Policy Content

Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity or contact.

- Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity.
- A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately. Continued pressure can be coercive, and is also a violation of this policy.
- Silence or the absence of resistance alone is not consent.
- Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse).
- A current or previous dating relationship is not sufficient to constitute consent.
- In order to give effective consent, one must be at least 17 years old in Texas.

Force as a Factor in Consent

Force is the direct or indirect use of physical violence and/or imposing on someone physically to gain sexual access. There is no requirement that parties resist the sexual advance or request, but resistance is a clear demonstration of non-consent.

Incapacitation as a Factor in Consent

Students who are not sure if they are interacting with a person who has diminished capacity should, as a matter of practice, avoid engaging in a sexual act with that person at that time. A person who has ingested a "date rape" drug or is blacked out may not appear incapacitated; nonetheless, this person is incapable of knowing consent. Thus, a student who has sexual interactions with anyone who may be under the influence of any substance is vulnerable to accusations of violations of this policy.

A person is incapacitated and cannot consent if that person has no control of his or her motor skills; is unable to understand what is happening; is intoxicated to the point of a potential black out; or is asleep, or unconscious for any reason, including voluntary or involuntary use of alcohol or drugs. Drunkenness is different than incapacitation, and does not, in itself, automatically indicate a violation, unless other factors, such as force, coercion, or lack of consent are involved.

An individual who engages in sexual activity when the individual knows, or should know, that the other person is incapacitated, has violated the policy.
Possession, use and/or distribution and/or administering of any incapacitating drugs, is prohibited and is a violation of this policy.

It is not an excuse that the accused party of sexual misconduct was drunk/intoxicated, and therefore, did not realize the incapacity of the other.

**Requirements**

**Approvals:**
VP for Finance and Administration

**Revision Management**

**Revision History Log:**

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