

Clery Act Policy on Prohibition of Sexual Assault, Domestic Violence, Dating Violence, and Stalking

1. General Policy Statement

The Medical University of South Carolina (MUSC) is committed to creating and maintaining a learning, working, and patient care environment that is free from violence. Understanding and mutual respect toward all individuals are essential elements to excellence in learning and to the existence of a safe and healthy workplace. Therefore, in compliance with the Jeanne Clery Act and in keeping with its professional standards, MUSC will not tolerate incidents or threats of sexual assault, domestic violence, dating violence, or stalking. Furthermore, MUSC encourages the prompt reporting of any incidences.

2. Policy Coverage

Any student, employee, or faculty member who threatens or participates in an incident of sexual assault, domestic violence, dating violence, or stalking is subject to disciplinary action by MUSC in addition to any actions taken by criminal or civil authorities. This policy applies to threats or conduct that occur: on campus; on off-campus properties owned or controlled by the University, Hospital Authority, and/or the MUSC-Physicians; in connection with a University or University-recognized program or activity; or in a manner that may pose an obvious and serious threat of harm to or that may have the effect of creating a hostile educational or work environment for any member(s) of the University community.

3. Definitions

For this policy definitions from the South Carolina Criminal Codes apply. Abbreviated definitions appear below for purposes of readability. However, full definitions are found in the South Carolina Code of Law in Title 16 –Crimes and Offenses, Chapter 3 – Offenses Against Persons and may be located on the official South Carolina State Government website (<http://www.scstatehouse.gov/code/t16c003.php>) or may be obtained by contacting the MUSC Clery Coordinator or MUSC's Department of Public Safety.

A. Sexual Assault (Section 16-3-651-654)

In South Carolina, sexual assault is termed Criminal Sexual Conduct. It refers to acts involving sexual battery against another person and is classified either 1st, 2nd, or 3rd degree.

1st degree involves assaults in which force of a high and aggravated nature is used or the victim is threatened with the use of a deadly weapon; or the assault takes place in the context of another violent crime; or intoxicating or controlled substance is given to the victim without their consent causing them to become mentally incapacitated or physically helpless.

2nd degree involves threats to use harm or future retaliation against the victim or others.

3rd degree involves lesser degree of physical force and is not part of another violent crime; or no force or threats are needed because the victim has a mental disability, is mentally incapacitated or physically helpless, including voluntary intoxication.

B. Domestic Violence (Title 16 Chapter 25 Article 1)

Domestic violence is defined as causing harm or injury, or believably threatening harm or injury, to a household member. "Household member" is defined as: a spouse, former spouse, persons who have a child in common; or a male and female who are cohabitating or formerly have cohabited.

C. Dating Violence (Article 7 – Section 16-3-600)

In South Carolina, violence perpetrated by individuals involved in romantic/intimate relationships is considered an act of assault and battery.

D. Stalking (Article 17 – Section 16-3-1700)

In South Carolina stalking is defined as a pattern of words, whether verbal, written, or electronic, or a pattern of conduct that serves no legitimate purpose and is intended to cause and does cause a targeted person and would cause a reasonable person in the targeted person's position to fear death, assault, bodily injury, sexual assault, kidnapping, or damage to the victim or his/her family.

4. Seeking Immediate Medical Care

Anyone who has experienced any of these crimes is encouraged to seek immediate medical care for any suspected injuries. Anyone who has experienced a sexual assault or suspected sexual assault is encouraged to seek immediate assistance from the Sexual Assault Nurse Examiners (SANE) program located on campus. In addition to providing medical care, the SANE examination will conduct procedures to preserve evidence that may be used in any future criminal investigation if the victim chooses to report to law enforcement. While MUSC strongly encourages sexual assault victims to report the assault to law enforcement, she/he may obtain services through the SANE program whether or not she/he reports the incident to law enforcement. Victims of any crimes who are experiencing emotional distress are encouraged to seek confidential assistance from a licensed mental health provider. Students may obtain confidential mental health services through MUSC's Counseling and Psychological Services (CAPS).

5. Reporting Sexual Assaults, Domestic Violence, Dating Violence, and Stalking

MUSC strongly encourages the prompt reporting of sexual assault, domestic violence, dating violence, and stalking. The report may be made by a person who believes she/he experienced such acts (complainant) or a person who has information that such acts may have been committed against a student, employee, or faculty member (reporter). The report may be against anyone within the MUSC community to include: students; faculty; employee of the University, MUHA, and MUSC-P; visitors; volunteers; or private contractors/employees who are alleged to have committed the crime (accused).

A. MUSC's Response Procedures:

Recognizing the importance of preserving evidence, MUSC encourages that all crimes be reported as promptly as possible. Reports may be made directly to the MUSC Department of Public Safety (DPS) by the complainant or a reporter. DPS is able to provide immediate assistance to the complainant or reporter with law enforcement matters and also will provide the name and contact information for MUSC's Clery Coordinator. In addition to reporting to DPS, complainant victims or reporters may choose to directly report to the MUSC Clery Coordinator who will provide assistance to victims or others as needed whether or not the complainant chooses to pursue criminal charges. Assistance may come in the form of arranging for academic/work accommodations; providing information/aid for reporting to campus and local law enforcement; providing information for procedures for reporting a complaint within the MUSC-wide system when the accused is part of the MUSC community; and providing a list of campus and community resources.

B. MUSC's Investigation, Determination, and Sanctions Procedures:

In instances in which the accused is a member of the MUSC-wide community, the complainant may choose to engage the MUSC investigative and disciplinary process that is independent of

any criminal investigation or proceedings. The process will include a prompt, fair, and impartial investigation and resolution. The complainant may also decline to participate in MUSC's investigative and disciplinary processes or request anonymity. MUSC may continue the process without the complainant's participation; however, maintaining anonymity will substantially limit the ability of MUSC to complete its disciplinary investigation and respond effectively.

Investigation Procedure:

Upon hearing the complaint, the Clery Coordinator will determine if the facts as presented have merit, and if so, the Clery Coordinator will assign a team of two investigators within two working days. The Investigators will be individuals who have a substantial background in the content area of sexual assault, domestic violence, dating violence, and stalking and who will be trained annually on the issues related to these crimes and how to complete a misconduct investigation that protects the safety of the complainant and promotes accountability from the complainant and the accused.

The Investigators will conduct their own formal inquiry, interviewing the complainant, accused, and witnesses, and gathering appropriate information as may be necessary to reach a determination on the merits of the allegations in an expeditious manner. While the process will proceed independent of any criminal investigations, the University will be responsive to law enforcement requests for temporary delays. Both the complainant and the accused may submit in writing a list of individuals whom they believe may offer relevant information. However, the Investigators will determine which witnesses will be interviewed. Both parties and all witnesses will be informed of the parameters for confidentiality and that retaliation is strictly prohibited and grounds for disciplinary actions, up to and including dismissal/termination. The complainant and the accused may be accompanied to their interview by an advisor of their choice, although neither is required to have an advisor. However, if an advisor is present during the interview she/he may not speak nor intervene in any way, or address the investigators. The investigative process will be completed within 30 calendar days and will not be delayed due to the unavailability of advisors for either the complainant or the accused. An exception of the 30 calendar day timeframe may be granted by the University President.

Determination Procedure:

After completing the formal investigative process, the Investigators will make a determination of misconduct based on the preponderance of evidence standard. If the standard of evidence is not met, both parties will be informed simultaneously in writing of the result. This will end the University disciplinary process although any criminal legal processes may still remain in effect. If the investigation determines that the standard of the preponderance of evidence has been met, both parties will be informed simultaneously in writing that the standard of evidence was met and the document will outline the disciplinary sanctions procedure that will be implemented.

Sanctions Procedure:

If the accused was found by the Investigators to have engaged in misconduct based on the preponderance of evidence standard, within ten working days, the Clery Coordinator will convene a three-person disciplinary sanctions panel to determine the appropriate sanction(s). Panel members will be comprised of two senior members from MUSC, MUHA, or MUSC-P, depending on which entity is the employer of the accused party and one senior member of the Human Resource Office for the respective entity. The three-member sanctions panel will select from the list of possible disciplinary sanctions for that entity. For students whose conduct was found to have met the standard of evidence, a team of two senior faculty members and one senior member of the Vice-President for Academic Affairs and Provost Office will select the

actions from the list of possible disciplinary sanctions for students. For faculty members whose conduct was found to have met the standard of evidence, a team of two senior academic deans and one senior member of the University Human Resource Office will select the actions from the list of possible sanctions for state employees. Once convened, panels will determine the appropriate sanctions within five working days. At the conclusion of the panel process, both parties will be informed simultaneously in writing of the results and the sanctions determined by the panel. The sanctions will be immediately implemented and enforced by the respective entities in accordance with applicable Human Resource policies. The appeals process that is available to employees for each entity will apply. The appeals process for faculty as outlined in the Faculty Handbook will apply. The appeals process for students will rest with the Provost.

6. List of All Possible Sanctions

The following sanctions are those that may be implemented as part of the disciplinary process as consistent with the personnel policies of the guilty party's employer or student disciplinary policies: Expulsion or termination; suspension; suspension during investigation; reassignment; demotion; disciplinary probation; no-contact orders; class or work schedule changes; clinical rotation changes, transfer or removal from university housing (e.g., summer institute housing, off-campus rotation sites); class/workshop/training/program attendance; restitution; professional assessment; or removal or prohibition from specific activities.

7. Record Keeping

All records and documents will be preserved by the Office of the Clery Coordinator until the conclusion of all appeals. Additional records will be maintained by the Office of the Clery Coordinator for legal purposes.

8. Retaliation

Retaliation against a complainant, reporter, or witnesses for exercising their rights under this policy and complaint process is strictly prohibited. Retaliation is grounds for disciplinary action and sanctions listed in this policy.

9. Abuse of this Policy

Given the personal nature of sexual assault, dating violence, domestic violence, and stalking some complaints may not be substantiated. The possibility of the lack of corroborating evidence should not discourage victim complainants or reporters from seeking relief or assistance under this policy. Making false accusations may subject the alleged victim complainant or reporter to disciplinary actions and sanctions listed in this policy.

Approved by:



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President
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