

## SEXUAL ASSAULT POLICY

Sexual assault is a serious violation of the criminal laws of the State of Maine. The full text of the appropriate applicable State of Maine laws may be found in the "Sexual Assault Policy" section of this Student Handbook, which also is posted on the Unity College Web site.

Unity College insists upon full compliance with all applicable State of Maine "Sexual Assault" laws and US "Sexual Abuse Codes." Unity College reserves the right to maintain a higher standard of behavior than is required by the State of Maine Criminal Code and the US Federal Code. Therefore, Unity College has determined that one or more than one of the following prohibited acts shall be considered a violation of the

## Unity College Sexual Assault Policy:

- Any sexual act or sexual contact forced on another person either by physical force, intimidation, or physical/emotional coercion. Force is understood as pressure exercised by a person, implicit or explicit, which is physical, verbal, emotional, or situational, and which prevents another person from freely giving or withholding consent. A person who alleges sexual assault has occurred is not required to demonstrate that she/he resisted.
- Any purposeful touching of the erogenous zones (such as genital, breasts, or other areas), either directly or through clothing without consent.
- Any sexual act or sexual contact with an individual whose judgment has been impaired by the intake of alcohol or other drugs. Impairment is defined as what any reasonable person would perceive as an inability to make an informed choice. Judgment may be impaired with the consumption of as little as one ounce of pure alcohol per 120 pounds of body weight for females, 1.5 ounces of pure alcohol per 160 pounds of body weight for males and could be even lower when alcohol is combined with other drugs and medication or limited food consumption. The impairment of judgment continues over a period of hours from the time of ingestion of alcohol or other drugs.
- Any sexual act or sexual contact with an individual who is unconscious, asleep, or otherwise unable to consent to sexual contact.
- Any sexual act or sexual contact with a person with a mental or developmental disability that is reasonably apparent or known to the actor, and which in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the person has the right to deny or withdraw consent.
- Any sexual act or sexual contact with a person under the age of 14 or with a person between the ages of 14 and 16 if the actor is at least three years older. (Maine State Law)

## Definitions

**Sexual Assault** includes but is not limited to all forms of unwanted sexual acts and sexual contact, including acquaintance rape, forced vaginal or anal intercourse, forced oral sex, and/or forced penetration of genital or anal openings by a foreign object.

**Sexual Contact** includes touching intimate parts of the body, including, but not limited to, thighs, genitals, buttocks, the pubic region or the breast/chest area, or the clothing covering those parts and/or using intimate parts of the body to touch another individual.

**Consent Clarification.** Consent shall be defined as the act of both willingly and verbally agreeing to engage in each specific sexual behavior, contact, or conduct.

- Silence must never be interpreted as consent.
- Lack of explicit objection must not be construed as consent.
- Submission must not be construed as consent.
- Consent may be withdrawn at any time and action must not proceed.

A person is not considered to have given consent if:

- Asleep, unconscious, substantially physically, mentally, or developmentally impaired.
- Impaired by the ingestion of alcohol or other drugs as described in the previous sections.
- Intimidated, forced, or threatened.

- Psychologically pressured, under duress, or incapable of making a decision on her/his own.

It is the responsibility of each person to clearly determine that the other person has given consent. Sexual assault is never the fault of the survivor.

#### Alcohol, Date-Rape, and Recreational Drugs

The Date Rape Drug Act of 1996 makes it a federal felony to employ the use of any controlled substance in order to facilitate a sexual assault. It is extremely important to note that despite the significant amount of attention paid to the date-rape drugs, alcohol still remains by far the most common date rape drug.

Surveys estimate that up to 89% of perpetrators and up to 44% of survivors are under the influence of alcohol at the time of the assault. Alcohol intoxication impairs an individual's ability to appraise a situation and make clear, informed decisions. Excessive use of alcohol precedes many assaults and according to college policy, use of these substances does not diminish personal responsibility or disciplinary sanctions. The use of any substance, including over-the-counter sleeping and cold medications, alcohol, and homemade substances such as GHB to facilitate sexual assault, is against Maine State law. *An individual impaired by the use of alcohol or other drugs is not capable of consent to sexual activity.* Sexual assault using drugs and/or sexual activity in the absence of consent is against Unity College Sexual Assault Policy.

The combination of date-rape drugs and alcohol can be fatal. The most common means of administration of date-rape drugs is through their consumption with alcohol.

Conversation about date-rape drugs commonly refers to the following substances but is not limited to these substances:

- Flunitrazepam—also known by the names Rohypnol, Rufies, Roachies, Wolfies.
- Ketamine—also known by the names Special K, Ket, Kit Kat, and Green GHB
- Gamma Hydroxybutarate—also known as Liquid X, Easy Lay, and Grievous Bodily Harm

#### **Protect Yourself from the Use of Date-Rape Drugs.**

- Educate yourself. Find out which date-rape drugs are in current use, how to recognize them, and the effects they have. If you recognize a drug at a party, leave immediately.
- Bring your own drinks to a party. Uncap your own beverages.
- Never take a drink from an open container, such as a punch bowl.
- Never leave your drink unattended. Friends watching your drink are easily distracted.
- If your drink has any unusual taste, color, or smell, throw it out.
- If you or a friend exhibits signs or symptoms of being drugged, leave the party immediately and seek assistance.
- Symptoms include getting extremely drunk quickly and appearing drunker than would be expected for the amount of alcohol consumed.

#### What to Do in a Case of Sexual Assault

If you are, or a friend is, sexually assaulted:

**1. Get to a safe place.** Put your safety first. If you cannot get to a phone, do whatever you can to attract someone's attention to get to a safe place.

**2. Do not bathe, shower, douche or change clothes.** It is recognized that a sexual assault survivor may be undecided in reporting the assault to the police or public safety officer. A report to the police can empower the survivor in exercising legal rights and aid in the protection of others. Unity College personnel will offer to assist the survivor to report the assault to either college or community authorities. If a report is to be made to the police, the survivor will be encouraged not to destroy evidence by bathing, douching, or changing clothes or cleaning up in any way. If the sexual assault survivor is undecided in reporting, the survivor will be encouraged to proceed with the medical evaluation to preserve evidence in case the survivor decides to file a police report at a later date. The survivor will be informed that the collection of evidence will not activate a police file and that only the survivor can initiate police action. Evidence collection is most effective as soon as feasible after the assault has occurred, but may take place for up to 72 hours after the incident. Always wear (or bring) with you the clothes that were worn at the time of the assault. All reports to the police or public safety are to be made only at the request of the survivor.

**3. Call for assistance.** In the event of an immediate medical emergency, medical response personnel should be

contacted. The number for Unity Ambulance Service is 948-9966.

**4. Call a sexual assault advocate, trusted friend, or family member to be with you.** Also consider calling the following choices:

Statewide Sexual Assault Crisis Hotline—800-871-7741

Waterville Rape Crisis Assistance and Prevention Agency—800-525-4441

Unity College

Public Safety Office—ext. 232 or 948-2268

Maine State Police—800-452-4664

Dean for Student Affairs—948-3131 ext. 241

Health and Wellness Center—948-3131 ext. 250, 715

Counseling Services—948-3131 ext. 317

Director of Residence Life—948-3131 ext. 284

Resident Advisor Staff:

- Cianchette Green—ext. 226
- Cianchette Red—ext. 280
- Cianchette Blue—ext. 281
- Cianchette Gold—ext. TBA
- Eastview first floor—ext. 251
- Eastview second floor—ext. 255
- Westview first floor—ext. 279
- Westview second floor—ext. 225
- Wood Hall first floor —ext. 253
- Wood Hall second floor—ext. 252
- Wood Hall third floor—ext. 270

*NOTE: Any of the aforementioned Unity College personnel will give the sexual assault survivor a brochure listing choices, options, and procedures. The survivor will be encouraged to immediately contact the Statewide Sexual Assault Crisis Hotline or the Waterville Rape Crisis Assistance and Prevention program to have an advocate assist the survivor with support, care, referral, procedure, and reporting choices. The survivor may find it will be very helpful to have a person who is trained in the dynamics of sexual assault with her/him as she/he goes through a very difficult and confusing process.*

**5. Obtain medical consultation.** The sexual assault survivor who does not wish to see the police will be encouraged to seek immediate medical attention at MaineGeneral Medical Center in Waterville. A medical consultation will address physical problems. Prompt medical attention can assure the survivor's physical well being and minimize risks of becoming pregnant or contracting a sexually transmitted disease as a result of the rape. In order to be most effective, medical attention should be received as soon as possible or at least within 48 hours of the assault. The survivor should bring the clothes that were worn at the time of the assault. The survivor should also bring another set of clothes to the hospital that can be worn home. The survivor will be encouraged to contact an advocate from the Statewide Sexual Assault Crisis Hotline and/or Waterville Rape Crisis Assistance and Prevention program to accompany and/or transport her/him to the hospital.

**6. Seek counseling.** Unity College recognizes the potential for long-term negative consequences of sexual assault. Individuals who have experienced sexual assault often benefit from professional counseling. Unity College Counseling Service offers counseling free of charge to sexual assault survivors. The counseling relationship is confidential within the legal and professional guidelines for the State of Maine. No information that the survivor shares with a counselor can be released without the survivor's consent. An exception to this is if there is a threat to the survivor's or someone else's safety, or if there is a disclosure of child abuse.

**7. The sexual assault survivor will be notified of his/her option to report.** A report to the police or campus authorities can empower the survivor in exercising legal rights and aid in the protection of others. Unity College

personnel will notify the survivor of the option to report to internal or external authorities, encourage the student to report, and assist in the reporting if requested by the survivor.

#### Notification of Campus Community

Any faculty or staff member having direct or indirect knowledge of a sexual assault, involving a student(s) whether committed on the Unity College campus or at an off-campus location, shall inform the dean for student affairs that an incident has occurred. This report may be made anonymously on a form provided by the Public Safety Office or dean for student affairs or other method of the reporter's choosing. The dean for student affairs shall in turn inform the Public Safety Office that a report has been received. The identity of the survivor will not be shared without the permission of the survivor.

The dean for student affairs shall, in a timely manner, report to the campus community on crimes that are: (1) covered by the Clery Act; (2) reported to the campus security authorities as identified under the institution's statement of current campus policies; and (3) considered by the institution to represent a threat to students and employees.

The Public Safety Office will report to the campus community annual statistics for the past three calendar years proceeding the year of disclosure concerning the occurrence of sexual offenses among Unity College students reported to local police agencies or to any official of the institution who has significant responsibility for student and campus activities.

#### Unity College's Support Network for Survivors of Sexual Violence

Many campus and community options are available to those members of the Unity College community who experience sexual assault. Though different members of the support network specialize in certain areas, each will provide referrals to any other person or organization as appropriate.

***Waterville Rape Crisis Assistance and Prevention Agency (800-525-4441).*** The Rape Crisis Assistance and Prevention Agency provides 24-hour support for survivors of any sexual violence and also support for the survivor's friends and families. The agency staff provides advocacy services throughout the healing process including accompaniment through forensic evidence collection and law enforcement interviews. Waterville Rape Crisis Assistance and Prevention advocates also provide resources and referrals.

***Health and Wellness Center (Ext. 250, 715).*** Survivors of sexual assault have the option to seek medical attention. The Health and Wellness Center can provide medical care as well as supportive care, confidential counseling, information on procedural options, reporting choices, and referral services. Education on pregnancy and STD/HIV prevention options is also available.

***Counseling Services (Ext. 317).*** Sexual assault carries with it the potential for negative, long-term mental health consequences. The Unity College counseling service provides confidential consultation, crisis response, supportive counseling, and referral services for survivors and concerned others.

***MaineGeneral Medical Center, Thayer Unit, Emergency Room (872-1300).*** MaineGeneral Medical Center can provide immediate medical attention and treatment to prevent pregnancy and most sexually transmitted diseases. MaineGeneral Emergency Room nurses are certified to collect evidence, if desired, for use in later criminal proceedings. These nurses have been formally trained as SAFE (Sexual Assault Forensic Examiners). They provide confidential, consistent, and understanding evidence examination and collection. This evidence can not be released without the survivor's consent. The MaineGeneral Emergency Room has an existing relationship with Waterville Rape Crisis Assistance and Prevention.

***Dean for Student Affairs (Ext. 241).*** The dean can outline the options available to the survivor through the college and/or through the local authorities. The survivor may choose to adjudicate the case at Unity College through the Unity College judicial system, ask for assistance and/or support as s/he files a charge with the Waldo County Sheriff's Department or Maine State Police, or may request to have the name of the alleged violator of the Sexual

Assault Policy placed in a confidential record in the Student Affairs Office for possible use in the event that future complaints from other victims are received. The dean for student affairs also may, upon the request of the survivor, arrange for a meeting of the survivor, the accused, and a counselor so as to allow the survivor the opportunity to address the accused in a safe and supportive setting.

**Public Safety Office (Ext. 232 or 948-2268).** Public safety officers can provide survivor information, referrals to sexual assault support services, an options brochure, and pursue a course of action as chosen by the survivor.

**Maine State Police (800-452-4664).** State police can pursue the case through the legal system. Survivors can call the police directly to report and can meet with them on campus. The police likely will recommend that the survivor go to a local hospital for medical treatment and the collection of evidence.

### Disciplinary Procedure

Sexual assault is a criminal violation of the State of Maine "Sexual Assault" laws, US Sexual Abuse Codes, and a violation of the Unity College Sexual Assault Policy. A complaint of sexual assault can lead to either or both of two possible proceedings:

- A criminal court case filed by a district attorney's office;
- A campus judicial hearing.

In the criminal case, the prosecutor must convince the court of the guilt of the accused "beyond a reasonable doubt."

In the campus judicial hearing before the College Council, responsibility for a violation of the Unity College Sexual Assault Policy is established by a "clear and convincing" standard. The "clear and convincing" standard of proof represents a standard between the "mere preponderance of credible evidence" standard and the "beyond a reasonable doubt" standard. Procedures for a College Council hearing will be the same as those outlined in the Student Handbook.

The college reserves the right, as a separate jurisdiction, to conduct a review and make decisions according to these procedures and other procedures outlined in the Student Handbook before, during, or at the completion of extra-college criminal proceedings.

Prior to the judicial hearing, the accused may be subject to "Summary Suspension" as defined in the Student Handbook.

The accuser and the accused have the same right to:

- An unbiased hearing based on information presented at the hearing.
- Opportunities to have others present during the campus disciplinary process as defined in the Student Handbook section entitled "Student Rights: Judicial Processes."
- Be informed of the outcome of the campus disciplinary process, including written notification of any decisions in a timely manner.

All College Council deliberations and proceedings will be considered confidential.

Changes in the academic or living arrangements of the accuser may be authorized if requested and if reasonably available as determined by the college.

A range of sanctions may be imposed if the accused is found responsible for violation of the Unity College Sexual Assault Policy. Decisions and actions that may be recommended to the Dean for Student Affairs by the College Council after the College Council review include:

- Initiate a summary suspension.
- Continue a summary suspension already in effect.
- Removal/ restriction from residence facilities.
- Restriction from campus except to attend registered classes (class times).
- Monetary fines.
- Community service.
- Financial restitution for damages.
- Disciplinary probation.
- Residence hall probation.
- Official reprimand.
- Suspension from the college.
- Dismissal from the college.

**Education.** Unity College will implement educational programs to inform all college community members, students, faculty, and staff about sexual assault. These programs will be inclusive of the nature and frequency of sexual assault on college students, sexual assault myths and facts, options for the survivor, possible consequences for perpetrators and survivors, and encouragement to report sexual assaults and prevention information.

Unity College will maintain sexual assault education and proactive prevention programs by providing the following campus wide:

- Comprehensive information about acquaintance rape and other kinds of sexual assault most prevalent to the college community as mentioned above and also including, but not limited to, educational information about the involvement of alcohol and other drugs in relation to sexual assaults.
- Mandatory sessions for all new students during new student orientation.
- Opportunities throughout the academic year for students, faculty, and staff to learn about the dynamics of sexual assault and the circumstances in which they commonly occur on a college campus. These sessions would be a means for people to learn, have questions answered, and to provide resources and information.
- Distribute a sexual assault awareness pamphlet throughout campus in areas such as, but not limited to, residence halls, Student Center, cafeteria, Quimby Library, LRC, Health and Wellness Center, Public Safety Office, and near public telephones. Informative flyers, accessible to both male and female students, will be posted throughout the campus. The pamphlet and flyers will include definitions of sexual assault, information about its prevalence, how and when sexual assault generally occurs on campus, reporting sources, options and services available to survivors and friends of survivors, and prevention methods.
- Educational programs or information for staff, faculty, administration, and resident advisors on the Unity College Sexual Assault Policy. This training will also include specific guidelines for how to respond to an incident. A student may feel more comfortable disclosing to a trusted faculty, staff, administration member, or resident advisor who must be prepared to respond in an appropriate manner within the guidelines of the policy and procedures.

State of Maine Law (Sexual Assault) Chapter 11  
Sex Assaults (Heading: PL 1989, c. 401, Pt. A, 1 (rpr))

**17A 251. Definitions and General Provisions.** In this chapter the following definitions apply:

*pouse* means a person legally married to the actor, but does not include a legally married person living apart from the actor under a *de facto* separation.

*Sexual act* means:

- Any act between 2 persons involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other;
- Any act between a person and an animal being used by another person which act involves direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other; or
- Any act involving direct physical contact between the genitals or anus of one and an instrument or device manipulated by another person when that act is done for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.

A sexual act may be proved without allegation or proof of penetration.

*Sexual contact* means any touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or the purpose of causing bodily injury or offensive physical contact.

*Compulsion* means the use of physical force, a threat to use physical force, or a combination thereof that makes a person unable to physically repel the actor or produces in that person a reasonable fear that death, serious bodily injury, or kidnapping might be imminently inflicted upon that person or another human being.

*Safe children zone* means on or within 1000 feet of the real property comprising a public or private elementary or secondary school or on or within 1000 feet of the real property comprising a day care center licensed pursuant to Title 22, section 8301-A.

**17A 253. Gross Sexual Assault**

- A person is guilty of gross sexual assault as a result if that person engages with another person and:
- The other person submits as a result of compulsion, as defined in section 251, subsection 1, para-graph D; or

- The other person, not the actor's spouse, has not in fact attained the age of 14 years.
- A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:
- The actor has substantially impaired the other person's power to appraise or control the other person's sexual acts by administering or employing drugs, intoxicants, or other similar means;
- The actor compels or induces the other person to engage in the sexual act by threat;
- The other person suffers from mental disability that is reasonably apparent or known to the actor, and which in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the person has the right to deny or withdraw consent;
- The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual assault;
- The other person, not the actor's spouse, is in official custody as a probationer or a parolee, or is detained in a hospital, prison or other institution, and the actor has supervisory or disciplinary authority over the other person;

***hA 255. Unlawful Sexual Contact.***

- A person is guilty of unlawful sexual contact if the person intentionally subjects another person to any sexual contact, and:
- The other person has not expressed or implied acquiesced in the sexual contact;
- The other person is unconscious or otherwise physically incapable of resisting, and has not consented to the sexual act;
- The other person, not the actor's spouse, has not in fact attained the age of 14 years and the actor is at least 3 years older;
- The other person suffers from a mental disability that is reasonably apparent or known to the actor which in fact renders the other person substantially incapable of appraising the nature of the contact involved or the understanding that the person has the right to deny or withdraw consent;
- The other person, not the actor's spouse, is in official custody as a probationer or parolee or is detained in a hospital, prison, or other institution and the actor has supervisory or disciplinary authority over the other person;
- The other person, not the actor's spouse has not in fact attained the age of 18 years and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student;
- The other person has not in fact attained the age of 18 years and the actor is a parent, stepparent, foster parent, guardian, or other similar person responsible for the long-term general care and welfare of that other person;
- The other person submits as a result of compulsion;
- The actor owns, operates, or is an employee of an organization, program, or residence that is operated, administered, licensed, or funded by the Department of Mental Health, Mental Retardation and Substance Abuse Services, or the Department of Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that person as a person with mental retardation. It is an affirmative defense to prosecution under this paragraph that the actor receives services for mental retardation or is a person with mental retardation as defined in Title 34-B, section 5001, subsection 3; or
- The other person, not the actor's spouse, has not in fact attained the age of 18 years and is a student enrolled in a private or public elementary, secondary or special education facility or institution and the actor, having attained the age of 21 years, is a teacher, employee, or other official in the school district, school union, educational unit, school, facility, or institution in which the student is enrolled.
- Unlawful sexual contact is a Class D crime, except that a violation of subsection 1, paragraph J is a Class E crime and except that a violation of subsection 1, paragraph c, G and H is a Class C crime.