



## Policy Against Sex Discrimination, Sexual Misconduct, and Interpersonal Violence

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## Policy Against Sex Discrimination, Sexual Misconduct, and Interpersonal Violence

Knox College has established a Policy Against Sex Discrimination, Sexual Misconduct, and Interpersonal Violence ("Policy") that articulates the College's set of behavioral standards, common understandings of definitions and key concepts, and descriptions of prohibited conduct. The Policy and related Investigation and Resolution Procedures ("Procedures") outlines the College's approach to addressing reports of sex discrimination, sexual misconduct, and interpersonal violence, and other suspected violations of the Policy, taking into account the College's status as a private institution of higher education and its unique mission and culture. Knox College is committed to the prompt and equitable resolution of all alleged or suspected violations of the Policy about which the College knows or reasonably should know to the fullest extent possible under the circumstances. Harassment whether verbal, physical or visual, that is based on any of these characteristics, is a form of discrimination. This includes harassing conduct affecting tangible educational benefits, interfering unreasonably with an individual's academic performance, or creating what a reasonable person would perceive is an intimidating, hostile or offensive environment. Harassment can include verbal or nonverbal behavior that demeans or stereotypes individuals in a harmful way.

### I. Applicable Federal and State Law

This Policy supplements the general Policy statement set forth above and addresses the requirements of Title IX of the Education Amendments of 1972 ("Title IX"), the Violence Against Women Reauthorization Act of 2013, and the Illinois Preventing Sexual Violence in Higher Education Act. Title IX is a federal law that prohibits sex discrimination in federally funded education programs and activities. The Illinois Preventing Sexual Violence in Higher Education Act is a state law that addresses student allegations of sexual violence, domestic violence, dating violence and stalking at higher education institutions. Title IX states as follows:

*No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.*

Discrimination on the basis of sex (i.e., sex discrimination) includes sexual misconduct, which includes sexual harassment, sexual assault (also referred to as sexual violence), inducing incapacitation for sexual purposes, and sexual exploitation. Title VII of the Civil Rights Act of 1964 and the Illinois Human Rights Act are two other laws that also prohibit sex discrimination. In addition, the Violence Against Women Reauthorization Act of 2013 requires colleges and universities to have particular policy statements and offer educational programming regarding domestic violence, dating violence, sexual assault, and stalking.

### II. Policy Statement Regarding Sex Discrimination and Interpersonal Violence

As noted above, it is the policy of the College to provide a work and educational environment free of all forms of sex discrimination. "Sexual misconduct," including sexual harassment, sexual assault, inducing incapacitation for sexual purposes, and sexual exploitation, is a form of sex discrimination and is prohibited by this Policy. "Interpersonal violence," including domestic violence, dating violence, and stalking, is also prohibited by this Policy.

This Policy applies to all students, faculty, and staff, to other members of the College community, and to contractors, consultants, and vendors doing business or providing services to the school.

This Policy applies to on-campus and off-campus conduct, including online or electronic conduct, when the off-campus conduct: (i) occurs during a College sponsored employment or education activity or program; (ii) adversely impacts the education or employment of a member of the College community; or (iii) otherwise threatens the health and/or safety of a member of the College community.

### **III. Definitions of Prohibited Sexual Misconduct**

Knox College affirms its commitment to create and maintain an environment free from acts of sexual misconduct and to foster within that environment respect for the dignity of all members of the community. Accordingly, Knox College will not tolerate acts of sexual misconduct. The following offenses are considered sexual misconduct and are prohibited by the College.

#### **A. Sexual Harassment**

Sexual harassment is unwelcome communication or conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors and other verbal, written or physical conduct of a sexual nature, without regard to whether the parties are of the same or different genders or gender identities where:

- Submission to or rejection of such conduct is used as the basis of an academic or employment decision or is either an explicit or implicit term of employment or admission to any college program or college-related activity; or
- Such conduct is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the College's programs, services, opportunities, or activities; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance.

In considering whether conduct constitutes sexual harassment, the College considers the totality of the circumstances. Examples of sexual harassment may include, but are not limited to: repeated

comments about a person's physical appearance, sexually suggestive remarks or insults; displays of sexually suggestive material, unwelcome advances such as touching, patting, caressing, kissing or sexual propositions and sexual advances accompanied by threat of punishment or promise of reward including the withholding or giving of grades and promotions.

## **B. Sexual Assault**

Sexual assault (also referred to as sexual violence) is a particular type of sexual harassment that involves actual or attempted sexual contact with another person without that person's consent. Sexual assault may involve individuals who are known to one another or have an intimate and/or sexual relationship, or may involve individuals not known to one another. Sexual assault includes, but is not limited to:

### **1. Sexual Penetration without Consent**

Having or attempting to have sexual intercourse with another individual without consent. Sexual intercourse includes any vaginal or anal penetration, however slight, with any body part or object, or oral penetration by a sex organ of another person, when consent is not present or coercion and/or force is used.

### **2. Sexual Contact without Consent**

Having or attempting to have sexual contact with another individual without consent. Sexual contact includes kissing, touching the private or intimate parts of another person for sexual gratification, or disrobing another person when consent is not present or coercion and/or force is used. This includes contact done directly or indirectly through clothing, bodily fluids, or with an object. It also includes causing or inducing a person, when consent is not present, to similarly touch or fondle oneself or someone else. Intimate parts may include the breasts, genitals, buttocks, mouth or any other part of the body that is touched in a sexual manner.

### **3. Incest**

Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by the laws of the state in which the incident occurred. (For incidents that occur outside of the U.S. (e.g., study abroad programs), Illinois law will apply in determining a violation of this Policy.)

### **4. Statutory Rape**

Sexual intercourse with a person who is under the legal age of consent (17 years in Illinois). (For incidents that occur outside of the U.S. (e.g., study abroad programs), Illinois law will apply in determining a violation of this Policy.)

### C. Inducing Incapacitation for Sexual Purposes

Inducing incapacitation for sexual purposes includes using, or causing another person or person to use drugs, alcohol, or other means with the intent to affect the ability of an individual to consent or refuse to consent (as "consent" is defined in this Policy) to sexual contact.

### D. Sexual Exploitation

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for personal benefit, or to benefit anyone other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses. Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person;
- Non-consensual visual (e.g., video, photograph) or audio-recording of sexual activity;
- Non-consensual distribution of photos, other images, or information of an individual's sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information;
- Exceeding the boundaries of consent;
- Engaging in non-consensual voyeurism;
- Knowingly transmitting an STI, such as HIV, to another without disclosing one's STI status;
- Exposing one's genitals in non-consensual circumstances, or inducing another to expose their genitals;
- Possessing, distributing, viewing or forcing others to view illegal pornography.

## IV. Interpersonal Violence

Knox College affirms its commitment to create and maintain an environment free from acts of interpersonal violence and to foster within that environment respect for the dignity of all members of the community. Accordingly, Knox College will not tolerate acts of interpersonal violence. The following offenses are considered interpersonal violence and are prohibited by the College.

### A. Stalking

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or to suffer substantial emotional distress. For the purposes of this definition:

1. **“Course of conduct”** means 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;
2. **“Reasonable person”** means a reasonable person under similar circumstances and with similar identities to the victim; and
3. **“Substantial emotional distress”** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

## B. Dating Violence

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. It can include but is not limited to:

- Sexual abuse or the threat of such abuse;
- Battering that causes bodily injury;
- Purposely or knowingly causing reasonable apprehension of bodily injury;
- Emotional abuse creating apprehension of bodily injury or property damage.
- Dating violence does not include acts covered under the definition of domestic violence, below.

## C. Domestic Violence

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

## V. Statement on Consent

Consent to engage in sexual activity must be informed, freely given and mutual. Consent must be ongoing, throughout each instance of sexual activity, and for each form of sexual contact. Consent to one form of sexual contact does not constitute consent to all forms of sexual contact. For example, an individual may agree to kiss but choose not to engage in touching of the intimate parts or sexual intercourse. An individual should obtain consent before moving from one act to another. In the state of Illinois, consent can never be given by minors under the age of 17.

- Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of verbal or physical resistance or lack of active response alone. Consent cannot be inferred by an individual's manner of dress. In the absence of an outward demonstration, consent does not exist. If at any time it is apparent to either party that the other party is hesitant, confused or uncertain, both parties should stop and obtain mutual consent before continuing sexual activity.
- A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Further, a person's consent to past sexual activity does not constitute consent to future sexual activity. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates willingness to engage in sexual activity each time such activity occurs.
- Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.
- Consent does not exist if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise their own free will to choose whether or not to have sexual contact.
- Consent can be withdrawn at any time.
- A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following:
  - The individual is incapacitated due to drug or alcohol consumption, either voluntarily or involuntarily;
  - The individual is unconscious, asleep or otherwise unaware that the sexual activity is occurring;

- The individual is under age (17 years in Illinois); or
- The individual has a mental disability that impairs his/her/their ability to provide consent.

A finding of a lack of consent can occur even if: (a) the Responding Party's belief in affirmative consent arose from the intoxication or recklessness of the Responding Party, or (b) the Responding Party did not take reasonable steps, in the circumstances known to the Responding Party at the time, to ascertain whether the Reporting Party affirmatively consented.

## VI. Incapacitation

Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act (e.g., to understand the who, what, when, where, why, or how of the sexual interaction), and/or is physically helpless. For example, an individual is incapacitated, and therefore unable to give consent, if the individual is asleep, unconscious, or otherwise unaware that sexual activity is occurring. An individual will also be considered incapacitated if the person cannot understand the nature of the activity or communicate due to a mental or physical condition. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings, or the inability to communicate for any reason.

Where alcohol or other drugs are involved, one does not have to be intoxicated or drunk to be considered incapacitated. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual's: decision-making capacity, awareness of consequences and ability to make informed judgments, or capacity to appreciate the nature of the act.

Whether a responding party reasonably should have known that a reporting party was incapacitated will be evaluated using an objective reasonable person standard. The question is whether the responding party knew, or a sober, reasonable person in the position of the responding party, knew or should have known, that the reporting party was incapacitated.

An individual may experience a blackout state in which they appear to be giving consent, but do not actually have conscious awareness or the ability to consent. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication or impairment.

It is the responsibility of each party to be aware of the intoxication level of the other party before engaging in sexual activity. In general, sexual activity while under the influence of alcohol or other drugs poses a risk to all Parties. If there is any doubt as to the level or extent of the other individual's intoxication, it is safest to forgo or cease any sexual contact or activity.



**Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual misconduct and does not excuse one from the responsibility to obtain consent.**

## **VII. Coercion**

Coercion is to force a person to act based on fear of harm to self or others. Means of coercion may include, but are not limited to, pressure, threats, emotional intimidation or the use of physical force.

## **VIII. Non-Retaliation**

It is a violation of College Policy to retaliate in any way against a person or persons because they have, in good faith, opposed any practices forbidden under this Policy or have filed a report, assisted, or participated in any manner in an investigation or proceeding under this Policy. This includes action taken against a bystander who intervened to stop or attempted to stop sex discrimination, sexual misconduct or interpersonal violence. Retaliation may take many forms, and may include intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation.

Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this Policy. The College will take immediate and responsive action upon receiving any report of retaliation and may pursue disciplinary action as appropriate. Individuals who engage in retaliation as defined by this Policy are subject to disciplinary action that may include, but is not limited to, the sanctions listed in Section VII. A. 4. of the College's Investigation and Resolution Procedures for Allegations of Sex Discrimination, Sexual Misconduct, and Interpersonal Violence, up to and including dismissal or other separation from the College.

## **IX. Title IX Coordinator**

The College's Title IX Coordinator is available to meet with or talk to students, faculty and staff regarding issues relating to this Policy.

### **The Lead Title IX Coordinator**

Kimberly K. Schrader  
Lead Title IX Coordinator  
337 South Cherry Street  
Old Jail 12  
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The Lead Title IX Coordinator is responsible for implementing and monitoring Title IX Compliance on behalf of the College. This includes coordination of training, education, communications, and administration of the complaint and grievance procedures for the handling of suspected or alleged violations of this Policy.

## **X. Changes in this Policy**

The College reserves the right to make adjustments and changes in this Policy at any time. Last updated March 1, 2020.