



OLD DOMINION UNIVERSITY

University Policy

Policy #4600 SEXUAL MISCONDUCT POLICY

Responsible Oversight Executive: Vice President for Student Engagement and Enrollment Services
Date of Current Revision or Creation: October 2, 2011

A. PURPOSE

The purpose of this policy is to foster an environment at Old Dominion University free of sexual misconduct. This policy defines sexual misconduct, disciplinary action for policy violations, and resources for victims of sexual misconduct.

B. AUTHORITY

[Virginia Code Section 23-9.2:3, as amended](#), grants authority to the Board of Visitors to establish rules and regulations for the institution. Section 6.01(a)(6) of the [Board of Visitors Bylaws](#) grants authority to the President to implement the policies and procedures of the Board relating to University operations.

C. DEFINITIONS

Coercion - Unreasonable pressure for sexual activity. Coercion cannot be used to obtain consent. Coercion includes the use of physical force, threats, and intimidating behavior to get another party to engage in sexual activity. When someone makes it clear that he/she does not want sex, wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent - A voluntary and positive affirmation that all parties involved want to engage in sexual activity. Consent is active and not passive. Consent can be given by actions or words as long as there is mutual understanding regarding the conditions of sexual activity. Silence, in and of itself, is not consent. Consent to one form of sexual activity does not constitute consent to other forms of sexual activity, just as previous relationships or consent do not constitute consent to future sexual acts. Consent can be withdrawn at any time. One must be of legal age in order to give consent.

Incapacitation - Occurs when an individual is unable to give consent because she/he is mentally and/or physically helpless, unconscious, or unaware, due to drug or alcohol consumption (voluntarily or involuntarily) or for some other reason. Engaging in sexual activity with someone a person knows to be – or should know to be – mentally or physically incapacitated is non-consensual and a violation of this policy. Mental or physical incapacitation can be a result of alcohol or other drug use, unconsciousness, blackout, sleep, involuntary physical restraint, or consuming so-called “date-rape” drugs, including Rohypnol, Ketamine, Gamma hydroxybutyrate(GHB), Burundanga, etc.

Non-consensual Sexual Activity - Includes any sexual activity by an individual or group that occurs without the consent of the other person(s) involved.

Sexual Activity - Any sexual intercourse (anal, oral, or vaginal) and any intentional sexual touching, however slight, with any object by a person upon another person.

Sexual Exploitation - Occurs when an individual takes non-consensual or abusive sexual 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 one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- prostituting another person
- non-consensual video/audio-taping or photographing of sexual activity
- going beyond the boundaries of consent (such as voyeurism: observing people engaged in intimate behaviors, performing normal bodily functions, or in various states of undress without their consent)
- unauthorized distribution or posting, electronic or otherwise, of materials (such as audio, video, photographic, pictorial, or transcriptions) involving the sexual activity of another person
- knowingly transmitting a sexually transmitted infection (STI)
- inducing incapacitation with the intent to engage in sexual misconduct, for example the administration of any substance including date rape drugs.

Sexual Misconduct - Non-consensual sexual activity and sexual exploitation occurring on or off campus.

D. SCOPE

This policy applies to all employees, students, volunteers, employees of affiliated organizations and visitors to the institution. Employees include all staff, administrators, faculty, full- or part-time, and classified or non-classified persons who are paid by the University. Students include all persons attending classes whether enrolled or not enrolled. Affiliated organizations are separate entities that exist for the benefit of the University and include the Foundations, the Community Development Corporation, and the Alumni Association. Visitors include vendors and their employees, parents of students, volunteers, guests, uninvited guests and all other persons located on property, owned, leased, or otherwise controlled by the University.

E. POLICY STATEMENT

Old Dominion University supports the rights of all students and University employees to live, work and study in an environment free from sexual coercion and sexual violence. Sexual contact with another person without consent and/or with coercion is prohibited and will not be tolerated from any member of the University community or visitors to the campus. Use of alcohol or other drugs will never excuse behavior that violates this policy.

Old Dominion University is committed to providing education and resources on medical care, reporting options, and emotional support services for victims of sexual misconduct. The University educates the campus community about sexual misconduct through the [Women's Center](#), [Counseling Services](#) and [Old Dominion University Police Department \(ODUPD\)](#). Old Dominion University believes that empowering victims is critical to the healing process and as

such supports an individual's decision to move forward (or not) with a criminal charge, protective order, and/or complaint of sexual misconduct.

F. PROCEDURES

General Procedures

The procedures below describe the options available to victims of sexual misconduct, as well as resources for victims and those accused of sexual misconduct.

1. The individual's first priority, if a victim of sexual misconduct, should be to get to a place of safety. The second priority should be to obtain necessary medical treatment. Student Health Services is available for medical care, not including evidence collection. Sentara Norfolk General Hospital is available for medical care that includes evidence collection; a Sexual Assault Nurse Examiner (SANE) is on call 24/7. The University strongly advocates that a victim of sexual misconduct report the incident in a timely manner. Time is a critical factor for evidence collection and preservation.
2. When any University employee, including a student employee, receives a report of sexual assault involving a student, the employee must complete the [Sexual Assault Incident Report \(SAIR\) Form](#) and submit it to the Sexual Assault Free Environment (S.A.F.E.) Coordinator in the Women's Center within 24 hours. The SAIR Form may be submitted without using the victim's name.
3. To file a report, press charges or receive assistance, victims of sexual misconduct should call the ODUPD at 757-683-4000 or 911 for the Police Department in their jurisdiction.
4. Emotional support is critical to the healing process following a sexual misconduct incident. The Women's Center can provide sexual misconduct victim advocacy, crisis intervention, and resources to help victims identify their options. For help 24 hours a day, individuals can call the Response Sexual Assault Support Services hotline, where a crisis counselor is available 24/7 (757-622-4300). Counseling is available to students through Response Sexual Assault Support Services or the Office of Counseling Services.
5. In order to make informed choices, victims should be aware of confidentiality and mandatory reporting when consulting campus offices and resources. Some offices on campus may maintain complete confidentiality, offering individuals options and support without any obligation to report. Other offices are required to take action when an individual reports his/her victimization to them. For a complete list of offices and degrees of confidentiality, please see the University [Confidentiality Chart](#).
6. The University reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct in order to protect the health and safety of the University community in accordance with University policies. Not all forms of sexual misconduct will be deemed equally serious offenses, and the University reserves the right to impose differing sanctions, ranging from warning to permanent dismissal, depending on the severity of the incident and taking into account any previous University conduct code violations.
7. The University shall review the facts and circumstances of each allegation of sexual misconduct involving a student, faculty or staff member and determine if the allegation is supported by credible information. An individual who intentionally makes a false report of sexual misconduct will be in violation of policy. However an allegation is not considered

false merely because the information does not ultimately support a finding of sexual misconduct.

Additional Procedures for Employees Who Are Victims of Sexual Misconduct

1. Employees who are victims of sexual misconduct may file a report, obtain protective orders, or initiate criminal charges with the ODU Police Department or the Police Department in the employee's jurisdiction or make a report to the Office of Institutional Equity and Diversity, the Department of Human Resources, or a supervisor.

Additional Procedures for Students Who Are Victims of Sexual Misconduct

1. Students who are victims of sexual misconduct may file a report, obtain protective orders, or initiate criminal charges with the ODUPD at 757-683-4000 or the Police Department in their jurisdiction at 911. University personnel will assist the student in notifying these authorities if the student requests the assistance of such personnel. In addition, students may also file a student conduct complaint of alleged sexual misconduct with the Office of Student Conduct & Academic Integrity (OSCAI). A student conduct complaint may be filed with OSCAI in addition to or independent of any external criminal or civil proceedings that the victim (or the Commonwealth) initiates. These reporting options are not mutually exclusive, and victims may access support services at the University regardless of whether or not the student initiates a student conduct complaint and/or civil or criminal charges. Reports to OSCAI may be filed via a written statement submitted to OSCAI or via the [OSCAI online incident reporting system](#). The student conduct process can be fully explained in detail by professional staff members in OSCAI. Any member of the University community who is contemplating submission of a student conduct complaint is ***strongly encouraged*** to schedule a meeting with a professional staff member in OSCAI to discuss the student conduct process in depth.
2. Even if under the influence of alcohol and/or drugs at the time of an incident, a student victim can report sexual misconduct policy violations without incurring disciplinary action. This means that a victim, or anyone helping a victim, can report the incident without risk of receiving a referral to the Office of Student Conduct & Academic Integrity.
3. Student victims may contact the Sexual Assault Free Environment (S.A.F.E.) Coordinator located in the Women's Center for assistance concerning requests for academic scheduling changes and appropriate academic adjustments. Likewise, student victims should contact the S.A.F.E. Coordinator for assistance concerning available alternative housing, work, and/or transportation options.

Resources and Support for Students Who are Accused of Sexual Misconduct

1. Confidential Resources – Students who are accused of sexual misconduct may discuss their situations with a University employee. However, those accused should know that only some representatives on campus may maintain complete confidentiality, offering individuals options and support without any obligation to report. For a complete list of offices and degrees of confidentiality, please see the University [Confidentiality Chart](#).
2. Academic Scheduling Changes or Housing Accommodations – A student who is accused of sexual misconduct may request appropriate academic scheduling changes or housing accommodations.

G. RESPONSIBLE OFFICERS

Dean of Students (For Students)

Employee Relations Manager, Human Resources (For Classified/Wage Employees and AP Faculty)

Assistant Vice President for Undergraduate Studies (For Faculty)

H. RELATED INFORMATION

[Old Dominion University Board of Visitors Policy 1530 – Student Disciplinary Policies and Procedures](#)

[University Policy 1002 – Code of Ethics](#)

[University Policy 3013 – Video Surveillance Policy](#)

[University Policy 4601 – Stalking Policy](#)

[University Policy 6320 – Sexual Harassment Policy](#)

[Disruptive Behavior Policy](#)

[Sexual Assault Protocol](#)

[Campus Crime Statistics](#)

[Protective Order](#)

[Threat Assessment Team](#)

[Registered Sex Offenders](#)

