

SEXUAL ASSAULT POLICY ***(As excerpted from the Gothic Guide)***

New Jersey City University is a community whose existence depends on trust and strict adherence to standards of conduct set by its members. Sexual assault is a serious violation of these standards and will not be tolerated. The University encourages all members of the university community to be aware of both the consequences of sexual assault and the options available to victims. Victims are urged to seek assistance using any of the resources provided.

N.J.S. 2C:14-2

Sexual assault is defined as sexual conduct without consent and includes: sexual contact (intentional touching, either of the victim or when the victim is forced to touch, directly or through clothing, another person's genitals, breasts, thighs, or buttocks); sexual penetration (sexual intercourse without consent whether by an acquaintance or a stranger); attempted rape; sodomy (oral sex or anal intercourse); or sexual penetration with an object without consent.

The New Jersey criminal code emphasizes the importance of consent. Intercourse or sexual contact of any kind is against the law if one person is non-consenting, is fearful of loss of safety, or is unable to consent because she or he is physically helpless*, incapacitated due to the use of alcohol or drugs, is asleep, or mentally incompetent.

*"Physically helpless" as defined by New Jersey State law means: the condition in which a person is unconscious or is physically unable to flee or is physically unable to communicate unwillingness to act.

Approved by College Senate on April 17, 1995

Approved by S.A.C.C. on June 12, 1995

Approved by the Board of Trustees on April 15, 1996

4/00

"Acquaintance rape" or "date rape" is a term used to describe a rape in which the victim knows the rapist. They may have dated previously, met at a party or be relatives or friends. Regardless of any prior relationship that may have existed, if one person forces another to submit to sexual contact, the act is still defined as sexual assault or rape.

CONFIDENTIALITY

Anyone wishing to report a rape or sexual assault of any kind (including a past rape or abuse) can be assured that: Confidentiality will be maintained. Reporting a rape or assault does not mean formal disciplinary or court action has been initiated. A permanent record of the receipt of complaint will remain in the Public Safety Department, with an indication of the disposition of the complaint, and shall remain confidential, subject to court subpoena. The record of any complaint that is upheld shall be made part of the personnel file of the accused for employees or the Dean of Students' disciplinary records for students. All formal hearing proceedings and all evidence introduced in connection therewith shall be on the record and must be confidential, subject to court subpoena, pending the outcome of any disciplinary proceedings against the accused.

OPTIONS FOR VICTIMS

Victims in sexual assault cases can pursue appropriate remedies in the university and state judicial systems. These remedies can include:

- A. Filing a formal complaint with the N.J.C.U. Public Safety Department (201) 200-3128, who will discuss options available and assist a victim to decide on a course of action. (For resident students, course of action can include a change in academic and/or living situations; for faculty, course of action can include change in office).
- B. Requesting a hearing with the N.J.C.U. Sexual Assault Hearing Committee. Prior to such a hearing, there shall be informal complaint mediation conducted by the Affirmative Action officer when it involves Faculty & Staff and the Dean of Students when it involves students after a finding of probable cause (which shall be substantiated by citing specific findings on the record) that a sexual assault has been committed, then the formal hearing shall be convened.
- C. Mediation with the victim and the accused, interviewing each separately to discuss the incident. (N.J.C.U. Sexual Assault Hearing Committee offers this option.)
- D. Reporting the incident to the Jersey City Police Department, Hudson County Prosecutor's Office Sexual Assault Response Team (SART) for decisions regarding arrest and prosecution.

GUIDELINES FOR THE VICTIM TO FOLLOW

- A. Get to a safe place as soon as you can.
- B. Try to preserve all physical evidence. Do not wash, use the toilet, or change clothing, if you can avoid it. If you do change clothes, put all clothing you were wearing at the time of the attack in a paper bag, do not use a plastic bag.
- C. Get medical attention as soon as possible. A medical examination will provide any necessary treatment and collect important evidence. Injuries may not be immediately apparent: you can ask to be tested for sexually transmitted diseases, and at a later time, you may want to be tested for pregnancy and/or HIV. A Sexual Assault Response Team (SART) member will assist you.

CAMPUS RESOURCES

CAMPUS PUBLIC SAFETY

Vodra Hall, First Floor.

Available 24 hours a day. Will assist in apprehending assailants and transporting victims who have been assaulted to the hospital.

(201) 200-3128 or (55) Emergency.

HEALTH AND WELLNESS CENTER

Vodra Hall, First Floor.

Provides information and referrals.

(201) 200-3456.

SPEICHER-RUBIN WOMEN'S CENTER

Location: TBD

Provides confidential support services, referrals and information and programming on personal wellness.

(201) 200-3189.

COUNSELING CENTER

Provides confidential counseling and support services, referrals and information and programming on personal wellness.

54 College Street, Jersey City

(201) 200-3165.

DEAN OF STUDENTS

Provides confidential support services and referrals.

Gilligan Student Union, Room 316

(201) 200-3525.

SEXUAL ASSAULT HEARING COMMITTEE

(201) 200-3189

OFF-CAMPUS RESOURCES

HORIZON HEALTH CENTER

710 Bergen Avenue, Jersey City

Provides counseling and confidential STI, AIDS, and pregnancy testing. (201) 451-6300

HUDSON COUNTY RAPE CRISIS CENTER

(201) 795-8375.

24-HOUR HOTLINE: (201) 795-5757

HUDSON COUNTY SHERIFF'S OFFICE

SEXUAL ASSAULT RESPONSE TEAM (SART) (201) 915-1234.

EDUCATION PROGRAMS

Campus programs will be planned throughout the year to educate the community on issues of sexual assault and to increase the awareness of the differences between healthy and unhealthy relationships.

The offerings will include:

- Orientation sessions for new students.
- (Freshman Orientation)
- OSP Orientation.
- Improvisational theatre presentations and discussions.
- Presentations on gender issues.
- Presentations to athletes, sororities, fraternities, OSP students, clubs, and resident students.
- Events sponsored through the Speicher-Rubin Women's Center, Women & Gender Studies Department, Affirmative Action and Student Support Services. NJCU will make every effort to promote awareness among faculty, staff and students on the types of sexual assaults.

UNIVERSITY DISCIPLINARY ACTION

Men and women of the campus community who commit crimes of sexual assault can be subject to severe sanctions which may include warning notice, probation, suspension or expulsion. They can also face action through the criminal justice system. Sanctions for employees may include oral reprimand, written reprimand, probation, suspension (with or without pay), or dismissal. Sanctions for students may include a warning notice, probation, suspension or expulsion. Recommendations for sanctions for faculty and staff will be made to the President and for students to the Dean of Students.

CAMPUS SEXUAL ASSAULT PROCEDURES

Sexual assault is a serious violation of the New Jersey City University campus code of conduct. New Jersey City University will ensure that such cases are pursued with fairness and sensitivity. The university will provide due process to all parties who may be adversely affected by the outcome of such proceedings. A campus hearing is an administrative hearing, presided over by the Sexual Assault Hearing Committee, not a criminal one; therefore, it need not use criminal court procedures as a model. To meet a standard of fairness, a hearing will include the following components:

A. NOTICE:

The accused individual(s) will receive notice of an alleged violation of the code of conduct.

B. OPPORTUNITY TO BE HEARD:

The accused will be given the opportunity to hear the evidence against him or her and to present his or her side of the story. The complainant and the accused may bring one support person to the hearing on prior notice. Support persons, however, may only advise the complainant and accused, they may not participate in the hearing. Hearings will be closed unless parties agree that their hearing can be open to the public.

C. DECISION ON RECORD:

A decision must be made only on the basis of what is presented in the hearing. A disciplinary proceeding can be handled by the University or by the individual formalizing the complaint. The University can bring the charges and the individual would be the complaining witness. An alternative would be for the victim to bring the charges, with the University facilitating the hearing. Sexual assault can greatly affect the social and academic environment of a university, even if it occurs outside the physical boundaries of the campus. If a member of the University community is convicted of an off-campus sexual assault violation, that individual will be subject to disciplinary action. An individual has the right to remain silent. Silence is not an indication of guilt or innocence. If a criminal case has been filed, the institution can still proceed with its case, advising the individual that he or she can remain silent. If further action is requested, the Hudson County Prosecutor's Office will be contacted.

THE RIGHTS OF THE VICTIM AND THE ACCUSED:

To encourage the reporting of sexual assault and to ensure fairness to all participants in the campus process, the following are the rights for persons involved in a campus sexual assault proceeding.

THE RIGHTS OF THE VICTIM:

- A. The right to a hearing by the N.J.C.U. Sexual Assault Hearing Committee, subject to a finding of probable cause, in accordance with procedures.
- B. The right to file a campus restraining order (with the Office of the Dean of Students) to prohibit harassment of the victim by the accused, acquaintances, or supporters.
- C. The right to challenge the Sexual Assault Hearing Committee on conflicts of interest e.g., if the accused is a fraternity member, the victim may challenge the presence at the hearing of a member or fraternity advisor from that fraternity.
- D. The right to know ahead of time the names of witnesses to be called at the hearing.
- E. The right to have needs promptly addressed.
- F. The right to have someone accompany him/her through the hearing. All participants of the hearing will be bound by the rules of confidentiality governing the hearing. Subject to court subpoena, all participants have the right to not have their identity revealed outside the confidential proceedings, without consent.
- G. The right not to have past sexual history discussed during the hearing.
- H. The right to a closed hearing, unless all parties agree otherwise.
- I. The right to remain present for the entire proceeding and to inspect evidence presented.
- J. The right to a hearing without unnecessary delays.
- K. The right to be informed in a timely manner about the outcome of the hearing.
- L. The right to appeal the recommendation of the Sexual Assault Hearing Committee to the appropriate person.
- M. The right to know the status of the case at any point during the investigatory process.
- N. The right to be informed within a reasonable period of the committee's findings, and of the outcome of the hearing.

THE RIGHTS OF THE ACCUSED:

- A. The right to written and oral explanation of the charges.
- B. The right to file a campus restraining order to prohibit harassment of the accused by the victim, acquaintances, or supporters.
- C. The right to a written statement of the Sexual Assault Hearing Committee process.

- D. The right to be presumed innocent.
- E. The right to a fair and impartial hearing.
- F. The right to have someone accompany him/her through the hearing. All participants will be bound by the rules of confidentiality governing the hearing. Subject to court subpoena, all participants have the right not to have their identity revealed outside the confidential proceedings, without consent.
- G. The right to know ahead of time the names of the witnesses to be called to the hearing.
- H. The right to remain silent.
- I. The right to testify on his/her behalf.
- J. The right to be informed within a reasonable period of the committee findings, and of the outcome of the hearing.
- K. The right to appeal the decision of the Sexual Assault Hearing Committee to the appropriate person.
- L. The right not to have past sexual history discussed during the hearing.

SEXUAL ASSAULT HEARING COMMITTEE

The Sexual Assault Hearing Committee will be composed of a pool of fifteen individuals (A combination of faculty, staff, and students), five of whom will hear each complaint. The committee is trained to, and charged with the responsibility of, listening to the allegations and any responses, making a decision as to the validity of the charge, and making a recommended decision and sanction.

SELECTION PROCESS

The pool from which the members will be selected shall consist of representatives from the following categories: students, support personnel (clerical/secretarial, technical/paraprofessional, skilled crafts and service/maintenance), managerial administrators, faculty, and non-teaching professionals. The five members for each hearing shall be selected by the Dean of Students, the majority of which will be from the categories to which the victim and the accused belong. The chair of each hearing will be chosen by and from the five members who are serving. Selected members will serve for two years and will be required to undergo special training prior to serving and each year of service in order to create a good understanding of sexual assault/harassment, campus investigation procedures, and counseling of victims.

PUBLIC SAFETY DEPARTMENT

Assault Guarantees

Sexual assaults are a serious concern of New Jersey City University. If you feel you are the victim of a sexual assault on campus, your University Public Safety Department will guarantee you the following:

- A. We will meet with you privately, at a place of your choice in this area to take a complaint report.
- B. We will not release your name to the public, press or university community.
- C. Our officers will not prejudge you and you will not be blamed for what occurred.
- D. We will treat your case with courtesy, sensitivity, dignity, understanding and professionalism.
- E. If you feel more comfortable talking with a female or male officer, we will do our best to accommodate your request.
- F. We will assist you in arranging for any hospital treatment or other medical needs.
- G. We will assist you in privately contacting counseling, safety advising and other helpful resources.
- H. We will fully investigate your case, and assist you with achieving a just outcome. This may involve the arrest and full prosecution of the suspect responsible. You will be kept up-to-date on the progress of the investigation and/or prosecution.
- I. We will continue to be available for you to answer your questions, to explain the systems and processes involved (prosecutor, courts, etc.), and just to listen if you wish.
- J. We will consider your case seriously regardless of your gender, the gender of the suspect or sexual orientation.

