

REPORTING INCIDENTS OF SEXUAL MISCONDUCT

A student who is the victim of any type of sexual misconduct is encouraged to report the incident to a Resident Assistant, an Area Coordinator, a member of the Campus Ministry staff, a faculty member, a member of the administration, the University of Dayton Department of Public Safety, the City of Dayton Police Department, or the Montgomery County Prosecutor's Office of Victim-Witness Services. Students are encouraged to seek immediate psychological/medical attention from the Counseling Center, the student Health Center or from an area hospital. When a student reports an incident of sexual misconduct to a University official, the Department of Public Safety, or other law enforcement and urgent care personnel, neither the student making the notification nor the student needing attention or assistance will be subject to the PASS disciplinary sanctions for alcohol violations. More specific information related to sexual assault, the support program, and reporting assaults can be found in the "Sexual Misconduct Policy and Resource Guide" that is available at residence hall main desks, the Office of Educational and Special Programs 227 Gosiger Hall, Student Government Association, the Health Center, the Counseling Center, and Campus Ministry. Information on reporting incidents of sexual assault or sexual misconduct may also be found on the sexual misconduct web page at (http://campus.udayton.edu/~studev/sexual_assault/index.htm). Reporting a sexual assault to University officials or filing a police report does not automatically initiate criminal charges. However, it may initiate criminal charges in the event law enforcement deems it necessary.

The following information may be obtained as a part of the policy and procedures for sexual misconduct as stated in the University of Dayton Sexual Misconduct Policy and Resource Guide.

- Sexual Misconduct encompasses a wide range of behaviors, all of which must be confronted directly by the UD community.
- Sexual Misconduct hinges on the concept of consent, i.e. sexual permission. Because consent is so critical to this issue, it is defined in considerable detail in this policy.
- The use of alcohol or drugs blurs the distinction between consent to engage in any and all levels of sexual activity and coercion or manipulation to do so.
- Real or perceived power differentials between individuals may create an intentional or unintentional atmosphere of coercion or manipulation.
- Educational and preventative measures, including effective policies and programming, are necessary components of the University of Dayton's commitment to reducing sexual misconduct in our community.
- Responding effectively to sexual misconduct necessitates the coordinated efforts of Residence Education, Public Safety, the Counseling and Health Centers, Campus Ministry, the Women's Center and individual faculty and staff.
- UD will take seriously every report of sexual misconduct, offering complainants appropriate support and allowing them to maintain as much control as possible over the situation. At the same time, UD will ensure that those accused are treated fairly in the University's processes.
- This Sexual Misconduct Policy has been developed to reaffirm our institutional principles and to provide recourse for those individuals whose rights have been violated. In fact, it serves a dual purpose: as a measure for determining, after the fact, if behaviors have trespassed on community values and, as a preventative guide on the expectations we have for sexual communication, sexual responsibility and sexual respect. Accordingly, when an allegation of sexual misconduct is brought to a member of the University's faculty or staff and a student is found to have violated one or more aspect of this policy, serious sanctions will be used to ensure that such actions are never repeated.
- When sexual misconduct occurs at the University of Dayton, the standards of the campus community are certainly violated. In addition, Ohio Revised Code on sexual imposition, rape, sexual battery and gross sexual imposition may also be violated.
- Those found responsible of such violations may be subject to criminal prosecution in addition to any University disciplinary action.

Sexual Assault and Non-Consensual Sexual Contact:

- Can be committed by a man or a woman against a person of the same or opposite sex.
- Can be committed by current or former lovers, friends and acquaintances.
- Committed in connection with any UD program whether on or off campus, is prohibited.
- This applies to academic, educational, extra-curricular, athletic, residential and other University programs.
- Cannot be excused by the accused use of alcohol or drugs.
- When reported, cannot lead to retaliation against the person who brings a complaint, participates in an investigation, or pursues legal action. Such behavior by the accused or other related persons, including acquaintances, friends and family members, will not be tolerated

Consent exists when:

- A person freely, actively, and knowingly agrees at the time to participate in a particular sexual act with a particular person.
- It is demonstrated by mutually understandable words and/or actions that indicate a willingness to participate in mutually agreed upon activity at every stage of sexual activity.

There is **no** consent when:

- It is only inferred from a person's silence or lack of resistance.
- There is threat of physical force, harm or intimidation¹ or there is coercion².
- A person is a minor.
- A person is intoxicated and/or is incapacitated³ by the use of alcohol or drugs, or is asleep or unconscious.
- The perspective of a "reasonable person" will be the basis for determination whether one should have known about the impact of the use of alcohol or drugs on another's ability to give consent.

¹Intimidation exists when one person uses his/her physical presence to threaten or menace another or when the knowledge or prior violent behavior is used to threaten or menace another. ²Coercion exists when a person engages in extortive threats, sexual pressuring or oppressive behavior that violates the University community's expectation of respect for the dignity of another person by causing the object of the behavior to engage in unwanted sexual activity. (Coercion can be differentiated from seduction by a repetition of the coercive activity in the face of resistance, the degree of pressure applied, or the initiator's knowledge that the pressure is unwanted.) ³Indicators of intoxication and/or incapacitation include but are not limited to: amount of a person's consumption, slurred speech, bloodshot eyes, shaky equilibrium, vomiting, outrageous or unusual behavior, and unconsciousness.

Examples of sexual exploitation include (but are not limited to):

- The secret recording (audio or video) of sexual activity
- Complicity in voyeurism
- Peeping tommyery
- The knowing transmission of HIV or a STD
- Inducing incapacitation with the intent to take sexual advantage of another (whether or not sexual activity actually takes place.)
- Inappropriate comments of a sexual nature
- Unwelcome and repeated flirtations and sexual advances
- Sexually explicit questions, jokes, teasing, or anecdotes
- Touching, patting, hugging, whistling, pinching, brushing against a person's body, or unwanted staring
- Graphic commentary about an individual's body, sexual prowess, sexual deficiencies, sexual activity, experience or orientation
- Crude or offensive language of a sexual nature
- Derogatory or demeaning comments based on gender or sexual orientation, whether sexual or not
- Displaying objects or pictures that are sexual in nature and that create a hostile or offensive environment