Forms of Sexual Misconduct

Sexual misconduct includes any behavior of a sexual nature that infringes upon the rights of any individual to pursue their educational goals in an environment free from violence, intimidation, and/or harassment. This includes but is not limited to, sexual assault, rape, other forms of sexual contact, sexual harassment, sexual exploitation, stalking, and intimate partner/relationship violence.

Sexual Harassment: The University policy prohibits “quid pro quo” and “hostile environment” sexual harassment, as defined in the University’s Sexual Harassment Policy.

“Quid Pro Quo” Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature by one in a position of power or influence constitutes “quid pro quo” sexual harassment when (1) submission by an individual is made either an explicit or implicit term or condition of academic standing or of employment or (2) submission to or rejection of such conduct is used as the basis for academic or employment decisions affecting that student or employee. As defined here, “quid pro quo” sexual harassment normally arises in the context of an authority relationship. This relationship may be direct, as in the case of a supervisor and subordinate teacher or student, or it may be indirect when the harasser has the power to influence others who have authority over the victim.

“Hostile Environment” Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature constitute “hostile environment” sexual harassment when such conduct is directed toward an individual because of her or his gender, is severe or pervasive, and has the purpose or effect of (1) creating an intimidating, hostile, or offensive academic or work environment; or (2) unreasonably interfering with another’s academic performance or work. Generally, a single inappropriate joke, offensive epithet, or request for a date does not constitute a sexual harassment; however, being subjected to such jokes, epithets, or requests repeatedly may constitute “hostile environment” sexual harassment. In determining whether the alleged sexual harassment conduct warrants corrective action, all relevant circumstances, including the context in which the conduct occurred, will be considered. Facts will be determined on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of an individual.

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Non-Consensual Sexual Contact: Non-consensual sexual contact is defined as intentional contact with the breasts, buttock, groin, or genitalia, or touching someone else with any of these body parts, or making another touch themselves or someone else with or on any of these body parts, or with any object, by any person upon any other person, without consent.

Non-Consensual Sexual Intercourse: Nonconsensual sexual intercourse is defined as vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; or oral copulation (mouth to genital contact or genital to mouth contact), however slight, with any object, by any person upon any other person, without consent.

Sexual Exploitation: Sexual exploitation occurs when a student takes non-consensual or abusive sexual advantage of another for his/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: Prostitutioning another student; non-consensual viewing of sexual activity, including but not limited to, hiding in a closet, making a photographic, video, or audio recording, and/or peering into an area where there is a reasonable expectation of privacy, knowingly transmitting an STI or HIV to another student.

Other Prohibited Behaviors

Stalking: Repeated conduct which reasonably and subjectively causes another person to fear for his/her safety or the safety of another or repeat conduct which causes a person to alter his/her activities in response to the repeated conduct. Such conduct may include but is not limited to following or approaching a person, contacting a person whether or not conversation ensues, or placing a person or household under surveillance.

Intimate Partner/Relationship Violence: Any act of violence or threatened act of violence against a person whom the individual is or has been involved in an intimate or dating relationship. This includes acts against a person or against property, including an animal, threats, assault, property damage, and violence or threat of violence to one’s self or to the family members of the sexual or romantic partner, when used as a method of coercion, control, punishment, intimidation or revenge.

Sex/Gender Discrimination: Treating someone differently because of his/her sex, sexual orientation, gender identity or expression where the conduct affects the terms, conditions or privileges of employment or education.

What is Meant by CONSENT

In order for individuals to engage in sexual activity of any type with each other, there must be clear consent. Consent is informed, knowing and voluntary. 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 the conditions of sexual activity.

Sexual activity with someone mentally or physically incapacitated, whether resulting from alcohol and/or other drug use, the taking of a so-called “date-rape” drug, unconsciousness, involuntary physical restraint, or mental disability, is a violation of this policy. Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand the who, what, when, where, why, or how of their sexual interaction.

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 it clear they do 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. Additionally, one must be of legal age in order to give consent (The age of consent in Colorado is 17).

Consent to one form of sexual activity cannot imply consent to other forms of sexual activity. Previous relationships or consent cannot imply consent to future sexual acts.