

## **Sexual Misconduct**

Trinity University supports the rights of all students to live and study in an environment free from sexual coercion and violence. Sexual contact with another person without consent or with the use or threat of force violates the standards of civility, decency, and respect expected of all members of the campus community.

The requirements of this policy are blind to the sexual orientation or preference of individuals engaging in sexual activity or sexually exploitative behavior. Any retaliatory action or behavior taken toward an alleged victim as a consequence of his or her decision to report a violation, pursue conduct action, or criminal prosecution, is prohibited. Retaliation by either party may result in immediate judicial action.

### **Prohibited conduct:**

#### 1. Non-Consensual Sexual Activity

Non-consensual sexual activity includes, but is not limited to, any sexual activity\* by a group or individual that takes place without the effective consent of the other individual(s) involved. Effective consent is shown by the exchange of mutually understandable words or actions between parties to a sexual interaction. *Consent must be informed and freely and actively given. Silence in and of itself is not an indication of consent.*

In order to be effective, consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear that he or she does not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. *In other words, consent may be withdrawn at any time.*

In order to give effective consent, one must be of legal age (17).

Sexual activity with someone a person knows to be--or should know to be--mentally or physically incapacitated (because of disability, alcohol or other drug use, sleep, unconsciousness, blackout, or bodily restraint), is a violation of this policy.

Any time sexual activity takes place between individuals, those individuals must be capable of controlling their physical actions and be capable of making rational, reasonable decisions about their sexual behavior. A person who has consumed alcohol may experience diminished capacity for effective decision-making and action, and thus may be incapable of consenting to sexual activity.

Sexual activity with someone whose incapacity results from the ingestion of a so-called "date-rape" drug is in violation of this policy. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc., is prohibited, and administering one of these drugs to another student for the purpose of inducing incapacity is a violation of this policy.

Use of alcohol or other drugs will never function to excuse behavior that violates this policy.

\* Sexual activity includes: intentional contact with the breasts, buttocks, groin, or genitals, or touching another person with any of these body parts, or making another person touch you or themselves with or on any of these body parts; intercourse, however slight, meaning vaginal penetration by a penis, object, tongue, or finger, anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact).

## 2. Sexually Exploitative Behavior

Sexually exploitative behavior occurs when a student takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- prostituting another student
- non-consensual video/audio-taping or photographing of sexual activity
- unauthorized posting or distribution of materials involving the sexual activity of another person
- going beyond the boundaries of consent (such as voyeurism or secretly watching others)
- knowingly transmitting an STD or HIV to another student

Procedures for filing a report or submitting a complaint:

In an emergency, first contact Campus Security at 999-7000 so they may secure the area, detain suspects, and coordinate the arrival of outside law enforcement to campus.

Students are encouraged to file a report with the San Antonio Police Department. (For non-emergency calls: 207-7273; for off-campus emergency calls: 911).

A student who wishes to report an assault (simply a notification of an assault) or file a complaint against another student through the University (potentially leading to a University hearing) should notify the Dean of Students. If a student wishes, he or she may start this process with the Vice President for Student Affairs. The staff member will explain support options, investigative steps, and hearing procedures.

Trinity University believes that students should retain the right to move forward (or not) with a complaint about sexual assault and leaves the decision to the student.

## **Support for Students**

A student who files a report, as well as witnesses, and any students present immediately before, during, or in the aftermath of an alleged assault will not be referred for disciplinary action for unrelated violations (such as alcohol, parties, drugs, etc.)

After reporting alleged sexual assault or misconduct to University officials, a student may request the following:

1. Change of an on-campus student's housing to a different on-campus location;
2. Transferring class sections when available;
3. Assistance in exploring alternative housing, incompletes, leave, or withdrawal.

The Student Affairs staff will make available a staff member to serve as an informal support person for both an alleged victim and an accused student to help each party navigate through the student conduct process.

If all other avenues for payment of medical bills for initial exam and testing have been exhausted, Trinity University may pay the unpaid balance for initial exams, testing, and medication (see detailed explanation on the sexual assault web page).

## **Investigative and Hearing Procedures**

The Dean of Students will meet with a student considering submitting a complaint, will outline the process for filing a complaint, and explain University procedures.

A written report is required for a case to be referred for action.

Upon receipt of a report, and a desire by the student to move forward with a hearing, the Dean of Students will contact the accused party. This is done to explain the procedures to this student and to outline the basis for the complaint. Accused students have the right to see the report that alleges a violation.

As a matter of process, both parties in a case are issued administrative orders to have no contact with one another. This allows the matter to proceed without any possible harassment or miscommunication between parties.

The Joint Statement describes University procedures for hearings, which are confidential. The University Conduct Board receives written complaints and schedules and conducts hearings related to sexual misconduct. The Dean of Students facilitates the hearing but is not a voting member of the Board. Two faculty members and a representative from the Student Conduct Board are the decision-making members of the Board. The Board hears statements from both parties, asks questions, and then makes a decision based upon the greater weight of the credible evidence. The Board receives training in conducting hearings specifically related to sexual assault allegations.

The accused student has the right to question his or her accuser through questions posed to the Conduct Board. This right will not be denied. However, the complainant may request that accommodations be made to have separate rooms or a room partition for each party, or may request an alternative reasonable arrangement in order to minimize potential trauma or stress.

The accuser and the accused party are each entitled to the same opportunities to have a support person (often a parent, friend, counselor, attorney, or faculty/staff member) present during a campus disciplinary proceeding. (This person can be in addition to the informal Student Affairs support person).

Pertinent expert, psychological, and medical witnesses, and other evidence may be introduced into hearings, but the Board will reserve the right to determine if such evidence is credible on its face or could potentially be subject to rebuttal in the opinion of the Board, and thus, of questionable value.

While each case is different, the University Conduct Board will generally ask questions primarily related to the following areas: force, consent, and whether or not (or how) alcohol or drugs played a role in the alleged incident.

Both parties shall be informed of the outcome and sanction of any campus disciplinary proceeding alleging sexual assault.

Any party in a hearing may appeal the decision to the Conduct Review Board. A student who moves forward with a complaint of sexual misconduct may review the full text of the case summary from the Board because:

Trinity University treats the summary as part of the student's record, and;

The student is afforded the opportunity to submit an appeal and should have access to the reasoning of the decision as expressed in the summary.

## **Sanctions**

The University conduct process is founded on educational ideals that reflect the University's academic mission. As much as possible, the University is committed to educating students to be aware of policy, to respect others, and to be accountable for their actions. Sanctions can range from warning to permanent separation from the University. The Conduct Board attempts to look at each situation independently and consider all variables in assigning a fair and reasonable sanction.