Sexual Misconduct
Policy & Procedures
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Policy Number: Section 200 - Student Affairs 216

Policy Title: SEXUAL MISCONDUCT (INCLUDES ASSAULT & HARASSMENT)

Policy Council Review Date(s): __________________________

PPAB Approval Date: __________________________

POLICY:

Georgia Perimeter College strictly prohibits any acts of sexual misconduct (including assault or harassment) to any member of the student body - including student-to-student sexual misconduct originating on and off campus - faculty, staff, administration, or visitors to campus, whether that person is a guest, patron, or independent contractor. Sexual misconduct includes, but is not limited to: sexual harassment, rape, assault to commit rape, sexual battery, aggravated sexual battery, object rape, statutory rape, sodomy, aggravated sodomy, public indecency, unwanted touching, and stalking.

In compliance with the state law, Georgia Perimeter College requires mandatory reporting to the appropriate external authorities of any Sexual Misconduct incident involving children ages 17 years and under.

Engaging in retaliatory acts against a person who reports an alleged violation of this policy or testifies, assists, or participates in a conduct proceeding or investigation is strictly prohibited.

Sexual misconduct occurring through the use of electronic and/or digital media is also prohibited. Electronic and digital media includes, but is not limited to: computers, personal data devices, or other tools that can be used for Internet Access, E-mail or transmission of messages via various social media (such as Twitter, Facebook, or any blogs), any type of phone that can transmit calls, text messages, instant messages or access the Internet, or any other means of electronic communication.

Under this policy, the College will maintain confidentiality insofar as it does not interfere with the College’s legal obligation or ability to investigate allegations of misconduct when brought to its attention and take corrective action when it is found that misconduct has occurred.

Questions pertaining to this policy may be directed to the Title IX Coordinator located in the Office of Human Resources, Assistant Title IX Coordinators (Deans of Student Services), or the U.S. Department of Education’s Office of Civil Rights.
PROCEDURES

A. Students should immediately report sexual misconduct to the Dean of Student Services, Assistant Title IX Campus Coordinator (ACC) or Georgia Perimeter College Department of Public Safety. Faculty or Staff should immediately report sexual misconduct to the Director, Affirmative Action and Compliance/Assistant Title IX Coordinator or Georgia Perimeter College Public Safety Department.

B. The originating point of contact will immediately contact and engage the assistance of the other designated responders.

C. Victims shall be afforded assistance in seeking counseling (follow-up medical care as needed), making changes to their academic or work schedules, and/or reporting to the appropriate criminal authorities after an alleged incident of sexual misconduct has occurred.

D. Specifically, the victim of a sexual assault should take care to preserve any evidence that may be necessary to prove that the sexual assault occurred. Victims are advised to consult law enforcement authorities before showering, bathing, or changing and/or laundering any clothing that was worn during the assault. However, the fact that the victim of a sexual assault has already bathed, showered, or otherwise compromised potential evidence should in no way dissuade the victim from reporting the assault as such actions may not prevent prosecution or proceedings from going forward.

E. After a campus sexual misconduct incident has been reported, campus personnel shall take reasonable and necessary steps to prevent any unnecessary or unwanted contact or proximity with alleged assailant(s).

F. Any member of the student body, faculty, staff, and administration must report Sexual Misconduct involving children ages 17 and under to the Title IX Coordinator/Executive Director of Human Resources. After receiving the report, the Title IX Coordinator must report the incident within 24 hours to the appropriate external authorities, (i.e., Department of Family and Children Services, Local Law Enforcement, etc.).

Rights and Responsibilities of Alleged Victims

Georgia Perimeter College recognizes and upholds the rights of victims of sexual misconduct including:

A. The right to have any and all sexual misconduct against them treated with seriousness; the right as a victim, to be treated with dignity; and the right to receive supporting information and guidance from campus organizations.

B. The right to have sexual misconduct investigated and adjudicated by the duly constituted criminal and civil authorities of the governmental entity in which the sexual misconduct occurred and the right to the full and prompt cooperation and assistance of campus personnel in notifying the proper authorities. The foregoing shall be in addition to any campus disciplinary proceedings.

C. The right to be free from any kind of pressure by campus personnel that victims:
   1. not report crimes committed against them to civil and criminal authorities or to campus law enforcement and disciplinary officials, or
   2. report crimes as lesser offenses than the victims perceive them to be.

D. The right to be free from any kind of suggestion that campus Sexual Misconduct victims not report, or under report, crimes because:
   1. victims are somehow responsible for the commission of crimes against them,
   2. victims were contributorily negligent or assumed the risk of being assaulted,
   3. by reporting crimes, victims would incur unwanted personal publicity.
F. The right to be free from any kind of direct or indirect acts of retaliation by the accused or others from within the campus community.

G. The same right to advisement and assistance or ability to have others present in any campus disciplinary proceeding that the institution permits the accused.

H. The right to a hearing on the complaint, including timely notice of the hearing date and adequate time for preparation.

I. The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing.

J. The right to make an impact statement at the campus conduct proceeding and to have that statement considered by the hearing panel in determining its sanction.

K. The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law, at least 48 hours prior to the hearing.

L. The right to be notified of the outcome of any campus disciplinary proceeding and the right to appeal the results/outcomes of the proceedings.

M. The right to full and prompt cooperation from campus personnel in obtaining, securing and maintaining evidence within the College’s jurisdiction as it may be necessary to the proof of criminal sexual assault in subsequent legal proceedings.

N. The right to be made aware of and assisted in exercising any options as provided by state and federal laws or regulations with regard to mandatory testing of sexual assault suspects for communicable diseases and with regard to notification to victims of the results of such testing.

**Rights and Responsibilities of the Accused**

Georgia Perimeter College recognizes and upholds the rights of those accused of sexual misconduct including:

A. The right to have alleged sexual misconduct investigated and adjudicated by the duly constituted criminal and civil authorities of the governmental entity in which the sexual misconduct occurred and the right to the full and prompt cooperation and assistance of campus personnel in responding to the proper authorities. The foregoing shall be in addition to any campus disciplinary proceedings.

B. The right to be free from any kind of direct or indirect acts of retaliation by the complainant or others from within the campus community.

C. The same right to advisement and assistance or ability to have others present in any campus disciplinary proceeding that the institution permits the alleged victim.

D. The right to a hearing on the complaint, including timely notice of the hearing date and adequate time for preparation.

E. The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing.

F. The right to make an impact statement at the campus hearing panel proceeding and to have that statement considered by the hearing panel in determining its sanction(s).
G. The right to review all documentary evidence available regarding the complaint subject to the privacy limitations imposed by state and federal law at least 48 hours prior to the hearing.

H. The right to be notified of the outcome of any campus hearing panel proceeding and the right to appeal the results/outcomes of the proceedings.

I. The right to be fully informed of the nature, rules and procedures of the campus hearing panel proceeding and to timely written notice of all alleged violations within the complaint, including the nature of the violation and possible sanctions.

J. The right to full and prompt cooperation from campus personnel in obtaining, securing and maintaining evidence within the College’s jurisdiction. The right to be made aware of and assisted in exercising any options as provided by state and federal laws or regulations with regard to mandatory testing of sexual assault suspects for communicable diseases and with regard to notification to victims of the results of such testing.

K. Referral information for counseling from mental health services will be made available.

**Reporting Sexual Misconduct**

To report a sexual misconduct incident, you may contact the following departments:

- GPC Public Safety 24 Hour Emergency: (770) 274-5511
- Ethics and Compliance Reporting Hotline: 1-877-516-3444

For matters involving complaints of sexual misconduct committed by a student, the incident may be reported to the Office of the Dean of Student Services/Assistant Title IX Coordinator at the following numbers:

- Alpharetta: (678) 240-6010
- Clarkston: (678) 891-3525
- Decatur: (678) 891-2695
- Dunwoody: (770) 274-5460
- Lakeside: (678) 891-2545
- Newton: (770) 278-1220

For matters involving complaints of sexual misconduct committed by faculty or staff, the incident may be reported to the Office of Human Resources Compliance and Affirmative Action at the following number:

- College-wide: (678) 891-2500

**Other Resources**

GPC Personal Counseling Services
- Alpharetta: (678) 274-5166
- Clarkston: (678) 891-3315
- Decatur: (678) 891-2346
- Dunwoody: (678) 274-5166
- Newton: (770) 278-1286
- Access Line: (770) 278-1300

Rape Crisis Center
- DeKalb: (404) 377-1428
It is important for the victim of a sexual assault not to destroy potential physical evidence by bathing, showering, douching, changing and/or destroying clothing. Additionally, a victim should receive prompt medical attention. Sexual assault is a criminal offense and can be adjudicated through the College, county court or both. If handled through the College, please refer to the procedures under the Sexual Misconduct Policy.

**Investigation and Grievance Review**

Upon receipt of a grievance/complaint, the Title IX Coordinator (TC) shall appoint an Assistant Title IX Coordinator/Investigator (ACC) to open a formal case file, conduct the investigation and confer with the Title IX Coordinator on interim actions, accommodations for the alleged victim, or other necessary remedial short-term actions. The Assistant Title IX Coordinator shall then take the following steps:

1. In coordination with the College Title IX Coordinator and other appropriate administrators, initiate any necessary remedial actions;

2. Determine the identity and contact information of the complainant (whether that be the initiator, the alleged victim, or a College proxy or representative);

3. Identify the correct policies allegedly violated;

4. Conduct an immediate review of the grievance/complaint and supporting materials to determine if there is reasonable cause to charge the accused individual.
   
   a. **If there is insufficient evidence to support reasonable cause, the grievance/complaint should be closed** with no further action beyond notification to the complainant of the resolution.
   
   b. **If there is sufficient evidence to support reasonable cause**, the Assistant Title IX Coordinator shall prepare the notice of charges on the basis of the initial review.

5. **If, on the basis of the initial review, there is sufficient evidence to support reasonable cause**, the Assistant Title IX Coordinator shall conduct a complete and impartial investigation. The investigation will include: an investigation timeline, a documented witness list, evidence list, and order of interviews for all witnesses and the accused individual, who may be given notice prior to or at the time of the interview of the investigation timeline.
   
   a. Complete the investigation promptly and without unreasonable deviation from the intended timeline.
   
   b. Make a finding based on a preponderance of the evidence (whether a policy violation is more likely than not).
   
   c. The Assistant Title IX Coordinator will propose appropriate sanctions.
   
   d. The Title IX Coordinator will review the proposal and determine appropriate sanctions for any violation finding after consultation with the appropriate administrative officer for student, faculty, or staff conduct.
   
   e. Present the findings to the accused individual, who may accept the findings, accept the findings in part and reject them in part, or may reject all findings.
   
   f. Report the findings, outcome, and next steps (if appropriate) to the complainant and accused.

Where the accused individual is found **not responsible** for the alleged violation(s), then the investigation should be closed.
Where the accused individual accepts the finding that he/she violated college policy, the appropriate unit (Dean of Student Services Office, Office of Human Resources, and Office of Academic Affairs) will impose appropriate sanctions for the violation after consultation with the Title IX Coordinator.

If the accused is an employee of the College, the Director of Human Resources/ACC will provide the findings and recommendations to the appropriate Dean/Director and area Vice President to make a determination as to sanctions/disciplinary action. If the accused employee does not accept the findings and/or does not accept the sanctions/disciplinary action, he/she may utilize the appeal process as defined in Policy 425.

Should the accused student reject the findings in part or entirely, the Title IX Coordinator will convene a hearing under its respective procedures to determine whether the accused individual is in violation of the contested aspects of the complaint. At the hearing, the findings of the investigation will be admitted but are not binding on the hearing panel. The Assistant Title IX Coordinator that conducted the investigation may give evidence. The hearing panel will determine whether it is more likely than not that the accused individual violated the policies forming the basis of the charge.

The Title IX Coordinator has final decision-making authority with regard to formal complaints, subject to appeal. When it has been determined that a violation has occurred, the College will act to prevent its recurrence and remedy its effects on the victim and the College community. Appeal proceedings as described in this document will apply to all parties of the complaint unless one of the parties is an employee as is defined above.

**TITLE IX HEARING PANEL COMPOSITION & PROCEDURES**

I. HEARING PANEL COMPOSITION

The Hearing Panel will consist of (1) faculty member, (1) staff member, (1) administrator, and the Vice President of Student Affairs or his/her designee. The board will be diverse in gender and ethnicity. In case of unavoidable scheduling conflicts or other good cause shown, alternate hearing panel member(s) will be appointed by the Vice President of Student Affairs in consultation with the Vice President of Academic Affairs.

II. TERMS / APPOINTMENT OF OFFICE

Administrator, Faculty, and Staff panelists are appointed by the Executive Team in June (Summer Term) for one year or until and existing case is decided.

III. THE PRE-HEARING PROCESS

A. Title IX Investigation initiated by Grievance/Complaint Filed with Title IX Coordinator or designee.

1. The victim files a written grievance/complaint with the Assistant Title IX Coordinator/Investigator stating the facts underlying alleged violation(s) and the witness(es) to the alleged violation.
2. A GPC Public Safety or Sexual Misconduct Incident Report may be used to initiate the Title IX investigation process.

3. Except under extraordinary circumstances, grievance/complaint(s) must be filed within 45 calendar days of the occurrence of the alleged violation.

4. The Assistant Title IX Coordinator/Investigator shall conduct an initial review and upon finding of reasonable cause shall initiate a formal investigation, which includes: an investigation timeline, a documented witness list, evidence list, and order of interviews for all witnesses and the accused individual. The accused may be given notice prior to or at the time of the interview of the investigation timeline.

5. The ACC will report the findings and outcome of the formal investigation to the complainant and the accused.

6. The accused or the complainant may reject any part of the findings or may reject all findings as a whole. Should the accused or the complainant reject any or all of the findings and/or sanctions, the complaint will be referred to the Title IX Hearing Panel.

B. Notification

1. The Title IX Coordinator will give the accused and complainant notice of a hearing and the timeline for the hearing.

2. The notice will be in writing and contain the facts underlying the alleged violation, the specific component of the sexual misconduct policy the person is alleged to have violated, and summary of the initial investigation findings.

3. Except in emergency circumstances, service of notice will be by letter delivered by hand or by registered mail at least five (5) business days before the date of the hearing.

C. Request for Postponement

1. The hearing panel will be held at the date and time specified in the written notice unless an official postponement has been requested and approved in writing by the Title IX Coordinator.

2. If the accused/complainant has a serious reason for postponing the hearing, he or she must notify the Title IX Coordinator no later than two (2) business days prior to the hearing date.

3. If the accused/complainant has not obtained an official postponement and fails to appear for the hearing, the Title IX Coordinator may decide to conduct the hearing without the accused/complainant and to uphold the sanctions proposed in the investigation findings.

IV. HEARING PROCESS

A. Attendees at the Hearing - Members of the Hearing Panel and:
   - The accused
   - The complainant
The accused and the complainant may have an advisor who may not actively participate in the dialogue of the hearing and will be restricted to consulting and advising the complainant or the accused. Attorneys may not serve as advisors at the Title IX Hearing. Failure to abide by these rules may result in the advisor’s removal from the hearing.

B1. Rights of the Accused

1. Right to a notice in writing of any charges.
2. Right to admit the alleged violation, waive a hearing and accept the College’s action.
3. Right to admit the alleged violation but request a hearing.
4. Right to deny the alleged violation and request a hearing.
5. Right to a hearing before an impartial panel.
6. Right to appear in person at a hearing or not to appear with assurance the failure to appear will not be interpreted as indicative of guilt.
7. Right to select an advisor of his/her choice to attend the hearing.
8. Right to call witnesses and present evidence on his/her behalf.
9. Upon request, the right to a list of witnesses who will appear against him/her.
10. Right to confront and question witnesses and/or accusers.
11. Right to request a copy of the record of the tape recording of a hearing if the offenses involve possible suspension or expulsion.
12. Right of final appeal to the President of the College.

B2. Rights of the Complainant

1. Right to a notice in writing of the hearing.
2. Right to appear in person at a hearing or not to appear with assurance the failure to appear will not be interpreted as withdrawal of the complaint.
3. Right to select an advisor of his/her choice to attend the hearing.
4. Right to call witnesses and present evidence on his/her behalf.
5. Upon request, the right to a list of witnesses who will appear against him/her.
6. Right to confront and cross-examine witnesses and/or accusers.
7. Right to request a copy of the record of the tape recording of a hearing if the offenses involve possible suspension or expulsion.
8. Right of final appeal to the President of the College.

C. Burden of Proof

The findings from the ACC’s investigation must evidence that it was more probable than not that the facts are true and exist, which is sometimes expressed as 51% certainty, the Preponderance of Evidence standard.

D. General Guidelines for Conducting a Hearing

The guidelines below for hearings will be followed in all cases. These guidelines will be interpreted to provide a procedure for hearings wherein informality will not hinder or obstruct the basic fact-finding function of the Panel.

1. The Hearing Panel will not be bound by formal rules of legal proceedings and may admit any information that may be of value in determining the issues involved.
2. Hearings will **NOT** be open to the College or general public.

3. A recording of the proceedings will be kept in the central college office of the Title IX Coordinator.

4. The accused and complainant will have the right to question all witnesses.

6. The findings of facts and the decision of the Hearing Panel will be based solely on the record of the hearing which includes the ACC investigation findings and recommendation.

**E. Oath/Affirmation by Witness**

1. As each witness is called, he/she will take an oath or affirmation, administered by the Hearing Panel Chair that he/she will tell the truth.

2. The oath will be: “Do you swear or affirm that the testimony you will give at this hearing will be the truth?”

**F. Evidence**

1. The Panel will consider only evidence presented at the hearing or from the record of the investigation. Irrelevant, immaterial, or unduly repetitious evidence will be excluded.

2. Written statements will be admissible. If, for good reason, as determined by the Title IX Coordinator, a witness cannot appear at the hearing that witness may submit a written statement to the Title IX Coordinator no later than **three (3) business days before the hearing**. As a result, the Hearing Panel will recognize that no questioning of the witness is then possible. The Panel will place high value on direct examination of all witnesses; therefore, it is in the best interest of all parties to ensure the attendance of their witnesses.

**G. Orders of Proceedings**

The Hearing Panel Chair will explain the order of proceedings and answer questions regarding that order.

The Hearing Panel Chair will read the statement regarding truthful testimony to all parties in the hearing. Afterwards, witnesses will wait in a separate room or rooms.

1. The complainant presents his/her complaint and calls witnesses.
2. The accused can also ask questions of the complainant and the complainant’s witnesses.*
3. The accused presents his/her response to the complaint and calls witnesses for the accused.
4. The complainant can also ask questions of the accused and the accused’s witnesses.*
5. The Hearing Panel may question the accused, complainant or any witnesses anytime during the hearing.
6. The accused/complainant may no longer present new evidence and new witnesses.
7. A final statement is made by the complainant.
8. A final statement is made by the accused.

* If the accused or complainant is uncomfortable with questioning the opposing party, he/she may submit questions to the hearing panel for the hearing panel to ask the questions.

**H. Hearing Panel Deliberations**
1. The deliberations of the Hearing Panel will be closed, except to members of the Panel.
2. The decision of the Panel will be based on a majority vote.
3. The Panel Chair (VP of Student Affairs or his/her designee) will vote only in the case of a tie.

I. Sanctions

Sanctions may be imposed by the Hearing Panel. (See Disciplinary Sanctions section of the Student or Employee Handbook for a listing of possible sanctions.)

J. Reporting the Hearing Panel’s Decision

1. Within two (2) business days of the hearing, the Title IX Coordinator will forward the Panel’s decision and sanction(s) to the appropriate Vice President.

2. Within five (5) business days of the hearing, the Title IX Coordinator, in conjunction with the appropriate Vice President, will inform the accused and complainant of the Panel’s decision and the sanction(s). Notification will be in writing and will be delivered by hand or by registered mail.

3. One record of the charge, the Panel’s decision, and penalty will be kept in the accused’s confidential activity file in the respective Vice President’s office, and, as appropriate, the Dean of Student Services’ office. The Hearing Panel records will be maintained in a college-wide database maintained by the Dean of Student Services and/or Title IX Coordinator.

4. Any further distribution of the information will be restricted because of the confidentiality requirements for student records.

V. APPEALS

Within five (5) business days of notification of the Panel’s decision, the accused or the complainant may file a written appeal with the College President or his/her designee. Notification will be delivered by hand with a receipt form requested or by registered mail to:

Office of the President
Georgia Perimeter College
3231 Panthersville Road
Decatur, GA 30034

Appeals will only be accepted for the following reasons.

- Procedural or substantive error
- To consider new evidence not previously available
- The sanctions imposed are substantially disproportionate to the severity of the violation.

The President or his/her designee will make the final determination and will notify both parties by hand or registered mail. No further appeal is available.

VI. DEFINITIONS
A. Sexual Misconduct offenses include, but are not limited to:
   1. Sexual Harassment
   2. Non-consensual Sexual Contact (or attempts to commit same)
   3. Non-consensual Sexual Intercourse (or attempts to commit same)
   4. Sexual Exploitation

Key Definitions:

A. Sexual Assault

An act of violence in which one person subjects another person to contact of a sexual nature against the latter's will.

B. Sexual Harassment

Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, are considered sexual harassment when:

1. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual’s employment or status in a course, program or activity;

2. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decision affecting such individual; or

3. Such conduct has the purpose or effect of interfering with the individual’s work or educational performance; creating an intimidating, hostile, or offensive working and/or learning environment; or interfering with one’s ability to participate in or benefit from an educational program or activity.

Sexual harassment can occur regardless of the relationship, position or respective sex of the parties. Sexual harassment of a student by a faculty or staff member, a faculty or staff member by a student, or a subordinate employee of a supervisor is strictly prohibited as is same sex harassment.

The conduct listed below is prohibited, as are attempts to commit and aiding, abetting, or inciting others to commit conduct prohibited by this policy. Examples of sexual harassment may include, but are not limited to the following:

1. Physical Assault.

2. Direct or implied threats that submission to sexual advances will be a condition of employment, work status, compensation, promotion, grades, or letters of recommendation.

3. Sexual advances, physical or implied, or direct propositions of a sexual nature. This activity may include inappropriate/unnecessary touching or rubbing against another; sexually suggestive or degrading jokes or comments; remarks of a sexual nature about one’s clothing and/or body; preferential treatment in exchange for sexual activity; and the inappropriate display of sexually explicit pictures, text, printed materials, or objects that do not serve an academic purpose.

4. A pattern of conduct, which can be subtle in nature, which has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliating another.

5. Remarks speculating about a person’s sexual activities or sexual history or one's own sexual activities or sexual history that do not serve a medical or academic purpose.
C. Non-Consensual Sexual Contact

- Any intentional sexual touching,
- However slight,
- With any object,
- By a man or woman upon a man or a woman
- That is without consent and/or by force.

Sexual contact includes intentional contact with the breast, buttocks, groin, or genitals, or touching another with any of these body parts, or making another person touch you or themselves with or on any other body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breast, buttocks, groin, genitals, or other orifice.

D. Non-Consensual Sexual Intercourse

- Any sexual intercourse,
- However slight,
- With any object,
- By a man or woman upon a man or a woman
- That is without consent and/or by force.

Intercourse includes vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

E. Sexual Exploitation

Sexual exploitation occurs when an individual takes non-consensual or abusive advantage of another for his/her own advantage, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

Examples of sexual exploitation include, but are not limited to:

1. Invasion of sexual privacy;
2. Prostituting another individual;
3. Non-consensual video or audio-taping of sexual activity;
4. Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
5. Engaging in voyeurism;
6. Knowingly transmitting an STD or HIV to another student;
7. Exposing one’s genitals in non-consensual circumstances, inducing another to expose his/her genitals;
8. Sexually-based stalking and/or bullying may also be a form of sexual exploitation

F. Stalking

A pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear.
Stalking is a course of conduct that can include:

1. Repeated, unwanted, intrusive, and frightening communications from the perpetrator by phone, mail, text, and/or email.

2. Repeatedly leaving or sending the victim unwanted items or gifts.

3. Following or lying in wait for the victim at places such as home, school, work, or recreation place.

4. Making direct or indirect threats to harm the victim, the victim's children, relatives, friends, or pets.

5. Damaging or threatening to damage the victim's property.

6. Harassing victim through the Internet.

7. Posting information or spreading rumors about the victim on the Internet, in a public place, or by word of mouth.

8. Obtaining personal information about the victim by accessing public records, using Internet search services, hiring private investigators, searching through the victim's garbage, following the victim, contacting victim's friends, family work, or neighbors, etc.

9. Using technology to stalk, may include, but is not limited to: cell phones, computers, networking sites like MySpace, Facebook, etc. and surveillance equipment.

10. Showering a victim with unwelcomed gifts, flattering messages, or other acts are intrusive and frightening and may be considered as stalking.

G. Coercion

1. The use of physical force, threat, intimidation, or exploitation of a person’s mental or physical impairment.

2. Mental or physical impairment refers to the victim’s inability to understand the situation, understand the consequences of his/her choices, or to express his/her desires.

3. Can include persons who are perceived to have tangible control over an individual’s employment, grades, etc. on a college campus.

H. Preponderance of the Evidence

Based on the evidence presented that it was more probable than not that the facts are true and exist, which is sometimes expressed as 51% certainty.

I. Consent

Words or actions that show a knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Effective Consent cannot be gained by Force, by ignoring or acting in spite of the objections of another, or by taking advantage of the Incapacitation of another, where the accused student knows or reasonably should have known of such Incapacitation. Effective Consent is also absent when the activity in question exceeds the scope of Effective Consent previously given. In addition, certain states have designated a minimum age under which a person cannot give "Effective Consent."
J. Incapacitation

"Incapacitation" means the physical and/or mental inability to make informed, rational judgments. States of Incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol [or other drug] is involved, one does not have to be intoxicated or drunk to be considered Incapacitated. Rather, Incapacitation is determined by how the alcohol consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments.1 The question is whether the accused student knew, or a sober, reasonable person in the position of the accused student should have known, that the complainant was Incapacitated. Because Incapacitation may be difficult to discern, students are strongly encouraged to err on the side of caution; i.e., when in doubt, assume that another person is Incapacitated and therefore unable to give Consent. Being intoxicated or drunk is never a defense to a complaint of Sexual Misconduct under this Policy.