

# Consent and Preventing Sexual Misconduct

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# What is Title IX?

- Title IX is a federal law that prohibits sex discrimination, sex-based harassment, sexual misconduct, and retaliation on college campuses.
- Each campus's goal is to **STOP, PREVENT, REMEDY**
- We will go over expectations the college has around consent, policy violations, & resources.
- Complainant – Person who may have experienced misconduct.
- Respondent – Person alleged to have violated policy.



# Consent

- Clear verbal or physical indication for willing and active participation.
- Made free of force, threat, intimidation or coercion.
- Consent to one form of sexual contact does not constitute consent to all forms of sexual contact.
- Going beyond boundaries of consent is not OK – ask if you are unsure.
- Incapacitation is a state beyond drunkenness or intoxication.
  - Slurred speech, vomiting, unsteady posture, odor of alcohol, combativeness, or emotional volatility.



# Boundaries and Consent

- Identifying & respecting boundaries are a learned skill.
- Don't assume that your boundaries and expectations are the same as others & don't assume that your boundaries are clear to others.
  - Communication is key
- Silence is not consent; Maybe is not consent.
- Consent is not a one-time deal. Consent to one thing does not mean you can assume they have consented to something else. You need to know exactly what the consent is for.



# Examples

- Ariana & Mary come back from a party. Ariana invites Mary to “spend the night”.
  - Ariana thinks “spending the night” means having sex.
  - Mary thinks Ariana is offering her bed for sleep because it’s late & Mary is too intoxicated to make it back to her room.
  - Clarify different meanings.
- Minnie & Elliot agree to have sex. They have been drinking heavily. While making out, Elliot begins to go in & out of consciousness.
  - Incapacitated people cannot consent, even if prior consent was given.
  - Alcohol can affect everyone differently.



# Consent

- Ask for permission, stop & clarify if you are ever unsure.
- Seeing something in porn or elsewhere in a positive light doesn't mean everyone will be OK with it.



# Policy Definitions

- **Sex-Based Harassment:** A form of sex discrimination and sexual harassment on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Also covers sexual assault, dating violence, domestic violence, and stalking.
  - **Quid Pro Quo:** An employee or other person authorized by the College conditioning the provision of such aid, benefit, or service on a person's participation in unwelcome sexual conduct
  - **Hostile Environment Harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity.



# Example – Sex-Based Harassment

- Alex repeatedly makes sexual jokes about Sam that comment on his appearance & allude to Sam offering sexual favors to receive better grades. Alex steals Sam's underwear from his gym bag to wave at their friends to further the joke.
- Karie tells Alex that he cannot talk to any of the male freshman alone because he is gay and she doesn't want anyone to feel uncomfortable.



# Policy Definitions

**Sexual Assault:** Includes rape, incest, & statutory rape.

- The carnal knowledge of a person (i.e. penile-vaginal penetration), without the consent of that person
- Oral or anal sexual intercourse (i.e. penile penetration) with another person, without the consent of that person
- To use an object or instrument (i.e. an inanimate object or body part other than a penis) to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person



## Example - Rape

Adam and Lacey are dating. Lacey is uncertain about whether they should have sex, but Adam is persuasive and finally obtains Lacey's voluntary agreement. As they engage in sex, Lacey says "wait – stop – that hurts." Adam nonetheless continues for several more minutes, ignoring her. Afterwards, Lacey is upset & Adam apologizes, but says they were past the point of interruption.



# Policy Definitions

**Fondling:** The touching of the private body parts of another person for the purposes of sexual gratification

- Includes breasts, buttocks, or genitals whether clothed or unclothed



## Example - Fondling

Sherri and Matt are at a party. Sherri has had a lot to drink & asks Matt to dance. He declines, but Sherri tries to convince him by sitting on his lap and grinding on him. Matt tries to remove Sherri from his lap. She grabs his crotch and tells him he should come back to her room. The next day when Matt confronts Sherri, Sherri tells him that it wasn't a big deal because he is a man and men only want sex.



# Policy Definitions

**Stalking:** Engaging in a course of conduct on the basis of sex that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

- Course of conduct means two or more acts i.e. following, monitoring, observing, surveilling, threatening, or interfering with a person's property.



# Example - Stalking

Amanda met Robbie on the 1<sup>st</sup> day of class. They end up in the same study group & everyone exchanges numbers. Robbie texts Amanda outside of the group chat occasionally. Amanda responds, but the conversations are brief. Robbie asks Amanda out on a date & she declines. Robbie texts Amanda more frequently & Amanda stops answering. Robbie starts to show up frequently around Amanda, such as sitting near her in the dining hall & showing up to the gym at the same time. One day, Robbie leaves a note on Amanda's car to say that her windshield wipers are broken. Amanda never told Robbie what her car looked like or where she typically parked.



# Policy Definitions

**Dating Violence:** Violence on the basis of sex committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

- Can include sexual or physical abuse or threat of such abuse.

**Domestic Violence:** Felony or misdemeanor crimes committed on the basis of sex committed by a current or former spouse or intimate partner



# Example – Dating/Domestic Violence

Matt and Emily have been dating for 5 months. Emily makes Matt feel valued and lets Matt know how important he is to her. Though Matt reciprocates these feelings, Emily starts to accuse Matt of not caring & of trying to spend time away from her because he doesn't love her anymore. When Matt leaves for class, Emily tries to stop him because she says Matt cares more about class than her. Emily begins to accuse Matt of cheating and says that she would kill herself and it would be his fault. One day, Matt and Emily are arguing about him going home for the weekend. Emily slaps Matt across the face. Matt is upset but is not sure if this is an issue because it didn't leave a mark.



# Policy Definitions

**Retaliation:** Intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX.

- Making a report or complaint, testifying, assisting, or participating/refusing to participate in any manner.



## Example – Retaliation

Steve is a respondent in a Title IX investigation. When Steve reads the investigative report, he sees a witness statement from Emma providing evidence that has a negative impact on Steve's credibility. Steve confronts Emma and tells her that if she does not take back her statement, he will accuse her of violating other school policies and that Steve and his friends will make sure that there is enough evidence for Emma to get expelled.



# Policy Definitions

- **Sexual Exploitation:** Taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited
  - Can include recording another person's sexual activity without consent, distributing or sharing recordings/images of another person's sexual activity or nudity, knowingly spreading an STI, and more.



# Examples- Sexual Exploitation

- Jess sends Allan photos of herself nude while they are dating. Jess cheats on Allan, so to get back at her, Allan sends the photos to several of their friends to embarrass her.



# 3 Reporting Avenues

- Mandated Reporters report what you share with them to the Title IX Office
  - All college employees
- Report directly to your school's Title IX Coordinator
  - NCC – Craig Nelson
  - NHTI - Ann-Marie Hartshorn
  - LRCC - Adriana Komst
  - MCC - Kristen Butterfield-Ferrell
  - WMCC – Mark Desmarais
  - RVCC – Jenn Cournoyer
  - GBCC – Eric Kulberg
- Online Reporting Form – <https://www.ccsnh.edu/ccsnh-title-ix-resources/>



# After You Report

- When you report or a mandated reporter reports:
  - Email outreach from your TIX office.
  - You are not required to meet with them right away or at all.
  - There is no time limit on reporting.



# Choices After Reporting

- Confidentiality/Supportive Measures
  - If able, unless risk to community safety.
  - Supportive measures can include educational conversations, academic support, NCOs, housing support (if applicable), connection to on & off campus resources, & more.
  - Supportive measures can be ongoing & can be adjusted or reassessed at any time.
- Informal Resolution
  - Not used for higher level violations
- Formal Resolution
  - Investigations from TIX office.
  - If someone alleges sexual misconduct as defined by college policy, TIX will investigate.
  - Reporting does not mean an investigation.



# Investigative Process

- Presumption of good faith reporting & presumption of not responsible.
- Lengthy due to federal law and need for extensive evidence collection.
- Everyone has the chance to give a statement, provide evidence, and name witnesses.
- Can offer amnesty for some conduct violations.
- Don't assume there is not enough evidence to investigate.
  - Credibility assessments, surveillance footage, witness statements, etc.
  - Lack of information can sometimes be what is needed in an investigation.



# Pregnancy Reporting/Accommodation Expectations

- Pregnancy accommodations are now handled through the Title IX Coordinator.
  - You can reach out directly or be referred through faculty/staff.
- This can include breaks during class to express milk, breastfeed, or attending to health needs, intermittent absences to attend medical appointments, access to some online education, changes in schedule, and much more.
- Student Parents also entitled to reasonable academic modification during first 6 months.
  - The definitions of parents have been expanded to adoptive, foster, stepparent, legal custodian, guardianship and the definitions of pregnancy/related conditions have been expanded to pregnancy, childbirth, termination, lactation, related medical conditions, and recovery.



# Be an Active Bystander

- Being an active bystander is recognizing potentially harmful interactions & responding in a way to positively influence the outcome
- If you notice a questionable incident taking place, interpret whether it is an emergency and could use your intervention.
- Assume responsibility to help, even if other bystanders are present.
  - Research shows bystanders are less likely to help if there are others around they think may step in first.
- Intervene
  - Help the person leave the situation, confront the behavior, diffuse the situation, or call for additional support
  - Do not be antagonistic, avoid using violence, be honest & direct, recruit help if necessary, keep yourself safe
  - THE 3 D'S - Direct, Distract, Delegate
    - Directly confront inappropriate behavior
    - Distract by drawing away or diverting attention (Let's go dance! Come to the bathroom with me?)
    - Delegate by reaching out to someone else for help, such as public safety or the police.



# On & Off Campus Resources

- Ask you Title IX Coordinator or look to your individual TIX policies for on and off campus resources.
  - Note on-campus Health Center, Counseling Office, and Public Safety contact info.
  - Note off-campus local domestic & sexual violence agency, local police department, and local hospital/medical services.

