Policy Definitions

(Pending SCU Policy changes- 2026)

Affirmative Consent

Consent must be:

- Affirmative
- Conscious
- Knowing
- Voluntary, and
- Clear permission
- By word or action
- To engage in sexual activity

Affirmative Consent Cont.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each Party to determine that the other has consented before engaging in the activity.

- If Consent is not clearly provided prior to engaging in the activity, Consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.
- Lack of protest or resistance does not mean Consent, nor does silence mean Consent.
- For Consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses Person A, Person A can kiss them back (if they want to) without the need to explicitly obtain their Consent to being kissed back.
- Consent must be ongoing throughout a sexual activity and can be revoked at any time. Revocation of Consent must be reasonably and clearly communicated. If Consent is revoked, that sexual activity must promptly cease.
- Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be Consent for other sexual activity (such as intercourse).

Affirmative Consent Cont.

- A current or previous dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of Consent.
- Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline/dominance, submission/sadism, or masochism) or other forms of kink, non-Consent, or withdrawal of Consent, may be shown by the use of a safe word. Resistance, force, violence, or even saying "no" may be part of the kink and thus consensual, so Recipient's evaluation of communication in kink situations should be guided by reasonableness and Consent to kink, rather than strict adherence to policy that assumes non-kink relationships as a default.
- Within the scope of the resolution process, proof of Consent or non-Consent is not a burden placed on either Party involved in an incident. Instead, the burden remains on the University to determine whether this Policy has been violated. The existence of Consent is based on the totality of the facts and circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

Digitization

“Digitization” means a process by which any of the following are realistically depicted:

- The nude body parts of another human being as the nude body parts of the depicted individual;
- Computer-generated nude body parts as the nude body parts of the depicted individual;
- The depicted individual engaging in sexual conduct in which the depicted individual did not engage.

Digitized-Sexual Explicit Material

“Digitally sexually explicit material” means any portion of a visual or audiovisual work created or substantially altered through digitization, including an image, that shows the depicted individual in the nude or appearing to engage in , or being subjected to, Sexual Conduct.

Sextortion

A threat to use sexual or intimate images or videos, however obtained, to compel another person to produce sexual or intimate images or videos, engage in sexual acts, or provide anything of value.

Sexual Conduct

“Sexual Conduct,” for the purpose of the “digitally sexually explicit material” definition, means any of the following:

- Masturbation.
- Sexual intercourse, including genital, oral, or anal, whether between persons regardless of sex or gender or between humans and animals.
- Sexual penetration of the vagina or rectum by, or with, an object.
- The transfer of semen by means of sexual conduct from the penis directly onto the depicted individual as a result of ejaculation.
- Sadomasochistic abuse involving the depicted individual.

Stalking

Engaging in a course of conduct, on the basis of sex, 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 emotional distress.

- Course of Conduct: Two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Substantial Emotional Distress: Mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- Reasonable Person (under this definition): A reasonable person under similar circumstances and with similar identities to the Complainant.

Sexual Exploitation

Taking sexual advantage of another person for the benefit of anyone other than that person without that person's Consent. Sexual Exploitation includes, without limitation:

- Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person;
- The prostituting of another person;
- The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion;
- The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts without that person's Consent;
- The distribution of images, including video or photograph, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the disclosure was without the Consent of the person depicted in the images or audio;
- The viewing (or allowing third parties to view) another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's Consent, for the purpose of arousing or gratifying sexual desire;

Sexual Exploitation cont.

- The creation or generation of digitally sexually explicit materials without the depicted individual's Consent;
- The distribution of digitally sexually explicit materials, if the individual distributing the materials knows or should have known that the disclosure was without the Consent of the depicted individual; and/or
- Knowingly transmitting a sexually transmitted infection, including HIV, to another person.

"Depicted individual" means an individual who is portrayed in sexually explicit material.

Sexual Harassment

Sex-based harassment is a form of sex-based discrimination and means sexual harassment and other harassment on the basis of sex, sexual orientation, sex stereotypes, sex characteristics, gender identity, gender expression, or pregnancy or pregnancy-related conditions, that is:

a. ***Quid pro quo harassment:*** Quid pro quo harassment refers to a situation in which an employee, agent, or other person authorized by the University provides an aid, benefit, or service under the University's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in sexual conduct;
b. **Hostile environment harassment:** Hostile environment harassment is unwelcome conduct that, when viewed from both a subjective and objective perspective, is sufficiently severe or pervasive that it unreasonably interferes with, limits, has a negative impact upon, or effectively denies an individual's ability to participate in or benefit from the University's educational program, activity, benefits, services, or honors; employment access, benefits or opportunities; or other University programs or activities.

Sexual Harassment Cont.

Whether a hostile environment exists is a fact-specific inquiry. In evaluating whether a hostile environment exists, the University will evaluate the totality of the circumstances, including, but not limited to:

- The degree to which the conduct unreasonably interfered with the Complainant's educational or work performance or ability to access the University's employment or education benefits, programs, or activities;
- The nature, frequency, and duration of the conduct;
- The Parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each Party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other relevant factors that may arise from consideration of the reported facts and circumstances.

Unwelcome conduct may include verbal, physical, written, electronic, visual or other conduct of a sexual nature. Examples of unwelcome sex-based conduct include, but are not limited to, sexual advances, requests for sexual favors, offering employment benefits or giving preferential treatment in exchange for sexual favors, indecent exposure, being forced to engage in unwanted sexual contact as a condition of membership in a student organization or in exchange for a raise or promotion, being subjected to video exploitation or a campaign of sexually explicit graffiti, or frequently being exposed to unwanted images of a sexual nature in a work environment or in a classroom where the images are unrelated to the coursework.

Claiming that the conduct was not motivated by sexual desire is not a defense to a complaint of Sex-Based Harassment.

Technology-Facilitated Sexual Harassment

Sexual harassment that occurs on, or is facilitated by, digital platforms or digital technologies.