



Policy on Sexual Assault, Stalking, Dating Violence, and Domestic Violence

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I. Introduction

The University is committed to maintaining an environment that is safe and free from sexual assault, stalking, dating violence, and domestic violence. The University will not tolerate such actions (including threats of sexual assault, dating violence, or domestic violence) against its students, faculty, staff, or visitors. The University investigates all complaints of sexual assault, stalking, dating violence, or domestic violence and takes appropriate disciplinary or corrective action in each instance. In an ongoing effort to prevent sexual assaults, stalking, dating violence, and domestic violence, the University provides education and prevention programs; provides information on obtaining appropriate counseling and medical care; and provides complainants with information on pursuing criminal or other legal action.

II. Scope

- A. This *Administrative Regulation* applies to all members of the University community, including faculty, staff, students, visitors, volunteers, and members of registered student organizations.
- B. This regulation applies to any acts of sexual assault, stalking, dating or domestic violence that occur:
 - 1. On campus or any other University owned, leased, controlled, or operated location;
 - 2. During any University sanctioned function, including but not limited to research activities, internships, or travel regardless of the location; or

3. Off campus when the parties are either students or employees of the University (i.e. student-student, employee-employee, student-employee, or employee-student).*

* University faculty, staff, and students may always utilize services of the University's Violence Intervention and Prevention Center (VIP) whether or not the accused is another student or employee.

III. Definitions

The following definitions are for purposes of this regulation and are not intended to replace or summarize the Kentucky Penal Codes.

A. Sexual Assault

1. Sexual assault means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system. A sex offense is any act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - (a) Rape is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - (b) Fondling is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental incapacity.
 - (c) Incest is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - (d) Statutory Rape is defined sexual intercourse with a person who is under the statutory age of consent.
2. Sexual assault also includes all sex offenses as stated in Kentucky Revised Statutes 510.010 through 510.140.

B. Stalking

1. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.
 - (a) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
 - (b) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
 - (c) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
2. Examples of stalking include, but are not limited to:

- (a) Following a person;
- (b) Appearing at their home, place of business, or classrooms;
- (c) Making harassing phone calls;
- (d) Mailing written messages, sending or posting electronic messages;
- (e) Leaving messages or objects at their home, place of business, vehicle, or classroom; and
- (f) Vandalizing personal property.

C. Dating Violence

Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and

1. The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
2. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

D. Domestic Violence

Domestic Violence means violence committed by:

1. A person who is a current or former spouse or intimate partner with the victim;
2. A person with whom the victim shares a child in common;
3. A person who is cohabitating with or who has cohabitated with the victim as a spouse or intimate partner; or
4. Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws where the violence occurred.

E. Affirmative Consent

Affirmative Consent means an unambiguous and voluntary expression of willingness, permission, or agreement to engage in specific sexual activity throughout a sexual encounter. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other to engage in the sexual activity. Consent cannot be inferred from the absence of a "no"; a clear "yes," verbal or otherwise, is necessary.

Consent cannot be granted by an individual who:

1. Is incapacitated by any drug or intoxicant;
2. Has been compelled by force or threat of force;
3. Is unaware that the act is being committed;

4. Is impaired because of a mental or physical condition;
5. Is coerced by supervisory or disciplinary authority; or
6. Is less than the statutory age of consent.

F. Complainant

A complainant is anyone who makes a complaint she or he has been a victim of sexual assault, stalking, dating violence, or domestic violence.

G. Respondent

A respondent is anyone against whom a complaint or allegation of sexual assault, stalking, dating violence, or domestic violence is made.

H. University Official

A University official means:

1. Any faculty member;
2. Any staff employee who acts as an academic advisor;
3. Any other individual who has administrative responsibilities, including but not limited to, deans, directors, department heads, managers, and supervisors, and resident and assistant resident directors.

I. Campus Security Authority

A campus security authority (CSA) is broadly defined as an individual having responsibility for campus security and officials having significant responsibility for student and campus activities. For a specific listing of individuals designated as campus security authorities, see *Administrative Regulation 6:7.III.E, Policy on Disclosure of Campus Security and Crime Statistics*.

J. Preponderance of Evidence

Preponderance of Evidence means that it is more likely than not (50.1% certain) that the respondent is responsible for the alleged act.

IV. Prohibited Acts

A. Every member of the University community is prohibited from:

1. Engaging in sexual assault, stalking, dating violence, or domestic violence;
2. Retaliating in any manner against an individual who makes a complaint of sexual assault, stalking, dating violence, or domestic violence;
3. Interfering with procedures to investigate or redress a complaint of sexual assault, stalking, dating violence, or domestic violence; and
4. Making an intentionally false accusation of sexual assault, stalking, dating violence, or domestic violence through the University's procedures.

- B. Any member of the University community who engages in one of these prohibited acts against any other member of the University community may be subject to corrective action and appropriate sanctions.

V. Reporting Complaints

- A. Any University employee who witnesses or is made aware of an incident of sexual assault, stalking, dating violence, or domestic violence shall report it to the University Police or the Title IX Coordinator as soon as possible.
- B. The University strongly encourages prompt reporting by non-employees, including victims, witnesses, and those who are made aware of incidents of sexual assault, stalking, dating violence, or domestic violence. Reports may be made to the University of Kentucky Police, police in the location where the violence occurred, University Violence Intervention and Prevention Center, the Dean of Students Office, the Title IX Coordinator, a Campus Security Authority, or to any University official. An incident may be reported without filing a written complaint.
- C. Individuals designated as Campus Security Authorities are required by law to report certain crimes, including alleged sex offences, stalking, and relationship violence, to the University Police or Division of Crisis Management and Preparedness. These reports are made for statistical purposes, without the inclusion of identifying information of the parties. For reporting responsibilities of individuals designated as Campus Security Authorities, see *Administrative Regulation 6:7, Policy on Disclosure of Campus Security and Crime Statistics*.
- D. Confidential reporting is allowed to the University Violence Intervention and Prevention Center and the University Counseling Center or Health Services when receiving counseling or medical services. Anonymous reports may also be made to the UKPD; however, because police reports are public records under state law, UKPD cannot hold reports of sexual assault, stalking, dating violence, or domestic violence in confidence.
- E. The University provides information on pursuing criminal or other legal action, health care, counseling, and other support services available for students, faculty, staff, and visitors who have made a complaint of sexual assault, stalking, dating violence, or domestic violence.
- F. The University makes a good faith effort to resolve complaints of sexual misconduct within sixty (60) days of receiving the report, however the proceedings timeframe allows for extensions for good cause with notice to the complainant and the respondent of the delay and the reason for the delay.
- G. The University encourages individuals who make a complaint of sexual assault, stalking, dating or domestic violence, regardless of where the complaint is made, to also contact University Violence Intervention and Prevention Center (<http://www.uky.edu/StudentAffairs/VIPCenter/>) for assistance in accessing and navigating services, resources, and referrals both on and off campus.
- H. Individuals who experience sexual assault, dating violence, or domestic violence are strongly encouraged to seek medical attention and be examined for physical injury, the presence of sexually transmitted diseases, or pregnancy as a result of rape.

NOTE: An individual who is considering making a criminal complaint or taking other legal action should seek medical care as soon as possible after the assault. It is important for the individual to not bathe, douche, or change clothing prior to the medical examination in order to avoid inadvertently removing important evidence. The kind of evidence that supports a legal case against an accused should be collected as soon as possible, at maximum within ninety-six (96) hours of an assault.

Important University Contact Numbers:

UK Police	911 from a UK phone; or #UKPD from your cell phone
Violence Intervention and Prevention Center.....	(859) 257-2884; or (859) 257-3564
Title IX Coordinator.....	(859) 257-8927
Office of the Dean of Students.....	(859) 257-3754
Counseling and Testing.....	(859) 257-8701
University Health Services.....	(859) 323-5823
UK HealthCare.....	(859) 257-1000

VI. Rights of the Complainant and the Respondent

- A. The complainant has the right to choose whether or not to file a complaint with the University. However, when the University is made aware of an allegation of sexual assault, stalking, dating violence, or domestic violence, it must investigate and take action to protect the complainant or other members of the University community.
- B. In addition to pursuing administrative penalties and remedies, the complainant maintains the right to pursue criminal or other legal action.
- C. A preponderance of evidence standard shall be used for determining the outcome of investigations.
- D. Both the complainant and the respondent shall be informed in writing of the outcome of any institutional disciplinary proceeding brought alleging a sex offence (the University's final determination and any sanction(s)).
- E. The complainant and the respondent are entitled to the same opportunities to have an advisor present during an institutional disciplinary proceeding. An advisor's degree of participation is determined by the hearing procedures established for students by the Code of Student Conduct and for employees in applicable University regulations.
- F. A student complainant has the right to change University housing and academic arrangements if such changes are reasonably available.
- G. An employee complainant may consult with the Title IX Coordinator regarding available options.

VII. Corrective Actions and Disciplinary Procedures

- A. For students, the University utilizes the processes outlined in the Code of Student Conduct. For faculty or staff employees, the University utilizes the processes outlined in *Governing Regulations* and *Administrative Regulations, Human Resources Policies and Procedures*, and other applicable University policy. The Violence Intervention and Prevention Center, in consultation with the Office of Student Conduct, Title IX Coordinator, or the Office of Legal Counsel, can advise a complainant which procedures would be applicable in a given case.
- B. Possible sanctions for students resulting from the University disciplinary process are in accordance with the Code of Student Conduct and include disciplinary probation, counseling assessment, social restrictions, social suspension, suspension, dismissal, revocation of admission, or revocation of degree. A recommended sanction of revocation of a degree shall be referred to the Board of Trustees for final action. (See KRS 164.240) Possible sanctions for faculty and staff are in accordance with applicable *Governing Regulations, Administrative Regulations, and Human Resources Policies and Procedures* and include suspension, counseling, or termination of employment. Both the complainant and the respondent shall be informed of the outcome of the corrective action or disciplinary process.

C. Both parties have the right to appeal the decision as detailed for students in the Code of Student Conduct and for employees (faculty and staff) in applicable University regulations and Human Resources Policies and Procedures.

VIII. Education

Regular and ongoing education is available for all members of the University community. The VIP Center offers both online and interactive training sessions for students and conducts Green Dot bystander intervention training for faculty and staff. Training on Discrimination and Harassment, including Title IX, is offered on a regular basis for new employees, in the Supervision curriculum, on a regular basis for faculty and employees and any units upon request.

References and Related Materials

TITLE IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 - 1688

Department of Education, Title IX regulations, 34 C.F.R. § 106.1, et seq.

Higher Education Act of 1965, 485(f) (20 U.S.C. 1092(f)), Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

Violence Against Women Reauthorization Act of 2013, (Pub. Law 113-4)

U.S. Department of Education, Dear Colleague Letter GEN-14-13
KRS 164.240, Degrees Granted by Trustees

KRS 510.010 - 510.140, Sexual Offenses

Administrative Regulation 6:7, Policy on Disclosure of Campus Security and Crime Statistics

Revision History

1/26/2009, 9/30/2014 (Interim), 12/3/2014

For questions, contact: [Office of Legal Counsel](#)