

Sexual Assault Policy Statement

I. INTRODUCTION

Defiance College is a community of learners dedicated to nurturing the whole person in each of its members. In accordance with that value, the College is committed to providing a learning environment free of all forms of abuse, assault, harassment, and coercive conduct, including sexual assault. Sexually abusive behavior within the college community is harmful to both the sense of community at the College among students, faculty, staff, and administrators as well as the learning environment. All members of the College community have the responsibility to recognize and challenge sexually abusive behavior. Members of the College community who report incidences of sexual assault can expect the College to protect their confidentiality (see definitions below) throughout the process.

This policy provides for: (1) education and prevention programs that inform the College community about sexual assault; (2) procedures sensitive to victims in responding to reports of alleged sexual misconduct, including informing victims of medical, counseling, and support services and available alternative remedies; (3) procedures for determining violations of this policy; (4) conduct of judicial processes that ensure fairness to the victim and the accused perpetrator; and (5) College disciplinary sanctions for those identified as responsible for committing sexual assault.

An individual found to have violated the provisions of this policy will be subject to disciplinary action consistent with the procedures set forth below and identified in the *Student Code of Conduct*.

In addition, this policy prohibits retaliation against individuals for bringing complaints of sexual assault or who participate in judicial proceedings or otherwise provide assistance. Instances of retaliation should be immediately reported to the Office of Student Life. The College will take disciplinary action against persons who attempt such retaliation. Knowing or reckless false reports of sexual assault may also be subject to disciplinary action.

Attempts to commit sexual assault are also prohibited under this policy, as is aiding the commission of sexual assault as an accomplice.

Sexual Harassment is also prohibited and is covered in the Defiance College Sexual Harassment Policy (included in its own policy statement in the next section of the Student Handbook).

II. DEFINITIONS AND TERMS

For the purposes of this policy, “sexual conduct” is defined as vaginal intercourse; anal intercourse; any oral sex, including fellatio, cunnilingus and oral stimulation of the nipples of another; or the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another (unless related to the insertion of a medical instrument or probe to address a bona fide medical emergency or by medical personnel acting pursuant to commonly accepted medical standards). Sexual conduct occurs upon any penetration, however slight; emission is not required.

At Defiance College, any “sexual conduct” committed by a man or a woman, without effective consent of the other person, is considered “Sexual Assault Level 1.”

For the purposes of this policy “sexual contact” includes any touching of an erogenous zone of another, or the clothing covering the zone, including without limitation the thigh, genitals, buttock, pubic region, or breast for the purpose of sexually arousing or gratifying either person.

At Defiance College, any sexual contact, committed by a man or a woman, without effective consent of the other person, is considered “Sexual Assault Level 2.”

At Defiance College “Effective Consent” is defined as mutually understandable words or actions that indicate all parties involved agree on what sexual activity will occur, with whom, in what way, and at what time. There are many factors that influence effective consent:

- A. It is the responsibility of the person who wants to engage in a specific sexual activity to make sure that he or she has consent from their partner(s).
- B. Consent to some form of sexual activity does not necessarily imply consent to other forms of sexual activity. Mutually understandable consent must be obtained by the initiator at every stage of sexual interaction.
- C. Consent which is obtained through the use of fraud or force (actual or implied), whether that force takes the form of physical force, threats, intimidation, or coercion, is ineffective consent.
- D. Mentally disabled persons cannot give consent to sexual activity if they cannot appreciate the fact, nature, or extent of the sexual situation in which they find themselves.
- E. One who is physically incapacitated as a result of alcohol or other drug consumption (either voluntary or involuntarily), or who is unconscious, unaware, or otherwise physically helpless, is incapable of giving consent.
- F. A person who is the object of sexual aggression is not required to physically or otherwise resist a sexual aggressor.
- G. Silence, previous sexual relationships, and/or current relationship with the respondent (or anyone else) do not, in themselves, automatically, imply consent. Consent cannot be implied by attire. Consent cannot be assumed based on expenses incurred as part of a social relationship (dates, dinner, gifts, etc.).
- H. Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly (because you cannot be expected to read the mind of your sexual partner(s)), and non-consensual sexual activity must cease.
- I. Consent has an expiration date. Consent lasts for a reasonable time, depending on the circumstances.
- J. Intentional use of alcohol/drugs by the alleged perpetrator is not an excuse for violation of the sexual conduct policy.

“Confidentiality” is defined as the nondisclosure of sensitive information except to another authorized person. In the context of this policy, the information given during the reporting, examination, and

subsequent institutional response to an alleged incident of sexual assault will remain confidential and will not be discussed with anyone unless: 1) the student gives written permission, or 2) the student reveals information that falls outside of complete confidentiality (see "Exceptions" below). Each student will be informed about the scope and limits of confidentiality at the time of initial contact or report. Confidentiality applies to all students involved in the incident until a student has granted written permission to disclose necessary identifying information.

EXCEPTIONS TO CONFIDENTIALITY:

- A. Necessary and relevant information may be released to medical personnel if it is needed in a medical emergency.
- B. If the information disclosed reveals an individual who is a substantial threat to self or others.
- C. Abused or Neglected Child: If the report reveals information about an abused or neglected child (or suspicion thereof), the law requires that this be reported to a county social services or law enforcement agency.
- D. Information may be released pursuant to a court order or in response to a subpoena in a legal proceeding. Certain communications may be revealed in the course of a judicial proceeding.
- E. Specific serious risk or threat that endangers college operations and well-being may warrant disclosure to appropriate individuals.
- F. Parties to any College judicial proceedings shall be informed of the outcome of the proceedings and the status of any appeal.

All College personnel involved in the reporting and investigation of sexual assaults are bound by the confidentiality guidelines included in this policy. All College personnel involved in providing ongoing counseling and support to victims of sexual assault are bound by the confidentiality guidelines included in this policy.

III. EDUCATION AND PREVENTION PROGRAMS

The Office of Student Life shall have oversight for a College-wide education and prevention program on sexual assault which will include awareness-raising programming throughout the academic year; training for residence life professional and para-professional staff in victim support and resources; provision of crisis intervention counseling through the campus Health Center and in cooperation with resources in the greater Defiance community; and the dissemination of literature on sexual assault. This Sexual Assault policy shall be included in the Student Handbook, the annual Campus Security Report, the College website, and shall be made available to all interested parties upon request.

The Campus Sex Crimes Prevention Act requires colleges to issue a statement advising the campus community on how to find law enforcement agency information, which is provided by a state, concerning registered sex offenders. Members of the Defiance College community are encouraged to access the website of the Ohio Attorney General's Office (website included below) where they can search the sex offender registry for any Ohio county.

<http://www.ohioattorneygeneral.gov/>

In addition, the College's Sexual Assault Response Team (SART) is charged with periodic review of this policy and implementation of a coordinated response to all complaints involving allegations of sexual assault. The SART shall be comprised of the following individuals:

- Senior Student Affairs Officer (and/or designee)
- Director of Health & Wellness
- College's Mental Health Counselor
- Director of Residence Life (when appropriate)
- Security Supervisor (when appropriate)
- Local law enforcement (when appropriate)
- Local victims support and advocacy professionals (when appropriate)

IV. COMPLAINT PROCEDURES

The following procedures are intended to provide a prompt response to complaints of sexual assault. They are designed to assure fairness, maintain confidentiality where possible, and enable the imposition of appropriate sanctions on members of the College community who violate this policy. The College encourages persons who believe they have been the victim of sexual assault, whether they are students, faculty, staff, administrators, or campus guests, to bring this to the attention of College authorities and local law enforcement. In the evening and overnight hours, Residence Life staff and Security staff are available for anyone seeking to submit a report.

One convenient format to report a sexual assault is the Student Life "Communication Information Form," a standard format for incident reporting on campus. This form can be completed electronically (see link below) and it provides the option for anonymous reporting.

https://www.defiance.edu/communication_information_form.html

Incidents of sexual assault may also be reported through other formats, including a written statement, or spoken account to a trusted member of the college community (RA, hall director, faculty member or administrator, etc.). The student will be referred to the Office of Student Life to explore their options and to be connected with resources and assistance.

Victims who report being under the influence of alcohol (in violation of the College's alcohol policy) at the time of their assault may be granted amnesty from adjudication of their alcohol violation in the College's conduct system.

If the accused is a faculty member, staff member, or administrator for Defiance College, the complaint will be referred to the Office of Human Resources. If the accused is a student, the following options are available.

If the accused is not a member of the campus community, all options below are available, with the exception of the on-campus judicial procedures.

Options for Individuals Reporting a Sexual Assault

OPTION ONE: Report a sexual assault, but choose not to pursue charges of any kind.

- The victim and/or the person submitting the report may choose to remain anonymous. The confidentiality guidelines in this policy will be reviewed with the individual submitting the report.

- The incident will be noted in the College’s crime log, kept on file in the Office of Student Life.
- When required under Clery Act reporting guidelines, a federally-mandated anonymous notice will be sent to the College community. This notice must be passed on to local law enforcement, for informational purposes only.
- The victim will be referred to the College Health Center and be promptly notified of the available support services on and off campus for victims of sexual violence.
- The victim is given the option of requesting a “no contact” prohibition against the individual accused of assaulting them. When possible, adjustments can be made to a student’s academic schedule and living arrangements in order to support a no contact prohibition.
- The victim may decide, at a later date, to make their complaint more formal, choosing one or more of the options identified below.

OPTION TWO: Report a sexual assault and file a formal complaint in the College judicial system.

- All of the items listed under Option One above, PLUS:
- The Office of Student Life will investigate the complaint. This investigation may take several days to several weeks, based on circumstances, but generally will not exceed 60 days unless there are unusual circumstances. The victim and/or the person submitting the report may choose to remain anonymous, but a formal case cannot be brought in the conduct system unless the complainant is willing to identify themselves.
- The complaint will be handled in accordance with the guidelines identified in the *Student Code of Conduct*. If the complaint is accepted in the judicial system, it will be adjudicated by the College Judicial Committee (CJC). A detailed description of the guidelines for CJC hearing procedures can be found in the *Student Code of Conduct* but includes the following elements:
 - The CJC is composed of five individuals, three students, one faculty member, and one staff member.
 - The CJC hears testimony in support of and defense of the complaint of sexual assault.
 - The complainant and the respondent (accused) attend the hearing, each speaking on his/her behalf as they see fit. The complainant and respondent may be accompanied by an advisor (faculty, staff, or student) throughout the hearing. In cases alleging violations of the sexual assault policy, both the complainant and the respondent have the right to appeal the CJC’s findings.

OPTION THREE: Report a sexual assault and pursue criminal charges with law enforcement.

- All of the items listed under Option One above, PLUS:

- The investigation of the complaint is handled by the Defiance Police Department (or other agency based on jurisdiction and location of the alleged incident).
- Any prosecution occurs in the criminal courts.
- Choosing this option does not prevent a student from also filing a formal complaint in the on-campus judicial system. The College's internal judicial system case and the police department's external criminal case would each proceed independently.

The presentation of the options above is not intended to limit a student's ability to file a complaint with local law enforcement. A student may file a complaint with local law enforcement at any time, irrespective of what option the student chooses.

V. SANCTIONS

Students found responsible for violating this sexual assault policy in the College's judicial process are subject to a range of sanctions, as identified in the *Student Code of Conduct*, up to and including the possibility of suspension or expulsion from the College. The severity of sanctions imposed is in direct relation to the severity of the behavior. Sanctions may also take into consideration the safety and security of the general campus community.