in support or advisory roles) during a campus disciplinary hearing
- The right not to be discouraged from reporting sexual misconduct by University officials
- The right to be informed of the outcome and any sanction(s) of a campus disciplinary hearing involving sexual assault
- The right to appeal the outcome of the campus disciplinary hearing involving sexual assault
- The right to be informed of his/her option to notify proper law enforcement authorities, including campus and local police agencies, as well as the option to be assisted by University officials in notifying such authorities, if the victim so chooses
- The right to be notified of available counseling or student services for victims of sexual assault, both on campus and in the community
- The right to notification of, options for, and available assistance in changing academic and living situations after an alleged sexual assault incident, if the victim so chooses and if such changes are reasonably available
- The right not to have prior sexual history admitted during a campus disciplinary hearing
- The right not to have incidents of sexual misconduct mediated by University officials
- The right to make a victim-impact statement to the hearing board and to have that statement considered by the hearing board in determining its sanction(s)
- The right to a campus restraining order or notice against trespass against another individual or individuals who have engaged in or threaten to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the victim who has initiated the allegation
- The right to have a complaint of sexual misconduct responded to quickly and with sensitivity by campus police and members of the Office of Student Conduct

THE RIGHTS OF THE ACCUSED

Persons accused of possible violation of this policy on sexual misconduct have certain rights, which include the following:

- Protection under the Family Educational Rights and Privacy Act (1974) regarding release of information to outside or uninterested parties
- The right to receive written notice of specific charges and procedural information
- The right to contact and call witnesses
- The right to have access to and examine all records of evidence to be used against the accused
- The right to have access to University health services including physical health services and counseling services (while the accused maintains an active, continuing relationship with the University)
- The right to challenge the impartiality of persons hearing the charges
- The right to maintain academic work while charges are pending although special arrangements, including reasonable accommodations for either the victim or the accused, may be necessary
- The right to refuse to answer self-incriminating questions
- The right to rebut the testimony of adversarial witnesses
- The right to have an advisor present at all administrative proceedings. This may include legal counsel if civil or criminal charges are pending and/or suspension is a likely outcome. Advisors (lay or counsel) are restricted from presenting evidence or otherwise presenting the case but may communicate with the accused during the proceeding by giving advice and counsel
- The right to written notice of the outcome of the proceedings and of all requirements for fulfilling any prescribed sanction(s)
- The right to appeal the outcome of the hearing

SANCTIONS

WARNING – Written notification from the University that the student has been involved in a violation of University policies and that repetition of this or any other violation may be expected to result in a more serious sanction.

PROBATION – A written reprimand for violation of specified regulations. Probation indicates that the student is no longer in good standing with the University. If during the length of the probation the student is found in violation of any further violations of the University’s Code of Student Conduct, a more severe disciplinary sanction may be imposed including suspension or dismissal.

SUSPENSION FROM THE UNIVERSITY (LIKELY SANCTION) – Suspension involves separation from the University for a specified period of time or until certain conditions are met. Suspension involves denial of enrollment, attendance of classes, and other student privileges; the student must leave the campus.

DISMISSAL FROM THE UNIVERSITY - Separation from the University for an indefinite period of time. Readmission is possible but not guaranteed, based on meeting all readmission criteria and obtaining clearance from the Dean of Students or designee.

EXPULSION (AUTOMATIC SANCTION) – This sanction will apply if a student is found to have committed a forcible sexual offense. Expulsion is separation from the University without the possibility of readmission.

Suspension, dismissal and expulsion carry an automatic issuance of a **NOTICE AGAINST TRESPASS**, which is notice that the student will be arrested if he/she is found on specified University premises.

For a more exhaustive list of possible sanctions, please consult the University’s Code of Student Conduct.

REPORTING OPTIONS

Office of Student Development – 651-2263 (Dean of Students)
Department of Public Safety – 651-2215 (911)
Office of Student Conduct – 651-2264
University Counseling Services – 986-6191
Office of Residence Life & Housing – 651-2274
Towers Front Desk – 651-2306

COMMUNITY RESOURCES

Southeast Missouri Network Against Sexual Violence (SEMO-NASV) – 332-1900
Safe House – 651-1614 or 335-7745

HOSPITALS

Saint Francis Medical Center – 331-3000 (331-5110 Emergency Number)
Southeast Missouri Hospital – 334-4822 (651-5555 Emergency Number)

LAW ENFORCEMENT AGENCIES

Cape Girardeau Police Department – 335-6621 (911 Emergency Number)
Cape County Sheriff’s Department – 243-3551 (911 Emergency Number)
University Police Department – 651-2215 (911 Emergency Number)

***Adapted from “Total Sexual Assault Risk Management Strategies for Colleges” by Brett Sokolow and Katherine Koestner, 1998.**