

## **Definition of Common Terms:**

### ***Sex Act***

A sex act is sexual contact between two or more persons by penetration of the penis into the vagina or anus; contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person; contact between the finger or hand of one person and the genitalia or anus of another person, or by use of artificial sexual organs or substitutes therefore in contact with the genitalia or anus.

### ***Sexual Touching***

Sexual touching is any contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts for the purpose of arousing or satisfying their own sexual desires.

### ***Incapacitation/Incapacitated***

Incapacitation or incapacitated means a person is disabled or deprived of ability, as follows:

1. "Mentally incapacitated" means that a person is temporarily incapable of rationally and reasonably understanding the nature and extent of the situation or controlling the person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance. This includes someone whose incapacity results from ingesting anything that falls in the category of a "date-rape drug." Possession, use and/or distribution of any of these substances, including Rohypnol, Ketomine, GHB, Burundanga, etc. is prohibited, as is administering one of these drugs to another student for the purpose of inducing incapacity.
2. "Physically helpless" means that a person is unable to communicate an unwillingness to act because the person is unconscious, asleep, or is otherwise physically limited.
3. "Physically incapacitated" means that a person has a bodily impairment or handicap that substantially limits the person's ability to resist or flee.

709.1A Iowa Code

### ***Incapacitated Sex***

Being drunk is never an excuse for violation of this policy. To have sex with someone who you know or should know is incapacitated from making a rational, reasonable decision about a sexual situation is a violation of this policy. This includes someone who is incapacitated as the result of ingesting anything that falls in the category of a "date rape drug." Possession, use and/or distribution of any of these substances, including Rohypnol, Ketomine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student for the purpose of inducing incapacity is an offense of the most serious nature.

### ***Effective Consent***

Effective consent is informed, freely and actively given, mutually understandable words or actions which indicate a willingness to participate in mutually agreed upon current sexual activity.

Consent is not effective if it results from the use of fraud, physical force, threats, intimidation, or coercion.

Physical force exists, for example, when someone acts upon you physically, such as hitting, kicking, restraining or otherwise exerting their physical control over you through violence.

Threat exists where a reasonable person would have been compelled by the words or actions of another to give permission to sexual contact they would not otherwise have given, absent the threat. For example, threats to kill you, themselves, or to harm someone you care for are sufficient to constitute threats.

Intimidation exists where someone uses their physical presence to menace you, though no physical contact occurs, or where your knowledge of prior violent behavior by an assailant, coupled with menacing behavior, places you in fear as an implied threat.

Coercion exists when a sexual initiator engages in sexually pressuring and/or oppressive behavior that violates norms of respect in the community, such that the application of such pressure or oppression causes the object of the behavior to engage in unwanted sexual behavior. Coercion may be differentiated from seduction by the repetition of the coercive activity beyond what is reasonable, the degree of pressure applied, and the initiator's knowledge that the pressure is unwanted.

Effective Consent cannot be given by someone who is incapacitated (defined above). Furthermore, someone under the age of 16 cannot give Effective Consent to someone over the legal age of consent (18), absent a legally valid marriage or court order. A mentally disabled individual cannot give Effective Consent to a sexual activity if they cannot appreciate the fact, nature, or extent of the sexual situation in which they find themselves.

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; and consent can be withdrawn at any time.