Guiding Principles

Sexual and/or relationship misconduct have been identified as national problems that significantly impact college and university students. Federal and state laws place requirements upon colleges and universities to address issues of sexual and/or relationship misconduct. The University is committed to educating students, faculty, and staff about this topic; and to working with the University and the surrounding community’s resources to offer as great a variety of services as possible.

The University’s Student Code of Community Conduct expressly prohibits sexual and/or relationship misconduct. Sexual and/or relationship misconduct includes sexual harassment; sexual violence; sexual exploitation; intimate partner violence and stalking. These terms are defined below under Prohibited Conduct.

Sexual and/or relationship misconduct can be carried out by University employees, fellow students, students from other schools, or third parties. When an allegation of sexual and/or relationship misconduct is brought forward, the University will take thorough, reliable, impartial, and fair steps to investigate in a prompt, effective, and equitable manner. If found to have occurred, the University will take steps to remedy the sexual misconduct, prevent its recurrence, and address its effects, whether or not the sexual misconduct is the subject of a criminal investigation.

Retaliation against a Complainant, Respondent, or any individual or group of individuals involved in the complaint, investigation, and/or resolution of an allegation of a violation of University policy is strictly prohibited. Any complaint regarding retaliation should be reported to the Title IX Coordinator, Office of Academic and Community Conduct and/or Public Safety and Police Services.

This policy is supported by the Procedure for Addressing Sexual and/or Relationship Misconduct Allegations Against Students.
Prohibited Conduct

1. Sexual Harassment - is unwelcome sexual advances, requests for sexual favors, and/or verbal or physical conduct that is sufficiently severe, pervasive or objectively and subjectively offensive so as to substantially or effectively interfere with an individual’s employment, education or ability to participate in or receive the benefits, services or opportunities of the University, and is based on power differentials (quid pro quo) where submission to such conduct is made either explicitly or implicitly a term or condition of instruction, employment, or participation in any University activity.

2. Sexual Violence - refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, nonconsensual sexual contact, nonconsensual sexual intercourse, and/or sexual coercion. Sexual violence is a severe form of sexual harassment.

3. Intimate Partner Violence – is defined as any instance of violence or abuse (verbal, physical, or psychological) that occurs between those who are in or have been in an intimate relationship with each other. This includes dating violence and domestic violence.

4. Stalking - means engaging in a menacing course of conduct directed at a specific person that would cause a reasonable person to: (A) Fear for their safety or the safety of others; or (B) Suffer substantial emotional distress.

5. Sexual Exploitation – is taking nonconsensual, unjust or abusive advantage of another in a sexual or intimate context for the responding party’s own advantage or benefit OR to benefit/advantage anyone other than the individual being exploited AND does not constitute any other sexual and/or relationship misconduct offense addressed in the University’s policy, including without limitation: prostituting another person, engaging in, permitting or facilitating nonconsensual viewing, photographing, videotaping, audio taping, or posting to the internet sexual or intimate activity (such as dressing, showering and similar activity of oneself or others), knowingly infecting another person with HIV or other sexually transmitted diseases and/or inducing incapacitation of another person with the intent to facilitate nonconsensual sexual intercourse or contact with that person.
Definitions

1. Consent: clear, knowing, and voluntary words or actions that give permission for specific sexual activity. Consent is active not passive. Silence in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity. Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. Previous relationships or prior consent cannot imply consent to future sexual acts. Consent can be withdrawn once given, as long as that withdrawal is clearly communicated. Once consent is withdrawn, sexual activity must stop reasonably immediately. In order to give consent, one must be of legal age, not mentally disabled, and/or, not physically incapacitated.

2. Course of conduct: two or more acts, including but not limited to, acts in which the alleged respondent directly, indirectly, or through third parties, undertakes action, method, device, or means to commit misconduct.

3. Emotional/Psychological Abuse: a persistent pattern or prolonged climate of dominating or controlling behavior, often involving some type of power imbalance. The behavior is intended to terrorize, intimidate, isolate, or exclude an intimate partner.

4. Group violation: a violation where a student group/organization and its officers and/or membership may be held collectively and individually responsible when such violations of the Code: take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or tacit; have received the consent or encouragement of the organization or of the organization’s leaders or officers; or were known or should have been known to the membership or its officers.

5. Hostile environment sexual harassment: occurs when unwelcome conduct of a sexual nature creates an intimidating, threatening or abusive working or learning environment and is severe, pervasive or objectively and subjectively offensive that it substantially interferes with or limits the student’s ability to participate in or benefit from an educational program and/or University activities or opportunities.
6. Incapacitation: a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent.
7. Intimate relationship: a relationship that includes some romantic, sexual and/or domestic element.
8. Menacing: conduct intended to control someone, restore a relationship at any cost, or obtain some other desired end for which an individual is willing to cause harm if they don’t get what they want.
9. Non-Consensual Sexual Contact: any intentional sexual touching, however slight, with any object or body part, by a person upon another person, without consent and/or by force. Sexual contact is any intentional or reckless contact with the breasts, buttocks, groin, mouth, or genitals of another person, or intentional or reckless touching of another person with any of these body parts, making another person touch you or themselves with or on any of these body parts, or any other intentional bodily contact in a sexual manner.
10. Non-Consensual Sexual Intercourse: any sexual intercourse, however slight, with any object, by a person upon another person, that is without consent and/or by force. Intercourse includes vaginal or anal penetration by a penis, object, tongue, finger or other body part; and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.
11. Physical violence or abuse: intentionally or recklessly (1) causing another bodily harm; (2) attempting to cause another bodily harm; or putting another in fear of imminent bodily harm.
12. Quid pro quo (meaning “this for that”) sexual harassment: occurs when it is stated or implied that an academic or employment decision about a student or employee depends upon whether the student or employee submits to conduct of a sexual nature. Quid pro quo sexual harassment also occurs when it is stated or implied that an individual must submit to conduct of a sexual nature in order to participate in a University program or activity.
13. Rape: when a person forcibly subjects another person to sexual intercourse without consent.
14. Reasonable person: a person who behaves in a way that is legally appropriate. Such person exercises average care, skill and judgement in conduct.
15. Retaliation: engaging in an adverse action or threat of an adverse action against a Complainant, Respondent, or any individual or group of individuals
involved in the complaint, investigation, and/or resolution of an allegation of a violation of University policy; including adverse action and/or threat of adverse action against any individual who attempts to intervene or prevent behavior prohibited by this policy. Retaliation can be committed by an individual or group of individuals, not just a Complainant or Respondent. Retaliation can take many forms including threats, intimidation, pressuring, continued harassment, violence, physical, emotional or other forms of harm to others.

16. Sexual assault: an assault of a sexual nature on another person.
17. Sexual battery: an unwanted form of contact with an intimate part of the body that is made for the purpose of sexual arousal, sexual gratification or sexual abuse.
18. Sexual coercion: the act of using pressure, alcohol or drugs, or force to have sexual contact with someone against their will.
19. Substantial emotional distress: anxiety, sorrow or pain that is not mild or brief, and is so substantial or long lasting that a reasonable person would not be expected to bear it.
20. Verbal abuse: extreme/excessive use of language designed to mock, shame, embarrass or humiliate the other intimate partner. The language must be sufficiently severe, pervasive or objectively and subjectively offensive.

Interpretive Rules for Sexual and/or Relationship Misconduct Charges

1. The person who is the object of sexual and/or relationship misconduct is not required to physically or otherwise resist a sexual aggressor.
2. Silence, previous sexual relationships, and/or current relationship with the alleged perpetrator (or anyone else) may not, in themselves, be taken to imply consent. Consent cannot be implied by attire, or inferred from the buying of dinner or the spending of money on a date.
3. Intentional use of alcohol/drugs by the student accused of sexual and/or relationship misconduct is not an excuse for violation of the sexual and/or relationship misconduct policy.
4. A student who deliberately drugs or attempts to persuade another to consume alcohol or drugs for the purpose of rendering that person incapacitated or sexually submissive/passive commits a violation of the sexual and/or relationship misconduct policy.
5. An "intent to rape" is not required under this policy. The requisite intent for rape is demonstrated by engaging in the act of intercourse intentionally, without the other person’s consent.

6. Consent has an expiration date. Consent lasts for a reasonable time, depending on the circumstances. Consent must be contemporaneous with the sexual activity involved.

7. Nonconsensual sexual contact or exploitation is not limited to strangers and can include acquaintances.

**Jurisdiction**

The jurisdiction of the University over sexual and/or relationship misconduct incidents involving a student(s) is broad. The University will investigate and remedy, using the Procedures for Sexual and/or Relationship Misconduct, complaints of sexual and/or relationship misconduct:

- Regardless of the location of the incident.
- Regardless of the incident occurring during the course of a semester or during a semester break.
- As long as the alleged respondent is a current enrolled student, or was at the time of the incident.
- Regardless of the enrollment status of the alleged complainant.
- If the impact of the sexual and/or relationship misconduct incident is likely to have a substantial effect on campus life or activities of the alleged student complainant or alleged student respondent.
- If the incident poses a threat of danger to members of the University community.
- If alleged respondent is an inactive student and/or not currently enrolled, interim action(s) may be taken, i.e. place a hold on the student’s account and/or issue a campus ban.
- When allegations arise after a student has graduated regarding incidents that occurred before the student graduated, the University maintains the right to investigate and remedy such complaints. If found to be responsible, a student could face revocation of their degree and/or other sanctions.
Good Samaritan Provision: Intent Regarding Medical Emergency

The welfare of students in the University community is of paramount importance. At times, students and other individuals may need medical assistance. The University encourages students to offer assistance to others in need, and also for students to seek assistance for themselves. Sometimes students may be hesitant to seek or offer assistance due to concerns that their conduct violates University rules, or that a student in a medical emergency will be charged with a rule violation. A “medical emergency” is defined as any situation where an individual’s physical and/or psychological health is at serious risk and immediate action must be taken to protect the individual or others.

The University intends to exercise considerable discretion to avoid the finding of responsibility under the Student Code of Community Conduct in medical emergencies as defined in this policy for a student providing assistance, as well as for a student receiving assistance in cases of a medical emergency. Educational conditions may be imposed rather than conduct sanctions if appropriate based on the professional judgment of the Dean of Students or designee. This statement of intent applies only to administrative enforcement of the Student Code of Community Conduct and does not provide immunity/amnesty from arrest or criminal prosecution.

Attempts and Enhancements

1. Attempts to commit prohibited conduct may be punished to the same extent as completed violations.
2. Repeated or aggravated acts of prohibited conduct may result in enhanced sanctions.
3. Repeated or intentional failure to comply with imposed sanctions may result in enhanced sanctions.
4. Conduct violations that are motivated by the offender's bias due to race, religion, color, national origin, age, sex, sexual orientation, gender identity, height, weight, genetic information, marital status, disabled veteran status, veteran status, or disability may result in enhanced sanctions.
Interpretation

The list of prohibited conduct is neither complete nor all-inclusive. The University reserves the right to impose necessary and appropriate interim actions and the full range of sanctions in response to inappropriate student conduct which threatens the safety and security of the University community.

Process

The Procedures for Addressing Sexual and/or Relationship Misconduct provide a detailed explanation of the process that will be followed for complaints filed under the Sexual and/or Relationship Misconduct Policy. Under most circumstances, the investigation and final determination of a complaint will be completed within 60 days, not including semester and/or holiday breaks, from the date on which the University receives notice of an alleged incident.

The possible sanctions under the Sexual and/or Relationship Misconduct policy are enumerated in the Procedures for Addressing Sexual and/or Relationship Misconduct allegations. In the final determination of an investigation of a case of sexual and/or relationship misconduct, the range of sanctions is from written warning to conduct expulsion.

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