

ST. CLAIR COUNTY COMMUNITY COLLEGE ADMINISTRATIVE PROCEDURE

Name: Violence Against Women Act (VAWA) - REPORTING OF SUSPECTED SEXUAL MISCONDUCT
Effective: July 1, 2015
Revision Date: September 18, 2018
Initiator / Author: Administrative Services/Student Services
Board Policy: 2.1, Compliance
Federal Regulation: Violence Against Women Act (VAWA) – Campus Sexual Violence Elimination Act (SAVE)

1.0 INTRODUCTION

1.1 PURPOSE

The purpose of this guideline is to provide information and direction to staff, faculty and students of St. Clair County Community College (SC4) regarding the mandatory federal requirements related to the Violence Against Women Act amendments to the Clery Act; and to affirm the commitment of SC4 to the protection of the safety and welfare of the SC4 community. SC4 prohibits crimes of:

- Sexual violence
- Dating violence
- Domestic violence
- Stalking

1.2 AUTHORITY

The requirements addressed in this procedure implement the mandatory Violence Against Women Reauthorization Act of 2013 (VAWA) ([Pub. L. 113-4](#)), which, among other provisions, amended section 485(f) of the HEA, otherwise known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) which expands rights afforded to campus survivors of sexual assault, domestic violence, dating violence and stalking as they apply to SC4. Compliance with these provisions does not constitute a violation of section 444 of the General Education Provisions Act (20 U.S. C. 1232g), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

1.3 DEFINITIONS:

Definitions include but are not limited to the following when addressing sexual misconduct. Sexual misconduct is any action of a sexual nature that occurs without consent. VAWA Terms and Definitions.¹

Sexual Assault

An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program.

Sex Offenses:

1. 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.

2. Incest

¹ Sources: FBI UCR Program, NIBRS User Manual, SRS FBI User Manual, 2013 Clery Center for Security on Campus; US Dept of Education Handbook for Safety and Security, SC4 College Catalog

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

3. 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.

4. Statutory Rape

Sexual intercourse with a person who is under the statutory age of consent.

5. Domestic Violence

- A felony or misdemeanor crime of violence committed;
- By a current or former spouse or intimate partner of the victim;
- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or former intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
- By any person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction of which the crime in violence occurred.

6. Dating Violence

- Violence committed by a person who is, or has been in a social relationship, romantic or intimate nature with the victim.
- The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.
- Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

7. Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person:

- To fear for the person's safety or the safety of others;
- To suffer substantial emotional distress.

For the purposes of this definition:

- *Course of conduct* means two or more acts, including but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person's property.
- *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.

- *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling.
- Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

8. Hate Crimes

Include incidents of bias such as: race, gender, religion, sexual orientation, ethnicity, disability, gender identity and national origin for the offenses of: murder/non-negligent manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, arson, larceny, simple assault, intimidation, destruction/damage/vandalism of property.

Consent

Inflicting any sexual invasion/assault upon any person without that person's consent is prohibited. "Consent" requires actual words or conduct indicating a freely-given agreement to have sexual intercourse, or to participate in sexual activities. The college community should be aware that, depending on the particular circumstances, previous sexual relationships or a current relationship between the persons involved, or silence or lack of protest does not necessarily constitute consent. Further, the degree of impairment of a person's ability to give or withhold consent (including, but not limited to, incapacity or helplessness caused by alcohol or any other drugs) may be introduced as pertinent information at any college disciplinary hearing.²

"Employee" is defined as any person, who performs official duties on behalf of SC4, is compensated directly by the College, and is subject to the College's direction and control. It also means, all official volunteers; it does not include any other person or employees of independent contractors.³

2.0 REPORTING REQUIREMENTS

A victim of sexual assault may report the assault to the College's Campus Patrol at **(810) 989-5757**, to the Title IX Coordinator/VP of HR at **(810) 989-5537** or to the Vice President of Student Services at **(810) 989-5561**.

Prompt calls are encouraged. If the victim is unable to report the crime, it is the expectation of the College that anyone aware of the crime should report all known details to one of the individuals noted above as soon as possible.

The College will take all reasonable steps to investigate the reported sexual assault while maintaining confidentiality to the extent permitted by law.

A. Reporting requirements for SC4 employees

1. An oral report shall be made as immediately as is practicable, of the event that caused the employee to believe that a person on campus or at a college activity has been subject to sexual violence.
 - a. To the President of the College or to the person designated by the President to receive such reports ("the President's designee"). The President's designee is the Title IX Coordinator/VP of HR.
 - b. Institutional investigator shall be trained in investigation and shall provide confidentiality to the extent permitted by law.
 - I. Reporting to law enforcement as required including but not limited to discussion with victims on reporting options.
 - II. See attached Appendix A for faculty "Code of Ethics."

² Source: SC4 College Catalog

³ Source: MCCRMA

B. Reporting Requirement for All Other Persons

Members of SC4, to include staff, students and contractors on campus, are also required to report suspected sexual violence incidents as follows:

1. Such individuals shall report orally or in writing to:
 - a. The President of the College or the President's designee, when the suspected violation;
 - I. Took place in College facilities or on College property;
 - II. Was committed by a current, former employee or volunteer of SC4;
 - III. Occurred in connection with a college sponsored, recognized or approved program, visit, activity or camp, regardless of location;
 - IV. Took place while the victim was a registered student or visitor at the institution.

C. Reporting Victim Rights; Disciplinary Rights⁴

If a student or employee reports to the College that they have been a victim of sexual assault, domestic violence, dating violence or stalking, the College can provide them with a written explanation of their rights and options. The College can facilitate accommodations to the victim's academic, living, transportation, working situations, as well as with protective measures while maintaining confidentiality to the extent permitted by law after an alleged sexual assault, domestic violence, dating violence or stalking. Accommodations or protective measures can also be facilitated regardless if the victim chooses to report the crime to Campus Patrol, the Title IX Coordinator/VP of HR, the Vice President of Student Services, or to local law enforcement. The College can give notice of the options for those changes, if they are requested by the victim and are reasonably available.

Procedures for filing, conducting, and/or appealing campus disciplinary actions in cases of alleged sexual assault, domestic violence, dating violence and stalking related offenses can be found at the College's website by visiting www.sc4.edu/student-code-of-conduct/ or in the Student Handbook at www.sc4.edu/catalog/. The type of disciplinary proceeding deemed necessary and the anticipated timelines will be determined based on the circumstances of the event from the Student Code of Conduct Violations and Due Process sections I and II. The investigation shall be led by an individual free from any conflicts of interest relating to the allegations brought forth by the complainant. The proceedings will be prompt, fair, impartial, and conducted by College personnel assigned who has received annual training on investigating issues related to sexual assault, domestic violence, dating violence, and stalking. Whenever possible, efforts shall be made to complete the investigation as quickly as possible. Both, the complainant and the accused, will be given timely notification of meetings at which one or the other, or both, may be present and will be provided timely and equal access to information to be used during these meetings and/or hearings.

If disciplinary action is pursued for an alleged sexual assault, domestic violence, dating violence or stalking event through the College's procedures, both the victim and the accused are entitled to have others present during the proceeding in accordance with College policies and procedures. During a disciplinary proceeding, the standard of evidence used will be found in section II of the College's Student Code of Conduct Violations and Due Process procedures. Both the victim and the accused shall be informed in writing of the outcome of the proceeding. If the alleged victim of the sexual assault, domestic violence, dating violence or stalking event is deceased as a result of the offense, the next of kin of the victim shall be informed of the proceeding. College disciplinary sanctions for offenders include reprimand or censure, probation, restrictions of privileges, loss or dismissal of course credit, denials or revocations of honors or degrees, suspension and expulsion, to include other sanctions which may be imposed in addition to those above. Students may be

⁴ Source: VAWA checklist from Clery Center for Security on Campus

directed to have no contact with other students and/or may be forbidden to access specified areas of campus.

3.0 Prevention, Awareness and Education Program(s)

College shall include sexual assault, domestic violence, dating violence, and stalking policy statements, information in the Annual Security Report as required under the Clery Act.

College shall provide information focused on the prevention of dating violence, domestic violence, sexual assault and stalking in all employee and student orientations and make the information available in key locations throughout campus through communication forms such as printed brochures, online web and portal announcements, posters and digital displays on campus.

College shall conduct annual educational sessions on campus focused on the prevention of dating violence, domestic violence, sexual assault and stalking to include but not limited to guest speakers.

Educational Programs Content Outline:

The College is committed in its attempt to provide a safe and secure environment. The awareness, prevention and survival of sexual assault, domestic violence, dating violence and stalking are an important aspect of this. Annually, in cooperation with academic and student service departments, Campus Patrol and with other outside community and local government organizations, the College presents the **"Sexual Assault Awareness, Prevention and Survival Program"** in a campaign to increase the knowledge base of its students, employees and the campus community. In addition, the College distributes education brochures and includes information in new student orientation on VAWA-Sexual Misconduct.

A sample education program outline follows:

Overview:

- Awareness of situations, acts, personal demeanor, and body language that persons can avoid in an effort to decrease their vulnerability through risk reduction in becoming a victim of sexual assault, domestic violence or dating violence. This also included the announcement of upcoming lectures, discussions and self-defense techniques from the Port Huron Police Department's "R.A.D." program concerning self-defense skill and techniques for women.
- "Consent" definition
- Current laws regarding sexual assault, domestic violence, dating violence, stalking, victim's rights and how they work in the legal system. Points of interest covered included notification by the victim to law enforcement in a timely manner for evidence retention, the differentiation of sexual assault charges, how they apply and penalties that arise from convictions to these various legal charges.
- Methods of risk reduction to avoid becoming a victim of sexual assault by means of "Date Rape Drugs" in public and social gatherings, plus the negative effects of these drugs on their victim's ability to recognize actions that may be leading to an assault, resist the assault or even remember the assault having occurred.
- Where and how to find help for sexual assault, domestic violence, dating violence and stalking through various community out-reach based groups and organizations.
- Safe and positive options for bystander intervention – actions that may be carried out by an individual or individuals to prevent harm or to intervene in situations of potential harm when there is a risk of sexual assault, domestic violence, dating violence or stalking against an individual. Effective bystander intervention empowers participants to recognize situations of potential harm by overcoming barriers to intervening and by identifying safe and effective intervention options. More information of bystander intervention can also be found on line at "Step Up!" by clicking on: stepupprogram.org/topics/sexual-assault/#scenario.

Should a Sexual assault, Domestic Violence, Dating Violence or Stalking Occur

In the event that a sexual assault, domestic violence, dating violence or stalking occurs, the victim should follow these steps:

- Go to a safe place to protect yourself from further assault or injury.
- Contact law enforcement, or if necessary an ambulance, immediately. Local, County and State Law Enforcement Agencies, to include emergency medical care can be summoned by **dialing 9-1-1** on any phone or at **(810) 985-8115**. You can also call Campus Patrol who will be able to assist you in calling law enforcement and assist responding emergency personnel in arriving to your location.
- Seek medical examination and treatment if needed.
- ***For Sexual assault Specifically*** - abstain from washing, changing your clothes, douching or disturbing any evidence of the assault.
- Refer to law enforcement to learn your rights as a victim and procedures for Personal Protection Orders, or other similar orders issued by criminal or civil courts. The College can provide assistance in contacting the responsible jurisdiction.

Seek Counseling

Referrals for victims of sexual assault are available at the Advising Office in the Welcome Center at the Advising Check-In Help Desk. You may also call at **(810) 989-5520** for other available community resources. Further resources can also be gained from the College's portal website (<https://portal.sc4.edu/student/Pages/default.aspx>) starting at the **Student Resources** tab, then the **Support for Success** tab.

On Campus Resources

A victim of sexual assault may report the assault to the College's Campus Patrol at **(810) 989-5757**, to the Title IX Coordinator/VP of HR at **(810) 989-5537** or to the Vice President of Student Services at **(810) 989-5561**.

Off Campus Resources

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| • Port Huron General Hospital | (810) 989-3300 Emergency Services |
| • Mercy Hospital | (810) 985-1580 Emergency Services |
| • Saint Clair County Prosecutor's Office | (810) 985-2400 Criminal Sexual Conduct Unit |
| • Community Mental Health | (888) 225-4447 |

4.0 RESPONSIBILITIES OF THE INSTITUTION

SC4 shall take the following actions to implement the procedure and support compliance with Law requirements:

A. President's Designee

The President of the institution shall designate the person or persons to receive oral and written reports of suspected sexual violence from employees, students and others at the institution. The President's designee for SC4 is the title IX Coordinator/VP of HR.

B. Information Dissemination

Employees, students and other members of the campus community shall be informed through employee or student handbooks, institution websites, portal and other appropriate means of communication of:

1. The requirements of the procedure and this guideline and relevant law requirements;
2. Institution policies and procedures for compliance with the Law including but not limited to
 - a. Provision of written notice of rights and options to victims;
 - b. Notice of possible disciplinary actions;
 - c. Protection of victim confidentiality as permitted by law;

d. Written notice of procedures, appeals and final determinations.

C. Training

Employees and students shall receive annual training in applicable requirements.

D. Cooperation with Other Agencies

The institution shall cooperate fully and appropriately with any investigation of sexual misconduct by a law enforcement agency. If the individual suspected of an act of sexual violence is an employee, student or contractor of the institution, the institution shall coordinate its own investigation or other activities in response to a report with the appropriate local agency.

E. Disciplinary Action

SC4 shall ensure that its own policies and procedures addressing alleged employee and contractor misconduct include provisions and measures to respond swiftly and appropriately to reports of suspected sexual violence.

F. Reporting to the Board of Trustees

The President shall inform the Board of any serious incident arising at an institution under this guideline, consistent with the confidentiality requirements of Federal and State Law.

Appendix A

CODE OF ETHICS OF THE EDUCATION PROFESSION⁵

PREAMBLE

The educator, believing in the worth and dignity of each human being, recognizes the supreme importance of the pursuit of truth, devotion to excellence and the nurture of democratic principles. Essential to these goals are the protection of freedom to learn, to teach and the guarantee of equal educational opportunity for all. The educator accepts the responsibility to adhere to the highest ethical standards.

The educator recognizes the magnitude of the responsibility inherent in the teaching process. The desire for the respect and confidence of one's colleagues, of students, of parents and of the members of the community provides the incentive to attain and maintain the highest possible degree of ethical conduct. The *Code of Ethics of the Education Profession* indicates the aspiration of all educators and provides standards by which to judge conduct.

The remedies specified by the NEA and/or its affiliates for the violation of any provision of this Code shall be exclusive and no such provision shall be enforceable in any form other than one specifically designated by the NEA or its affiliates.

PRINCIPLE I

Commitment to the Student

The educator strives to help each student realize his or her potential as a worthy and effective member of society. The educator therefore works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.

In fulfillment of the obligation to the student, the educator--

1. Shall not unreasonably restrain the student from independent action in the pursuit of learning.
2. Shall not unreasonably deny the student access to varying points of view.
3. Shall not deliberately suppress or distort subject matter relevant to the student's progress.
4. Shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety.
5. Shall not intentionally expose the student to embarrassment or disparagement.
6. Shall not on the basis of race, color, creed, sex, national origin, marital status, political or religious beliefs, family, social or cultural background, or sexual orientation, unfairly-
7. Exclude any student from participation in any program
 - a. Deny benefits to any student.
 - b. Grant any advantage to any student.
8. Shall not use professional relationships with students for private advantage.
9. Shall not disclose information about students obtained in the course of professional service, unless disclosure serves a compelling professional purpose or is required by law.

⁵ Source: MAHE Agreement

PRINCIPLE II

Commitment to the Profession

The education profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service.

In the belief that the quality of the services of the education profession directly influences the nation and its citizens, the educator shall exert every effort to raise professional standards, to promote a climate that encourages the exercise of professional judgment, to achieve conditions which attract persons worthy of the trust to careers in education and to assist in preventing the practice of the profession by unqualified persons.

In fulfillment of the obligation to the profession, the educator--

1. Shall not in an application for a professional position deliberately make a false statement or fail to disclose a material fact related to competency and qualifications.
2. Shall not misrepresent his/her professional qualifications.
3. Shall not assist any entry into the profession of a person known to be unqualified in respect to character, education or other relevant attribute.
4. Shall not knowingly make a false statement concerning the qualifications of a candidate for a professional position.
5. Shall not assist a non-educator in the unauthorized practice of teaching.
6. Shall not disclose information about colleagues obtained in the course of professional service unless disclosure serves a compelling professional purpose or is required by law.
7. Shall not knowingly make false or malicious statement about a colleague.
8. Shall not accept any gratuity, gift or favor that might impair or appear to influence professional decisions or action.