



Policy for Students Found Responsible for Rape

Purpose:

SUNY Oswego is committed to maintaining an environment free from sexual violence and does not tolerate sexual violence of any kind. Rape is a form of sexual violence that is egregious and warrants severe sanctions for the perpetrators of such violence. This Policy sets forth the mandatory minimum sanctions for students who have been found responsible through the student conduct process for committing the act of Rape. This Policy also sets forth the conditions of return to SUNY Oswego for such students.

Scope: This Policy applies to all SUNY Oswego Students.

Definitions:

Consent: Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop.

Rape: 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.

"Student" includes any person who has accepted admittance to the University for student status or who is currently registered or enrolled as an undergraduate, graduate, professional student, or certificate program participant, whether matriculating or non-matriculating, full-time or part-

time, resident or commuter or on-line, paid or delinquent, or who has a pending appeal of an academic dismissal or student conduct matter. Such a person shall also be considered a student during intersession/summer periods, at University-sponsored commencement events in which they are a participant, and those who are not officially enrolled for a particular term but who have a continuing educational relationship with the University.

Policy:

1. Sanction for Rape

- a. Any Student who has been found responsible through the SUNY Oswego student conduct process for committing the act of Rape shall be issued the sanction of suspension or expulsion from the University. For any such Student, if the Rape was forcible, meaning that the Rape was accomplished by physical force, threat, or drugging by the Student, the Student shall be issued the sanction of expulsion from the University.
- b. Consistent with the Documentation Reminder, all decisions must be in writing and must include the rationale for findings of responsibility and sanctions imposed.

2. Reinstatement/Readmission for Students Found Responsible for Rape

a. Return After Suspension

i. A Student suspended under this Policy is not automatically returned to active enrollment when the suspension period ends. SUNY Oswego will determine, at the time of sanction, whether the Student's return will proceed through reinstatement or readmission, based on the underlying facts of the offense; length of separation; administrative requirements; and applicable academic standards.

ii. The Notice of Outcome letter will specify whether the return process will be handled as a reinstatement or readmission, as set forth below.

iii. The Notice of Outcome letter will inform the Student that they are ineligible to apply to or attend any state-operated campus of The State University of New York during the period of suspension.

iv. The Notice of Outcome letter will require the Student to disclose their Suspension when applying to any community college of The State University of New York during the period of suspension

b. Reinstatement

i. Used for separations of two academic year(s) or less, or where the

student remains in the SUNY Oswego's enrollment system in inactive status.

ii. Reinstatement is contingent upon:

1. Completion of all sanction requirements stated in the final conduct outcome letter.
2. Compliance with any ongoing directives (e.g., no-contact orders).
3. Continued academic and administrative eligibility.

iii. Students must submit a Reinstatement Request Form to the Dean of Students (or designee) no later than 90 days before the start of the intended term of return.

iv. A modest administrative processing fee may be required; the fee and process will be applied uniformly to all reinstated Students (waiver or deferral available for hardship).

c. Readmission

i. Used for separations exceeding two academic year(s), or where the Student's enrollment record has been formally withdrawn from the SUNY Oswego.

ii. Readmission requires:

1. Submission of a Readmission Application to the Office of Admissions by the published deadline for returning students.
2. Payment of the standard readmission/application fee (waiver or deferral available for hardship).
3. Completion of all sanction requirements stated in the final conduct outcome letter.
4. Compliance with any ongoing directives.

iii. Readmission to SUNY Oswego following an expulsion/dismissal under this Policy may be granted only under exceptional circumstances and requires the specific approval of the President, or designee.

iv. SUNY Oswego will not admit any Student who has been expelled at any other SUNY state-operated or community college campus except under exceptional circumstances and with the specific approval of the President or designee.

d. Denial of Return

i. Under either process set forth in (b) and (c) above, SUNY Oswego shall deny return of the Student if:

1. Sanction conditions remain incomplete;
2. Return would pose a substantial risk to safety, security, or lawful operations in the sole judgment/discretion of SUNY Oswego; or
3. The Student is subject to unresolved disciplinary proceedings.

ii. A Student is not eligible to return to SUNY Oswego if they withdraw prior to the conclusion of any conduct proceedings. If a Student withdrew prior to the conclusion of any conduct proceedings and seeks to return to SUNY Oswego, the student must consent to the continuation of the conduct proceedings, if the proceedings have not concluded.

3. Transcript Notation Appeals for Students Found Responsible for Rape

a. Students who have been found responsible through the student conduct process for committing the act of Rape shall receive a transcript notation of "suspended" or "expelled" "after a finding of responsibility for a code of conduct violation". The sole ground for appeal of any such transcript notation for a Student found responsible for Rape under this Policy shall be if the underlying finding of responsibility is vacated.

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