

# Interim University Policy 1-012: Sexual Misconduct: Sexual Assault Dating Violence, Domestic Violence, and Stalking, Prevention and Response. Rev 1.

## I. Purpose and Scope

To educate the University community including current and prospective students and employees about sexual misconduct and about campus resources and processes available to victims of sexual assault.

## II. Definitions

- A. "Sexual Misconduct" includes a range of behaviors that are sex-based and includes, sexual harassment, gender-based harassment, stalking, dating or domestic violence, and sexual violence.
- B. "Sexual assault" means any sexual act directed against another person either forcibly and/or against the person's will (e.g., rape, sodomy, object rape, date rape, forcible sexual abuse, fondling); or non-forcibly where the individual does not have the capacity to consent (e.g., statutory rape and incest).
- C. "Sexual Violence" includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.
- D. "Domestic violence" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm when committed by one cohabitant against another. Domestic violence also means commission or attempt to commit any of the offenses listed in Utah Code Ann. Sec. 77-36-1 by one cohabitant against another, including but not limited to assault, harassment, kidnapping, sexual offenses, stalking, or violating a protective order.
- E. "Dating violence" means any criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by a person against a dating partner of the person, or any attempt, conspiracy, or solicitation by a person to commit a criminal offense involving violence or physical harm against a dating partner of the person.

- F. "Stalking" means intentionally or knowingly engaging in a course of conduct directed at a specific person that the perpetrator knows or should know would cause a reasonable person to fear for his or her own safety or the safety of a third person, or to suffer other emotional distress. Stalking is also the intentional or knowing violation of a stalking injunction.
- G. "Consent" means affirmative and freely given permission to sexual activity. A victim can express consent, or lack of consent, through words or conduct. Consent is not given where the perpetrator overcomes the application of force, violence, concealment or surprise. A victim has not consented when he or she is unconscious, unaware that the act is occurring, or is physically unable to resist. Individuals under the age of 14 cannot consent to sexual activity. A victim has not consented where the perpetrator intentionally impairs the victim by administering any substance without the victim's knowledge. For a non-exhaustive list of situations in which consent has not been given, see Utah Code Ann. Sec. 76-5-406.

### III. Policy

- A. Prevention and Awareness Programs and Campaigns. The University offers comprehensive programming intended to end dating violence, domestic violence, sexual assault, and stalking. The University educates about sexual assaults, domestic violence, dating violence, and stalking through mandatory orientations each semester given to all incoming students. The University of Utah Department of Public Safety/Police ("University Police Department") offers sexual assault education and information programs to University students and employees upon request. Literature on date rape education, risk reduction, and University response, as well as educational programs about the same, are available through various University Student Affairs offices including the Office of Housing & Residential Education and through the University's Office for Student Equity and Diversity
- B. Reporting Sexual Assault. The process for reporting offenses within this section is set forth in University Procedure P1-012A accompanying this Policy. The first priority of a student who has been subject to sexual assault should be to get to a place of safety and then to obtain necessary medical treatment. Victims of sexual assault may seek and receive medical care free of charge from a local hospital emergency department without submitting a police report. The University Police Department strongly encourages victims to report incidents of sexual assault in a timely manner. Time is a critical factor for evidence collection and preservation. An assault should be reported directly to the University Police Department. Alternatively, victims of sexual assault may report an assault to the Office of Equal Opportunity and Affirmative Action ("OEO/AA"), the Dean of Students and/or to a Housing & Residential Education representative.
- C. Confidentiality of Victims and Other Necessary Parties. The University will protect the confidentiality of victims and other necessary parties. The University will:

1. Complete publicly-available record-keeping and, for purposes of Clery Act reporting and disclosure, without the inclusion of identifying information about the victim, as defined in 42 U.S.C. 1395(a)(20); and
  2. Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.
- D. Court Orders. Where applicable, the University Police Department will enforce orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.
- E. Written Notification of Resources. The University will provide written notification of the following resources both in the community and on-campus:
1. Counseling Options
  2. Mental Health Resources
  3. Health Resources
  4. Victim Advocacy
  5. Legal Assistance
  6. Other Services
- F. Counseling Options. Various University counseling options are available to student victims of sexual assault through the University Counseling Center and the Women's Resource Center. Support services are also available outside the University (for example from the Rape Recovery Center and from community mental health agencies). The offices of the Dean of Students, the University Counseling Center and the Women's Resource Center can provide referrals to other non-University counseling options.
- G. Disciplinary Proceedings. In addition to the Disciplinary Procedures outlined in University Procedure P1-012A, the University will comply with the following Policies when conducting disciplinary proceedings pursuant to allegations of offenses under this section:
1. All discrimination and sexual misconduct complaints will be investigated under Policy 5-210, Discrimination and Sexual Harassment Complaint Policy ("Discrimination Policy").
  2. Students who are found to have committed sexual misconduct are subject to discipline as set forth in the Code of Student Rights and Responsibilities ("Student Code"), Regulations Library, Policy 6-400, Section III.

3. Faculty employees who are found to have committed sexual misconduct are subject to discipline as set forth in University Policy 6-011 Senate Consolidated Hearing Committee for Faculty Disputes ("Consolidated Hearing Committee Policy"). See also Policy 1-004- Violence in the Workplace and Academic Environment and Policy 6-316-- Code of Faculty Rights and Responsibilities.
  4. Staff employees who are found to have committed sexual misconduct are subject to discipline as set forth in University Policy 5-111 Corrective Action and Termination Policy for Staff Employees ("Corrective Action Policy").
  5. The Discrimination Policy, the Student Code, the Consolidated Hearing Committee Policy, and the Corrective Action Policy provide, in part, that the accused and the victim will each be allowed to choose one person to advise them throughout the hearing. Any allowances or limitations on the use of an advisor will be provided equally to both parties. Both the victim and accused will be informed of the outcome of the hearing.
  6. Students and employees found responsible for sexual misconduct may be terminated from employment or suspended or expelled from the University for the first offense. In addition, such individuals may be criminally prosecuted in the state or federal courts.
- H. Academic and Living Situations. Student victims have the option to change their academic and/or on-campus living situations after a sexual assault, if such changes are reasonably available.
- I. False Accusations. Individuals who intentionally and knowingly make false accusations concerning a sexual assault or provide false information to University officials in connection with an accusation and/or investigation of sexual assault, are subject to discipline under University policy as well as criminal and/or civil penalties under applicable law.

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*[Note: Parts IV-VII of this Regulation (and all other University Regulations) are Regulations Resource Information – the contents of which are not approved by the Academic Senate or Board of Trustees, and are to be updated from time to time as determined appropriate by the cognizant Policy Officer and the Institutional Policy Committee, as per Policy 1-001 and Rule 1-001.]*

#### **IV. Rules, Procedures, Guidelines, Forms and other related resources.**

- A. Rules
- B. Procedure P1-012A: Sexual Assault, Dating Violence, Domestic Violence, and Stalking, Prevention and Response Procedure

- C. Guidelines
- D. Forms
- E. Other related resource materials.

## V. References

- A. [Policy 1-011 \(/general/1-011.php\)](/general/1-011.php): Campus Security
- B. [Policy 1-004 \(/general/1-004.php\)](/general/1-004.php): Violence in the Workplace and Academic Environment
- C. [Policy 5-107 \(/human-resources/5-107.php\)](/human-resources/5-107.php): Sexual Harassment and Consensual Relationships
- D. [Policy 5-111 \(/human-resources/5-111.php\)](/human-resources/5-111.php): Corrective Action and Termination Policy for Staff Employees
- E. [Policy 5-210 \(/human-resources/5-210.php\)](/human-resources/5-210.php): Discrimination and Harassment Complaint Policy
- F. [Policy 6-011 \(/academics/6-011.php\)](/academics/6-011.php): Functions and Procedures of the Senate, Consolidated Hearing Committee
- G. [Policy 6-316 \(/academics/6-316.php\)](/academics/6-316.php): Code of Faculty Rights and Responsibilities
- H. [Policy 6-400 \(/academics/6-400.php\)](/academics/6-400.php): Code of Student Rights and Responsibilities
- I. [Utah Code Ann. Sec. 76-5-106.5 \(http://le.utah.gov/code/TITLE76/htm/76\\_05\\_010605.htm\)](http://le.utah.gov/code/TITLE76/htm/76_05_010605.htm)  
Stalking—Definitions—Injunction—Penalties
- J. [Utah Code Ann. Sec. 77-36-1 \(http://le.utah.gov/code/TITLE77/htm/77\\_36\\_000100.htm\)](http://le.utah.gov/code/TITLE77/htm/77_36_000100.htm)  
Definitions
- K. [Utah Code Ann. Sec. 78B- 7-402 \(http://le.utah.gov/code/TITLE78B/htm/78B07\\_040200.htm\)](http://le.utah.gov/code/TITLE78B/htm/78B07_040200.htm)  
Definitions
- L. [Utah Code Ann. Sec. 76-5-406 \(http://le.utah.gov/code/TITLE76/htm/76\\_05\\_040600.htm\)](http://le.utah.gov/code/TITLE76/htm/76_05_040600.htm) Sexual offense against the victim without consent of victim—Circumstances
- M. [Utah Code Ann. Sex 76-5-404 \(http://le.utah.gov/code/TITLE76/htm/76\\_05\\_040400.htm\)](http://le.utah.gov/code/TITLE76/htm/76_05_040400.htm)  
Forcible sexual abuse
- N. 42 U.S.C. 1395(a)(20)
- O. 34 CFR § 668.46 (2013) Institutional Security Policies and Crime Statistics

## VI. Contacts:

Policy Owner: Questions about this Policy and any related Rules, Procedures, and Guidelines should be directed to the Director of Public Safety (Chief of University of Utah Police

Department).

Policy Officer: Only the Vice President of Administrative Services Chief Administrative Officer or his/her designee has the authority to grant exceptions to this policy.

## VII. History:

### A. Current version. Revision 1.

Implemented on October 1, 2014 as an Interim Policy to comply with the Violence Against Women Reauthorization Act of 2013. Pending final approval by the Academic Senate and Board of Trustees.

### B. Prior version. Revision 0.

Approved by the Academic Senate: January 10, 2011

C. Interim Rule 5-210. On October 1, 2009, President Michael K. Young implemented Interim Rule R5-210 in order to bring the University into compliance with the Federal Clery Act (20 U.S. C. § 1092(f)). The Interim Rule was presented to the Academic Senate Executive Committee, October 19, 2009, and to the Academic Senate November 2, 2009. The Interim Rule was then replaced by this Policy 1-012.

Approved by the Board of Trustees: February 8, 2011