

Department: Student Services

Effective Date: 7/29/2015

Owner & Title: Jaslyn Ramirez, Director of Program Compliance

Last Revised Date: 1/31/2024

Policy Information

I. Title IX Notice of Non-Discrimination

Universal Technical Institute (UTI) is dedicated to maintaining safe learning and working environments for students, employees, and third parties. UTI does not tolerate sexual misconduct, which includes sex discrimination and sexual harassment, or retaliation in its programs and activities. UTI's policies specifically prohibit dating violence, domestic violence, sexual assault, and stalking, consistent with the Violence Against Women Act (VAWA) amendments to the Clery Act.

UTI has designated the Director of Program Compliance to coordinate its compliance with Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex. Questions or comments about sexual misconduct, which includes sex discrimination and sexual harassment, can be directed to: Jaslyn Ramirez, Director of Program Compliance, Title IX Coordinator, 4225 East Windrose Drive, Suite 200, Phoenix, AZ 85032, 800-859-7249, 623-445-0730, or jramirez@uti.edu or Annalise Manginelli, National Director – Student Services/Deputy Title IX Coordinator, 4225 East Windrose Drive, Suite 200, Phoenix, AZ 85032, 800-859-7249, 623-445-0813, or amanginelli@uti.edu.

Inquiries concerning Title IX also may be made to the Office for Civil Rights at: U.S. Department of Education, Office for Civil Rights, Lyndon Baines Johnson Department of Education Bldg., 400 Maryland Ave., SW, Washington, DC 20202-1100, Telephone: 800-421-3481, FAX: 202-453-6012, TDD: 877-521-2172, Email: OCR@ed.gov.

Students can also contact their campus Student Services Director with any questions or reports. These individuals can be contacted as follows:

| Campus | Campus Address | Toll Free | Email Address |
|------------|---|--------------|--|
| Austin | 301 W. Howard Lane, Austin, TX 78753 | 800-940-9101 | rpadilla@uti.edu |
| Avondale | 10695 W. Pierce Street, Suite 100, Avondale, AZ 85323 | 800-859-1202 | likingsley@uti.edu |
| Bloomfield | 1515 Broad Street, Bloomfield, NJ 07003 | 833-207-6077 | skerr@uti.edu |
| Dallas | 5151 Regent Boulevard, Irving, TX 75063 | 877-873-1083 | kimlaney@uti.edu |
| Exton | 750 Pennsylvania Drive, Exton, PA 19341 | 877-884-3986 | disidori@uti.edu |
| Houston | 721 Lockhaven Drive, Houston, TX 77073 | 800-325-0354 | swalker@uti.edu |
| Lisle | 2611 Corporate West Drive, Lisle, IL 60532 | 800-441-4248 | kstamp@uti.edu |
| Long Beach | 4175 E. Conant Street, Long Beach, CA 90808 | 844-308-8838 | cbarrington@uti.edu |

Sexual Misconduct Policy

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|-------------------------------------|---|--------------|--|
| Manufacturer-Paid Training Programs | 4225 E. Windrose Drive, Suite 200, Phoenix, AZ 85032 | 800-859-7249 | jramirez@uti.edu |
| MIAT Canton | 2955 S. Haggerty Road, Canton, MI, 48188 | 800-447-1310 | amanginelli@uti.edu |
| MIAT Houston | 533 Northpark Central Drive, Houston, TX 77073 | 888-547-7047 | afifrank@miat.edu |
| Miramar | 2601 SW 145th Avenue, Miramar, FL 33027 | 866-609-6928 | rburnfield@uti.edu |
| MMI Phoenix | 10695 W. Pierce Street, Suite 200, Avondale, AZ 85323 | 800-528-7995 | tchakos@uti.edu |
| MMI/UTI Orlando | 2202 Taft Vineland Road, Orlando, FL 32837 | 800-342-9253 | rholland@uti.edu |
| NASCAR Tech | 220 Byers Creek Road, Mooresville, NC 28117 | 866-316-2722 | tglenn@uti.edu |
| Rancho Cucamonga | 9494 Haven Avenue, Rancho Cucamonga, CA 91730 | 888-692-7800 | jdismukes@uti.edu |
| Sacramento | 4100 Duckhorn Drive, Sacramento, CA 95834 | 877-884-2254 | mralstin@uti.edu |

Staff may contact a member of the Human Resources team as outlined below:

| | | |
|---|--|--|
| Open East Regional Human Resources Director East: Bloomfield, Canton, Exton, Lisle, Miramar, NASCAR Tech, Orlando, Military Admissions, East Field Regions | Susan Davis West Regional Human Resources Director Ext. 10320 sudavis@uti.edu West: Austin, Avondale/MMI, CTG, Dallas, Houston, Long Beach, Rancho Cucamonga, Sacramento, West Field Regions | Angel Inzauro Corporate Human Resources Director Ext. 10828 ainzauro@uti.edu Corporate Office |
| Jennifer Semetko East Human Resources Business Partner Ext. 21054 jsemetko@uti.edu | Greg Sebble West Human Resources Business Partner Ext. 12157 gsebble@uticorp.com | Michelle Goettl Corporate Human Resources Business Partner Ext. 10861 mgoettl@uti.edu |
| Kandice Debnar East Human Resources Business Partner Ext. 13003 kdebnar@uti.edu | Tatondra Grant West Human Resources Business Partner Ext. 10434 tgrant@uti.edu | |

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II. Anti-Discrimination and Anti-Harassment Statement

UTI does not tolerate sexual misconduct, which includes sex discrimination and sexual harassment, or retaliation in its programs and activities. UTI takes prompt, effective action to address sexual misconduct, including sexual harassment and sex discrimination, of which it has notice. This includes taking appropriate steps to determine what occurred, end a hostile environment if one was created, prevent the recurrence of a hostile environment, and provide any necessary remedies. UTI utilizes fair, impartial processes to address allegations of sexual misconduct. If UTI finds that a violation of this policy has occurred, it imposes discipline, provides remedies to affected parties, and implements other corrective actions, as appropriate. UTI strongly prohibits retaliation against individuals who make a complaint of sex discrimination, sexual harassment, or sexual misconduct, participate in Title IX investigations, or otherwise assert rights protected by Title IX. UTI also does not tolerate other forms of “covered conduct,” as described below.

III. Scope and Jurisdiction

This policy applies to students, employees, and third parties, regardless of sex, gender, gender identity, or sexual orientation. It covers sex discrimination and allegations of sexual misconduct (including dating violence, domestic violence, sexual assault, and stalking) as defined in this Sexual Misconduct Policy that are not governed by the Title IX Sexual Harassment Policy and that occurs on campus or in, or has a continuing effect on, UTI’s programs or activities.

IV. Covered Conduct -- Definitions and Examples

(Additional definitions, including state law definitions and definitions required under the Violence Against Women Act amendments to the Clery Act, are set forth in Appendix A.)

Complainant: The individual who experienced the alleged sex discrimination, sexual harassment, or sexual misconduct. In certain instances, such as where there is a danger to the UTI community and the individual who experienced the alleged conduct is unable or unwilling to file a complaint, UTI reserves the right to proceed with the complaint based on the relevant details of the situation even if the reporting party does not want to continue.

Consent: Affirmative, conscious, and voluntary agreement to engage in sexual activity. Neither the lack of protest or resistance nor silence constitutes consent. Consent may be withdrawn at any time. Affirmative consent must be given by all parties to sexual activity. A person who is incapacitated cannot

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consent (see discussion of incapacitation below). Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Coercion, force, or threat of either invalidates consent.

For cases involving California campuses, the following will not excuse a failure to obtain consent: a respondent's own intoxication or recklessness and a respondent's failure to take reasonable steps to ascertain whether the complainant affirmatively consented.

Coercion: Coercion is direct or implied threat of danger, hardship, or retribution sufficient to persuade a reasonable person to engage in sexual activity in which they otherwise would not engage or to which they otherwise would not submit. Coercion is different from seductive behavior based on the type of pressure someone uses to get another to engage in sexual activity. A person's words or conduct cannot amount to coercion unless they wrongfully impair the other's free will and ability to choose whether or not to engage in sexual activity. Coercion can include unreasonable and sustained pressure for sexual activity. When someone makes clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. (i) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence: (i) A felony or misdemeanor crime of violence committed— (A) By a current or former spouse or intimate partner of the complainant; (B) By a person with whom the complainant shares a child in common; (C) By a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner; (D) By a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (E) By any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Incapacitation: A person may be unable to give consent due to incapacitation as a result of drug or alcohol use, use of medication, or disability status (for example, a person may be unable to communicate due to a mental or physical condition). A person who is passed out, asleep, or unconscious is incapacitated and cannot consent to sexual activity. In evaluating whether a complainant was incapacitated due to the consumption of alcohol, UTI will consider the totality of the circumstances, including factors such as the presence of slurred speech, an unsteady gait/stumbling, unfocused eyes, and impaired memory.

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Inducing Incapacitation: To provide alcohol or drugs to an individual, with or without that individual's knowledge, for the purpose of causing impairment or intoxication or taking advantage of that individual's impairment or incapacitation.

Intimidation: To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct but without displaying a weapon or subjecting the victim to actual physical attack.

Respondent: The individual accused of the alleged sex discrimination, sexual harassment, or sexual misconduct.

Retaliation: Adverse conduct of which the institution is aware, where there is evidence of a causal connection between the conduct and a protected activity such as filing a Title IX complaint, participating in a Title IX investigation, or otherwise asserting rights under Title IX. Retaliation includes, but is not limited to, ostracizing the person, pressuring the person to drop or not support the complaint or to provide false or misleading information, engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living or work environment, threatening, intimidating or coercing the person, or otherwise discriminating against any person for exercising their rights or responsibilities under this policy.

Sexual Assault: Non-consensual physical contact of a sexual nature. This includes penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent. Examples: sexual intercourse with a person who is asleep or unconscious; digital penetration of a person without consent.

Non-consensual sexual contact: Any intentional sexual touching, however slight, with any object, by an individual that is without consent or by force.

Sexual Contact includes intentional contact with the breasts, buttocks, 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: Any intentional sexual touching, however slight, with any object, by an individual that is without consent 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.

Sex Discrimination: Sex discrimination occurs when persons are excluded from participation in, or denied the benefits of, any UTI program or activity because of their sex. Sex discrimination can include

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adverse treatment based on one's sex, as well as conduct that meets the definitions of sexual harassment, sexual assault, and sexual violence, as set forth below. Sex discrimination also includes discrimination on the basis of pregnancy and failure to conform to stereotypical notions of femininity and masculinity (i.e., gender stereotyping).

Sexual Exploitation: When a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples include invasion of sexual privacy, non-consensual video or audio-taping of sexual activity, voyeurism, going beyond the boundaries of consent, etc.

Sexual Harassment: Unwelcome conduct of a sexual nature that unreasonably interferes with an individual's work or educational performance; limits a student's ability to participate in or benefit from the Institute's programs, activities, or opportunities; or creates an intimidating, hostile or offensive work or educational environment. A single or isolated incident of sexual harassment may create a hostile environment if the conduct is sufficiently severe.

In determining whether a hostile environment exists, UTI will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the victim's participation in UTI's programs and activities, the nature and severity of the conduct at issue, the frequency and duration of the conduct, the relationship between the parties (including accounting for any power differential), the respective ages of the parties, the context in which the conduct occurred, and the number of persons affected.

Sexual harassment may include unwelcome sexual advances, requests for sexual favors, unnecessary touching, graphic verbal or visual commentaries about an individual's body, sexually suggestive objects or pictures, sexually explicit jokes, and other verbal, visual or physical conduct of a sexual nature when it is pervasive, persistent, or severe enough to deny access to UTI's programs and activities.

Sexual Misconduct: This is an umbrella term that covers the types of conduct covered by this policy, including sex discrimination, sexual harassment, sexual assault, sexual violence, dating and domestic violence, and stalking

Sexual Violence: Sexual violence is a particularly severe form of sexual harassment. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual may also be unable to give consent due to an intellectual or other disability. Sexual violence includes acts such as rape, sexual assault (forcible and non-forcible), sexual battery and sexual coercion.

Stalking: (i) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to— (A) Fear for the person's safety or the safety of others; or (B) Suffer substantial emotional

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distress. (ii) For the purposes of this definition— (A) 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. (B) reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. (C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

V. Making a Report

Individuals with knowledge of sexual misconduct in UTI’s programs or activities are encouraged to immediately make a report to the Title IX or Deputy Title IX Coordinator. Individuals identified in the “Responsible Employees” section below must report incidents of possible sexual misconduct to the Title IX or Deputy Title IX Coordinator within 24 hours of becoming aware of such conduct.

Where to file: Reports can be made in person, or by sending a written complaint to the Title IX and/or Deputy Title IX Coordinator via email or regular mail using the contact information set forth above. A complaint form is available at www.uti.edu/campus-safety. If the actions of the Title IX Coordinator are at issue or there is otherwise a conflict of interest, reports should be sent to the Director – Regional Human Resources, 4225 East Windrose Drive, Phoenix, AZ 85032, 800-859-7249, sudavis@uti.edu. The Title IX Coordinator and Deputy Title IX Coordinator are campus security authorities and will report applicable data about covered conduct (e.g., date, time, location) for inclusion in UTI’s Annual Security Report, which is provided to the campus community and made available to the public, as required by the Clery Act. These disclosures are made without including personally identifying information, including the name of the complainant. *In cases involving California campuses, reports of certain sexual misconduct made to campus security authorities will be disclosed to local law enforcement.*

When to file: UTI encourages persons to make complaints of sexual misconduct as soon as possible because late reporting may limit UTI’s ability to investigate and respond to the reported.

Contacting local law enforcement: For immediate assistance following an incident, an alleged victim can dial 911 to make a report to local law enforcement, though such a report is not required. The Title IX Coordinator, Deputy Title IX Coordinator, or designee can assist in making such a report. A complainant may pursue simultaneous complaints with UTI and local law enforcement.

Confidentiality: UTI respects the privacy of students, employees, and third parties and shares reports of sexual misconduct on a limited, “need-to-know” basis, consistent with applicable state and federal laws. If a complainant requests that UTI handle a complaint on a confidential basis, UTI will honor that request where possible. UTI’s Title IX Coordinator, Deputy Title IX Coordinator, or designee, reviews requests for confidentiality and determines whether such requests can be honored in light of factors such as the

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safety of the campus and the number of complaints against a respondent. UTI reserves the right to initiate an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated conduct, where the alleged perpetrator may pose a continuing threat to the UTI community, or in other circumstances where UTI deems appropriate. UTI will promptly notify the complainant of its determination regarding a request for confidentiality.

Individuals who wish to speak with someone in confidence about an experience of sexual misconduct may contact an off-campus resource. A resource list is provided at www.uti.edu/campus-safety. UTI does not employ practicing licensed counselors or pastoral counselors, and therefore, does not have any confidential reporting resources on campus.

Written notification of resources for reports involving dating violence, domestic violence, sexual assault, and stalking: In cases of dating violence, domestic violence, sexual assault, and stalking, UTI will provide written notification to the complainant and respondent, which includes an explanation of their rights, outside resources, information on preserving evidence, as well as how to request interim measures, including requests to change academic situations or request for "no contact" directives. In addition, the notification contains information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for complainants, both within UTI and in the community whether the offense occurred on or off campus. Information is provided regardless of whether the incident occurred on or off campus.

Amnesty: UTI encourages the reporting of incidents of sexual misconduct and recognizes that some students may be reluctant to make such reports as a result of their personal consumption of drugs or alcohol at the time of the incident. UTI generally will not discipline complainants, respondents, or witnesses for personal consumption of drugs or alcohol in violation of UTI's policies where such conduct occurred at the time of the incident and did not endanger the health or safety of others. Educational responses to the conduct may be implemented, as appropriate. Note that UTI's commitment to amnesty in these situations does not prevent action by police or legal authorities against an individual who has illegally consumed alcohol or drugs.

In California, complainants and witnesses are protected from sanctions for violations of student conduct policies that occurred around the time of the reported incidents, unless UTI finds the violations egregious.

Interim measures: Interim measures may be available to parties involved in an investigation of sexual misconduct. Interim measures may include no contact orders, changes to academic situations for students, leave for employees, housing transfer for students who are participating in Collegiate Housing Services shared housing, if available, changes in working situations, transportation, or other actions. Such measures, if reasonably available, may be provided regardless of whether the complainant chooses to report the incident to local law enforcement. Interim measures will be administered in an individualized and appropriate manner based on available information, with an intent to preserve the

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fundamental fairness of the process. Requests for interim measures should be made to the Title IX Coordinator, Deputy Title IX Coordinator, or designee, using the contact information provided above. The Title IX Coordinator, Deputy Title IX Coordinator, or designee, may also, at any point during an investigation, determine that interim measures will be implemented without a request for such being made. UTI will maintain as confidential any interim measures provided, to the extent that maintaining such confidentiality would not impair UTI's ability to implement the measure.

Orders of protection: If a party has obtained an ex parte order of protection, full order of protection, or any other restraining order or no contact order against another from a criminal, civil or tribal court, the order should be provided to the Title IX Coordinator, Deputy Title IX Coordinator, or designee. UTI will take all reasonable and legal action to implement such an order. If an order is violated, local law enforcement can also be contacted for assistance.

Preservation of evidence: The preservation of evidence is crucial in sexual misconduct cases. Regardless of whether the individual chooses to report the incident, UTI encourages individuals of any form of violence to seek medical attention as soon as possible, even if they feel no injury was sustained. Medical assistance providers can treat injuries, test for and treat sexually transmitted diseases, test for pregnancy, and provide emergency contraception (if requested). If a complainant chooses to obtain a forensic examination following a sexual assault, the complainant may wish to avoid the following activities prior to the examination to preserve evidence: showering, drinking, eating, douching, brushing teeth or hair, or changing clothes. In addition, hospitals can also test for the presence of alcohol or drugs and perform a rape evidence collection procedure or coordinate these services with another provider if needed. It is also important to take steps to preserve other types of evidence such as pictures, emails, text messages, social media posts, etc., rather than evidence of physical contact and violence.

VI. Responsible Employees

Responsible employees must report to the Title IX Coordinator and/or Deputy Title IX Coordinator all information about the incident of possible sexual misconduct of which they are aware. This may include the names of the parties, the date, time, and location of the incident, and available facts about what occurred. Responsible employees should not undertake any investigation of the incident unless specifically directed to do by the Title IX or Deputy Title IX Coordinator or designee.

Responsible employees include employees who have the authority to take action to redress sexual misconduct; who have been given the duty of reporting incidents of sexual misconduct or other student misconduct; or whom a student could reasonably believe has this duty. UTI has designated the following personnel as responsible employees: Student Services Directors, Student Services Supervisors, Senior Student Affairs Advisors, Student Affairs Advisors, Education Directors, Education Managers, and Human Resources staff.

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UTI employees who have not been designated as responsible employees are strongly encouraged to report to the Title IX Coordinator incidents of sexual misconduct of which they are aware.

VII. Informal Resolution

Parties may agree to participate in the informal resolution of a complaint that does not involve a full investigation and adjudication. Informal resolution, such as mediation, may only be attempted if voluntarily agreed to by both parties after receiving a full disclosure of the allegations and their options for formal resolution, and with the Title IX Coordinator, Deputy Title IX Coordinator, or designee determining that the particular complaint is appropriate for an informal process. UTI will not require that a complainant informally resolve a complaint directly with the respondent.

If informal resolution is pursued, either party may terminate the process and elevate the complaint to or continue with the formal process. In addition, the Title IX Coordinator, Deputy Title IX Coordinator, or designee has the discretion to discontinue an informal process at any time if, for example, one or both parties are not adequately and timely participating.

If an informal resolution is reached, it will be documented in writing and signed by both parties. An informal resolution cannot be appealed.

VIII. Procedure Once a Report is Received

Standard of review: UTI uses the preponderance of the evidence or “more likely than not” standard of review during the investigation and resolution of complaints of sexual misconduct.

Response by the Title IX/Deputy Title IX Coordinator:

Evaluation: The Title IX Coordinator, Deputy Title IX Coordinator or designee will review all reports of sexual misconduct within 7 calendar days of receipt and will determine the appropriate response. If there are jurisdictional considerations that preclude Title IX consideration, the complainant will be notified of such limitations. If the complaint is dismissed at this stage, the complainant will receive written notice of the outcome and has the opportunity to appeal the determination using the appeal procedure below.

Investigation: Within 10 calendar days of receiving the report, the Title IX Coordinator, Deputy Title IX Coordinator, or designee will commence an investigation of the allegation(s), if appropriate. If an investigation is commenced, a prompt written notice will be provided to the respondent of the allegations constituting a potential violation of this policy, including the identities of the parties involved, the specific section of the policy allegedly violated, the precise conduct constituting the potential violation, and the date and location of the alleged incident.

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The investigation may include contacting the complainant, respondent, and relevant witnesses to obtain additional information about the allegation(s), and the parties will receive written notice in advance of such a meeting so that they have sufficient time to prepare for meaningful participation. UTI has developed trauma-informed protocols for interviewing complainants that include follow-up and support, as appropriate. Similarly, UTI ensures that respondents receive a fundamentally fair process that is sensitive to the possibility that a respondent may be facing simultaneous criminal charges.

The complainant and respondent will have an equal opportunity to provide witnesses and evidence throughout the process; the Title IX Coordinator and/or Deputy Title IX Coordinator will assist the parties in locating and identifying witnesses, as appropriate. Both parties will have meaningful access to evidence and opportunity to respond. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

The Title IX and/or Deputy Title IX Coordinator generally will conclude the investigation within 30 calendar days. This timeframe may be extended in extenuating circumstances (e.g., school breaks). The Title IX and/or Deputy Title IX Coordinator will notify the parties of any delays and the reasons for the delays.

Investigatory report: At the conclusion of the investigation, the Title IX Coordinator, Deputy Title IX Coordinator or designee will prepare a preliminary investigatory report that summarizes the evidence, makes factual findings and determines whether sexual misconduct has occurred. Both parties will be provided with an opportunity to review the preliminary report and allowed to respond to it, in writing, within 3 calendar days. Upon consideration of the parties' written comments to the preliminary report, if any, the Title IX Coordinator, Deputy Title IX Coordinator, or designee may find the respondent responsible or not responsible for the alleged violation, or may find that there is insufficient evidence to make such a finding. If the Title IX Coordinator, Deputy Title IX Coordinator, or designee finds the respondent responsible, the Title IX Coordinator, Deputy Title IX Coordinator or, designee will impose an appropriate sanction and determine whether any remedies should be provided to the complainant and/or campus community.

Notice of the outcome: Within 15 calendar days of the conclusion of the investigation, the complainant and respondent will receive concurrent/simultaneous written notice of the outcome, including any sanction imposed, consistent with applicable state and federal privacy laws, as well as notification of the applicable appeal procedures.

Advisor of choice: In cases of sexual misconduct, the complainant and respondent may choose to have an advisor of their choice present during meetings or disciplinary proceedings. If a party selects an advisor who is an attorney, the party must notify the Title IX Coordinator or Deputy Title IX Coordinator at least 24 hours prior to the first meeting or disciplinary proceeding in which the advisor will be in attendance. During a meeting or proceeding, the advisor does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved, and must agree to maintain the

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confidentiality of the process. The complainant and respondent have the same opportunity to have an advisor present during meetings and other aspects of the disciplinary proceeding. Advisors are present to support their advisees and must refrain from interrupting or disrupting interviews or other meetings with campus officials or their designees. Advisors may not speak during interviews or meetings unless invited to do so by a campus official or designee. One warning will be given if an advisor attempts to actively participate without being invited to do so or otherwise becomes disruptive. If the behavior continues, the advisor will be asked to leave the meeting or interview. Meetings or interviews generally will not be re-scheduled because an advisor is unavailable to attend.

Timeframes: The investigation and resolution of the complaint will be done in a timely manner. The Title IX Coordinator, Deputy Title IX Coordinator, or designee will provide regular status updates to the parties. All timeframes identified in this policy may be extended for good cause or if UTI determines in its discretion that a deadline should be extended, in which case UTI will notify the parties in writing of the extension and the rationale for it.

Training: The Title IX Coordinator and others with responsibilities under this policy receive training, including trauma-informed training, on at least an annual basis.

Recordkeeping: UTI maintains records related to complaints of sexual misconduct consistent with its record retention policy and federal and state laws.

IX. Sanctions and Remedies

Sanctions for students may include sexual assault or other related training, no contact directives, bans from specific areas of campus, professionalism infractions, removal from a course, requirement to change sessions, suspension, or termination from school. For employees, sanctions may include a final warning with sexual assault training or termination. As to third parties, UTI will implement available sanctions, such as bans from campus, as appropriate. UTI will also abide by and support any sanctions imposed by law enforcement. UTI will also provide remedies or other corrective actions to the complainant and campus community, as appropriate, such as educational programming, policy review and revision, and counseling.

X. Appeal Procedure

The complainant and respondent have an equal right to appeal outcome decisions made by the Title IX Coordinator, Deputy Title IX Coordinator, or designee. Appeals may be made on the following bases: (1) a party obtains new relevant evidence that was unavailable at the time of the investigation and could change the outcome of the investigation; (2) there is evidence of procedural error significant enough to call the outcome of the investigation into question; or (3) the sanction was substantially disproportionate to the findings. Appeals must be made to Melanie Scheet, Vice President Student Success, 4225 East Windrose Drive, Suite 200, Phoenix, AZ 85032, 800-859-7249, or mscheet@uti.edu. Appeals must be filed within 7 calendar days of the date that written notice of the outcome was

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provided. The Vice President of Student Success will decide the appeal promptly but generally within 30 calendar days and provide the respondent and complainant with concurrent/simultaneous written notice of the final determination within 7 calendar days of making the final determination, including any changes to the previous determination and/or the sanctions imposed. The appeal decision is final and not subject to further appeal.

XI. Resources

In addition to the resources provided above, additional on- and off-campus resources are listed on UTI's webpage at www.uti.edu/campus-safety. Written information about resources and services also may be obtained by contacting the Title IX Coordinator, Deputy Title IX Coordinator, or in the Student Services Department.

XII. Prevention and Awareness Programs

UTI is committed to having in place sexual misconduct, including dating violence, domestic violence and stalking, prevention and awareness programs for students and employees. UTI implements prevention and awareness programming during new student and new employee orientation. Informational prevention and awareness materials also are available on an on-going basis.

XIII. Non-Fraternization

UTI has a Non-Fraternization Policy set forth in its Course Catalog and Employee Handbook. UTI employees may not engage in conduct of a sexual nature with any students or with employees where there is supervisory or evaluative relationship, regardless of whether such conduct is consensual. Conduct in violation of the Non-Fraternization Policy also may be addressed under the Title IX Policy if the conduct meets one of the definitions above (e.g., sexual harassment, dating or domestic violence, stalking).

XIV. Prohibition against Retaliation

Retaliation in any form (including acts of intimidation or harassment) against any person who makes a Title IX report, witnesses or experiences harassment, or asserts rights under Title IX will also not be tolerated. Reports of retaliatory conduct should be made to the Title IX Coordinator and/or Deputy Title IX Coordinator using the contact information set forth above.

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Owner & Title: Jaslyn Ramirez, Director of Program Compliance

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XV. False Reporting

Allegations of discrimination and harassment are extremely serious and must be made honestly and in good faith. Knowingly providing false information to a school official may result in disciplinary action up to and including termination for employees, and suspension or termination for students.

Department: Student Services

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APPENDIX A

UTI is making these definitions available pursuant to the Violence Against Women Act Amendments to the Clery Act.

ARIZONA

| Crime Type (Arizona Revised Statutes) | Definitions |
|---|---|
| Dating Violence | The institution has determined, based on good-faith research, that Arizona law does not define the term dating violence. |
| Domestic Violence (Ariz. Rev. Stat. § 13-3601) | <p>"Domestic violence" means any act that is a dangerous crime against children or one of the following offenses as prescribed in state law: negligent homicide, manslaughter, second degree murder, first degree murder, endangerment, threatening or intimidation, assault, aggravated assault, custodial interference, unlawful imprisonment, kidnapping, sexual assault, unlawful distribution of pictures depicting nudity or specific sexual acts, criminal trespass in the third degree, criminal trespass in the second degree, criminal trespass in the first degree, criminal damage, interference with judicial proceeding, disorderly conduct, intentional cruelty to animals, intentional interference or prevention of person making an emergency phone call, or use of electronic communication to terrify, intimidate, threaten or harass, harassment, aggravated harassment, stalking, surreptitious photographing, aggravated domestic violence, or child or vulnerable adult abuse, if any of the following applies:</p> <ul style="list-style-type: none"> • The relationship between the victim and the defendant is one of marriage or former or of persons residing or having resided in the same household. • The victim and the defendant have a child in common. • The victim or the defendant is pregnant by the other party. • The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law. • The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant. |

Sexual Misconduct Policy

Department: Student Services

Effective Date: 7/29/2015

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Last Revised Date: 1/31/2024

| Crime Type (Arizona Revised Statutes) | Definitions |
|--|---|
| | <ul style="list-style-type: none"> The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship: (a) The type of relationship; (b) The length of the relationship; (c) The frequency of the interaction between the victim and the defendant; (d) If the relationship has terminated, the length of time since the termination. |
| Stalking (Ariz. Rev. Stat. § 13-2923) | <p>A person commits stalking if the person intentionally or knowingly engages in a course of conduct that is directed toward another person and if that conduct causes the victim to:</p> <ul style="list-style-type: none"> Suffer emotional distress or reasonably fear that either: (a) The victim's property will be damaged or destroyed; or (b) Any of the following will be physically injured: (i) The victim; (ii) The victim's family member, domestic animal or livestock; (3) A person with whom the victim has or has previously had a romantic or sexual relationship; (4) A person who regularly resides in the victim's household or has resided in the victim's household within the six months before the last conduct occurred. Reasonably fear death or the death of any of the following: (a) The victim's family member, domestic animal or livestock; (b) A person with whom the victim has or has previously had a romantic or sexual relationship; (c) A person who regularly resides in the victim's household or has resided in the victim's household within the six months before the last conduct occurred. |
| Sexual Assault | <ul style="list-style-type: none"> Sexual assault (Ariz. Rev. Stat. § 13-1406): A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person. Violent sexual assault (Ariz. Rev. Stat. § 13-1423): A person is guilty of violent sexual assault if the offense involved the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or involved the intentional or knowing infliction of serious physical injury and the person has a historical prior felony conviction for a sexual offense under this chapter or any offense committed outside this state that if committed in this state would constitute a sexual offense under this chapter. |

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| Crime Type (Arizona Revised Statutes) | Definitions |
|--|--|
| Rape, Fondling, Incest, Statutory Rape | <p>For purposes of the Clery Act, the term "sexual assault" includes the offenses of rape, fondling, incest, and statutory rape. These definitions under Arizona law are as follows:</p> <ul style="list-style-type: none"> • Rape: The institution has determined, based on good-faith research, that Arizona law does not define the term rape. These crimes are prosecuted under Arizona’s sexual assault statutes. See Ariz. Rev. Stat. § 13-1406, <i>et. seq.</i> • Fondling: The institution has determined, based on good-faith research, that Arizona law does not define the term fondling. • Incest (Ariz. Rev. Stat. § 13-3608): Persons who are eighteen or more years of age and are within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who knowingly intermarry with each other, or who knowingly commit fornication or adultery with each other are guilty of a class 4 felony. • Statutory Rape: The institution has determined, based on good-faith research, that Arizona law does not define the term statutory rape. Arizona prosecutes statutory rape offenses under its “sexual conduct with a minor” statutes which prohibits “intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person who is under eighteen years of age.” (Ariz. Rev. Stat. § 13-1405). |
| Other “sexual assault” crimes | <p>Other crimes under Arizona law that may be classified as a "sexual assault" include the following:</p> <ul style="list-style-type: none"> • Sexual abuse (Ariz. Rev. Stat. § 13-1404): A person commits sexual abuse by intentionally or knowingly engaging in sexual contact with any person who is fifteen or more years of age without consent of that person or with any person who is under fifteen years of age if the sexual contact involves only the female breast. It is not a defense to a prosecution for a violation of this section that the other person consented if the other person was fifteen, sixteen or seventeen years of age and the defendant was in a position of trust. • Sexual conduct with a minor (Ariz. Rev. Stat. § 13-1405): A person commits sexual conduct with a minor by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person who is under eighteen years of age. |

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|---|--|
| | <ul style="list-style-type: none"> Molestation of a child (Ariz. Rev. Stat. § 13-1410): A person commits molestation of a child by intentionally or knowingly engaging in or causing a person to engage in sexual contact, except sexual contact with the female breast, with a child who is under 15 years of age. |
| Consent (as it relates to sexual activity) (Ariz. Rev. Stat. § 13-1401(7)) | "Without consent" includes any of the following: (a) The victim is coerced by the immediate use or threatened use of force against a person or property; (b) The victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant. For the purposes of this subdivision, "mental defect" means the victim is unable to comprehend the distinctively sexual nature of the conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct with another; (c) The victim is intentionally deceived as to the nature of the act; (d) The victim is intentionally deceived to erroneously believe that the person is the victim's spouse. |

CALIFORNIA

| Crime Type (California Penal Code) | Definitions |
|---------------------------------------|---|
| Dating Violence | The institution has determined, based on good-faith research, that California law does not define the term dating violence. |
| Domestic Violence | "Domestic violence" is abuse perpetrated against any of the following persons: (a) A spouse or former spouse. (b) a cohabitant or former cohabitant, as defined in Section 6209. (c) A person with whom the respondent is having or has had a dating or engagement relationship. (d) A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act. (e) A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected. (f) Any other person related by consanguinity or affinity within the second degree. (Cal Fam. Code. § 6211) |

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| Crime Type (California Penal Code) | Definitions |
|--|--|
| | <p>California law (Cal. Pen. Code §§ 242 & 243(e)(1)) provides penalties for battery (i.e., any willful and unlawful use of force or violence against another) when it is committed against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship.</p> <p>Also, Cal. Pen. Code § 273.5 provides penalties for willful infliction of corporal injury:</p> <ol style="list-style-type: none"> a. Any person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim described in subdivision (b) is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000), or by both that fine and imprisonment. b. Subdivision (a) shall apply if the victim is or was one or more of the following: <ol style="list-style-type: none"> 1. The offender's spouse or former spouse. 2. The offender's cohabitant or former cohabitant. 3. The offender's fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, as defined in paragraph (10) of subdivision (f) of Section 243. 4. The mother or father of the offender's child. c. Holding oneself out to be the spouse of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section. d. As used in this section, "traumatic condition" means a condition of the body, such as a wound, or external or internal injury, including, but not limited to, injury as a result of strangulation or suffocation, whether of a minor or serious nature, caused by a physical force. For purposes of this section, "strangulation" and "suffocation" include impeding the normal breathing or circulation of the blood of a person by applying pressure on the throat or neck. |

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|---|--|
| | <p>e. For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father under Sections 7611 and 7612 of the Family Code.</p> |
| <p>Stalking (Ca. Pen. Code § 646.9)</p> | <ul style="list-style-type: none"> • Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking. • The following definitions apply to the crime of stalking: <ul style="list-style-type: none"> ○ "harasses" means engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose. ○ "course of conduct" means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct." ○ "credible threat" means a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the defendant had the intent to actually carry out the threat. The present incarceration of a person making the threat shall not be a bar to prosecution under this section. Constitutionally protected activity is not included within the meaning of "credible threat." ○ the term "electronic communication device" includes, but is not limited to, telephones, cellular phones, computers, video recorders, fax machines, or pagers. "Electronic communication" has the same |

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| Crime Type (California Penal Code) | Definitions |
|--|---|
| | <p>meaning as the term defined in Subsection 12 of Section 2510 of Title 18 of the United States Code.</p> |
| Sexual Assault | <p>The institution has determined, based on good-faith research, that California law does not define the term sexual assault. California prosecutes such crimes as “sexual battery” under Cal. Penal Code § 243.4 defined as:</p> <p style="padding-left: 40px;">(a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery.</p> <p style="padding-left: 40px;">(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery.</p> <p style="padding-left: 40px;">(c) Any person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).</p> <p style="padding-left: 40px;">(d) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery.</p> <p style="padding-left: 40px;">(e)(1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery.</p> |

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| Crime Type (California Penal Code) | Definitions |
|--|--|
| | <p>(2) As used in this subdivision, “touches” means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.</p> <p>(f) As used in subdivisions (a), (b), (c), and (d), “touches” means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.</p> <p>(g) As used in this section, the following terms have the following meanings:</p> <p>(1) “Intimate part” means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.</p> <p>(2) “Sexual battery” does not include the crimes defined in Section 261 or 289.</p> <p>(3) “Seriously disabled” means a person with severe physical or sensory disabilities.</p> <p>(4) “Medically incapacitated” means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.</p> <p>(5) “Institutionalized” means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.</p> <p>(6) “Minor” means a person under 18 years of age.</p> |
| Rape, Fondling, Incest, Statutory Rape | <p>For purposes of the Clery Act, the term "sexual assault" includes the offenses of rape, fondling, incest, and statutory rape. These definitions under California law are as follows:</p> <ul style="list-style-type: none"> • Rape (Cal. Pen. Code § 261): (a) Rape is an act of sexual intercourse accomplished under any of the following circumstances: <ol style="list-style-type: none"> 1. If a person who is not the spouse of the person committing the act is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. This paragraph does not preclude the prosecution of a spouse committing the act from being prosecuted under any paragraph of this subdivision or any other law. |

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|--|--|
| | <ol style="list-style-type: none"> 2. If it is accomplished against a person’s will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another. 3. If a person is prevented from resisting by an intoxicating or anesthetic substance, or a controlled substance, and this condition was known, or reasonably should have been known by the accused. 4. If a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets any one of the following conditions: (A) Was unconscious or asleep; (B) Was not aware, knowing, perceiving, or cognizant that the act occurred; (C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact; (D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose. 5. If a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by artifice, pretense, or concealment practiced by the accused, with intent to induce the belief. 6. If the act is accomplished against the victim’s will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, “threatening to retaliate” means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death. 7. If the act is accomplished against the victim’s will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, “public official” means a person employed by a governmental agency who has |

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|--|---|
| | <p style="text-align: center;">the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.</p> <p>(b) For purposes of this section, the following definitions apply: (1) "Duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and the victim's relationship to the defendant, are factors to consider in appraising the existence of duress. (2) "Menace" means any threat, declaration, or act that shows an intention to inflict an injury upon another.</p> <ul style="list-style-type: none"> • Fondling: The institution has determined, based on good-faith research, that California law does not define the term fondling. California prosecutes such crimes as "sexual battery" under Cal. Penal Code § 243.4 (defined above). • Incest (Cal. Pen. Code § 285): Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who being 14 years of age or older, commit fornication or adultery with each other, are punishable by imprisonment in the state prison. • Statutory Rape: The institution has determined, based on good-faith research, that California law does not define the term statutory rape. California prosecutes such crimes as "Unlawful sexual intercourse with person under 18" under Cal. Penal Code § 261.5 (defined below). |
| Other "sexual assault" crimes | <p>Other crimes under California law that may be classified as a "sexual assault" include the following:</p> <ul style="list-style-type: none"> • Unlawful sexual intercourse with person under 18 (Cal. Pen. Code § 261.5): <ul style="list-style-type: none"> a. Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a "minor" is a person under the age of 18 years and an "adult" is a person who is at least 18 years of age. |

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| | <p>b. Any person who engages in an act of unlawful sexual intercourse with a minor who is not more than three years older or three years younger than the perpetrator, is guilty of a misdemeanor.</p> <p>c. Any person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.</p> <p>d. Any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.</p> <ul style="list-style-type: none"> • Unlawful sexual intercourse, sexual penetration, oral copulation or sodomy; consent procured by false or fraudulent representation with intent to create fear (Cal. Pen. Code § 266c): Every person who induces any other person to engage in sexual intercourse, sexual penetration, oral copulation, or sodomy when his or her consent is procured by false or fraudulent representation or pretense that is made with the intent to create fear, and which does induce fear, and that would cause a reasonable person in like circumstances to act contrary to the person's free will, and does cause the victim to so act, is punishable by imprisonment in a county jail for not more than one year or in the state prison for two, three, or four years. As used in this section, "fear" means the fear of physical injury or death to the person or to any relative of the person or member of the person's family. • Aggravated sexual assault of a child (Cal. Pen. Code § 269): Any person who commits any of the following acts [as defined by state law] upon a child who is under 14 years of age and seven or more years younger than the person is guilty of aggravated sexual assault of a child: (1) Rape; (2) Rape or sexual penetration, in concert; (3) Sodomy; (4) Oral copulation; (5) Sexual penetration. |

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|--|--|
| | <ul style="list-style-type: none"> • Sodomy (Cal. Pen. Code § 286): Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy. • Oral copulation (Cal. Pen. Code § 287): Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person. • Forcible acts of sexual penetration (Cal. Pen. Code § 289): <ul style="list-style-type: none"> a. Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years. b. Any person who commits an act of sexual penetration upon a child who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years. c. Any person who commits an act of sexual penetration upon a minor who is 14 years of age or older, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years. |
| Consent (as it relates to sexual activity) | <ul style="list-style-type: none"> • Cal. Pen. Code § 261.6: In prosecutions under Section 261, 286, 287, or 289, or former Section 262 or 288a, in which consent is at issue, "consent" means positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261, 286, 287, or 289, or former Section 262 or 288a. • Cal. Pen. Code § 261.7: In prosecutions under Section 261, 286, 287, or 289, or former Section 262 or 288a, in which consent is at issue, evidence that the victim suggested, requested, or otherwise communicated to the defendant that |

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|---------------------------------------|--|
| | the defendant use a condom or other birth control device, without additional evidence of consent, is not sufficient to constitute consent. |

FLORIDA

| Crime Type (Florida Statutes) | Definitions |
|--|--|
| Dating Violence (Fla. Stat. § 784.046) | <ul style="list-style-type: none"> • "Dating violence" means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors: (1) A dating relationship must have existed within the past 6 months; (2) The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and (3) The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship. The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context. • "Violence" means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, or false imprisonment, or any criminal offense resulting in physical injury or death, by a person against any other person. |
| Domestic Violence (Fla. Stat. § 741.28) | <ul style="list-style-type: none"> • "Domestic violence" means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. • "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family |

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| Crime Type (Florida Statutes) | Definitions |
|--|--|
| | <p>or household members must be currently residing or have in the past resided together in the same single dwelling unit.</p> |
| <p>Stalking (Fla. Stat. § 784.048)</p> | <ul style="list-style-type: none"> • A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree. • A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking, a felony of the third degree. • A person who, after an injunction for protection against repeat violence, sexual violence, or dating violence, or an injunction for protection against domestic violence, or after any other court-imposed prohibition of conduct toward the subject person or that person's property, knowingly, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of aggravated stalking, a felony of the third degree. • A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks a child under 16 years of age commits the offense of aggravated stalking. • The following definitions apply to the crimes of stalking outlined above: <ul style="list-style-type: none"> ○ "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose. ○ "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests. ○ "Credible threat" means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the |

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| | <p>threat. The present incarceration of the person making the threat is not a bar to prosecution under this section.</p> <ul style="list-style-type: none"> ○ "Cyberstalk" means: 1) To engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person; or 2) To access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person's permission, causing substantial emotional distress to that person and serving no legitimate purpose. |
| Sexual Assault | The institution has determined, based on good-faith research that Florida law does not define the term sexual assault. Such offenses are generally prosecuted under the state's sexual battery provisions (Fla. Stat. § 794.011 <i>et. seq.</i>). |
| Rape, Fondling, Incest, Statutory Rape | <p>For purposes of the Clery Act, the term "sexual assault" includes the offenses of rape, fondling, incest, and statutory rape. These definitions under Florida law are as follows:</p> <ul style="list-style-type: none"> • Rape: The institution has determined, based on good-faith research, that Florida law does not define the term rape. • Fondling: The institution has determined, based on good-faith research, that Florida law does not define the term fondling. • Incest (Fla. Stat. § 826.04): Whoever knowingly marries or has sexual intercourse with a person to whom he or she is related by lineal consanguinity, or a brother, sister, uncle, aunt, nephew, or niece, commits incest, which constitutes a felony of the third degree. "Sexual intercourse" is the penetration of the female sex organ by the male sex organ, however slight; emission of semen is not required. • Statutory Rape: The institution has determined, based on good-faith research, that Florida law does not define the term statutory rape. Such offenses are generally prosecuted under the state's sexual battery provisions (Fla. Stat. § 794.011 <i>et. seq.</i>). |
| Other "sexual assault" crimes | Other crimes under Florida law that may be classified as a "sexual assault" include the following: |

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| | <ul style="list-style-type: none"> • Sexual Battery (Fla. Stat. § 794.011): "Sexual battery" means oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose. [note: the statute provides different degrees of sexual battery based on a variety of factors, including the ages of the parties involved and whether the victim was physically or mentally incapacitated]. <ul style="list-style-type: none"> ○ For purposes of this section "female genitals" includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina. • Unlawful Sexual Activity With Certain Minors (Fla. Stat. § 794.05: A person 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age commits a felony of the second degree <ul style="list-style-type: none"> ○ As used in this section, the term: (a) "Female genitals" includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina. (b) "Sexual activity" means oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose. |
| Consent (as it relates to sexual activity) (Fla. Stat. § 794.011(1)(a)) | "Consent" means intelligent, knowing, and voluntary consent and does not include coerced submission. "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender. |

ILLINOIS

| Crime Type (Illinois Compiled Statutes) | Definitions |
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| Dating Violence | The institution has determined, based on good-faith research, that Illinois' criminal statutes do not define the term dating violence. |
| Domestic Violence | Illinois' Domestic Violence Act indicates that "domestic violence" means "abuse", which means physical abuse, harassment, intimidation of a dependent, interference with |

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| | <p>personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis. (750 Ill. Comp. Stat. Ann. 60/103).</p> <p>In addition, Illinois law includes the following:</p> <ul style="list-style-type: none"> • Domestic Battery (720 Ill. Comp. Stat. Ann. 5/12-3.2): A person commits domestic battery if he or she knowingly without legal justification: (1) Causes bodily harm to any family or household member; (2) Makes physical contact of an insulting or provoking nature with any family or household member. • Aggravated Domestic Battery (720 Ill. Comp. Stat. Ann. 5/12-3.3): (a) A person who, in committing a domestic battery, knowingly causes great bodily harm, or permanent disability or disfigurement commits aggravated domestic battery. (a-5) A person who, in committing a domestic battery, strangles another individual commits aggravated domestic battery. For the purposes of this subsection (a-5), "strangle" means intentionally impeding the normal breathing or circulation of the blood of an individual by applying pressure on the throat or neck of that individual or by blocking the nose or mouth of that individual. • For purposes of the above crimes, "family or household members" is defined at 720 Ill. Comp. Stat. Ann. 5/12-0.1 as: "Family or household members" include spouses, former spouses, parents, children, stepchildren, and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and caregivers as defined in Section 12-4.4a of this Code. For purposes of this Article, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship. |
| Stalking | <ul style="list-style-type: none"> • Stalking (720 Ill. Comp. Stat. Ann. 5/12-7.3): <ul style="list-style-type: none"> ○ A person commits stalking when he or she knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable |

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| | <p>person to: (1) fear for his or her safety or the safety of a third person; or (2) suffer other emotional distress.</p> <ul style="list-style-type: none"> ○ A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person or places the person under surveillance or any combination thereof and: (1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person; or (2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or of that person or a family member of that person. ○ A person commits stalking when he or she has previously been convicted of stalking another person and knowingly and without lawful justification on one occasion: (1) follows that same person or places that same person under surveillance; and (2) transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person. ○ A person commits stalking when he or she knowingly makes threats that are part of a course of conduct and is aware of the threatening nature of his or her speech. <ul style="list-style-type: none"> ● Aggravated Stalking (720 Ill. Comp. Stat. Ann. 5/12-7.4): A person commits aggravated stalking when he or she commits stalking and: (1) causes bodily harm to the victim; (2) confines or restrains the victim; or (3) violates a temporary restraining order, an order of protection, a stalking no contact order, a civil no contact order, or an injunction prohibiting the behavior described in subsection (b)(1) of Section 214 of the Illinois Domestic Violence Act of 1986. ● Cyberstalking (720 Ill. Comp. Stat. Ann. 5/12-7.5): <ul style="list-style-type: none"> ○ A person commits cyberstalking when he or she engages in a course of conduct using electronic communication directed at a specific person, and he or she knows or should know that would cause a reasonable person to: (1) fear for his or her safety or the safety of a third person; or (2) suffer other emotional distress. |

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| | <ul style="list-style-type: none"> ○ A person commits cyberstalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions, harasses another person through the use of electronic communication and: (1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed towards that person or a family member of that person; or (2) places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or (3) at any time knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person. ○ A person commits cyberstalking when he or she knowingly, surreptitiously, and without lawful justification, installs or otherwise places electronic monitoring software or spyware on an electronic communication device as a means to harass another person and: (1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed towards that person or a family member of that person; (2) places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint; or (3) at any time knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person. ○ A person commits cyberstalking when he or she, knowingly and without lawful justification, creates and maintains an Internet website or webpage which is accessible to one or more third parties for a period of at least 24 hours, and which contains statements harassing another person and: (1) which communicates a threat of immediate or future bodily harm, sexual assault, confinement, or restraint, where the threat is directed towards that person or a family member of that person, or (2) which places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint, or (3) which knowingly solicits the commission of an act by any person which would be a |

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| | violation of this Code directed towards that person or a family member of that person. |
| Sexual Assault | <ul style="list-style-type: none"> • Criminal Sexual Assault (720 Ill. Comp. Stat. Ann. 5/11-1.20): A person commits criminal sexual assault if that person commits an act of sexual penetration and: (1) uses force or threat of force; (2) knows that the victim is unable to understand the nature of the act or is unable to give knowing consent; (3) is a family member of the victim, and the victim is under 18 years of age; or (4) is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age. • Aggravated Criminal Sexual Assault (720 Ill. Comp. Stat. Ann. 5/11-1.30): <ul style="list-style-type: none"> a. A person commits aggravated criminal sexual assault if that person commits criminal sexual assault and any of the following aggravating circumstances exist during the commission of the offense or, for purposes of paragraph (7), occur as part of the same course of conduct as the commission of the offense: (1) the person displays, threatens to use, or uses a dangerous weapon, other than a firearm, or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon; (2) the person causes bodily harm to the victim, except as provided in paragraph (10); (3) the person acts in a manner that threatens or endangers the life of the victim or any other person; (4) the person commits the criminal sexual assault during the course of committing or attempting to commit any other felony; (5) the victim is 60 years of age or older; (6) the victim is a person with a physical disability; (7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception for other than medical purposes; (8) the person is armed with a firearm; (9) the person personally discharges a firearm during the commission of the offense; or (10) the person personally discharges a firearm during the commission of the offense, and that discharge proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person. |

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| | <p>b. A person commits aggravated criminal sexual assault if that person is under 17 years of age and: (i) commits an act of sexual penetration with a victim who is under 9 years of age; or (ii) commits an act of sexual penetration with a victim who is at least 9 years of age but under 13 years of age and the person uses force or threat of force to commit the act.</p> <p>c. A person commits aggravated criminal sexual assault if that person commits an act of sexual penetration with a victim who is a person with a severe or profound intellectual disability.</p> <ul style="list-style-type: none"> • Predatory Criminal Sexual Assault of a Child (720 Ill. Comp. Stat. Ann. 5/11-1.40): A person commits predatory criminal sexual assault of a child if that person is 17 years of age or older, and commits an act of contact, however slight, between the sex organ or anus of one person and the part of the body of another for the purpose of sexual gratification or arousal of the victim or the accused, or an act of sexual penetration, and: (1) the victim is under 13 years of age; or (2) the victim is under 13 years of age and that person: (A) is armed with a firearm; (B) personally discharges a firearm during the commission of the offense; (C) causes great bodily harm to the victim that: (i) results in permanent disability; or (ii) is life threatening; or (D) delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception, for other than medical purposes. |
| Rape, Fondling, Incest, Statutory Rape | For purposes of the Clery Act, the term "sexual assault" includes the offenses of rape, fondling, incest, and statutory rape. The institution has determined, based on good-faith research, that Illinois law does not define these terms. |
| Other "sexual assault" crimes | Other crimes under Illinois law that may be classified as a "sexual assault" include the following: <ul style="list-style-type: none"> • Criminal Sexual Abuse (720 Ill. Comp. Stat. Ann. 5/11-1.50): <ul style="list-style-type: none"> a. A person commits criminal sexual abuse if that person: (1) commits an act of sexual conduct by the use of force or threat of force; or (2) commits an act of sexual conduct and knows that the victim is unable |

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| | <p>to understand the nature of the act or is unable to give knowing consent.</p> <p>b. A person commits criminal sexual abuse if that person is under 17 years of age and commits an act of sexual penetration or sexual conduct with a victim who is at least 9 years of age but under 17 years of age.</p> <p>c. A person commits criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is less than 5 years older than the victim.</p> <ul style="list-style-type: none"> • Aggravated Criminal Sexual Abuse (720 Ill. Comp. Stat. Ann. 5/11-1.60): <ul style="list-style-type: none"> a. A person commits aggravated criminal sexual abuse if that person commits criminal sexual abuse and any of the following aggravating circumstances exist (i) during the commission of the offense or (ii) for purposes of paragraph (7), as part of the same course of conduct as the commission of the offense: (1) the person displays, threatens to use, or uses a dangerous weapon or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon; (2) the person causes bodily harm to the victim; (3) the victim is 60 years of age or older; (4) the victim is a person with a physical disability; (5) the person acts in a manner that threatens or endangers the life of the victim or any other person; (6) the person commits the criminal sexual abuse during the course of committing or attempting to commit any other felony; or (7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim for other than medical purposes without the victim's consent or by threat or deception. b. A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is under 18 years of age and the person is a family member. c. A person commits aggravated criminal sexual abuse if: (1) that person is 17 years of age or over and: (i) commits an act of sexual conduct |

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| | <p>with a victim who is under 13 years of age; or (ii) commits an act of sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person uses force or threat of force to commit the act; or (2) that person is under 17 years of age and: (i) commits an act of sexual conduct with a victim who is under 9 years of age; or (ii) commits an act of sexual conduct with a victim who is at least 9 years of age but under 17 years of age and the person uses force or threat of force to commit the act.</p> <p>d. A person commits aggravated criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is at least 5 years older than the victim.</p> <p>e. A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is a person with a severe or profound intellectual disability.</p> <p>f. A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is at least 13 years of age but under 18 years of age and the person is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim.</p> <ul style="list-style-type: none"> Sexual Relations Within Families (720 Ill. Comp. Stat. Ann. 5/11-11): A person commits sexual relations within families if he or she: (1) Commits an act of sexual penetration as defined in Section 11-0.1 of this Code; and (2) The person knows that he or she is related to the other person as follows: (i) Brother or sister, either of the whole blood or the half blood; or (ii) Father or mother, when the child, regardless of legitimacy and regardless of whether the child was of the whole blood or half-blood or was adopted, was 18 years of age or over when the act was committed; or (iii) Stepfather or stepmother, when the stepchild was 18 years of age or over when the act was committed; or (iv) Aunt or uncle, when the niece or nephew was 18 years of age or over when the act was committed; or (v) Great-aunt or great-uncle, when the grand-niece or grand-nephew was 18 years of age or over when the act was committed; or (vi) Grandparent or step-grandparent, when the grandchild or step-grandchild was 18 years of age or over when the act was committed. |

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| <p>Consent (as it relates to sexual activity)</p> <p>(720 Ill. Comp. Stat. Ann. 5/11-0.1)</p> | <p>"Consent" means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.</p> <p>"Unable to give knowing consent" includes when the accused administers any intoxicating or anesthetic substance, or any controlled substance causing the victim to become unconscious of the nature of the act and this condition was known, or reasonably should have been known by the accused. "Unable to give knowing consent" also includes when the victim has taken an intoxicating substance or any controlled substance causing the victim to become unconscious of the nature of the act, and this condition was known or reasonably should have been known by the accused, but the accused did not provide or administer the intoxicating substance. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets any one of the following conditions:</p> <ul style="list-style-type: none"> (1) was unconscious or asleep; (2) was not aware, knowing, perceiving, or cognizant that the act occurred; (3) was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact; or (4) was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose. <p>A victim is presumed "unable to give knowing consent" when the victim:</p> <ul style="list-style-type: none"> (1) is committed to the care and custody or supervision of the Illinois Department of Corrections (IDOC) and the accused is an employee or volunteer who is not married to the victim who knows or reasonably should know that the victim is committed to the care and custody or supervision of such department; (2) is committed to or placed with the Department of Children and Family Services (DCFS) and in residential care, and the accused employee is not married to the victim, and knows or reasonably should know that the victim is committed to or placed with DCFS and in residential care; |

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| | <p>(3) is a client or patient and the accused is a health care provider or mental health care provider and the sexual conduct or sexual penetration occurs during a treatment session, consultation, interview, or examination;</p> <p>(4) is a resident or inpatient of a residential facility and the accused is an employee of the facility who is not married to such resident or inpatient who provides direct care services, case management services, medical or other clinical services, habilitative services or direct supervision of the residents in the facility in which the resident resides; or an officer or other employee, consultant, contractor or volunteer of the residential facility, who knows or reasonably should know that the person is a resident of such facility; or</p> <p>(5) is detained or otherwise in the custody of a police officer, peace officer, or other law enforcement official who: (i) is detaining or maintaining custody of such person; or (ii) knows, or reasonably should know, that at the time of the offense, such person was detained or in custody and the police officer, peace officer, or other law enforcement official is not married to such detainee.</p> |

MICHIGAN

| Crime Type (Michigan Compiled Laws) | Definitions |
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| Dating Violence | The institution has determined, based on good-faith research, that Michigan law does not define the term dating violence. |
| Domestic Violence (Mich. Comp. Laws § 400.1501) | Michigan's Domestic Violence Act uses the following definitions: <ul style="list-style-type: none"> • "Domestic violence" means the occurrence of any of the following acts by a person that is not an act of self-defense: (i) Causing or attempting to cause |

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| | <p>physical or mental harm to a family or household member; (ii) Placing a family or household member in fear of physical or mental harm; (iii) Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress; (iv) Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.</p> <ul style="list-style-type: none"> • "Family or household member" includes any of the following: (i) A spouse or former spouse; (ii) An individual with whom the person resides or has resided; (iii) An individual with whom the person has or has had a dating relationship; (iv) An individual with whom the person is or has engaged in a sexual relationship; (v) An individual to whom the person is related or was formerly related by marriage; (vi) An individual with whom the person has a child in common; (vii) The minor child of an individual described in subparagraphs (i) to (vi). • "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context. |
| <p>Stalking (Mich. Comp. Laws § 750.411h)</p> | <ul style="list-style-type: none"> • "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested. • The following definitions also apply: <ul style="list-style-type: none"> ○ "Course of conduct" means a pattern of conduct composed of a series of 2 or more separate noncontinuous acts evidencing a continuity of purpose. ○ "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling. ○ "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that |

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| | <p>would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.</p> <ul style="list-style-type: none"> ○ "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following: (i) Following or appearing within the sight of that individual; (ii) Approaching or confronting that individual in a public place or on private property; (iii) Appearing at that individual's workplace or residence; (iv) Entering onto or remaining on property owned, leased, or occupied by that individual; (v) Contacting that individual by telephone; (vi) Sending mail or electronic communications to that individual; (vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual. ○ "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment. |
| Sexual Assault | The institution has determined, based on good-faith research, that Michigan law does not define the term sexual assault, instead referring to sexual assault as "Criminal Sexual Conduct" prosecuted under Mich. Comp. Laws § 750.520b <i>et. seq.</i> |
| Rape, Fondling, Incest, Statutory Rape | <p>For purposes of the Clery Act, the term "sexual assault" includes the offenses of rape, fondling, incest, and statutory rape. These definitions under Michigan law are as follows:</p> <ul style="list-style-type: none"> ● Rape: The institution has determined, based on good-faith research, that Michigan law does not define the term rape. Michigan generally prosecutes such offenses as "Criminal Sexual Conduct" under Mich. Comp. Laws § 750.520b <i>et. seq.</i> ● Fondling: The institution has determined, based on good-faith research, that Michigan law does not define the term fondling. ● Incest: The institution has determined, based on good-faith research, that Michigan law does not define the term incest. Michigan generally prosecutes |

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| Crime Type (Michigan Compiled Laws) | Definitions |
|---|--|
| | <p>such offenses as Criminal sexual conduct in the fourth degree (Mich. Comp. Laws § 750.520e(1)).</p> <ul style="list-style-type: none"> • Statutory Rape: The institution has determined, based on good-faith research, that Michigan law does not define the term statutory rape. Michigan generally prosecutes such offenses as "Criminal Sexual Conduct" under Mich. Comp. Laws § 750.520b <i>et. seq.</i> |
| Other "sexual assault" crimes | <p>Other crimes under Michigan law that may be classified as a "sexual assault" include the following:</p> <ul style="list-style-type: none"> • Criminal sexual conduct in the first degree (Mich. Comp. Laws § 750.520b(1)): A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists: <ul style="list-style-type: none"> a. That other person is under 13 years of age. b. That other person is at least 13 but less than 16 years of age and any of the following: (i) The actor is a member of the same household as the victim; (ii) The actor is related to the victim by blood or affinity to the fourth degree; (iii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit. c. Sexual penetration occurs under circumstances involving the commission of any other felony. d. The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists: (i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless; (ii) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes, but is not limited to, any of the circumstances listed in subdivision (f). e. The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon. f. The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes, but is not limited to, any of the following circumstances: (i) When the actor overcomes the victim through the actual application of physical force |

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| | <p>or physical violence; (ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats; (iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion; (iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable; (v) When the actor, through concealment or by the element of surprise, is able to overcome the victim.</p> <p>g. The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.</p> <p>h. That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following: (i) The actor is related to the victim by blood or affinity to the fourth degree; (ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.</p> <ul style="list-style-type: none"> • Criminal sexual conduct in the second degree (Mich. Comp. Laws § 750.520c(1)): A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists: <ul style="list-style-type: none"> a. That other person is under 13 years of age. b. That other person is at least 13 but less than 16 years of age and any of the following: (i) The actor is a member of the same household as the victim; (ii) The actor is related by blood or affinity to the fourth degree to the victim; (iii) The actor is in a position of authority over the victim and the actor used this authority to coerce the victim to submit. c. Sexual contact occurs under circumstances involving the commission of any other felony. |

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| | <ul style="list-style-type: none"> d. The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists: (i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless. (ii) The actor uses force or coercion to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f). e. The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon. f. The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f). g. The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless. h. That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following: (i) The actor is related to the victim by blood or affinity to the fourth degree; (ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit. <ul style="list-style-type: none"> • Criminal sexual conduct in the third degree (Mich. Comp. Laws § 750.520d(1)): A person is guilty of criminal sexual conduct in the third degree if the person engages in sexual penetration with another person and if any of the following circumstances exist: <ul style="list-style-type: none"> a. That other person is at least 13 years of age and under 16 years of age. b. Force or coercion is used to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in section 520b(1)(f)(i) to (v). c. The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless. d. That other person is related to the actor by blood or affinity to the third degree and the sexual penetration occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to |

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| | <p>a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.</p> <ul style="list-style-type: none"> • Criminal sexual conduct in the fourth degree (Mich. Comp. Laws § 750.520e(1)): A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exist: <ul style="list-style-type: none"> a. That other person is at least 13 years of age but less than 16 years of age, and the actor is 5 or more years older than that other person. b. Force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the following circumstances: (i) When the actor overcomes the victim through the actual application of physical force or physical violence; (ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute that threat; (iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute that threat. As used in this subparagraph, "to retaliate" includes threats of physical punishment, kidnapping, or extortion; (iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable; (v) When the actor achieves the sexual contact through concealment or by the element of surprise. c. The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless. d. That other person is related to the actor by blood or affinity to the third degree and the sexual contact occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a |

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| | <p>position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.</p> <ul style="list-style-type: none"> Assault with intent to commit criminal sexual conduct (Mich. Comp. Laws § 750.520g): Assault with intent to commit criminal sexual conduct involving sexual penetration shall be a felony punishable by imprisonment for not more than 10 years. Assault with intent to commit criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than 5 years. |
| Consent (as it relates to sexual activity) | The institution has determined, based on good-faith research, that Michigan law does not define the term consent (as it relates to sexual activity). |

NEW JERSEY

| Crime Type (New Jersey Statutes Annotated) | Definitions |
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| Dating Violence | The institution has determined, based on good-faith research, that New Jersey's criminal statutes do not define the term dating violence outside of the K-12 context. New Jersey's education laws define "dating violence" as "a pattern of behavior where one person threatens to use, or actually uses physical, sexual, verbal, or emotional abuse to control a dating partner." "Dating partner" is defined as "any person involved in an intimate association with another individual that is primarily characterized by the expectation of affectionate involvement, whether casual, serious, or long-term." N.J. Stat. Ann. § 18A:35-4.23a. |
| Domestic Violence (N.J. Stat. Ann. § 2C:25-19) | <ul style="list-style-type: none"> "Domestic violence" means the occurrence of one or more of the following acts inflicted upon a person protected under this act by an adult or an emancipated minor: (1) Homicide; (2) Assault; (3) Terroristic threats; (4) Kidnapping; (5) Criminal restraint; (6) False imprisonment; (7) Sexual assault; (8) Criminal sexual contact; (9) Lewdness; (10) Criminal mischief; (11) Burglary; (12) Criminal |

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| Crime Type (New Jersey Statutes Annotated) | Definitions |
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| | <p>trespass; (13) Harassment; (14) Stalking; (15) Criminal coercion; (16) Robbery; (17) Contempt of a domestic violence order that constitutes a crime or disorderly persons offense; (18) Any other crime involving risk of death or serious bodily injury; (19) Cyber-harassment.</p> <ul style="list-style-type: none"> "Victim of domestic violence" means a person protected under this act and shall include any person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present household member or was at any time a household member. "Victim of domestic violence" also includes any person, regardless of age, who has been subjected to domestic violence by a person with whom the victim has a child in common, or with whom the victim anticipates having a child in common, if one of the parties is pregnant. "Victim of domestic violence" also includes any person who has been subjected to domestic violence by a person with whom the victim has had a dating relationship. |
| <p>Stalking (N.J. Stat. Ann. § 2C:12-10)</p> | <ul style="list-style-type: none"> A person is guilty of stalking, a crime of the fourth degree, if he purposefully or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for his safety or the safety of a third person or suffer other emotional distress. A person is guilty of a crime of the third degree if he commits the crime of stalking in violation of an existing court order prohibiting the behavior, commits a second or subsequent offense of stalking against the same victim, or commits the crime of stalking while serving a term of imprisonment or while on parole or probation. "Course of conduct" means repeatedly maintaining a visual or physical proximity to a person; directly, indirectly, or through third parties, by any action, method, device, or means, following, monitoring, observing, surveilling, threatening, or communicating to or about, a person, or interfering with a person's property; repeatedly committing harassment against a person; or repeatedly conveying, or causing to be conveyed, verbal or written threats or threats conveyed by any other means of communication or threats implied by conduct or a combination thereof directed at or toward a person. |
| <p>Sexual Assault</p> | <ul style="list-style-type: none"> Sexual assault: |

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| | <ul style="list-style-type: none"> ○ N.J. Stat. Ann. § 2C:14-2: (b) An actor is guilty of sexual assault if the actor commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim. ○ N.J. Stat. Ann. § 2C:14-2: (c) An actor is guilty of sexual assault if the actor commits an act of sexual penetration with another person under any one of the following circumstances: (1) The actor commits the act using coercion or without the victim's affirmative and freely-given permission, but the victim does not sustain severe personal injury; (2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status; (3) The victim is at least 16 but less than 18 years old and: (a) The actor is related to the victim by blood or affinity to the third degree; or (b) The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or (c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household; (4) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim. ● Aggravated sexual assault (N.J. Stat. Ann. § 2C:14-2): An actor is guilty of aggravated sexual assault if the actor commits an act of sexual penetration with another person under any one of the following circumstances: (1) The victim is less than 13 years old; (2) The victim is at least 13 but less than 16 years old; and (a) The actor is related to the victim by blood or affinity to the third degree, or (b) The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or (c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household; (3) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, carjacking, kidnapping, homicide, aggravated assault on the victim or a person other than the victim, burglary, arson, or criminal escape; (4) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object; (5) The actor is aided or abetted by one or more other persons and the actor commits the act using coercion or without the victim's affirmative and freely-given permission; (6) The actor commits the act using |

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| | <p>coercion or without the victim’s affirmative and freely-given permission and severe personal injury is sustained by the victim; (7) The victim, at the time of sexual penetration, is one whom the actor knew or should have known was: (a) physically helpless or incapacitated ; (b) intellectually or mentally incapacitated; or (c) had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the distinctively sexual nature of the conduct, including, but not limited to, being incapable of providing consent, or incapable of understanding or exercising the right to refuse to engage in the conduct.</p> |
| Rape, Fondling, Incest, Statutory Rape | <p>For purposes of the Clery Act, the term "sexual assault" includes the offenses of rape, fondling, incest, and statutory rape. These definitions under New Jersey law are as follows:</p> <ul style="list-style-type: none"> • Rape: The institution has determined, based on good-faith research, that New Jersey law does not define the term rape. • Fondling: The institution has determined, based on good-faith research, that New Jersey law does not define the term fondling. • Incest: The institution has determined, based on good-faith research, that New Jersey law does not define the term incest. • Statutory Rape: The institution has determined, based on good-faith research, that New Jersey law does not define the term statutory rape. |
| Other “sexual assault” crimes | <p>Other crimes under New Jersey law that may be classified as a "sexual assault" include the following:</p> <ul style="list-style-type: none"> • Criminal sexual contact (N.J. Stat. Ann. § 2C:14-3): (b) An actor is guilty of criminal sexual contact if he commits an act of sexual contact with the victim under any of the circumstances set forth in section 2C:14-2c. (1) through (5) [above]. • Aggravated criminal sexual contact (N.J. Stat. Ann. § 2C:14-3): (a) An actor is guilty of aggravated criminal sexual contact if he commits an act of sexual contact with the victim under any of the circumstances set forth in 2C:14-2a. (2) through (7) [above]. • Sexual extortion (N.J. Stat. Ann. § 2C:14-9.1): An actor commits the crime of sexual extortion if: (a) with the purpose to coerce another person to: engage |

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| | <p>in sexual contact, sexual penetration, or simulated sexual contact or sexual penetration, expose their intimate parts, or produce, photograph, film, videotape, record, or otherwise reproduce in any manner any image, video, or other recording of any individual's intimate parts or any individual engaged in sexual contact, sexual penetration, or simulated sexual contact or sexual penetration, the actor communicates by any means a threat: (1) to the person, property, or reputation of the victim or any other person; or (2) to disclose an image, video, or other recording of the victim or any other person engaged in sexual contact, sexual penetration, simulated sexual contact or penetration, or of the victim's or any other person's intimate parts; or (b) the actor knowingly causes another person to engage in sexual contact, sexual penetration, or simulated sexual contact or penetration, or expose their intimate parts, or produce, photograph, film, videotape, record, or otherwise reproduce in any manner, any image, video, or other recording of any individual's intimate parts or any individual engaged in sexual contact, sexual penetration, or simulated sexual contact or penetration; by communicating by any means a threat: (1) to the person, property, or reputation of the victim or any other person; or. (2) to disclose an image, video, or other recording of the victim or any other person engaged in sexual contact, sexual penetration, simulated sexual contact or sexual penetration, or of the victim's or any other person's intimate parts.</p> <ul style="list-style-type: none"> • Invasion of privacy; observation of sexual contact; reproduction or disclosure of images of sexual contact or undergarment-clad intimate parts of another person; dressing rooms (N.J. Stat. Ann. §2C:14-9): <ul style="list-style-type: none"> ○ An actor commits a crime of the fourth degree if, knowing that he is not licensed or privileged to do so, and under circumstances in which a reasonable person would know that another may expose intimate parts or may engage in sexual penetration or sexual contact, he observes another person without that person's consent and under circumstances in which a reasonable person would not expect to be observed. ○ An actor commits a crime of the third degree if, knowing that he is not licensed or privileged to do so, he photographs, films, videotapes, records, or otherwise reproduces in any manner, the image of another person whose intimate parts are exposed or who is engaged in an act of sexual penetration or sexual contact, without that person's consent and under circumstances in which a reasonable person would not expect to be observed. ○ An actor commits a crime of the fourth degree if, knowing that he is not licensed or privileged to do so, he photographs, films, videotapes, records, or otherwise reproduces in any manner, the image of the undergarment-clad intimate parts of another person, without that person's consent and under circumstances in which a reasonable person would not expect to have his undergarment-clad intimate parts observed. ○ An actor commits a crime of the third degree if, knowing that he is not licensed or privileged to do so, he discloses any photograph, film, |
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| | videotape, recording or any other reproduction of the image, taken in violation of subsection b. of this section, of: (1) another person who is engaged in an act of sexual penetration or sexual contact; (2) another person whose intimate parts are exposed; or (3) another person's undergarment-clad intimate parts, unless that person has consented to such disclosure. |
| Consent (as it relates to sexual activity) | <p>The institution has determined, based on good-faith research, that New Jersey law does not define the term consent (as it relates to sexual activity). However, the state's criminal code does have a provision relating to consent that pertains to all its criminal offenses. N.J. Stat. Ann. § 2C:2-10 provides the following:</p> <ul style="list-style-type: none"> • In general – The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negatives an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense. • Consent to bodily harm – When conduct is charged to constitute an offense because it causes or threatens bodily harm, consent to such conduct or to the infliction of such harm is a defense if: (1) The bodily harm consented to or threatened by the conduct consented to is not serious; or (2) The conduct and the harm are reasonably foreseeable hazards of joint participation in a concerted activity of a kind not forbidden by law; or (3) The consent establishes a justification for the conduct under chapter 3 of the code. • Ineffective consent – Unless otherwise provided by the code or by the law defining the offense, assent does not constitute consent if: (1) It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense; or (2) It is given by a person who by reason of youth, mental disease or defect or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature of harmfulness of the conduct charged to constitute an offense; or (3) It is induced by force, duress or deception of a kind sought to be prevented by the law defining the offense. |

NORTH CAROLINA

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| Crime Type (North Carolina General Statutes) | Definitions |
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| Dating Violence | The institution has determined, based on good-faith research, that North Carolina law does not define the term dating violence. |
| Domestic Violence (N.C. Gen. Stat. § 50B-1) | <ul style="list-style-type: none"> • Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense: (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3A, that rises to such a level as to inflict substantial emotional distress; or (3) Committing any act defined in G.S. 14-27.21 through G.S. 14-27.33. • As used above, the term "personal relationship"* [FYI, Red Flag found unconstitutional on arguments related to same sex relationships] means a relationship wherein the parties involved: (1) Are current or former spouses; (2) Are persons of opposite sex who live together or have lived together; (3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16; (4) Have a child in common; (5) Are current or former household members; (6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship. |
| Stalking | <ul style="list-style-type: none"> • Stalking (N.C. Gen. Stat. § 14-277.3A*[FYI, Red Flag found this unconstitutional under State v. Shackelford on basis that it violated Defendants 1st Amendment protections and was procedurally flawed.]): A defendant is guilty of stalking if the defendant willfully on more than one occasion harasses another person without legal purpose or willfully engages in a course of conduct directed at a specific person without legal purpose and the defendant knows or should know that the harassment or the course of conduct would cause a reasonable person to do any of the following: (1) Fear for the person's safety or the safety of the |

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| | <p>person's immediate family or close personal associates; (2) Suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment.</p> <ul style="list-style-type: none"> • The following definitions apply to the crime of stalking: <ul style="list-style-type: none"> ○ 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, is in the presence of, or follows, monitors, observes, surveils, threatens, or communicates to a person, or interferes with a person's property. ○ Harasses or harassment – Knowing conduct, including written or printed communication or transmission, telephone, cellular, or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized or electronic transmissions directed at a specific person that torments, terrorizes, or terrifies that person and that serves no legitimate purpose. ○ Reasonable person – A reasonable person in the victim's circumstances. ○ Substantial emotional distress – Significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling. • Cyberstalking (N.C. Gen. Stat. §14-196.3): It is unlawful for a person to: (1) Use in electronic mail or electronic communication any words or language threatening to inflict bodily harm to any person or to that person's child, sibling, spouse, or dependent, or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person; (2) Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threatening, terrifying, harassing, or embarrassing any person; (3) Electronically mail or electronically communicate to another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct, or criminal conduct of the person electronically mailed or of any member of the |

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|--|--|
| | <p>person's family or household with the intent to abuse, annoy, threaten, terrify, harass, or embarrass; (4) Knowingly permit an electronic communication device under the person's control to be used for any purpose prohibited by this section; (5) Knowingly install, place, or use an electronic tracking device without consent, or cause an electronic tracking device to be installed, placed, or used without consent, to track the location of any person.</p> |
| Sexual Assault | <p>The institution has determined, based on good-faith research, that North Carolina criminal statutes do not define the term sexual assault. North Carolina generally prosecutes such offences under its "Forcible Sexual Offense" statutes under N.C. Gen. Stat. § 14-27.26 <i>et. seq.</i></p> |
| Rape, Fondling, Incest, Statutory Rape | <p>For purposes of the Clery Act, the term "sexual assault" includes the offenses of rape, fondling, incest, and statutory rape. These definitions under North Carolina law are as follows:</p> <ul style="list-style-type: none"> • First-degree forcible rape (N.C. Gen. Stat. § 14-27.21): A person is guilty of first-degree forcible rape if the person engages in vaginal intercourse with another person by force and against the will of the other person, and does any of the following: (1) Uses, threatens to use, or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; (2) Inflicts serious personal injury upon the victim or another person; (3) The person commits the offense aided and abetted by one or more other persons. • Second-degree forcible rape (N.C. Gen. Stat. § 14-27.22): A person is guilty of second-degree forcible rape if the person engages in vaginal intercourse with another person: (1) By force and against the will of the other person; or (2) Who has a mental disability or who is mentally incapacitated, or physically helpless and the person performing the act knows or should reasonably know the other person has a mental disability or is mentally incapacitated, or physically helpless. • Fondling: The institution has determined, based on good-faith research, that North Carolina law does not define the term fondling. • Incest (N.C. Gen. Stat. § 14-178): A person commits the offense of incest if the person engages in carnal intercourse with the person's (i) grandparent or |

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| | <p>grandchild, (ii) parent or child or stepchild or legally adopted child, (iii) brother or sister of the half or whole blood, or (iv) uncle, aunt, nephew, or niece.</p> <ul style="list-style-type: none"> • Statutory Rape of a Child by an Adult (N.C. Gen. Stat. § 14-27.23): A person is guilty of statutory rape of a child by an adult if the person is at least 18 years of age and engages in vaginal intercourse with a victim who is a child under the age of 13 years. • First-Degree Statutory Rape (N.C. Gen. Stat. § 14-27.24): A person is guilty of first-degree statutory rape if the person engages in vaginal intercourse with a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim. • Statutory Rape of Person Who is 15 Years of Age or Younger (N.C. Gen. Stat. § 14-27.25): (a) A defendant is guilty of a Class B1 felony if the defendant engages in vaginal intercourse with another person who is 15 years of age or younger and the defendant is at least 12 years old and at least six years older than the person, except when the defendant is lawfully married to the person. (b) Unless the conduct is covered under some other provision of law providing greater punishment, a defendant is guilty of a Class C felony if the defendant engages in vaginal intercourse with another person who is 15 years of age or younger and the defendant is at least 12 years old and more than four but less than six years older than the person, except when the defendant is lawfully married to the person. |
| Other "sexual assault" crimes | <p>Other crimes under North Carolina law that may be classified as a "sexual assault" include the following:</p> <ul style="list-style-type: none"> • First-Degree Forcible Sexual Offense (N.C. Gen. Stat. § 14-27.26): A person is guilty of a first degree forcible sexual offense if the person engages in a sexual act with another person by force and against the will of the other person, and does any of the following: (1) Uses, threatens to use, or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; (2) Inflicts serious personal injury upon the victim or another person; (3) The person commits the offense aided and abetted by one or more other persons. • Second-Degree Forcible Sexual Offense (N.C. Gen. Stat. § 14-27.27): A person is guilty of second degree forcible sexual offense if the person engages in a sexual |

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| | <p>act with another person: (1) By force and against the will of the other person; or (2) Who has a mental disability or who is mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person has a mental disability or is mentally incapacitated, or physically helpless.</p> <ul style="list-style-type: none"> • Statutory Sexual Offense With a Child by an Adult (N.C. Gen. Stat. § 14-27.28): A person is guilty of statutory sexual offense with a child by an adult if the person is at least 18 years of age and engages in a sexual act with a victim who is a child under the age of 13 years. • First-Degree Statutory Sexual Offense (N.C. Gen. Stat. § 14-27.29): A person is guilty of first-degree statutory sexual offense if the person engages in a sexual act with a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim. • Statutory Sexual Offense With a Person Who is 15 Years of Age or Younger (N.C. Gen. Stat. § 14-27.30): (a) A defendant is guilty of a Class B1 felony if the defendant engages in a sexual act with another person who is 15 years of age or younger and the defendant is at least 12 years old and at least six years older than the person, except when the defendant is lawfully married to the person. (b) Unless the conduct is covered under some other provision of law providing greater punishment, a defendant is guilty of a Class C felony if the defendant engages in a sexual act with another person who is 15 years of age or younger and the defendant is at least 12 years old and more than four but less than six years older than the person, except when the defendant is lawfully married to the person. • Sexual Battery (N.C. Gen. Stat. § 14-27.33): A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person: (1) By force and against the will of the other person; or (2) Who has a mental disability or is mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person has a mental disability or who is mentally incapacitated, or physically helpless. |
| Consent (as it relates to sexual activity) | The institution has determined, based on good-faith research, that North Carolina law does not define the term consent (as it relates to sexual activity). |

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PENNSYLVANIA

| Crime Type (Pennsylvania Statutes and Consolidated Statutes) | Definitions |
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| Dating Violence | <p>The institution has determined, based on good-faith research, that Pennsylvania law does not define the term dating violence, other than in the context of dating violence education, where it is defined as follows: Behavior where one person uses threats of, or actually uses, physical, sexual, verbal or emotional abuse to control the person's dating partner. 24 Pa. Stat. Ann. § 15-1553(f).</p> |
| Domestic Violence | <p>Pennsylvania defines domestic violence as follows (71 Pa. Stat. Ann. § 611.13): the occurrence of one or more of the following acts between family or household member: (1) Intentionally, knowingly or recklessly causing or attempting to cause bodily injury; (2) Placing, by physical menace, another in fear of imminent serious bodily injury.</p> <p>Pennsylvania law defines "Abuse" in its domestic relations statutes as follows (23 Pa. Stat. Ann. § 6102): The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood: (1) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest with or without a deadly weapon; (2) Placing another in reasonable fear of imminent serious bodily injury; (3) The infliction of false imprisonment pursuant to 18 Pa. Stat. Ann. § 2903; (4) Physically or sexually abusing minor children, including such terms as defined in Chapter 63 (relating to child protective services); (5) Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury. The definition of this paragraph applies only to proceedings commenced under this title and is inapplicable to any criminal prosecutions commenced under Title 18 (relating to crimes and offenses).</p> |

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| Stalking (18 Pa. Stat. Ann. § 2709.1) | <p>A person commits the crime of stalking when the person either: (1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or (2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.</p> |
| Sexual Assault | <ul style="list-style-type: none"> • Sexual Assault (18 Pa. Stat. Ann. § 3124.1): Except as provided in section 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent. • Statutory Sexual Assault (18 Pa. Stat. Ann. § 3122.1): <ul style="list-style-type: none"> ○ Felony of the second degree – Except as provided in section 3121 (relating to rape), a person commits a felony of the second degree when that person engages in sexual intercourse with a complainant to whom the person is not married who is under the age of 16 years and that person is either: (1) four years older but less than eight years older than the complainant; or (2) eight years older but less than 11 years older than the complainant. ○ Felony of the first degree – A person commits a felony of the first degree when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is 11 or more years older than the complainant and the complainant and the person are not married to each other. • For purposes of the statutes above, sexual intercourse and deviate sexual intercourse are defined in 18 Pa. Stat. Ann. § 3101 as follows: <ul style="list-style-type: none"> ○ "Deviate sexual intercourse." Sexual intercourse per os or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the |

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| | <p>genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.</p> <ul style="list-style-type: none"> ○ "Sexual intercourse." In addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required. |
| Rape, Fondling, Incest, Statutory Rape | <p>For purposes of the Clery Act, the term "sexual assault" includes the offenses of rape, fondling, incest, and statutory rape. These definitions under Pennsylvania law are as follows:</p> <ul style="list-style-type: none"> • Rape (18 Pa. Stat. Ann. § 3121): A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant: (1) By forcible compulsion; (2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring; (4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (5) Who suffers from a mental disability which renders the complainant incapable of consent. • Fondling: The institution has determined, based on good-faith research, that Pennsylvania law does not define the term fondling. • Incest (18 Pa. Stat. Ann. § 4302): <ul style="list-style-type: none"> a. General rule – Except as provided under subsection (b), a person is guilty of incest, a felony of the second degree, if that person knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood. b. Incest of a minor – A person is guilty of incest of a minor, a felony of the second degree, if that person knowingly marries, cohabits with or has sexual intercourse with a complainant who is an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, |

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| | <p> aunt, nephew or niece of the whole blood and: (1) is under the age of 13 years; or (2) is 13 to 18 years of age and the person is four or more years older than the complainant.</p> <p> c. Relationships – The relationships referred to in this section include blood relationships without regard to legitimacy, and relationship of parent and child by adoption.</p> <ul style="list-style-type: none"> • Statutory Rape: Pennsylvania law does not define the term statutory rape. The state defines the charge as statutory sexual assault (18 Pa. Stat. Ann. § 3122.1) as defined above. |
| Other “sexual assault” crimes | <p>Other crimes under Pennsylvania law that may be classified as a "sexual assault" include the following:</p> <ul style="list-style-type: none"> • Involuntary Deviate Sexual Intercourse (18 Pa. Stat. Ann. § 3123): <ul style="list-style-type: none"> a. Offense defined – A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant: (1) by forcible compulsion; (2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring; (4) where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (5) who suffers from a mental disability which renders him or her incapable of consent; or (6) (Deleted by amendment); (7) who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other. b. Involuntary deviate sexual intercourse with a child – A person commits involuntary deviate sexual intercourse with a child, a felony of the first degree, when the person engages in deviate sexual intercourse with a complainant who is less than 13 years of age. |

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| | <ul style="list-style-type: none"> c. Involuntary deviate sexual intercourse with a child with serious bodily injury – A person commits an offense under this section with a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is less than 13 years of age and the complainant suffers serious bodily injury in the course of the offense. • Aggravated Indecent Assault (18 Pa. Stat. Ann. § 3125): <ul style="list-style-type: none"> a. Offenses defined – Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse) and 3124.1 (relating to sexual assault), a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures commits aggravated indecent assault if: (1) the person does so without the complainant's consent; (2) the person does so by forcible compulsion; (3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (4) the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring; (5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (6) the complainant suffers from a mental disability which renders him or her incapable of consent; (7) the complainant is less than 13 years of age; or (8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other. b. Aggravated indecent assault of a child – A person commits aggravated indecent assault of a child when the person violates subsection (a)(1), (2), (3), (4), (5) or (6) and the complainant is less than 13 years of age. |

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| | <ul style="list-style-type: none"> Indecent Assault (18 Pa. Stat. Ann. § 3126): A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and: (1) the person does so without the complainant's consent; (2) the person does so by forcible compulsion; (3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (4) the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring; (5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (6) the complainant suffers from a mental disability which renders the complainant incapable of consent; (7) the complainant is less than 13 years of age; or (8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other. |
| Consent (as it relates to sexual activity) | <p>The institution has determined, based on good-faith research, that Pennsylvania law does not define the term consent (as it relates to sexual activity).</p> <p>However, Pennsylvania law does provide the following regarding consent to criminal offenses generally (18 Pa. Stat. Ann. § 311(c)): Unless otherwise provided by this title or by the law defining the offense, assent does not constitute consent if: (1) it is given by a person who is legally incapacitated to authorize the conduct charged to constitute the offense; (2) it is given by a person who by reason of youth, mental disease or defect or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; (3) it is given by a person whose improvident consent is sought to be prevented by the law defining the offense; or (4) it is induced by force, duress or deception of a kind sought to be prevented by the law defining the offense.</p> |

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| <p>Dating Violence (Tex. Fam. Code Ann. § 71.0021)</p> | <p>The institution had determined, based on good-faith research, that the criminal statutes of Texas do not define the term dating violence.</p> <p>However, Section 71.0021 of the Texas Family Code provides the following:</p> <ol style="list-style-type: none"> a. "Dating violence" means an act, other than a defensive measure to protect oneself, by an actor that: (1) is committed against a victim or applicant for a protective order: (A) with whom the actor has or has had a dating relationship; or (B) because of the victim's or applicant's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim or applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault. b. For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of: (1) the length of the relationship; (2) the nature of the relationship; and (3) the frequency and type of interaction between the persons involved in the relationship. c. A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b). <p>In addition, Sections 51.251 and 51.281 of the Texas Education Code provide that "dating violence" shall have the meaning assigned by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20.U.S.C. Section 1092(f)(6)(A)). This law defines dating violence to mean violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.</p> |
| <p>Domestic Violence</p> | <p>The institution has determined, based on good-faith research, that Texas law does not define the term domestic violence.</p> <p>However, Texas law does define the term "Family Violence" (Tex. Fam. Code Ann. § 71.004) as follows: (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (2) abuse [as defined under state law]</p> |

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| | by a member of a family or household toward a child of the family or household; or (3) dating violence, as that term is defined by Section 71.0021. |
| Stalking (Tex. Penal Code Ann. § 42.072) | <p>Stalking (Tex. Penal Code Ann. § 42.072):</p> <ol style="list-style-type: none"> a. A person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed at a specific other person, knowingly engages in conduct that: <ol style="list-style-type: none"> 1. constitutes an offense under Section 42.07, or that the actor knows or reasonably should know the other person will regard as threatening: (A) bodily injury or death for the other person; or (B) that an offense will be committed against: (i) a member of the other person's family or household; or (ii) an individual with whom the other person has a dating relationship; or (iii) the other person's property; 2. causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship: (A) to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship, or the other person's property; or (B) to feel harassed, terrified, intimidated, annoyed, alarmed, abused, tormented, embarrassed, or offended; and 3. would cause a reasonable person under circumstances similar to the circumstances of the other person to: (A) fear bodily injury or death for the person; (B) fear that an offense will be committed against a member of the person's family or household or an individual with whom the person has a dating relationship; (C) fear that an offense will be committed against the person's property; or (D) feel harassed, terrified, intimidated, annoyed, alarmed, abused, tormented, embarrassed, or offended. b. An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if the actor has previously been convicted of an offense under this section or of an offense under any of the following laws that contains elements that are substantially similar to the elements of an offense under this section: <ol style="list-style-type: none"> 1. the laws of another state; 2. the laws of a federally recognized Indian tribe; |

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| | <p style="text-align: center;">3. the laws of a territory of the United States; or</p> <p style="text-align: center;">4. federal law.</p> <p>c. For purposes of this section, a trier of fact may find that different types of conduct described by Subsection (a), if engaged in on more than one occasion, constitute conduct that is engaged in pursuant to the same scheme or course of conduct.</p> <p>d. In this section:</p> <ol style="list-style-type: none"> 1. "Dating relationship," "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code; 2. "Property" includes a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code. <p>In addition, Sections 51.251 and 51.281 of the Texas Education Code provide that "stalking" shall have the meaning assigned by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20.U.S.C. Section 1092(f)(6)(A)). This law defines stalking as engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.</p> |
| Sexual Assault | <p>The Texas Penal Code provides the following definitions for sexual assault and aggravated sexual assault:</p> <ul style="list-style-type: none"> • Sexual Assault (Tex. Penal Code Ann. § 22.011): A person commits an offense if: <ul style="list-style-type: none"> ○ (1) the person intentionally or knowingly: (A) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; (B) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or (C) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or ○ (2) regardless of whether the person knows the age of the child at the time of the offense, the person intentionally or knowingly: (A) causes the penetration of the anus or sexual organ of a child by any means; (B) causes the penetration of the mouth of a child by the sexual organ of the actor; (C) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; (D) causes the anus of a child to contact the |

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| | <p style="text-align: center;">mouth, anus, or sexual organ of another person, including the actor; or (E) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.</p> <ul style="list-style-type: none"> • Aggravated sexual assault (Tex. Penal Code Ann. § 22.021): A person commits an offense: <ul style="list-style-type: none"> ○ If the person: (A) intentionally or knowingly: (i) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; (ii) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or (iii) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or (B) regardless of whether the person knows the age of the child at the time of the offense, intentionally or knowingly: (i) causes the penetration of the anus or sexual organ of a child by any means; (ii) causes the penetration of the mouth of a child by the sexual organ of the actor; (iii) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; (iv) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or (v) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor; and ○ If: (A) the person: (i) causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode; (ii) by acts or words places the victim in fear that any person will become the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or that death, serious bodily injury, or kidnapping will be imminently inflicted on any person; (iii) by acts or words occurring in the presence of the victim threatens to cause any person to become the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or to cause the death, serious bodily injury, or kidnapping of any person; (iv) uses or exhibits a deadly weapon in the course of the same criminal episode; (v) acts in concert with another who engages in conduct described by Subdivision (1) directed toward the same victim and occurring during the course of the same criminal episode; or (vi) with the intent of facilitating the commission of the offense; administers or provides to the victim of the offense any substance capable of impairing victim's ability to appraise the nature of the act or to resist the act; (B) the victim is younger than 14 years of age, regardless of whether the person |

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| | <p style="text-align: center;">knows the age of the victim at the time of the offense; or (C) the victim is an elderly individual or a disabled individual.</p> <p>In addition, Sections 51.251 and 51.281 of the Texas Education Code provide that "sexual assault" shall have the meaning assigned by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20.U.S.C. Section 1092(f)(6)(A)). This law defines sexual assault as any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.</p> |
| Rape, Fondling, Incest, Statutory Rape | For purposes of the Clery Act, the term "sexual assault" includes the offenses of rape, fondling, incest, and statutory rape. The institution has determined, based on good-faith research, that Texas law does not define these terms. |
| Other "sexual assault" crimes | <p>Other crimes under Texas law that may be classified as a "sexual assault" include the following:</p> <ul style="list-style-type: none"> • Prohibited Sexual Conduct (Tex. Penal Code Ann. § 25.02): A person commits an offense if the person engages in sexual intercourse or deviate sexual intercourse with another person the actor knows to be, without regard to legitimacy: (1) the actor's ancestor or descendant by blood or adoption; (2) the actor's current or former stepchild or stepparent; (3) the actor's parent's brother or sister of the whole or half blood; (4) the actor's brother or sister of the whole or half blood or by adoption; (5) the children of the actor's brother or sister of the whole or half blood or by adoption; or (6) the son or daughter of the actor's aunt or uncle of the whole or half blood or by adoption. • Indecency With a Child (Tex. Penal Code Ann. § 21.11): A person commits an offense if, with a child younger than 17 years of age, whether the child is of the same or opposite sex and regardless of whether the person knows the age of the child at the time of the offense, the person (1) engages in sexual contact with the child or causes the child to engage in sexual contact; or (2) with the intent to arouse or gratify the sexual desire of any person: (A) exposes the person's anus or any part of the person's genitals, knowing the child is present; or (B) causes the child to expose the child's anus or any part of the child's genitals. • Improper Relationship Between Educator and Student (Tex. Penal Code Ann. § 21.12): (a) An employee of a public or private primary or secondary school commits an offense if the employee: (1) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works; (2) holds a position described by Section 21.003(a) or (b), Education Code, regardless of whether the employee holds the appropriate certificate, permit, |

Sexual Misconduct Policy

Department: Student Services

Effective Date: 7/29/2015

Owner & Title: Jaslyn Ramirez, Director of Program Compliance

Last Revised Date: 1/31/2024

| Crime Type (Texas Code Annotated) | Definitions |
|---|--|
| | <p>license, or credential for the position, and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is:</p> <ul style="list-style-type: none"> ○ (A) enrolled in a public or private primary or secondary school, other than a school described by Subdivision (1); or ○ (B) a student participant in an educational activity that is sponsored by a school district or a public or private primary or secondary school, if students enrolled in a public or private primary or secondary school are the primary participants in the activity; or ● (3) engages in conduct described by Section 33.021, with a person described by Subdivision (1), or a person the employee knows is a person described by Subdivision (2)(A) or (B), regardless of the age of that person. |
| <p>Consent (as it relates to sexual activity) (Tex. Penal Code Ann. § 22.011(b))</p> | <p>A sexual assault is without the consent of the other person if: (1) the actor compels the other person to submit or participate by the use of physical force, violence, or coercion; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person or to cause harm to the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat; (8) the actor is a public servant who coerces the other person to submit or participate; (9) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor; (10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; (11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2, Family Code; or (12) the actor is a health care services provider who, in the course of performing an assisted reproduction procedure on the other person, uses human reproductive material from a donor knowing that the other person has not expressly consented to the use of material from that donor; (13)</p> |

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| | the actor is a coach or tutor who causes the other person to submit or participate by using the actor's power or influence to exploit the other person's dependency on the actor; or (14) the actor is a caregiver hired to assist the other person with activities of daily life and causes the other person to submit or participate by exploiting the other person's dependency on the actor. |

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| Document Revision History | | | | |
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| Date | Version | Change | Author | Approver |
| 7-29-15 | 1.0 | | Melanie Scheet, National Director of Student Services | Kelleen Brennan, VP Edna Johnson, VP |
| 4-14-16 | 1.1 | Added Student Services Directors as Deputy Title IX Coordinators for student complaints; contact information included | Melanie Scheet, National Director of Student Services | Kelleen Brennan, VP Edna Johnson, VP |
| 6-8-17 | 1.2 | Added additional references to Deputy Title IX Coordinator throughout the policy; updated appeal contact to Rhonda Turner and included contact information; included additional sanctions; added additional resources to chart; updated Deputy contact information for NASCAR Tech | Melanie Scheet, National Director of Student Services | Edna Johnson, VP |
| 7-1-18 | 1.3 | Added New Jersey criminal code to Appendix A. Updated resource list and campus contacts, including addition of Bloomfield campus information. Added informal resolution process to policy. Provided People Services contact information for employees. Added language to sexual harassment to ensure understanding that it must be persistent, pervasive, and severe to constitute a hostile environment. Updated policy to account for new sub-regulatory guidance, including notice of allegations, notice of meetings, response to the preliminary report, interim measures, investigation timeframe, etc. Added definition for coercion, intimidation, sex discrimination, and sexual exploitation. Combined former Title IX Policy and Sexual Misconduct Policy into a single policy to avoid confusion. | Melanie Scheet, National Director of Student Services | Jonathan Kirsch, Staff Counsel |
| 10-26-18 | 1.4 | Updated Appendix A to most current version | Annalise Manginelli, Operations Specialist | Melanie Scheet, National Director of Student Services |
| 4-10-19 | 1.5 | Updated People Services chart and contacts for Sacramento, Norwood, and Bloomfield campuses. | Annalise Manginelli, Operations Specialist | Melanie Scheet, National Director of Student Services |
| 7-30-19 | 1.6 | Updated appeal contact to Sherrell Smith | Annalise Manginelli, Operations Specialist | Melanie Scheet, National Director of Student Services |

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| Date | Version | Change | Author | Approver |
| 10-4-19 | 1.7 | Updated Appendix A to most current version. Updated campus resources to reflect current information | Annalise Manginelli, Operations Specialist | Melanie Scheet, National Director of Student Services |
| 12-28-20 | 1.8 | Updated Appendix A with most current regulations. Updated contact information. Updated Appeal contact to Sonia Mason. | Melanie Scheet, National Director | Scott Levine, VP Deputy General Counsel |
| 1-28-22 | 1.9 | Added Austin to the Campus Chart. Updated the designated coordinator from National Director of Student and Employment Services, Melanie Scheet to the Director of Program Compliance, Jaslyn Ramirez. Updated the Policy Owner and Title. Updated People Services to Human Resources. Updated the Human Resources Chart. | Jaslyn Ramirez, Director of Program Compliance | Melanie Scheet, VP Student Success |
| 6-21-22 | 2.0 | Incorporated MIAT Logo and added criminal law terms and definitions for Michigan to Appendix A. Updated Campus Contact and Human Resources Chart. | Jaslyn Ramirez, Director of Program Compliance | Melanie Scheet, VP Student Success |
| 9-25-23 | 2.1 | Updated state regulations in Appendix A. Updated Appeal contact to Vice President of Student Success. | Jaslyn Ramirez, Director of Program Compliance | Melanie Scheet, VP Student Success |
| 1-31-24 | 2.2 | Updated contact information. | Jaslyn Ramirez, Director of Program Compliance | Melanie Scheet, VP Student Success |