

## Violence Against Women and Sexual Misconduct Information

The Violence Against Women Reauthorization Act's Campus Sexual Violence Act (SaVE Act) provision imposes new reporting requirements:

A. The Clery Act requires annual reporting of statistics for various criminal offenses, including forcible and non-forcible sex offenses and aggravated assault. 20 U.S.C. § 1092(f)(1)(F)(i). VAWA's SaVE Act provision adds domestic violence, dating violence, and stalking to the categories that, if the incident was reported to a campus security authority or local police agency, must be reported under Clery. § 04(a)(1)(B)(iii)(to be codified at 20 U.S.C. § 1092(f)(1)(F)(iii)). Parsed for clarity, these offenses are thusly defined:

1. "Domestic violence" includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.
2. "Dating violence" means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.
3. "Stalking" means a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

B. The provision adds "national origin" and "gender identity" to the hate crime categories, involving intentional selection of a victim based on actual or perceived characteristics that must be reported under the Clery Act. § 304(a)(1)(B)(ii)(I) (to be codified at 20 U.S.C. § 1092(f)(1)(F)(ii)).

### **Southwestern's Policy**

"It is the policy of Southwestern University . . . to maintain both an academic and a working environment free from all forms of sexual harassment of any employee or applicant for, employment, student, donor, or former student volunteer or any other constituent of the University."

### **Q: What is the definition of sexual harassment?**

A: The legal definition says that sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. submission to such conduct is made, either explicitly or implicitly, a term or condition of a person's employment or education; or
2. submission or rejection of such conduct by a person is used or threatened as the basis for academic or employment decisions, or evaluations affecting that person; or
3. such conduct has the purpose or effect of a) unreasonably interfering with the person's academics or professional performance, or b) of creating an intimidating, hostile, or offensive employment, educational or campus environment for any person or group of persons.

Please refer to <http://www.southwestern.edu/titleix/> for more information about SU's sexual harassment policies and procedures.

## **Sexual Misconduct**

Southwestern University affirms the rights of its students to live, work, and learn in an atmosphere of mutual respect, free from the threat of sexual assault or any other form of sexual contact without mutual consent. Accordingly, any form of sexual misconduct will not be tolerated. The University is committed both to a campus-wide program of education and prevention, and to a timely and appropriate response to any reports of such activity.

### Definition of Consent

Consent to sexual acts requires affirmative verbal response to specific sexual suggestion. Without affirmative verbal response, consent is not present. The absence of "no" does not mean "yes." Sexual history, previous sexual involvement, or a lack of response do not create consent. Consent to a sexual act does not create consent to other sexual acts. Moreover, consent to a sexual act at any given encounter does not create consent for a future encounter.

Consent may be withdrawn at any time by any party.

A person whose judgment is substantially impaired by drugs or alcohol or by other physical or mental impairment cannot give consent to sexual contact. Substantial impairment means that a person cannot make a reasonable or rational decision about an important matter, such as the decision to have sexual contact with another person.

So, the three principles that are critical in understanding the University's position in regards to sexual misconduct are:

1. Consent of all parties is mandatory.
2. Consent may be withdrawn at any time by either party.
3. Alcohol and other drugs impair judgment and undermine the possibility for consent.

Please refer to SU's complete policy at <https://www.southwestern.edu/life-at-southwestern/title-ix/university-sexual-misconduct-policy/> and/or more information about sexual assault at <http://www.southwestern.edu/offices/counseling/> under Quick Links – Help for Sexual Assault (PDF)