Salem State will not tolerate sexual assault in any form. Where there is probable cause to believe that the university’s regulations prohibiting sexual assault have been violated, the university will encourage the alleged victim to pursue disciplinary action through the student conduct process. Disciplinary sanctions for sexual assault violations may include suspension, dismissal or expulsion from the university. A student charged with sexual assault can be prosecuted under Massachusetts criminal statutes and disciplined under the university’s student conduct process. In those instances in which criminal justice authorities choose not to prosecute a student for involvement in an alleged sexual assault, the victim retains the option to pursue disciplinary action within the student conduct system.

Salem State University prohibits any member of the university community from sexually harassing, discriminating or assaulting another employee, student or other person from sexually harassing, discriminating or assaulting another employee, student or other person having dealings with the university. This policy applies to face-to-face violations as well as those perpetrated through the use of electronic media. The university is committed to providing a working, living and learning environment that is free from all forms of sexually abusive, harassing or coercive conduct. This policy seeks to protect the rights of all members of the university community (faculty, librarians, administrators, staff, and students) and other persons having dealings with the university, to be treated with respect and dignity.

Furthermore, in cases of alleged sexual assault, both the person bringing the charges and the student accused shall be asked by the student conduct and mediation board procedural advisor to state a preference for either a hearing panel of students or a hearing panel of administrators, composed of both genders, to adjudicate the case. When both parties agree on the type of hearing panel, the panel requested will be scheduled from among the eligible students or administrators. If one party requests a student panel, while the other party requests an administrative panel, then a board of a minimum of three students and two administrators will be scheduled from among the eligible students and administrators. Training shall be provided to all members of such panels.

Definitions and Protocols

**What is Title IX?**
Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX also covers sexual violence and reminds schools of their responsibilities to take immediate and effective steps to respond to sexual violence.

**What is the Violence Against Women Act (VAWA)?**
This Act addresses and prohibits acts of violence motivated by gender. As reauthorized in 2013, VAWA incorporated the Campus Sexual Violence Elimination Act ("SaVe Act"). The SaVe Act clarifies the rights of victims of sexual assault, domestic violence, dating violence, or stalking in college and university campuses. The SaVe Act requires the universities to implement several substantive and procedural changes regarding claims of gender violence.

**What is the definition of consent?**
Consent is an informed, freely and actively given, mutually understandable communication that clearly indicate willingness to participate at every stage of a sexual encounter. Silence does not equal consent. Consent cannot be given if one of the participants is:
- Under the age of consent (16 years old in Massachusetts)
- Mentally disabled
- Intoxicated by drugs or alcohol
- Unconscious, asleep, unaware or physically helpless
Furthermore, consent is not effective if a person is coerced, pressured, intimidated or threatened.

**Title IX and VAWA Reminders**
- Reports cannot remain confidential. Title IX requires institutions to report and take action.
- Students have the right not to share information. It is important to know that the University may then be limited in its response.

**Confidentiality**
Employees (faculty, staff and administrators) are not able to keep reports of sexual assault confidential. According to Title IX, “If a complainant insists that his/her name not be disclosed to the alleged perpetrator, the school should inform the complainant that its ability to respond may be limited.” Specific information is not shared publicly, rather only with the Title IX coordinator and those trained to respond to such information.

At the same time, different resources on campus come with different levels of confidentiality and, subsequently, different abilities to assist with the situation. Faculty, staff and administrators are not considered a confidential source that is protected by law. If a student wants to talk to someone and be assured of confidentiality, please refer to the following offices:
- Counseling and Health Services
- University Chaplain
- Off-campus counseling or medical care

Preservation of Evidence
Salem State University maintains records securely.

On Campus Resources, Important Information and Assistance
The university recognizes that sexual assault is a very traumatic crime and as such it will endeavor to work with students who are victims of sexual assault to reduce fears and concerns regarding their personal safety. Any individual who believes he/she may have experienced sexual harassment or any type of sexual aggression may receive important information and assistance regarding the university’s policies and responsive processes from any of the following offices. In addition, upon request, the student conduct office will make resources available regarding who can discuss the process and what it means.

Complaints may be filed in any of the following offices:
1. Salem State University Police (available 24-hours a day)
   Office Location: Central Campus
   Telephone: 978.542.6111

2. Dean of Students Office
   Office Location: Meier Hall room 245
   Telephone: 978.542.6401
   Email: studentlife@salemstate.edu

3. Counseling and Health Services
   Office Location: Ellison Campus Center room 107
   Telephone: 978.542.6410 or 978.542.6413

4. Residence Life
   Office Location: Atlantic Hall room 131
   Telephone: 978.542.6416

5. Title IX Coordinator
   Beth Marshall, assistant vice president
   Department: Human Resources and Equal Opportunity
   Office Location: North Campus, Administration Annex
   Telephone: 978.542.6022
   Email: bmarshall@salemstate.edu

6. University Chaplain
   Rev. Laura Biddle
   Telephone: 978.542.6129
   Email: lbiddle@salemstate.edu

Furthermore, if an apparent conflict of interest prevents use of the assistance of the above offices, the person complaining of sexual harassment or sexual assault may request assistance directly from the President’s Office, Telephone: 978.542.6134

Important Information
1. Victims and/or survivors are reminded that on-campus and off-campus counseling services exist for the emotional well-being of Salem State University students.
2. Students may request to change academic and residential (on-campus) situations after an alleged sexual assault incident,
and may request assistance to do so if changes are reasonably available.

**How to Report an Incident**
The university recognizes that sexual assault is a very traumatic crime and as such it will endeavor to work with students who are victims of sexual assault to reduce fears and concerns regarding their personal safety. Depending on the nature of the incident, one or more of the following options may apply:

1. You can proceed with an on-campus complaint through the university student conduct system. A complaint can be filed with a residence life staff member, the dean of students office, or the Title IX coordinator.
2. Though the decision to contact the police is a personal one, the university is committed to supporting victims who decide to report the crime to the police. Deciding whether to report the crime to the police may be very difficult, but if you do decide to pursue criminal charges, you can proceed with off-campus criminal charges by filing a complaint with the Salem State University police department. Please be advised that the Salem State University police department will not share any of your information with other university personnel. You may request a copy of your report and hand deliver it to the dean of students office to be used in the student conduct process.
3. You may request a court-issued restraining order through the Salem State University police department.
4. You do not have to pursue any official action.

*Remember: Whatever option you decide, it is important that you at least report and document the incident.*

**Description of Options**

**University Student Conduct Process**
If you want to pursue campus action, a complaint may be filed with a residence life staff member, the dean of students office or the Title IX coordinator. Staff members will investigate the complaint and, if appropriate, the university will levy charges against the student(s) and process the complaint through the university student conduct system. The accused student(s) will be called into the office to resolve the matter or appear before the student conduct board. If the matter goes to a hearing, you will be asked to testify.

**Criminal Charges**
Deciding whether to report the crime to the police may be very difficult, but if you do decide to pursue criminal charges, you may do so by filing a complaint with the Salem State University police department. The officers will investigate your complaint and, if founded, will assist you in bringing the matter forward to the local district attorney’s office. Should the district attorney’s office decide to pursue this matter, the student defendant will then be summoned to court to deal with the charges. You may be called to testify if the matter proceeds to a trial level.

*Note: You may also pursue civil charges through your own attorney.*

**Protective Order/Restraining Order**
If you feel a person is intimidating or harassing you, you can seek a protective order from the university through the Salem State University police department. A protective order is a letter that is sent from the district attorney’s office, notifying the student whom you feel is harassing you to stay away from you. The letter also informs the person that discipline charges will be filed if the protective order is violated.

**Other Action**
Even if you decide not to file a complaint against someone, the university may be able to assist you in various ways. For instance, at least document the incident that occurred. You may change your mind and reserve the right to file a complaint later on, so fresh and current documentation is important.

**Grievance Procedure**
1. Mediation is not an option and will not be permissible for sexual assault allegations.
2. Salem State University will not wait for the conclusion of a criminal investigation or criminal proceeding to begin its own investigation. Salem State University will take immediate steps to protect the student in the educational setting.
3. The assistant dean of students or the coordinator of student conduct and mediation programs may waive the time limit at his/her discretion and in any situation including, but not limited to, incidents of sexual assault or harassment and instances in which criminal charges may be pursued. The decision of the assistant dean of students or the coordinator of student conduct and mediation programs about whether to waive the time limits shall be final.
4. In cases of alleged sexual assault, both the person bringing the charges and the student accused shall be asked by the student conduct board procedural advisor to state a preference for either a hearing panel of students or a hearing panel of administrators, each composed of both genders, to adjudicate the case.
5. When both parties agree on the type of hearing panel, the requested panel will be scheduled from among the eligible students or administrators. If one party requests a student panel, while the other party requests an administrative panel, then a board of a minimum of three students and two administrators will be scheduled from among eligible students and administrators.
6. The accused and the accuser will be informed of the outcome of any campus disciplinary proceeding brought forward alleging a sexual assault. Both are entitled to have others present during a disciplinary proceeding.
7. Victims of sexual assault shall have the opportunity to notify proper law enforcement authorities and shall have the option...
to be assisted by campus personnel in notifying these authorities, if the student chooses to do so.

8. The Title IX coordinator will review the recipient’s disciplinary procedures to ensure that the procedures comply with the prompt and equitable requirements of Title IX.

9. Salem State University will provide an appeals process for both parties if needed.

(For more information, refer to part VI. Procedural Safeguards and VII. Hearing Procedures)

**Fundamental Rights of Victims and/or Survivors During Disciplinary Proceedings**

a. It is the right of the victim to choose a person or persons to accompany her or him throughout the disciplinary hearing.

b. It is the right of the victim to be present during the entire disciplinary proceeding.

c. It is the right, in the same manner as established in the Massachusetts Criminal Code, not to have his or her past sexual history discussed during the hearing.

d. It is the right of the victim to have access to the names of all witnesses that may appear at the disciplinary hearing. These names must be provided by the student(s) charged to the student conduct board procedural advisor at least four (4) business days before the hearing.

e. It is the right of the victim to have a Victim Impact Statement. The Victim Impact Statement is an opportunity for the victim to explain to the hearing body the emotional, physical, financial, and educational impact of the alleged incident. This statement may be read into the hearing record during the complainant’s final remarks. A standard Victim Impact Statement form is available from the student conduct and mediation board procedural advisor.

V.a. Sexual Assaults

1. Types: Acquaintance Rape, Gang Rape, Stranger Rape, Sexual Harassment, and Indecent Assault and Battery

2. Definitions:

   2.1 Rape: Forced sexual intercourse, or oral, anal, vaginal penetration by, or union with, the sexual organ of another, or the anal or vaginal penetration of another by any other object, that is perpetrated against the will of the victim. The type of force employed may involve physical violence, coercion or the threat of harm to the victim.

   2.2 Sexual Harassment: Objectionable, unwanted sexual attention from either a person in a position of authority or power or from a peer. Sexual harassment also can involve verbal or written communication of a sexual nature that creates an intimidating, hostile, or offensive educational living or work environment.

   2.3 Acquaintance Rape: Sexual intercourse undertaken by a friend or acquaintance without the consent of the victim. Acquaintance rape occurs when a person is forced to have sexual intercourse over his or her objections or as a result of threats, physical restraints, or physical violence.

   2.4 Indecent Assault and Battery: Any unwanted sexual contact; including but not limited to, unwanted touching, kissing, or fondling of any body part of a person.

3. Reporting procedures: Due to the physical and emotional trauma that often occurs as a result of a sexual assault, the victim may initiate university disciplinary charges at any time. Reports should be made in accordance with the procedure explained in Section VI, “Procedural Safeguards.”

V.b. Domestic Violence

1. Types of Domestic Violence: Attempting to cause or causing physical or emotional harm; placing another in fear or imminent serious physical harm; causing another to engage involuntarily in sexual relations by force, threat or duress (rape).

2. Definition of Domestic Violence: Any person regardless of age or sex, who has been abused by a spouse or partner, former spouse or partner, household member (roommate), former household member, past or present in-laws, step children, or a blood relative.

Persons involved in a Domestic Violence situation can file for an Abuse Prevention order, otherwise known as a 209-A Order. The victim can contact University Police and they will assist with obtaining this order, 24 hours a day, and seven days a week.

V.c. Stalking

1. Types of Stalking: Following or waiting for the victim; repeated, unwanted, intrusive, and frightening communications from the perpetrator by phone, mail and/or email; damaging the victim’s property; making direct or indirect threats to harm the victim, the victim’s children, relatives, friends, or pets; repeatedly sending the victim unwanted gifts; harassing through the Internet, known as cyberstalking, online stalking, or Internet stalking.

2. Definition of Stalking: Any behavior or activity occurring on more than one occasion that collectively instills fear in the victim and/or threatens his or her safety, mental or physical well-being.

The student(s) being charged in alleged domestic violence and stalking violations will be afforded the same fundamental rights of victims contained in the Sexual Assault section of the Student Conduct Code.

V.d. Dating Violence

1. Definition of Dating Violence: Violence by a person who has been in a romantic or intimate relationship with the victim.
Whether there was such a relationship will be gauged by its length, type and frequency of interaction.

V.e. Harassment
1. Definition of Harassment:
    (i) Three or more acts of willful and malicious conduct aimed at a specific person committed with the intent to cause fear, intimidation, abuse, or damage to property and that does in fact cause fear, intimidation, abuse, or damage to property