



## Sexual Assault Response Policy

The State University of New York and Morrisville State College are committed to providing options, support and assistance to victims/survivors of these crime and violations regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, or criminal convictions, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad. We are committed to providing a safe and secure environment in which all members are treated with dignity and respect. To that end, the college takes the strongest possible stance against sexual misconduct in all its forms, including sexual harassment, sexual assault, sexual violence or the use of coercion, intimidation or exploitation of others for sexual purposes. The college is actively engaged in educating its members about these vital issues and in providing timely support and assistance to victims of sexual assault.

**Sex Offenses, Lack of Consent:** Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim. Definitions relating to this policy are below:

**Affirmative 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 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- Consent may be initially given but withdrawn at any time.
- When consent is withdrawn or cannot be given, sexual activity must stop.
- Consent cannot be given when a person is incapacitated. 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.

**Burden of proof** in all cases is “the preponderance of the evidence – whether it is “more likely than not” that the violation occurred. If the evidence presented meets this standard, then the accused must be found responsible.

**Sexual assault** - New York State does not specifically define sexual assault. However, according to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape as used in the FBI's UCR program.

**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.

**Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

**Incest** - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape** - Sexual intercourse with a person who is under the age of consent in New York State (17 years is the age of consent in New York State.)

**Sexual harassment** - unwelcome verbal or physical conduct of a sexual nature that is sufficiently severe or pervasive to effectively alter or deny the individual reasonable access to University resources or that such conduct creates an intimidating, hostile or sexually offensive environment for learning, working or living on campus.

### **Students' Bill of Rights**

The State University of New York and Morrisville State College are committed to providing options, support and assistance to victims/survivors of these crime and violations regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, or criminal convictions, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad:

#### **All students have the right to:**

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure from the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institutional representatives as practicable and not be required to unnecessarily repeat a description of the incident.
8. Be free from retaliation by the institution, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
11. Exercise civil rights and practice of religion without interference by the investigative, criminal Justice, or judicial conduct process of the institution.

In accordance with the above 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:

### **I: Reporting**

- Resident Assistants and Resident Hall Directors.
- New York State University Police, Morrisville State College at: (315) 684-6410.
- Sarah Steele, Director of Human Resources and Affirmative Action/Title IX Coordinator, Whipple Administration Building, 1st floor, Morrisville State College, Morrisville, NY 13408, (315) 684-6829, email: [steelesg@morrisville.edu](mailto:steelesg@morrisville.edu).
  - Geoffrey Isabelle, Dean of Students, 3rd floor of the Whipple Administration Building, Morrisville State College, Morrisville, N.Y., 315-684-6070; [isabelgs@morrisville.edu](mailto:isabelgs@morrisville.edu)
- New York State Police Troop D-Morrisville at 315-684-9550.
- Madison County Sheriff's at 315-366-2311.

### **II- Resources:**

- Be notified of existing campus and community-based medical, counseling, mental health and student services for victims of sexual assault whether or not the assault is formally reported to campus or civil authorities;
- Have access to campus counseling;
- Be informed of and assisted in exercising:
  - Any rights to confidential or anonymous testing for sexually transmitted infections, HIV, and pregnancy,
  - Any rights to preventive measures such as emergency contraception or HIV prophylaxis,
  - Any rights that may be provided by law to obtain the communicable diseases test results of sexual assault suspects;
- Be informed of the possible availability of crime victim assistance compensation through the New York State Crime Victims Board;

### **III- Protection and Accommodations:**

- Be given notice describing options to pursue a criminal complaint with the appropriate law enforcement agency, to pursue the Morrisville State College's disciplinary process, or to pursue both processes simultaneously;
- Reports of sexual assault will be investigated and evaluated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported;
- Victims shall receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities;
- Victims shall receive full, prompt, and victim-sensitive cooperation of campus personnel with regard to obtaining, securing and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault; "No contact" orders ( e.g., Cease and Desist orders) shall be issued promptly and in writing to all parties to a reported sexual assault after the Morrisville State College receives notice of a complaint;
- Campus personnel shall take reasonable and necessary actions to prevent further unwanted contact by victims' alleged assailants;
- Victims shall be notified of the options for and provided assistance in changing academic and living situations if such changes are reasonably available (The campus will promptly review existing interim measures or accommodation. The parties can submit evidence to support their request.