

**THE NEW YORK COLLEGE OF PODIATRIC MEDICINE
POLICIES AND PROCEDURES CONCERNING SEXUAL ASSAULT, STALKING
AND DOMESTIC AND INTIMATE PARTNER VIOLENCE AGAINST STUDENTS**

I. POLICY STATEMENT

The New York College of Podiatric Medicine seeks to create and maintain a safe environment in which all members of the College community—students, faculty and staff—can learn and work free from the fear of sexual assault and other forms of violence. The College’s policies on Workplace Violence and Domestic Violence and the Workplace apply to all acts of violence that occur in the workplace or that may spill over into the workplace. The College’s Sexual Harassment Policy prohibits many forms of unwelcome conduct, including but not limited to, physical conduct of a sexual nature. This policy is specifically directed towards sexual assault, domestic and intimate partner violence and stalking committed against students on and off-campus.

NYCPM wants all victims of sexual assault, stalking and domestic and intimate partner violence to know that the College has professionals and law enforcement officers who are trained in the field to assist student victims in obtaining help, including immediate medical care, counseling and other essential services. If the alleged perpetrator is also a member of the NYCPM community, the college will take prompt action to investigate, and, where appropriate, to discipline and sanction the alleged perpetrator. NYCPM urges all victims to seek immediate help in accordance with the guidelines set forth in this policy with the assurance that all information received from a complaint will be handled as confidentially as possible.

In order to eliminate sexual assaults and other forms of violence perpetrated against students, and to create a safe college community, it is critical to provide an appropriate prevention education program and have trained professionals to provide vital supportive services. The first step is establishing the definition of Affirmative Consent followed by the establishment of clear implementable goals in line with eliminating sexual assault and other forms of violence. To assist this process there is also the declaration of Alcohol and/or Drug use Amnesty that helps any witness report an incident without fear of being subject to the policies or Honor code in relation to alcohol or drug use. Lastly there is an established Bill of Rights for students that delineates protections and actions against sexual assault, stalking, domestic or dating violence.

1. Definition of “**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.”

Aligned with this definition are provisions that help unbox the definition and provide clearer direction:

- a. *Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.*
- b. *Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.*
- c. *Consent may be initially given but withdrawn at any time.*
- d. *Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. 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.*
- e. *Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.*
- f. *When consent is withdrawn or can no longer be given, sexual activity must stop.*

2. Alcohol and/or Drug Use Amnesty as related to Sexual violence:

“The health and safety of every student at the NYCPM is of utmost importance. NYCPM recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. NYCPM strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to NYCPM’s officials or law enforcement will not be subject to NYCPM’s code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.”

3. “Students’ Bill of Rights” as it relates to Sexual violence.

“All students have the right to:

- a. *Make a report to local law enforcement and/or state police;*
- b. *Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;*
- c. *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 by the institution;*
- d. *Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;*

- e. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;*
- f. 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;*
- g. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;*
- h. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;*
- i. Access to at least one level of appeal of a determination;*
- j. 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; and*
- k. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.”*

Accordingly, NYCPM is committed to the following goals:

- Providing clear and concise guidelines for students to follow in the event that they or someone they know have been the victim of a sexual assault, domestic/intimate partner violence, or stalking.
- Assisting victims of sexual assault or abuse in obtaining necessary medical care and counseling, whether on or off-campus.
- Providing the most informed and up-to-date education and information to its students about how to identify situations that involve sexual assault, domestic and intimate partner violence, or stalking, and ways to prevent these forms of violence.
- Educating and training all staff members, including counselors, Safety and Security Department officers and student affairs staff and faculty, to assist victims of sexual assault, domestic/intimate partner violence, or stalking.
- Ensuring that disciplinary procedures are followed in the event that the alleged perpetrator is a NYCPM student or employee.

II. PROCEDURES FOR REPORTING INCIDENTS OF SEXUAL ASSAULT AND OTHER FORMS OF VIOLENCE

Obtaining assistance after a student is sexually assaulted, stalked or is in an abusive relationship is extremely important and can involve different points of on-campus contact for students, faculty and staff, including the Safety and Security Department and the Dean of Student Services. Each provides different forms of assistance which together address many of the needs of survivors.

• Contact Law Enforcement Personnel Immediately

NYCPM urges any student who has been the victim of a sexual assault or other act of violence or abuse, or any student or employee who has witnessed a sexual assault or other act of violence against a student, to immediately report the incident to the College’s Safety and Security Department if the

attack occurred on-campus, or to call 911 or go to the local NYPD precinct if the incident took place off-campus.

- Seek Immediate Medical Attention

It is critical that victims of a physical assault receive comprehensive medical attention as soon as possible. For a sexual assault in particular, immediate treatment and the preservation of evidence of the attack (i.e. retain the clothing worn during the attack and do not shower) is crucial to a criminal investigation. If a student believes that she/he may be the victim of date rape by being drugged, she/he should go directly to a hospital to receive a toxicology examination since such drugs only remain in a person's system for a short period of time. In all other circumstances, Safety and Security Department and police personnel can assist the victim in obtaining medical care. It is also vital to ongoing safety and recovery that victims receive emotional support and professional counseling as soon as possible after the attack.

- Seek On-Campus Assistance

NYCPM encourages student victims to contact the Dean of Student Services to obtain assistance in accessing medical and counseling services, or to make any necessary changes to the student's academic program or residential housing situation. Safety and Security Department can assist victims getting to and from campus safely, filing a police report and obtaining an order of protection against the alleged perpetrator. Victims can also file a complaint with the College against an alleged perpetrator who is a student or employee of the College with the Dean of Student Services and the Safety and Security Department Office.

- Obtaining an On-Campus Advocate

Student victims of a sexual assault, stalking or domestic or intimate partner violence shall be provided with an appropriately trained counselor to assist them in handling the various aspects of their ordeal, such as: 1) explaining to victims their options of whether or not to report the incident to campus or law enforcement authorities; 2) providing guidance if they require medical attention; 3) providing guidance in obtaining crisis intervention and/or ongoing counseling services (or a referral to obtain the necessary services if such services are not available on campus); and 4) assisting victims throughout the College's disciplinary process if they choose to file a complaint against another student in connection with the incident.

- Handling Sexual Assault, Stalking and Domestic and Intimate Partner Violence Complaints On-Campus

The College shall act promptly in response to information that a student has been sexually assaulted, or has been the victim of domestic or intimate partner violence or stalking by another member of the NYCPM community. Upon receipt of a complaint, the College shall undertake an appropriate investigation. If it appears that there is sufficient evidence to warrant disciplinary charges against a student or staff member, such charges shall be brought pursuant to the appropriate College procedure. If the alleged perpetrator is a student and the matter is brought before a hearing, the victim and alleged perpetrator are entitled to the same opportunities to have others present and to be informed of the outcome of the proceedings. The victim is entitled to a report of the results of the proceeding at her/his request. If a student is found guilty of committing a sexual assault or other act of violence against another NYCPM student or employee after a disciplinary hearing, the penalties may include suspension, expulsion from residence halls, or permanent dismissal from NYCPM.

In addition, if during the course of the investigation and/or disciplinary process the alleged perpetrator, or anyone on his/her behalf, seeks to contact the victim so as to harass, intimidate, threaten or coerce

the victim in any way, the College reserves the right to bring additional disciplinary action against the actor. Such conduct by any member of the NYCPM community will not be tolerated.

- Confidentiality

The College recognizes that confidentiality is particularly important to victims of sex crimes, domestic and intimate partner violence and stalking. If the victim seeks counseling with a licensed professional and/or works with an advocate from the campus, those communications will be confidential. NYCPM encourages victims in all circumstances to seek counseling in order to speak about her/his options and to begin the recovery period.

While complete confidentiality cannot be guaranteed, every effort will be made to maintain confidentiality on a “need to know” basis. Generally, the wishes of a victim not to report a sexual assault or incident of domestic/intimate partner violence or stalking to the police will prevail, though the College reserves the right to notify the police when it believes that such reporting is necessary for the protection of the College community. Such notification, however, will generally be done without divulging the victim’s identity and for the purpose of providing a campus-wide safety alert. In addition, the College must adhere to legal mandates such as Title IX, medical reporting laws, and the Campus Security Act. For example, NYCPM is required to make an annual report documenting the occurrences of violent crimes on campus, including sexual assault. However, this report does not include any information identifying the individuals (including the victims) linked to these crimes.