

TITLE IX DEFINITIONS

What is Sexual Harassment?

The College prohibits sexual harassment in any form. Sexual harassment is a broad term encompassing any unwelcome behavior of a sexual nature between persons of the same or different genders.

Sexual Harassment is unwelcome, gender-based verbal or physical conduct, determined by a reasonable person, to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to CVTC's education program or activity. Sexual harassment can be based on power differentials such as quid pro quo harassment, the creation of a hostile environment on the basis of gender or sex, or retaliation for a person complaining about or participating in the investigation of sexual harassment.

This policy prohibits all forms of sexual harassment that would violate applicable federal, state, and local laws. Specific examples of prohibited sexual harassment include, but are not limited to:

- A. Unwelcome sexual advances or requests for sexual favors. Examples include, but are not limited to:
 - Staring at a person or looking a person up and down.
 - Whistles, catcalls, and sexual references.
 - Repeated pressure on an employee to socialize or date another individual.
- B. Unwelcome verbal or physical conduct of a sexual nature. Examples include, but not limited to:
 - Sexual gestures or hand movements.
 - Unnecessary and unwanted touching, grabbing, caressing, pinching or brushing up against a person.
 - Asking personal questions about a person's social or sexual life.
 - Making sexual comments or innuendoes, telling jokes or stories of a sexual, demeaning, offensive or insulting nature

- Deliberate display of offensive sexually graphic material which is not necessary for business purposes.
 - Posters, cartoons, photographs or artwork of a sexual, hostile or degrading nature.
- C. Making submission to, or rejection of, such conduct a factor in academic or employment decisions affecting a student or employee. Examples may include, but are not limited to: availability of educational opportunities or grades, granting or withholding pay increases, promotions, job offers or other academic or employment issues based on sex or gender.
- D. Taking adverse educational or employment action against a student or employee because of the person's participation in a complaint or investigation of sexual harassment.

Other prohibited conduct under this policy includes, but is not limited to, the following:

1. Sexual Assault
2. Domestic Violence
3. Stalking
4. Dating Violence
5. Hostile Environment on the basis of gender or sex
6. Other Sex-Based Harassment Offenses

Sexual Assault

Sexual Assault is defined very broadly by criminal law, and thus also by this policy. Sexual assault includes a wide variety of both non-consensual sexual contact as well as non-consensual sexual intercourse.

Non-consensual sexual contact is any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman that is without consent. Such conduct may be with or without force. Examples of sexual contact include, but are not limited to: Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

Non-consensual sexual intercourse is any sexual intercourse however slight, with any object, by a man or woman upon a man or a woman that is without consent. Such conduct may be with or without force. Examples of sexual intercourse includes, but are not limited to: 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.

Wisconsin State Statute § 940.225 – Sexual Assault

1. *First degree sexual assault. Whoever does any of the following is guilty of a Class B felony:*

- a. Has sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person.
 - b. Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.
 - c. Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
2. *Second degree sexual assault. Whoever does any of the following is guilty of a Class C felony:*
- a. Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
 - b. Has sexual contact or sexual intercourse with another person without consent of that person and causes injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.
 - c. Has sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the defendant knows of such condition.
 - cm. Has sexual contact or sexual intercourse with a person who is under the influence of an intoxicant to a degree which renders that person incapable of giving consent if the defendant has actual knowledge that the person is incapable of giving consent and the defendant has the purpose to have sexual contact or sexual intercourse with the person while the person is incapable of giving consent.
 - d. Has sexual contact or sexual intercourse with a person who the defendant knows is unconscious.
 - e. Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without the consent of that person.
 - f. Is an employee of a facility or program under s. [940.295 \(2\) \(b\)](#), [\(c\)](#), [\(h\)](#) or [\(k\)](#) and has sexual contact or sexual intercourse with a person who is a patient or resident of the facility or program.
 - g. Has sexual contact or sexual intercourse with an individual who is confined in a correctional institution if the actor is a correctional staff member. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.
 - h. Has sexual contact or sexual intercourse with an individual who is on probation, parole, or extended supervision if the actor is a probation, parole, or extended supervision agent who supervises the individual, either directly or through a subordinate, in his or her capacity as a probation, parole, or extended supervision agent or who has influenced or has attempted to

influence another probation, parole, or extended supervision agent's supervision of the individual. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.

1. Is a licensee, employee, or non-client resident of an entity, as defined in s. [48.685 \(1\) \(b\)](#) or [50.065 \(1\) \(c\)](#), and has sexual contact or sexual intercourse with a client of the entity.

3. *Third degree sexual assault. Whoever has sexual intercourse with a person without the consent of that person is guilty of a Class G felony. Whoever has sexual contact in the manner described in sub. (5) (b) 2. or 3. with a person without the consent of that person is guilty of a Class G felony. (3m)*

4. *Fourth degree sexual assault. Except as provided in sub. (3), whoever has sexual contact with a person without the consent of that person is guilty of a Class A misdemeanor.*

5. (b) "Sexual contact" means any of the following:
 1. Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading; or for the purpose of sexually humiliating the complainant or sexually arousing or gratifying the defendant or if the touching contains the elements of actual or attempted battery under s. [940.19 \(1\)](#):
 - 1. Intentional touching by the defendant or, upon the defendant's instruction, by another person, by the use of any body part or object, of the complainant's intimate parts.
 - 2. Intentional touching by the complainant, by the use of any body part or object, of the defendant's intimate parts or, if done upon the defendant's instructions, the intimate parts of another person.
 2. Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant or, upon the defendant's instruction, by another person upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant.
 3. For the purpose of sexually degrading or humiliating the complainant or sexually arousing or gratifying the defendant, intentionally causing the complainant to ejaculate or emit urine or feces on any part of the defendant's body, whether clothed or unclothed.

Other Sex-Based Harassment Offenses

The following additional sexual harassment offenses, when gender or sex based, violate this policy:

- A. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person.
- B. Discrimination defined as actions that deprive other members of the community of educational or employment access, benefits, or opportunities.
- C. Intimidation defined as implied threats or acts that cause an unreasonable fear of harm in another.
- D. Bullying defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control, or diminish another person physically or mentally.

Domestic ad Dating Violence

What is Domestic Violence?

Includes misdemeanor and felony crimes of violence committed against a victim when the offender is the spouse of the victim, a former spouse of the victim, cohabitant of the victim, an intimate partner of the victim, or has a child in common with the victim. Domestic violence also includes misdemeanor or felony crimes of violence when the victim is a minor subject to the control of the offender, or is an incapacitated individual subject to the control of the offender.

According to Wis. Stat. §813.12, Domestic Abuse means any of the following, when engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:

- A. Intentional infliction of physical pain, physical injury or illness.
- B. Intentional impairment of physical condition.
- C. Conduct which would violate Wis. Stat. § 940.225, including first, second, or third degree sexual assault.
- D. Physical act that may cause the other person reasonably to fear imminent engagement in the conduct above.

Wisconsin State Statute § 813.12 – Domestic Abuse Restraining Orders and Injunctions

(ag) "Dating relationship" means a romantic or intimate social relationship between 2 adult individuals but "dating relationship" does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context. A court shall determine if a dating relationship existed by

considering the length of the relationship, the type of the relationship, and the frequency of the interaction between the adult individuals involved in the relationship.

(am) "Domestic abuse" means any of the following engaged in by an adult family member or adult household member against another adult family member or adult household member, by an adult caregiver against an adult who is under the caregiver's care, by an adult against his or her adult former spouse, by an adult against an adult with whom the individual has or had a dating relationship, or by an adult against an adult with whom the person has a child in common:

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. A violation of s. [940.225 \(1\)](#), [\(2\)](#) or [\(3\)](#).
4. A violation of s. [940.32](#).
5. A violation of s. [943.01](#), involving property that belongs to the individual.
6. A threat to engage in the conduct under subd. [1.](#), [2.](#), [3.](#), [4.](#), or [5.](#)

Wisconsin State Statute § 968.075 – Domestic Abuse Incidents; Arrest and Prosecution

968.075(1)(a)(a) "Domestic abuse" means any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. A violation of s. [940.225 \(1\)](#), [\(2\)](#) or [\(3\)](#).
4. A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under subd. [1.](#), [2.](#) or [3.](#)

What is Dating Violence?

Violence by a person who is or has been in a romantic or intimate relationship with the victim. Whether a romantic or intimate relationship exists will be gauged by its length, type, and frequency of interaction between the offender and the victim.

Hostile Environment on the Basis of Gender or Sex

A hostile environment includes any situation in which there is harassing conduct that is sufficiently severe, persistent, or pervasive such that it alters the conditions of employment or limits, interferes with, or denies educational benefits, opportunities, or employment from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint.

What is stalking?

Involves a course of conduct, including harassment, intimidation, or surveillance, directed at a specific person that would cause a reasonable person to fear for her, his, or other's safety, or to suffer substantial emotional distress, serious physical injury, or death. Stalking can also be a form of sexual harassment, and/or it can involve a total stranger. The physical location of the course of conduct or portions of it does not matter.

According to Wis. Stat. § 940.32, a "course of conduct" means a series of 2 or more acts carried out over time, however short or long, that show a continuity of purpose, including any of the following:

- A. Maintaining a visual or physical proximity to the victim.
- B. Approaching or confronting the victim.
- C. Appearing at the victim's workplace or contacting the victim's employ or coworkers.
- D. Appearing at the victim's home or contact the victim's neighbors.
- E. Entering property owned, leased, or occupied by the victim.
- F. Contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously, regardless of whether a conversation ensues.
- G. Photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim. This subdivision applies regardless of where the act occurs.
- H. Sending material by any means to the victim or, for the purpose of obtaining information about, disseminating information about, or communicating with the victim, to a member of the victim's family or household or an employer, coworker, or friend of the victim.
- I. Placing an object on or delivering an object to property owned, leased, or occupied by the victim.
- J. Delivering an object to a member of the victim's family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the victim.
- K. Causing a person to engage in any of acts described above.

What Does Pregnancy or Related Conditions Mean?

Pregnancy or related conditions means

1. pregnancy, childbirth, termination of pregnancy, or lactation

2. medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
3. recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

What is Consent?

Consent must be informed, knowing, and voluntary as well as by the following concepts:

- A. Active, not passive, given by words or actions as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity.
- B. Silence, in and of itself, cannot be interpreted as consent.
- C. Non-verbal consent, such as non-verbal actions, or non-verbal communication is not as clear as verbally consenting to sexual activity. Persons who want to engage in sexual activity are responsible for obtaining consent.
- D. Known consent to one form of sexual activity does not imply consent to other forms of sexual activity
- E. Consent requires the individual to be of legal age.

What is Coercion?

Individual(s) compelled to engage in sexual activity based on an unreasonable amount of pressure to include harassment, threats and intimidation. When an individual makes it clear that they do not want to engage in sexual conduct, wants it to stop, or does not wish to go past a certain point of sexual interaction, continued pressure beyond that point is coercive.

What is Incapacitation?

A state where an individual has the absence of mental capacity or is not able to make a rational or reasonable decision due to a temporary or permanent inability to understand the concepts or care of his or her own person regarding sexual interaction. Use of alcohol or other drugs does not excuse behavior that violates this policy. If an individual engages in sexual activity with someone they know or should have known to be mentally or physically incapacitated, they may be in violation of this policy.

What is a Bystander?

A **bystander** is an individual who observes a crime, impending crime, conflict, potentially violent or violent behavior or conduct that is in violation of rules or policies of an institution.

Bystander Intervention

Every individual has the ability to help create a culture of civility, respect, and responsibility on campus and in the community. CVTC encourages staff and students to move beyond bystanders (those who will observe

a concerning situation without taking action to help) to someone who is equipped to safely and effectively intervene.

As bystanders witnessing a potentially concerning situation, some options for assistance include:

- Call police.
- Find a staff member.
- Grab a friend for backup.
- Yell for help.
- Ask a friend in a potentially dangerous situation if they want to leave and then make sure that they get to safety.
- Ask a victim if they are okay. Provide a listening ear and walk through options.
- Call a local crisis center or stop by a campus office for guidance.

Harm to Persons

Actions which result in or have the potential to cause physical harm or create conditions that pose a risk of physical harm or cause reasonable apprehension of physical harm are prohibited. Conduct which threatens to cause harm, or creates hazardous conditions for others, such as dropping, throwing, or causing objects or substances to fall from windows, ledges, balconies or roofs is also prohibited.

Hate Crime

The victim is intentionally selected because of the actual or perceived gender or sexual orientation.

Confidentiality

The College is committed to create a safe environment in which individuals can be confident in discussing sexual misconduct concerns and, if necessary, file a complaint free of retaliation. The College will take necessary steps to maintain confidentiality of persons reporting incidents of sexual misconduct. There are certain time when safety or legal obligations exist for the College to report sexual misconduct. In these instances the privacy of the individual(s) involved cannot be guaranteed, however, identities will be protected to as great an extent as is legally and reasonably possible. An individual's expressed wishes of confidentiality will be considered in the context of the College's legal obligation to act upon the charge and the right of the charged party to be informed concerning the charge(s). When mandatory state reporting occurs, alternative means of identification regarding personally identifiable information will be used when possible.