

Terms Associated With Sexual Violence

Abuse (emotional/physical/psychological/sexual):

The various forms of harm that often occur in acts of interpersonal violence.

Acquaintance/Nonstranger Rape: Nonconsensual sexual penetration between people who know each other. This group includes classmates, romantic partners, co-workers, teammates, friends, neighbors, work colleagues and relatives. The incident may involve threats, intimidation, coercion, physical force and/or substances to create memory loss.

Alcohol-Facilitated Sexual Assault: A nonconsensual sexual act that occurs under the influence of alcohol. Either the victim or the perpetrator, or both, may have voluntarily or involuntarily ingested alcohol. At times, intoxication of the victim is encouraged by the perpetrator to facilitate the sexual assault. Use of alcohol to facilitate a sexual assault enhances the chance that the victim will lose memory and be unable to give complete details of the event when a report is made. Sex between people who are legally intoxicated may be considered a sexual assault. While drinking alcohol is a risk factor for

perpetration, a sexual assault that occurs under these conditions is never the fault of the victim.

Assault and Battery: The intentional striking/hitting of a person causing injury. Aggravated assault involves serious bodily injury.

Bias Crime/Hate Crime: When a crime is committed with the intent of harming a person due to his or her specific religion, race, gender, sexual orientation, gender identity, ethnicity, national origin or disability. Hate crimes must be reported under the Clery Act by specific category of prejudice.

Bullying: A term to describe the infliction of emotional, physical or sexual harm to another person, usually during a span of time, with the intent to overpower the individual. Often, emotional distress and/or depression occurs as a result of intense bullying over a period of time. Bullying may be illegal in some states;

these acts may be considered illegal even if there is no specific law because the elements of the acts fit other crimes.

Cyberbullying: A term that includes bullying through the use of the internet or other technologies. Examples include the sending of pornographic pictures via internet or cell phone, as well as sending veiled threats or other messages that are meant to cause harm to the receiver.

Date Rape: An act of nonconsensual sexual penetration that occurs during an event that would be termed a date, which includes a broad range of social interactions. Date rape can occur whether there has been consensual sex on previous dates between the two people. The term nonstranger rape is the preferred term.

Dating Violence: An act of violence that is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; when injury or harm is inflicted on one partner during the course of a dating relationship that does not involve living together. This violence may or may not begin as verbal and emotional abuse and escalate to physical and/or sexual abuse. It is often unreported to authorities due to shame and/or confusion, and threats made by the abusive partner.

Domestic Violence: Violence occurring within a relationship in which the people involved are or have been married, are or were co-habiting partners but are not married, and/or have a child in common. A pattern of behavior in which one person attempts to control or hurt another through actions or threats that can include physical, sexual, verbal or psychological abuse. People of all ages, income levels, faiths, sexual orientations, genders and education levels can experience domestic violence. In most states, this form of abuse requires the presence of specific elements.

Drug-Facilitated Sexual Assault: A nonconsensual sexual act that occurs under the influence of prescription, over-the-counter or illegal drugs. Either the victim or the perpetrator, or both, may have voluntarily or involuntarily ingested drugs and alcohol. Well-known drugs used for this purpose include Rohypnol, GHB, ketamine and, notably, alcohol. The use of such drugs enhances the chance the victim will lose memory of the event and not be able to make a complete report of the incident.

The following definitions are of terms commonly used to refer to acts of sexual assault or interpersonal violence. These are current, common-usage definitions. When there is federal law that provides a definition, it is so noted.

Forcible Sex Offenses: Acts that include forced penile-vaginal intercourse, forced oral or anal sodomy, forced digital or inanimate penetration of a sexual orifice (these are now all known as rape due to a recent FBI redefinition), sexual battery (molestation) and indecent exposure, among others, as well as attempts to perpetrate any of the above.

Gender-Based Violence: Violence that is directed against a person on the basis of gender. It constitutes a breach of the fundamental right to life, liberty, security, dignity, equality between women and men, nondiscrimination and physical and mental integrity.

Harassment: An act in which one uses power and privilege to denigrate another individual with the intent to subdue actions and/or cause enough duress to lower the target's self-esteem.

Hate Crime: A legal term used in both federal and state law to define a crime motivated by racial, sexual or other prejudice, typically one involving violence. See Bias Crime.

Hazing: Any action taken or any situation created intentionally that causes embarrassment, harassment or ridicule, and risks emotional and/or physical harm to members of a group or team, whether new or not, regardless of the person's willingness to participate. A hallmark of hazing is the power differential between those in a group and those who want to join a group, or between senior and junior members of a group. Hazing can be noncriminal, but usually violates the rules of an institution, athletics department or sorority or fraternity organization.

Inappropriate, Unwelcome Touch: Touching a person who has not given permission to do so.

Interpersonal Violence: Violence that is predominantly caused due to the relationship between the victim and the perpetrator, including sexual assault, domestic violence, dating violence and stalking.

Intimate Partner Violence: Violence between two people who are or were intimately involved, or have children together, regardless of their relationship status and whether they live/lived together. This term is sometimes used interchangeably with dating violence or domestic violence.

Murder/Attempted Murder/Manslaughter: The killing of another person, whether premeditated.

Nonconsensual Sexual Acts: See Sexual Assault.

Nonforcible Sex Offenses: Sex acts that include incest and statutory rape, as defined in the Clery Act.

Rape: The penetration, no matter how slight, of the vagina or anus by any body part or object, or the oral penetration by a sex organ of another person, without the consent of the victim. Individuals of any gender can be victims of rape.

Relationship Violence: A general term often used to include either domestic violence or dating violence.

Sexual Assault: A general term used to include both forcible and nonforcible sex offenses.

Sexual Harassment: Harassing conduct that is sexual in nature, is unwelcome and denies or limits a student's ability to participate in, or benefit from, a school's education program. Such behavior can range from creating a hostile environment to rape or other sexual assault, as defined by the U.S. Department of Education.

Sexual Misconduct: An umbrella term currently used by institutions of higher education to include sexual assault, domestic violence, dating violence and stalking.

Sexual Violence: A general term used to include both forcible and nonforcible sex offenses. See Sexual Assault.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial distress. A course of conduct is two or more acts, including, but not limited to, acts in which the stalker directly, indirectly or through third parties by any action or method follows, monitors, threatens, or otherwise interferes with the target/victim or with a person's property. These actions also can be carried out through social media.

TITLE IX AND CLERY ACT COMPLIANCE CHART

The U.S. Department of Education’s Office for Civil Rights enforces Title IX, which prohibits sex discrimination (including gender-based violence and sexual harassment) in educational institutions that receive federal financial assistance. The U.S. Department of Education also enforces the Clery Act (1990), which was amended in 2013 through the Campus Sexual Violence Elimination Act. Title IX and the Clery Act are two separate federal regulations with overlapping concerns that are intended to be complementary.

Both include same-sex or opposite-sex incidents/complaints. Both include students and employees.

TITLE IX	CLERY ACT
<p>INCIDENTS COVERED</p> <ul style="list-style-type: none"> Sexual Harassment Sexual Violence 	<ul style="list-style-type: none"> Sexual Assault Domestic Violence Dating Violence Stalking
<p>CONFIDENTIALITY</p> <p>If the complainant requests confidentiality, Institutions of Higher Education must take all reasonable steps to investigate and respond, consistent with the request. It is to be a balanced decision.</p>	<p>The act requires disclosures to protect the confidentiality of victims in statistical disclosures as well as any public record keeping, to the extent provided by the law.</p>
<p>VICTIM ASSISTANCE</p> <p>Institutions must take prompt interim measures once it becomes aware of the report. Institutions must inform the complainant of resources, whether there is a report to law enforcement.</p>	<p>Those reporting victimization must be provided with written notice of rights to be assisted by campus authorities, to change any situations to avoid a hostile environment, to obtain or enforce a restraining order, to have a clear description of the institution’s disciplinary process, and to receive contact information of services for victims both on and off campus, whether there is a report to law enforcement.</p>
<p>DEFINITIONS</p> <p>Sexual harassment is a type of sex discrimination. Sexual violence is a type of sexual harassment to include rape and other sexual assaults.</p>	<p>Dating violence, domestic violence and stalking are defined by 42 USC federal code. Sexual assault is defined by FBI Uniform Crime Reporting. Institutions define consent.</p>
<p>REPORTERS</p> <p>“Responsible employees” are designated by the institution and must report any incidents of sexual assault or sexual harassment to the Title IX coordinator. Some employees can/will be considered “confidential employees,” who do not need to share information.</p>	<p>“Campus security authorities” are designated by the institution and must report any incidents of sexual assault, domestic violence, dating violence and stalking in their Annual Security Reports and the Campus Safety and Security Survey. Demographics only are reported – victims’ names must be withheld.</p>

TITLE IX

CLERY ACT

REPORTING TO VICTIMS

When an institution knows of student-to-student sexual assault, it should notify the complainant of the right to file a law enforcement report to the proper agency.

Victims of domestic violence, sexual assault and stalking must be given written notice of rights and procedures, and the right to file a law enforcement report on a voluntary, confidential basis.

POLICIES, PROGRAMS, PROCEDURES

Institutions must have a nondiscrimination policy and are encouraged to have a sexual assault policy. Institutions need grievance procedures for allegations.

Institutions must have policies and procedures for victims or witnesses to report crimes to be included in the institutions' crime statistics. Policies must identify "sanctions of preventive measures" and must describe each type of disciplinary proceeding the institution may impose after a final determination of domestic violence, dating violence rape, sexual assault or stalking.

STANDARD OF PROOF

Institutions must use preponderance of the evidence to determine if responsible for incident.

Procedures must state the standard of evidence used in an institution's proceeding. Preponderance of evidence is recommended.

TRAINING/EDUCATION

Institutions must choose "responsible employees" and train them to identify, report and offer information about resources, rules and policies to complainants.

Annual training is required on sexual assault, domestic violence and stalking and how to investigate and conduct hearings in a manner that "protects the safety of the victims" and "promotes accountability." Awareness and prevention education is required for all incoming and ongoing members of institutes of higher education, both students and employees. These prevention programs also must be described in an institution's Annual Security Reports.

JURISDICTION

Institutions must process complaints of student-on-student sexual harassment or sexual assault regardless of where they occurred.

Applies to sexual violence that occurs on campus, on public property and on noncampus property. The provisions for protecting the rights of victims, the accused and accusers are applicable no matter where the act occurred.

SOURCE: CONNIE KIRKLAND, 2016

10 WAYS TO DISTINGUISH CONSENT

10 Ways to Distinguish Consent

A GUIDE FOR STUDENTS AND ADVISORS

**Title IX
Compliance
Institute**

Consent: *A clear and unambiguous agreement, expressed in mutually understandable words or actions, to engage in a particular activity.*

Listen for
“yes”

1. **Consent is fundamental** – You must obtain consent before engaging in or going further with any sexual activity.
2. **Consent requires communication** – Verbal communication before engaging in sexual activity clarifies consent. Discussing your own and your partner’s sexual desires, needs, and limitations provides a basis for a positive experience.
3. **Consent is affirmative** – Listen for a clear and positive agreement. These factors don’t count: the absence of “no,” silence, relying solely on body language, flirtation, coercion, marital or relationship status, power differentials, clothing choice, or a person’s past behavior. “Yes” is a statement of consent.

Make sure
“yes”
means
“yes”

4. **Consent is voluntary** – Consent must be given freely and willingly and may not be valid if one person is being subjected to emotional or psychological pressure, intimidation, or fear.
5. **Consent must be unimpaired** – A person who is impaired in any way, asleep, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, is not capable of giving valid consent. Using alcohol or drugs may also seriously interfere with the initiator’s judgment about whether consent was sought or given.

Keep the
conversation
open and
ongoing

6. **Consent is impermanent** – Consent at one time does not imply consent for the future; it must be freely given every time.
7. **Consent is always retractable** – Consent is subject to change and can be withdrawn at any time. Consent must be clear at each stage of a sexual encounter: consenting to one sexual activity does not imply consent to further activity.

Equality is a
cornerstone
of consent

8. **Consent is autonomous** – A current or past relationship, such as dating or marriage, does not override the need to obtain consent.
9. **Consent is equitable** – Consent is invalid when the initiator holds authority over the partner, such as in an academic or workplace setting, or when one participant is under the legal age of consent.

The bottom line

10. **Consent is essential** – Sexual contact without consent is sexual assault.



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