

Niagara University
SEXUAL ASSAULT POLICY AND COMPLAINT PROCEDURE

INTRODUCTION

Niagara University affirms the rights of its students to live, work and learn in an atmosphere of mutual respect, free from the threat of sexual assault or any other form of sexual contact without mutual consent. Accordingly, it is committed to a campus-wide program of education and prevention and to a timely and appropriate response to credible reports of misconduct.

The university encourages students who believe that they are victims of sexual assault to seek assistance from university and community resources. When university staff receive such reports, they will help in securing whatever support may be necessary, from crisis follow-up to reports to law enforcement authorities. Students also have the option of initiating a formal campus investigation, which may result in disciplinary sanctions as deemed appropriate.

DEFINITION OF SEXUAL ASSAULT

Niagara University defines sexual assault as any actual or attempted non-consensual sexual activity including, but not limited to, forcible anal or oral sex, attempted intercourse, sexual touching, by a person(s) known or unknown to the victim, up to and including rape, which is: the perpetration of an act of sexual intercourse with a person against his/her will and consent, whether his/her will is overcome by force or fear resulting from threat of force, by drugs administered without consent, or when the person is unconscious or otherwise physically unable to communicate willingness.

Sexual assault can be perpetrated either by a stranger or an acquaintance. Both women and men can be victims and/or perpetrators.

PREVENTING SEXUAL ASSAULT

Individuals can help make a difference in preventing sexual assault by following these tips:

- Be careful how much you drink, and how much your friends drink. Most instances of sexual assault involve alcohol use by the victim, perpetrator, or both.
- Remember that the vast majority of reported cases are acquaintance rapes. Go out in groups until you get to know someone well.
- If you see what looks like inappropriate sexual activity, challenge it. Ask if a person is okay or needs help.
- Know your sexual limits and feel comfortable expressing them.
- Don't accept buddies or friends boasting or talking disrespectfully about their own or another person's sexual activity. Speak up.
- Don't walk alone or let your friends walk alone, especially at night. Use the campus escort service (dispatched from campus safety, 286-8111).
- Be careful at parties and avoid being in private rooms or secluded areas.
- Leave a situation immediately if you feel uncomfortable.
- Know that you have the right to say "no" to sexual activity. Slow down, speak up, and listen to what the other person is saying.
- Encourage your friends to seek help or report incidents if they have been the victims of sexual assault.

PREVENTING ACCUSATIONS

In the absence of mutual consent, the following do not present sufficient justification to proceed with sexual contact:

- Your companion dresses provocatively or "leads you on."
- Your companion has said "no" and you think s/he means "yes."
- You've paid for the date or you've provided expensive gifts.
- You think the opposite sex enjoys being forced to have sexual contact.
- Your companion is under the influence of alcohol or drugs.

If you are getting a "mixed" message from your companion, speak up and clarify what s/he wants. Do not assume that you know what is wanted or that you desire the same degree of intimacy. Check out your assumptions and proceed only if there is indication of mutual agreement. If your companion is unsure about having sexual contact, back off. Remember, if you put pressure on him/her, you may be "forcing" the issue.

Engaging in sexual contact with a person who is mentally or physically incapacitated (e.g., unconscious, asleep or intoxicated) may result in a charge of sexual assault. Thus, if you suspect that your companion may be suffering from impaired judgment or is otherwise incapable of providing knowledgeable and informed consent, you should not proceed with sexual contact. Further, your own mental incapacitation (e.g., intoxication) will not serve as a defense should you be charged with sexual assault.

Remember, your desire may be beyond your control, but your actions are not. Sexual excitement does not justify proceeding with sexual contact without consent.

RECOMMENDED ACTIONS FOLLOWING A SEXUAL ASSAULT

- Get to a safe place.
- Avoid being alone. Seek the support of a friend or staff member.
- Keep the clothes you were wearing. Don't bathe, shower or straighten the area where the assault happened to help preserve physical evidence, which may be used to verify a criminal offense.
- Remember that help is available 24 hours a day. Contact campus safety, a member of the residence life staff, student affairs staff, or the counseling center for assistance.
- Go to an emergency room for medical attention, to check for injuries and preserve any physical evidence. A friend or advocate may accompany you.
- Report the sexual assault to the Lewiston Village Police (716-754-8477), in addition to the university and consult with personnel about available options, including pursuing criminal charges. A member of the university staff is available upon request to assist in such notification. Likewise, a friend or advocate may accompany you during this process. (Note: Criminal and university action can be pursued at the same time. University action may proceed even after criminal charges are dropped.)
- Take advantage of ongoing support, such as individual counseling or survivors' groups, available from counseling services and community agencies.

The individual receiving the report is called the case intake officer. During the initial inquiry phase of the process, the intake officer will provide full information and guidance and suggest referrals for support and counsel as may be indicated. It is not the function of this individual to serve as counselor. S/he will be serving as a neutral party, providing whatever information and/or assistance is necessary to protect the interests of both the parties involved as well as those of the institution and, at the same time, collecting pertinent information relevant to processing the case.

RIGHTS OF INVOLVED PARTIES (COMPLAINANT AND ACCUSED)

The complainant and the accused have the right to be accompanied to related hearing(s) by a support person of his or her choice within guidelines established in the university's *Rules of Student Conduct and Judicial Procedures*. The support person may not directly participate in any proceedings.

The complainant and the accused also have the right to be informed of the outcome of campus proceedings related to the charge of sexual assault.

RIGHT OF COMPLAINANT

The complainant has the right to request, and be assisted in making, those academic and/or living arrangement changes which the university can reasonably accommodate, as prompted by and related to the circumstances of the case.

RIGHT OF ACCUSED

The accused has the right to appeal decisions and/or sanctions in accordance with the appeals process in the *Rules of Student Conduct and Judicial Procedures*.

POLICY AND COMPLAINT PROCEDURES

INTRODUCTION

University men and women are expected to conform to high standards of adult behavior, both on and off campus. Judicial action will be taken against students whose conduct adversely affects the university community and/or the pursuit of university objectives.

It is the policy of Niagara University, in keeping with efforts to establish an environment in which the dignity and worth of all members of the institutional community are respected, to view sexual assault as unacceptable behavior which is expressly prohibited.

The purpose of this document is to set forth both the formal and informal procedures recognized by the university for use in those cases in which a student is named as the accused party in a charge alleging violation of the sexual assault policy. Other unacceptable forms of behavior by or between students are addressed in the university's student life policies, such as the sexual harassment policy and the student judicial system.

AUTHORITY AND JURISDICTION OF UNIVERSITY JUDICIAL BODIES

University jurisdiction and discipline under the Niagara University Sexual Assault Policy cover the defined conduct whether it occurs on or off university premises.

Where the policy has been violated, a student may be in violation of civil or criminal law as well. Where university policy and civil laws overlap, or where criminal prosecution is pending or foreseen, the university may initiate judicial action of its own on the same infraction and impose penalties independent of civil and/or criminal authorities.

REPORTING/PROCESSING PROCEDURES

Accounts of sexual assault can be submitted by the individual who believes s/he has experienced sexual assault, or by a member of the university residence life staff, campus safety staff, local police departments, or another individual who has knowledge of the sexual assault.

The individual receiving the complaint, hereafter referred to as the intake officer, will make referrals for support and counsel. In addition, s/he will work with the complainant to carefully document the charge and provide the information, guidance and assistance necessary to facilitate resolution, either informal or formal, which seems most appropriate to the situation. Filing a report does not necessitate participation in a hearing. Rather, it is at this informal intake stage that there is the most flexibility, with a number of options available. While mediation may be recommended and informal resolution is generally less traumatic for everyone involved, no one would be denied access to the formal procedure provided the accusation involves alleged student conduct which would have the impact of adversely affecting the university community and/or the pursuit of university objectives. Should the charge ultimately become one of sexual harassment, as indicated by the reported circumstances, the case may be referred to the staff member specified in the sexual harassment policy for subsequent processing. The intake officer also is a resource person for the accused and can provide guidance.

If the intake officer determines that there will be a formal charge of sexual assault, the matter will be referred to the office of the dean of student affairs.

INTERIM SANCTIONS

The dean of student affairs or designee may impose interim sanctions, up to and including interim suspension, immediately upon notice of a charge of sexual assault, where this individual in good faith believes that such restrictions are advisable in order to protect property or members of the university community, or to ensure safety and the maintenance of order on university premises.

The accused student shall receive written notice of the interim sanctions as well as notice of the charges, including date and location of the reported incident(s); the type of hearing that will take place; the date, time and location of the hearing; and the hearing procedures that will be followed.

HEARINGS

The hearing process will follow procedures as outlined in the Rules of Student Conduct and Judicial Procedures contained in the 2009-2010 Student Handbook and Planner.