

BOARD POLICY 477-A, B, C, D, E

----- ADOPTED: 2-27-17 LEGAL REFERENCE: 260C.14(18), 709.1, 728.12(1)

Employee Rights

Sexual Misconduct

It is the policy of the College to maintain an environment conducive to work and study. Such an environment is free of sex discrimination in the form of sexual violence, including sexual assault, abuse, and exploitation (collectively "Sexual Misconduct"). The College also prohibits dating violence, domestic violence, and stalking, which shall be considered "Sexual Misconduct" for purposes of this Policy whether sexually-motivated or not. Prohibited conduct under this Policy also includes attempting or aiding in the commission of Sexual Misconduct or retaliating against another for exercising his/her rights under this Policy. The College will take action to prevent and correct such behavior.

This Policy governs the conduct of all College students, employees and third parties whose actions impact the College's educational and working environment, regardless of sexual orientation or gender identity. This Policy applies to all locations of the College, College-sponsored activities and incidents occurring off-campus. It is intended to ensure that the College's policies and procedures related to Sexual Misconduct are interpreted and applied consistently with Title IX, the Violence Against Women Act (VAWA) amendments the Clery Act (the "Campus SaVE Act"), Iowa Code § 260C.14(18) and other applicable law.

Definitions

Domestic violence: Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.

Sexual Assault: An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Sexual Abuse: Any offense under Iowa Code § 709.1, which is a sex act when the act is performed with the other person in any of the following circumstances:

- a. The act is done by force or against the will of the other. If the consent or acquiescence of the other is procured by threats of violence toward any person or if the act is done while the other is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other.
- b. Such other person is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.
- c. Such other person is a child (under the age of eighteen).

BOARD POLICY 477-A,B,C,D,E

----- ADOPTED: 2-27-17 LEGAL REFERENCE: 260C.14(18), 709.1, 728.12(1)

Sexual Exploitation: “Sexual Exploitation” is defined under Iowa Code § 728.12(1) and occurs when a person causes or attempts to cause a minor to engage in or simulate a prohibited sexual act when the act may be photographed, filmed, or otherwise preserved. For purposes of this Policy, “Sexual Exploitation” also includes taking non-consensual sexual advantage of another person. Examples can include, but are not limited to, the following behaviors:

- Distribution or publication of sexual or intimate information about another person without consent;
- Electronic recording, photographing, or transmitting sexual or intimate utterances, sounds, or images without knowledge and consent of all parties;
- Engaging in indecent exposure;
- Sexual intimidation - Sexual intimidation is an implied or actual threat to commit a sex act against another person, or behavior used to coerce participation in a sex act
- Voyeurism - Voyeurism involves either secretive observation of another’s sexual activity or secretive observation of another for personal sexual pleasure.

Sexual or Gender-Based Harassment (including Harassment Based on Sex, Sexual Orientation or Gender Identity). Sexual or Gender-Based Harassment is unwelcome conduct of a sexual nature or aimed at another because of sex when:

- Submission to such conduct is made explicitly or implicitly a term or condition of an individual’s employment or status in a course, program or activity;
- Submission to or rejection of such conduct is used as a basis for an employment or educational decision affecting an individual; or
- Has the purpose or effect of unreasonably interfering with an individual’s work or academic performance, or creates an intimidating, hostile, or offensive working or educational environment (sometimes referred to as “hostile environment”). A hostile environment exists when the harassment is sufficiently severe or pervasive/persistent so that it alters the conditions of education or employment, from both a subjective (the alleged victim’s) and an objective (reasonable person’s) viewpoint. The determination of whether an environment is “hostile” must be based on the circumstances.

Conduct is considered “unwelcome” if an individual did not request or invite it and considered the conduct to be undesirable or offensive.

“Aimed at another because of sex” includes both actual and perceived sex, including conduct based on sexual orientation, gender identity, gender expression, and nonconformity with gender stereotypes. This may also be called “Gender-Based Harassment.” This harassment based on these actual or perceived traits is prohibited at the College.

BOARD POLICY 477-A,B,C,D,E

----- ADOPTED: 2-27-17 LEGAL REFERENCE: 260C.14(18), 709.1, 728.12(1)

Harassing conduct includes various types of unwelcome verbal, written or physical conduct, including sexual advances; request for sexual favors; unwanted touching; persistent comments or jokes about an individual's sex, sexual orientation or gender identity; verbal behavior, including insults, remarks, epithets, or derogatory statements; nonverbal behavior, including graffiti, inappropriate physical advances short of physical violence such as repeated and unwanted touching; and assault, including physical violence or the threat of physical violence.

Actions which are offensive or inappropriate, but do not rise to the level of creating a hostile environment, can still be reported and, where appropriate, the College will take remedial steps intended to end or prevent such actions in the future.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress.

Consent: Freely, voluntarily, and clearly communicating agreement or permission to participate in sexual activity, with knowledge of the act involved. Such consent may be withdrawn at any time, without regard to the preceding activity. Consent may not necessarily be inferred from silence or passivity, and cannot be given when a person is incapacitated (such as due to the use of drugs or alcohol, when a person is asleep or unconscious, or because of an intellectual disability that prevents an individual from having the capacity to give consent). Coercion, force, or threats invalidate consent.

Retaliation: Retaliation is any kind of reprisal, adverse action, or negative action taken against an individual for protected activity, including because he or she has: (1) sought guidance or complained about alleged discrimination or harassment as defined above, (2) participated as a party or witness in an investigation relating to such allegations, or (3) participated as a party or witness in a proceeding regarding such allegations. Retaliation can occur contemporaneously during the complaint process or subsequent to it, once the retaliator is aware of the recipient's participation in the process. An individual is protected from retaliation even when the complaint at issue is ultimately found to lack merit, as long as the complaint was made in good faith. The College does not allow, nor tolerate any conduct by any College community member that may be regarded as retaliatory.

Title IX/Equity Coordinator

The College's Title IX/Equity Coordinator or designee ("Title IX Coordinator") coordinates the College's response to reports of Sexual Misconduct under this policy. The Title IX Coordinator does not serve as an advocate for either the complainant or the respondent. The Title IX Coordinator will explain to both parties the informal and formal processes and the provisions of confidentiality. Where appropriate, the Title IX Coordinator will provide to both parties information on options for obtaining advocacy, medical and counseling services, and making criminal reports, and will assist with providing information on other resources. The Title IX Coordinator will coordinate with other campus officials to take appropriate interim actions such as no contact orders and academic accommodations. The Title IX Coordinator is trained and knowledgeable about enforcement, compliance, communication, and implementation of the College's anti-harassment and anti-discrimination policy.

The name, title, and contact information for the College's Title IX Coordinator shall be prominently posted and published consistent with applicable law.