

SEXUAL VIOLENCE RESPONSE POLICY

Division: Equity and Campus Diversity
Responsible Office: Equity and Campus Diversity Office

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POLICY SUMMARY

As a reporting individual, you have the right to make a report to Buffalo State University Police, Buffalo Police Department, and/or New York State Police or choose not to report; to report the incident to anyone on campus; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from the campus.

POLICY STATEMENT

In accordance with the Students' Bill of Rights, reporting individuals shall have the right to pursue more than one of the options below at the same time or to choose not to participate in any of the options below:

REPORTING

To disclose confidentially the incident to one of the following Buffalo State University officials, who by law may maintain confidentiality and can assist in obtaining services (more information on confidential reporting is available in the Options for Confidentially Disclosing Sexual Violence):

- Anonymously via [University Police Sexual Assault Anonymous Report Form](#) or by calling the Equity and Campus Diversity Office anonymously at (716) 878-6210
- Buffalo State University [Counseling Center](#) (for complaints against students only)
- Buffalo State University [Employee Assistance Program](#) (for complaints against Buffalo State employees)
- Buffalo State University [Weigel Health Center](#) physicians and licensed medical professionals when they are engaged in a physician/patient relationship

To disclose confidentially the incident and obtain services from the New York State, New York City or county hotlines: [New York State Domestic Violence Hotlines](#)

Additional disclosure and assistance options are cataloged by the [Office for the Prevention of Domestic Violence](#) and presented in several languages (or call 1-800-942-6906), and assistance can also be obtained through:

- [Crisis Services of Erie County](#): (716) 834-3131
- [Legal Momentum](#)
- [New York State Coalition Against Sexual Assault](#) (NYSCASA)
- [New York State Coalition Against Domestic Violence](#) (NYSCADV)
- [Pandora's Project](#)
- [GLBTQ Domestic Violence Project](#)
- [Rape, Abuse and Incest National Network](#)

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- [Safe Horizon](#)

(Note that these hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the campus. Victims/survivors are encouraged to additionally contact a campus confidential or private resource so that the campus can take appropriate action in these cases.)

To disclose the incident to one of the following university officials who can offer privacy and provide information about remedies, accommodations, evidence preservation, and how to obtain resources. Those officials will also provide the information contained in the Students' Bill of Rights, including the right to choose when and where to report, to be protected by the institution from retaliation, and to receive assistance and resources from the institution. These university officials will disclose that they are private and not confidential resources, and they may still be required by law and university policy to inform one or more university officials about the incident, including but not limited to the Title IX Coordinator. They will notify reporting individuals that the criminal justice process uses different standards of proof and evidence than internal procedures and questions about the penal law or the criminal process should be directed to law enforcement or the district attorney:

- [Title IX Coordinator](#) at (716) 878-6210;
- [University Police Department](#) at (716) 878-6333;
- [Student Conduct and Community Standards](#) at (716) 878-3051 (when a Buffalo State student is the accused); and
- [Office of Human Resource Management](#) at (716) 878- 3042 (when a Buffalo State employee is the accused).

To file a criminal complaint with the University Police Department and/or with local law enforcement and/or New York State Police:

- [University Police Department](#) Karner Hall 100, (716) 878-6333
- For off-campus emergencies, call 911
- [City of Buffalo Police Department](#) D District Station: (716) 851-4413
- New York State Police 24-hour hotline to report sexual assault on a NY college campus: 1-844-845-7269. To receive assistance from Buffalo State in initiating legal proceedings in family or civil court.

To file a report of sexual assault, domestic violence, dating violence, and/or stalking, and/or talk to the Title IX Coordinator for information and assistance. Reports will be investigated in accordance with university policy, and the reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy. If a reporting individual wishes to keep his/her identity anonymous, he or she may call the Title IX Coordinator in the [Equity and Campus Diversity Office](#) anonymously to discuss the situation and available options: Equity and Campus Diversity, Cleveland Hall, Room 204, Buffalo, NY 14222; Tel. (716) 878-6210; email: eeoequity@buffalostate.edu .

When the accused is an employee, a reporting individual may also report the incident to the Buffalo State Office of Human Resource Management or may request that one of the above referenced confidential or private employees assist in reporting to Human Resources. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the university,

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university officials will, at the request of the reporting individual, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and university policy.

Office of [Human Resource Management](#): 403 Cleveland Hall, Buffalo, NY 14222; Tel. (716) 878-3042. Note: You may withdraw your complaint or involvement from the University process at any time.

Resources

To obtain effective intervention services:

- [The Counseling Center](#) (716) 878-4436 - provides no-cost counseling and assistance to Buffalo State students.
- [Weigel Health Center – Health Promotion](#) (716) 878-6711 - provides assistance that includes rape and sexual assault prevention and support and LGBTQ wellness.
- [Employee Assistance Program](#) (716) 878-6699 - free & voluntary information, assessments, and resources for Buffalo State employees, and referrals to long-term counseling when necessary.
- [Weigel Health Center - Services](#) (716) 878-6711 - services include emergency contraception and sexually transmitted disease (STD) testing and treatment.

Within 120 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus, and, in some cases, insurance may be billed for services. You are encouraged to inform hospital personnel if you do not want your insurance policyholder to be notified about your access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found here: http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf, or by calling 1-800-247-8035. Options are explained here: <http://www.ovs.ny.gov/helpforcrimevictims.html>.

To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.

Rights to Protections and Accommodations

- When the accused is a student, have Buffalo State issue a “No Contact Order,” meaning that continuing to contact the protected individual is a violation of the University policy subject to additional conduct charges; if the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person. The accused/respondent and reporting individual may request a prompt review of the need for and terms of a No Contact Order, consistent with Buffalo State policy. Parties may submit evidence in support of their request.
- To have assistance from the University Police Department or other Buffalo State officials in initiating legal proceedings in a family court or criminal court, including

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- but not limited to obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.
- To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a Buffalo State official who can explain the order and answer questions about it, including information from the Order about the accused's responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s).
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- To have assistance from the University Police Department in effecting an arrest when an individual violates an Order of Protection or, if outside of New York State, an equivalent protective or restraining order within the jurisdiction of the University Police Department or, if outside of the jurisdiction, to call on and assist local law enforcement in effecting an arrest for violating such an order.
- When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subject to interim suspension pending the outcome of a conduct process. Parties may request a prompt review of the need for and terms of an interim suspension.
- When the accused is not a student but is a member of the university community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and university policies and rules.
- When the accused is not a member of the university community, to have assistance from the University Police Department or other Buffalo State officials in obtaining a persona non grata letter, subject to legal requirements and Buffalo State policy.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Parties may request a prompt review of the need for and terms of any interim measures and accommodations that directly affect them. While reporting individuals may request accommodations through any of the offices referenced in this policy, the following office can serve as a point to assist with these measures: Equity and Campus Diversity Office, Cleveland Hall, Room 204, Buffalo, NY 14222; Tel. (716) 878- 6210; eeoequity@buffalostate.edu.

Responsibility and Procedure

Student Conduct Process Rights

To request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the [Buffalo State Code of Student Rights, Freedoms and Responsibilities](#) as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.

Throughout conduct proceedings, the accused and the complainant will have:

- The same opportunity to be accompanied by an advisor of their choice who may assist and advise the parties throughout the conduct process and any related hearings or meetings. Participation of the advisor in any proceeding is governed

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by federal law and the Buffalo State Code of Student Rights, Freedoms and Responsibilities;

- The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made, and other issues related to sexual assault, domestic violence, dating violence, and stalking.
- The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
- The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Accused individuals will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions.
- The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
- The right to offer evidence during an investigation and review relevant evidence in the case file (or otherwise held by the University).
- The right to present evidence and testimony at a hearing, where appropriate.
- The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
- The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in the university disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
- The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present.
- The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.
- The right to written or electronic notice about the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
- Access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest.

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- The right to have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five years: [Student Conduct and Community Standards](#), Bengal Hall 14, Buffalo, NY 14222. Phone: (716) 878-3051
- The right to choose whether to disclose or discuss the outcome of a conduct hearing.
- The right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

RELATED INFORMATION

[Buffalo State Code of Student Rights, Freedoms and Responsibilities](#)

In Case of Emergency: Contact University Police immediately at (716) 878-6333, if you feel you are in danger. University Police should also be contacted to report any threatening or dangerous behavior.

CONTACT INFORMATION

Equity and Campus Diversity Office
Cleveland Hall, Room 204
1300 Elmwood Avenue
Buffalo, NY 14222

Phone: (716) 878-6210
Fax: (716) 878-6234
Website: <http://equity.buffalostate.edu/>
Email: eeoequity@buffalostate.edu

REVISION HISTORY

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APPROVAL

State University of New York Office of General Counsel