

POLICY AND PROCEDURE
Student Affairs

Sexual Assault



Soka University of America
May 2011

SOKA UNIVERSITY OF AMERICA'S POLICY ON SEXUAL ASSAULT

STUDENTS WHO REPORT VIOLATIONS OF THIS POLICY WILL BE GIVEN A COPY OF THIS DOCUMENT AND ADVISED OF ALL OPTIONS AVAILABLE TO THEM. UNIVERSITY OFFICIALS WILL RESPECT THE STUDENT'S RIGHT TO CONFIDENTIALITY TO THE EXTENT PERMITTED UNDER UNIVERSITY AND LEGAL REGULATIONS.

I. STATEMENT OF PURPOSE

Soka University of America (SUA) will not tolerate and prohibits rape, acquaintance rape, and sexual assault in any form. These acts are against California State Law. Rape and other sexual assaults also violate the University's policy prohibiting sexual harassment. If there is reason to believe that SUA campus regulations prohibiting sexual assaults of any kind have been violated, on or off-campus, the administration will pursue disciplinary action through the appropriate University procedures.

Sexual assault occurs with disturbing frequency among university age men and women but is very often unreported. In order to provide support for individuals reporting incidents of sexual assault and to enforce the behavioral standards critical to the University's mission, students are encouraged to report all violations of this policy to appropriate University personnel.

The University acknowledges that rape perpetrated by someone unknown (often referred to as "stranger rape") does occur. However, the most prevalent form of sexual assault on a university campus is between two people who know each other (often referred to as "acquaintance rape"). The acquaintance may be a date, partner, or someone known casually from a residence hall, class, club, or through mutual friends.

Regardless of the relationship, the same institutional response and penalties apply. To clearly illustrate the seriousness of these offenses, this policy does not differentiate the types of offenses based on the relationship between the individuals. SUA complies with its obligation to investigate and resolve concerns of harassment and/or assault, regardless of whether or not a formal complaint is filed, in order to maintain a non-discriminatory and respectful educational environment.

This policy is intended to provide more detailed information about how SUA handles sexual assault matters and is not intended to replace the SUA Student Code of Conduct or SUA Sexual Harassment Policy.

II. DEFINITION OF TERMS

SUA, as a standard for the Student Code of Conduct, defines sexual assault as follows:

A. Sexual Assault: Non-Consensual Sexual Intercourse

Sexual assault is a general term which covers a range of crimes. For the purposes of this statement by the University, "sexual assault" includes, but is not limited to rape, acquaintance rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery or threat of sexual assault. Rape is generally defined as forced or nonconsensual sexual intercourse. Non-consensual sexual intercourse may take many

forms including, but not limited to, rape by a stranger, an acquaintance, while on a date; rape by multiple perpetrators (often referred to as “gang rape”), and may occur both on and off campus. Rape may be accomplished by fear, threats of harm, and/or actual physical force. Rape may also include situations in which penetration is accomplished when the victim is unable to give consent, or is prevented from resisting, due to being intoxicated, drugged, unconscious, or asleep.

B. Sexual Harassment

Sexual harassment is a form of sex discrimination and a violation of title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972. Sexual harassment has two key categories: quid pro quo (loosely translated as “this for that”) and hostile environment. Often sexual harassment involves relationships of unequal power and contains elements of coercion, as when compliance with requests for sexual favors becomes a criterion for granting work, study, or grading benefits. However, sexual harassment may also involve relationships among equals, as when repeated sexual advances or demeaning verbal behaviors have a harmful effect on a person’s ability to study or work in an academic setting. In compliance with federal and state law, SUA defines sexual harassment as follows:

“Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a. Submission to such conduct is made either explicitly or implicitly as a term or condition of instruction, employment, or participation in other University activity;
- b. Submission to or rejection of such conduct by an individual is used as a basis for evaluation in making academic or personnel decisions affecting an individual; or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual’s performance or creating an intimidating, hostile, or offensive University environment.”

C. Sexual Exploitation

Sexual Exploitation occurs when a person takes non-consensual, unfair, 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. This behavior must not otherwise constitute a violation of sexual assault or sexual harassment. Examples of sexual exploitation include, but are not limited to, prostituting another student, non-consensual video or audio-taping of sexual activity, presentation or unauthorized viewing of such recordings, going beyond the boundaries of consent (such as letting your friends watch you having consensual sex without the knowledge or consent of your sexual partner), engaging in peeping tommy, and knowingly transmitting an STD or HIV to another student.

D. Consent

Consent must be informed, freely and actively given, and consist of a mutually agreeable and understandable exchange of words or actions. Any consent that is given is invalid when the exchange involves unwanted physical force, coercion, intimidation, and/or threats. If an individual is mentally or physically incapacitated or impaired such that one cannot understand the fact, nature or extent of the sexual situation, and the incapacitation or impairment is known or should be known to a reasonable person, there is no consent. This includes conditions resulting from alcohol or drug consumption, or being asleep or unconscious.

III. STATEMENT AND INTENT OF POLICY

SUA, as a standard for the Student Code of Conduct, determines the following to be its intentions for this policy:

A. California State Law

In publishing this policy the University is not intending to substitute or supersede related civil and/or criminal law. It is the policy of SUA to strongly encourage individuals to report all incidents and violations to the Office of Dean of Students or law enforcement officials and avail themselves of all the services and rights to which they are entitled.

It should be clearly understood that there is a fundamental difference between the nature and purpose of student discipline and criminal law. California State Law considers gross sexual assault and unlawful sexual contact to be serious crimes that are punishable by imprisonment in jail and/or probation. It also involves creation of a criminal record and may include a monetary fine.

B. Multiple Adjudication

A student charged with sexual assault may be prosecuted under the California Criminal Justice System and disciplined through SUA Student Conduct & Resolution process. Even if the criminal justice authorities choose not to prosecute, the accused may be subject to University disciplinary action. University Student Conduct & Resolution procedures should be considered distinct and independent of any and all criminal procedures. Student Conduct & Resolution procedures may precede, occur simultaneously, or follow court action. In the event that University's Student Conduct & Resolution procedures follow court action, the court proceedings and/or verdict may be considered in the Student Conduct & Resolution proceeding. When necessary, temporary action may be taken by the University in the form of summarily suspending or summarily restricting the accused, or officially requesting no contact between the complainant and the respondent. Relocation or removal from the residence halls may also occur. Any of these measures may result in the accused student's restricted access to the University and/or participation in University events, such as attendance at classes and residing on campus.

C. Disciplinary Action

Any student found by Office of Dean of Students to have committed sexual assault may be subject to severe disciplinary sanctions, including suspension or dismissal from the University. For information about sanctions, individuals should refer to SUA Student Code of Conduct & Resolution Process.

The University recognizes that violations of sexual assault are not the fault of the individual filing the complaint. The University intends to encourage the report of sexual assaults and therefore the University generally does not intend to hold complainants accountable for student code of conduct violations that may have occurred along with violations of sexual assault. The University administration will use discretion to ensure the rights of the complainant are preserved.

1. Rights of the Complainant

Individuals who report their experience of sexual assault to University officials may be assured that:

- All sexual assault cases will be treated seriously.
- They will be treated with dignity, respect, and in a non-judgmental manner.
- University officials will inform students of their option to notify appropriate law enforcement authorities, including on-campus security and local police, and offer assistance in notifying proper authorities when an individual discloses an incident of sexual assault.
- When an incident of sexual assault, harassment or exploitation is reported, the incident will be investigated and adjudicated by appropriate criminal and/or University authorities.
- University personnel will not discourage anyone from reporting, nor encourage them to under-report or report the incident as a lesser crime.
- University personnel will cooperate in obtaining, securing and maintaining evidence (including a medical examination) necessary in legal proceedings.
- Individuals will be notified of available on and off-campus counseling, mental health, and psychological services, or other student services for those reporting sex offenses.
- Individuals will be afforded the opportunity to request immediate on-campus housing relocation, transfer of classes, or other steps to prevent unnecessary or unwanted contact or proximity to an alleged perpetrator when reasonably available.

Student Conduct & Resolution Process:

The complaint can be filed directly to the Dean of Students via a written statement or an appointment with the Dean of Students. Once a complaint has been submitted, the Dean of Students or a designee by the Dean will conduct intake interviews and fact-finding interviews with appropriate parties involved and follow the processes outlined in under Student Conduct & Resolution Process. Each complaint will be investigated promptly and appropriate corrective actions will be taken.

In the case the complainant decides to appeal the decision via Conduct & Resolution Board, the complainant may request reasonable accommodations be made in hearing procedures, such as special seating arrangements in the hearing room in order to conduct a fair, orderly hearing.

- S/he has the right to remain present during the entire Board hearing except during Board's deliberations.
- S/he has the right not to have his or her sexual history discussed during the hearing.
- S/he has a right to make a "impact statement".
- S/he has the right to be informed concurrent with notice to the accused (respondent) of the decision of the Dean of Students and/or the Board regarding the alleged sexual assault violation and any sanction(s) imposed. The complainant and the respondent must respect the privacy of all involved.

2. Rights of the Person Accused of Sexual Assault

The student accused of sexual assault (the respondent) may be assured that:

- All sexual assault cases will be treated seriously.
- The respondent will be treated with dignity, respect, and in a non-judgmental manner.
- The respondent will be advised of on- and off-campus organizations and services that may be of assistance.
- University personnel will cooperate in investigating the case fully for legal and Student Conduct & Resolution proceedings.
- The respondent will be informed of available counseling and psychological services.

Student Conduct & Resolution Process:

Once a complaint has been received by the Dean of Students, the Dean or a designee by the Dean will conduct intake interviews and fact-finding interviews with appropriate parties involved and follow the processes outlined in under Student Conduct & Resolution Process. Each complaint will be investigated promptly and appropriate corrective actions will be taken.

- In the case the Student Conduct & Resolution Board is convened on an appeal, the respondent has the right to remain present during the entire Board's hearing except during Board's deliberations. In order to conduct a fair, orderly hearing, reasonable accommodations may be made in hearing procedures, such as special seating arrangements in the hearing room.
- S/he will be informed of the decision of the Dean of Students and/or the Board regarding the alleged sexual assault violation and any sanction(s) imposed. The respondent and the complainant must respect the privacy of all involved.
- Retaliation for filing a complaint is strictly prohibited.
- Individuals should refer to the SUA Student Code of Conduct & Resolution Process. Any questions regarding the process and sanctions should be directed to the Dean of Students.

3. Use of Alcohol and Drugs

The use of alcohol and other drugs by the accused in conjunction with an incident of sexual assault does not mitigate accountability for the commission of sexual assault or diminish the seriousness of the incident. The accused person's intentional use of a substance to affect an individual in order to facilitate an assault will be considered when determining responsibility and, if found responsible, appropriate sanctions.

IV. REPORTING PROCEDURES

All students, faculty, and staff, as well as members of the public participating in University activities have the right to an environment free from sexual or physical intimidation that would prevent a reasonable person from attaining educational goals or living and working in a safe environment. Disruptive behavior of this nature should be

reported to appropriate University staff so it may be addressed. Any member of the community can file a report with the appropriate University official.

A. Safety and Security Information Report

Under The Clery Act, an institution must report certain crimes to the campus community in a timely manner that will aid in prevention of similar crimes that represent a threat to students and employees. To that end, a community alert will be issued whenever appropriate. Additionally, departments will comply with all mandatory reporting requirements.

B. Reporting Timeframe

Any individual may file a complaint of sexual assault at any time. Early reporting is encouraged to preserve evidence and provide the person filing the complaint with information regarding rights, options, and resources available to them by this policy and federal or state laws.

C. Reporting Options

In order to provide appropriate support and services, this policy delineates the following reporting options.

1. Confidential Disclosure

SUA offers confidential reporting through Counseling Services to 1) weigh options and associated risks, 2) discuss possible next steps, and 3) obtain information about available resources and services. **No one is expected or required to pursue a specific course of action.**

2. Official Reporting

All SUA students are strongly encouraged to make an official report of any incident of sexual assault to the Office of Dean of Students whether the incident occurred on or off campus. Official reporting initiates a course of action and university's Student Conduct & Resolution process.

3. Anonymous Reporting

Any SUA students may file an anonymous report form to report a sexual assault or incidence of harassment. Filling out this form will not result in an investigation, but will assist with the compilation of statistical records in compliance of the Jeanne Clery Act and the development of better support services for victims of sexual assault and harassment. The person who has been assaulted may fill out this form or she/he may ask a friend to do so. Students can find this form under Soka.edu or SUA portal. Once completed, please send the form via campus mail to the Dean of Students.

D. Other Important Information

Any individual who is a victim of sexual assault should follow these procedures.

1. Get to a place of safety.
2. Do not hesitate. If on campus, contact appropriate authorities and if during off hours, contact 24-hour Security, Res Life On-Call, or 911.
3. It is important for the victim to preserve the evidence if s/he intends to pursue criminal charges.
 - The victim should not shower, bathe, douche, or brush his/her teeth, and save all clothing worn at the time of the assault.
 - The victim should then immediately see medical personnel either at the University student health center or a hospital emergency department.
 - If the student has not seen the medical personnel at the time of the complaint, the student will be immediately advised to do so. The University will provide the transportation to the hospital if needed.
4. It is the victim's decision whether to involve the police in an incident. Deciding not to involve the police does not prevent the victim from seeking assistance from the University.

E. Contact Information

Dean of Students	(949) 480-4028
Office of Student Conduct & Resolution	(949) 480-4148
Counseling Services	(949) 480-4192
Health Services	(949) 480-4243
Campus Security (24-Hours)	(949) 480-4100
Residential Life Staff On-Call (24-Hours)	(949) 480-4658
	(949) 480-4664
Sexual Assault Victim Services/Prevention Program	
24-Hour Crisis Hotlines	(714) 957-2737
	(949) 831-9110

Nothing in this policy should be interpreted as precluding enforcement of the laws and regulations of the United States of America, the State of California, any locality in the state of California, or the University's Student Code of Conduct.