

Sexual Assault and Sexual Harassment: Definitions, Prevention and Resource Information

Sexual assault and sexual harassment are serious problems that demand our immediate attention. At the University of Wisconsin Oshkosh, we are committed to the prevention of all forms of sex based abuse. Coercive sexual contact and unwelcome comments of a sexual nature are offensive and undermine the safety, security, and dignity of all members of the University community. The University believes that the recognition of a problem is the first step toward responding to that problem. Toward that end, this information is intended to help prevent sexual assault and sexual harassment in the University setting.

Legal Definitions and Penalties

The Wisconsin Statutes define the serious criminal offenses of sexual assault, sexual exploitation by a therapist and sexual harassment. The following information prepared by UW System Legal Counsel provides a summary of offenses and corresponding penalties.

Sexual Assault

Section 940.225 of the Wisconsin Statutes creates four degrees of sexual assault. The degrees are based upon the amount of force used by the assailant and the harm done to the victim. First, second and third degree sexual assaults are felonies; fourth degree sexual assault is a misdemeanor.

First Degree Sexual Assault Includes:

Sexual intercourse or sexual contact without consent which causes pregnancy or inflicts great bodily harm, or

Sexual intercourse or sexual contact without consent accomplished by using or threatening to use a dangerous weapon, or

Sexual intercourse or sexual contact without consent while aided by one or more persons.

A person can be imprisoned not more than twenty years for committing first degree sexual assault.

Second Degree Sexual Assault Includes:

Sexual intercourse or sexual contact without consent through the use or threat of violence, or

Sexual intercourse or sexual contact without consent which causes injury, including illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care, or

Sexual intercourse or sexual contact with a person known by the perpetrator to be unconscious or mentally ill or mentally deficient.

A person can be imprisoned not more than ten years and/or fined not more than \$10,000 for committing second degree sexual assault.

Third degree sexual assault is having sexual intercourse with a person without that person's consent.

The penalty for third degree sexual assault is imprisonment for not more than five years and/or a fine or not more than \$10,000.

Fourth degree sexual assault is having sexual contact with a person without that person's consent.

The penalty for fourth degree sexual assault is imprisonment for not more than nine months in the county jail and/or a fine or not more than \$10,000.

Sexual Assault of a Child

Section 948.02 of the Wisconsin Statutes prohibits sexual assaults against children. There are two degrees of the offense, both felonies, as follows:

First degree sexual assault of a child is sexual contact or sexual intercourse with a person who has not attained the age of 13 years.

The penalty for first degree sexual assault of a child is imprisonment for not more than 20 years.

Second degree sexual assault of a child is sexual contact or sexual intercourse with a person who has not attained the age of 16 years.

The penalty for second degree sexual assault of a child is imprisonment for not more than 10 years and/or a fine of not more than \$10,000.

Consent of the victim is not an issue for these offenses. In addition, this statute prohibits "failure to act." That is, if a person responsible for a child's welfare knows that another person intends to have, has had or is having sexual intercourse or sexual contact with the child, and fails to take action, the person responsible may also be guilty of a crime. "Failure to act" under this section is a felony.

A person found guilty of failure to act can be imprisoned for not more than 10 years and/or fined not more than \$10,000.

Sexual Exploitation By a Therapist

Section 940.22 of the Wisconsin Statutes prohibits sexual contact between a therapist and a patient or client, and imposes a duty to report violations.

Intentional sexual contacts-defined in the sexual assault statute-is prohibited between any person who is or who holds himself or herself out to be a therapist and a patient or client during any ongoing therapist patient or therapist client relationship. Consent is not an issue under this provision.

A therapist having sexual contact with a patient or client is guilty of a felony and maybe imprisoned for not more than 5 years and/or fined not more than \$10,000.

Reporting to the Department of Regulation and Licensing or the appropriate district attorney is required if a therapist has reasonable cause to suspect that a patient or client is a victim of sexual contact by another therapist. The therapist must ask the victim if he or she wants to make a report, and must make the report within 30 days of obtaining the victim's consent. The identity of the victim need not be revealed.

Failure to report is a misdemeanor, punishable by imprisonment for not more than nine months and/or a fine of not more than \$10,000.

Harassment

Section 947.013 of the Wisconsin Statutes prohibits harassment. Harassment occurs when a person:

Strikes, shoves, kicks or otherwise subjects another person to physical contact or attempts or threatens to do any of these things, or

Engages in a course of conduct or repeatedly commits acts which harass or intimidate the person, and which serve no legitimate purpose.

A person who engages in harassment is subject to a forfeiture of not more than \$1,000.

Sexual Harassment

Section III.32(13) of the Wisconsin Statutes defines sexual harassment as unwelcome sexual advances, unwelcome physical contact of a sexual nature or unwelcome verbal or physical conduct of a sexual nature.

Unwelcome verbal or physical conduct of a sexual nature includes but is not limited to the deliberate, repeated making of unsolicited gestures or comments, or the deliberate, repeated display of offensive sexually graphic materials which is not necessary for business purposes.

Victim's Legal Rights

If a victim pursues legal prosecution, he or she has rights under Chapter 950 of the Wisconsin Statutes.

Eligibility of Victims

A victim has legal rights and is eligible for the services under this chapter only if the victim reports the crime to law enforcement authorities within five days of its occurrence or discovery, unless he or she has a reasonable excuse not to do so.

Basic Bill of Rights

Sections of 950.04 and 950.045 of the Wisconsin Statutes identifies the basic rights as printed below of victims and witnesses of crime:

(1) To be informed by local law enforcement agencies and the district attorney of the final disposition of the case. If the crime charged is a felony or is specified in ch. 940 or s. 948.02, 948.03 or 948.05, the victim shall be notified whenever the defendant or perpetrator is released from custody. The victim shall be notified of a pardon application by the governor under s.57.09(3).

(2) To be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled, in order to save the person an unnecessary trip to court.

(2m) To have the court provided with information pertaining to the economic, physical and psychological effect of the crime upon the victim of a felony and have the information considered by the court.

(3) To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available.

(4) To be informed of financial assistance and other social services available as a result of being a witness or a victim of a crime, including information on how to apply for the assistance and services.

(5) To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled.

(6) To be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants.

(7) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analyses and property the ownership of which is disputed, shall be returned to the person within 10 days of being taken.

(8) To be provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process and the juvenile justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances.

(9) To be entitled to a speedy disposition of the case in which they are involved as a victim or witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter.

(10) To have the family members of all homicide victims afforded all of the rights under subs. (1) to (4) and (6) to (9) and analogous services under 2.950.05, whether or not they are witnesses in any criminal proceedings.

Section 950.045 indicates that victims of crime are entitled to written statements concerning parole and pardon applications.

University of Wisconsin Oshkosh Policies and Procedures Sexual Harassment Policy

Sexual harassment is defined by the University of Wisconsin Oshkosh as follows: "Sexual harassment is a form of sex discrimination. It occurs in a variety of situations which share a common element: the inappropriate introduction of sexual activities or comments into the work, learning, or living situation. Often, sexual harassment involves relationships of unequal power, and contains elements of coercion-as when compliance with requests for sexual favors becomes criterion for granting work, study, or grading or other benefits. However, sexual harassment may also involve relationships among equals, as when repeated sexual advances or demeaning verbal behavior have a harmful effect on a person's ability to study or work in the academic setting. Unwelcome sexual advances, requests for sexual favors, and other physical conduct and expressive behavior of a sexual nature constitute sexual harassment when:

"(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; or

"(2) Submission to or rejection of such conduct by an individual is used as a basis for academic or employment decisions affecting that individual; or

"(3) Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating, hostile or demeaning employment or educational environment."

In considering sexual harassment, it is the **EFFECT** of behavior, not the **INTENT** that counts.

In keeping with this policy, the University of Wisconsin Oshkosh will make a concerted effort: (1) to prevent sexual harassment from taking place; (2) to protect employees and students from all forms of sexual harassment as defined; and (3) to rid the University of any such offensive conduct. Toward these

ends any form of sexual harassment (as defined above) provides an immediate basis for review of those actions and may also provide grounds for the imposition of appropriate disciplinary actions, up to and including suspension or termination. In addition to this formal policy, it is important to note that there may be other approaches to solving sexual harassment complaints than those listed in this policy.

All allegations of sexual harassment will be taken seriously, with careful attention given to the rights and protection of both the accused and the accuser. Any person who believes that sexual harassment has occurred may make an inquiry or complaint by utilizing the informal or formal procedures described in the Sexual Harassment Policy, which can be found in its entirety at <http://www.uwosh.edu/shrg/policy.htm>.

Reporting Sexual Harassment

Any student who believes that sexual harassment has occurred may make an inquiry or complaint to the Dean of Students, Affirmative Action Office, Department Chair or College Dean. The student will be informed of options available and the responsibilities associated with the resolution process.

In order to provide assistance with the implementation of the Sexual Harassment Policy, the University has established a Sexual Harassment Resource Group. Names and contact information for Sexual Harassment Resource Group members can be found at <http://www.uwosh.edu/shrg/sexualharassmentresourcegroup.htm>. Resource persons should be available to assist those with a sexual harassment concern in any of the following manners: (1) As a resource for information and referral. (2) As support in meetings with the Director of Affirmative Action or other representatives of the university, as requested by the individual. (3) To assist in the resolution process as requested by the individual.

Allegations by students, faculty or staff that a student has engaged in sexual harassment will be processed through the Dean of Students Office.

A complete copy of the Sexual Harassment Policy and Complaint Procedure can be obtained from the Dean of Students Office, Dempsey 125 or Affirmative Action Office, Dempsey 239 or can be viewed at <http://www.uwosh.edu/shrg/policy.htm>.

Sexual Assault Reporting Procedures

Should I Report An Assault?

Report any incident, even if you are unsure about how to define what happened to you. You may report the incident to your Hall Director, Community Advisor, the University Police Department, the Oshkosh Police Department, and/or the Dean of Students Office. Assistance for reporting a sexual assault to authorities is also available if requested. Feel free to bring a friend with you for support. In criminal sexual assault cases, it is important to consider preserving evidence that may be necessary for the proof of the assault.

The main concerns will be to ensure that you have the support and assistance you need and to outline possible options for you. You will be able to report what happened confidentially. No action will be taken by our staff without your consent. (The only exception to this involves complying with state laws requiring reporting of sexual assaults of persons under 18 years of age.)

Dean of Students Office

Options through the Dean of Students Office may include disciplinary action if the offender is a student and a University policy has been violated. Disciplinary actions include reprimand, probation, suspension

or expulsion. Dean of Students staff may, if you wish, take steps to contact and to confront an offender without using disciplinary action.

Procedures for on-campus disciplinary action are covered in UWS Chapter 17 as found herein. Copies of the Student Discipline Code are available in the Dean of Students office. In cases of alleged sexual assault, (1) the accuser and the accused shall be provided an opportunity to be represented during the course of disciplinary hearing and (2) both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceedings brought alleging sexual assault under parameters of federal and state law.

Assistance for changing academic and living situations may also be available. Options available in cases alleging sexual assaults include but are not limited to the following: reassignment of alleged assailant from residence hall(s); restriction of alleged assailant from eating in a particular commons; and no contact with the complainant.

UW Oshkosh Guarantee for Sexual Assault Victims

1. We will meet with you privately, at a place of your choice, in this area to take a complaint report.
2. If you feel more comfortable talking with a female or male officer or staff member, we will do our best to accommodate your request.
3. You may file a complaint through the University Police, at the Dean of Students Office or both. All options will be explained to you. We will fully investigate your case and will help you achieve the best outcome. This may involve the arrest and full prosecution of the suspect responsible. You will be kept up-to-date on the progress of the investigation and/or prosecution.
4. Our officers and other staff will not prejudge you, and you will not be blamed for what occurred.
5. We will continue to be available for you to answer your questions, to explain the systems and processes involved, and to be a willing listener.
6. We will assist you in arranging for any hospital treatment or other medical needs.
7. We will assist you in privately contacting counseling, safety, advising and other available resources.
8. We will treat you and your particular case with courtesy, sensitivity, dignity, understanding and professionalism.
9. We will consider your case seriously, regardless of your gender or the gender of the suspect.
10. We will ask the press to respect your privacy. Local media have been very sensitive to the confidentiality of those reporting sexual assaults.

Adapted with permission from: Michigan State University, Department of Public Safety

The Dean of Students Office will also discuss with you reporting to the University Police, if you were assaulted on campus, or the City of Oshkosh Police, if you were assaulted off campus. Campus and community resources available to you will be discussed.

Campus Resources

Sexual Assaults:

Counseling Center Dempsey 201.....424-2061
8 a.m. -7:00 p.m. (Mon.- Tues.)
8 a.m. - 4:30 p.m. (Wed.-Fri.)

Dean of Students Office Dempsey 125424-3100
8 a.m. - 4:30 p.m. (Mon.- Fri.)

Department of Residence Life 2nd floor,
(or contact a Residence Hall Director)
S. Gruenhagen424-3212
8 a.m. - 4:30 p.m. (Mon.- Fri.)

Student Health Center Radford Hall424-2424
8 a.m. - 6:30 p.m. (Mon.)
8 a.m. - 4:30 p.m. (Tues. - Fri.)
(during regularly scheduled class sessions)

University Police (24 hours)424-1212

Escort Service:

Knight Owl SAFE WALK.....424-7421
(call for location and hours of operation)

Sexual Harassment:

Affirmative Action Office Dempsey 239 ...424-0330
8 a.m. – 4:30 p.m. (Mon. - Fri.)
<http://www.uwosh.edu/shrg/>

Community Resources:

Crisis Intervention Helpline
(Telephone Only) 24-hours233-7707

Mercy Medical Center223-2000

Oshkosh City Police/Ambulance911

Sexual Abuse Services (24 Hour Crisis Lines)
Oshkosh.....426-1460
Neenah/Menasha722- 8150