



Simpson College Title IX Policy Definitions

Consent: Consent, pertaining to this policy, is a voluntary agreement to engage in any sexual activity(ies). Consent is given when a fully informed, mentally capable person freely chooses to participate in a mutually agreed upon sexual activity through mutually understandable words or actions. Consent to sexual activity can be communicated in a variety of ways but one should assume that consent has not been given until both parties have clearly agreed to the sexual act. This consent can be withdrawn at any point during the sexual experience. Prior consensual sexual activity does not imply current consent. Consent to engage in a specific sexual activity does not imply consent to engage in other sexual activities. Consent to engage with one partner does not imply consent to engage in sexual activities with any other/additional persons.

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 by 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

SIMPSON COLLEGE

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.

A person cannot give consent if incapacitated, including through the effects of drugs or alcohol. Silence, non-communication, or lack of resistance should never be interpreted as consent. 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.

Simpson College is also committed to providing a safe environment for individuals whose capacity to provide effective consent is limited, such as minors, developmentally disabled persons, and vulnerable adults. When a matter involves an individual with the limited ability to consent, this will be considered throughout the process.

Sexual Misconduct: Sexual misconduct prohibited by this policy includes: sexual harassment, sexual violence, rape, sexual assault, domestic violence, dating/relationship violence, and stalking.

A. Sexual Harassment: Under Title IX, sexual harassment refers to unwelcome conduct on the basis of sex that satisfies one or more of the following:

1. Submission to such conduct is made either explicitly or implicitly as a term or condition of admission, instruction, employment, academic advancement, or participation in any College activity
2. Submission to or rejection of such conduct by an individual is used as a basis for evaluation in making an employment, academic, or personnel decision affecting an individual
3. Such conduct is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal

SIMPSON COLLEGE

access to the College's education program or activity, which includes employment that relates to educational activities

4. Sexual assault, dating violence, domestic violence, and stalking

Sexual harassment may include unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal, nonverbal, or physical conduct or communication of a sexual nature. Actions that may, depending on circumstances, constitute sexual harassment include, but are not limited to:

- Unwelcome sexual flirtations, advances, or propositions
- Requests for sexual favors
- Verbal abuse of a sexual nature, obscene language, off-color jokes, verbal commentary about an individual's body, sexual innuendo
- The display of derogatory or sexually suggestive posters, cartoons, drawings, objects, notes, letters, emails, or text messages
- Visual conduct
- Recording video or photographs of a sexual nature without consent
- Cyber harassment, including but not limited to electronically recording, photographing, or transmitting identifiable utterances, sounds, or images of private sexual activity and/or intimate body parts (including genitalia, groin, breasts, or buttocks) without the knowledge and consent of all involved
- Engaging in conduct of a sexual nature that creates an intimidating, hostile, or offensive academic or work environment
- Punishing or threatening to punish a subordinate or student for refusing to comply with sexual requests or demands
- Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over the person
- Causing the prostitution of another person
- Allowing third parties to observe private sexual acts of a participant without the participant's consent
- Voyeurism (spying on others who are in intimate or sexual situations)
- Threatening to sexually assault another person

- Stalking, including cyber-stalking
- Engaging in indecent exposure

Sexual harassment may involve the behavior of a person of either sex toward a person of the same or opposite sex when that behavior falls within the operative definition of sexual harassment.

This policy does not prohibit students and faculty from discussing or communicating about topics in the academic context that involve sexual issues, even if the discussion offends some people who overhear it.

B. Sexual Violence: Sexual violence is a form of sexual harassment. It includes physical sexual acts or sexual contact with a person's intimate parts that are performed against a person's will or without consent of the other party. Physical resistance need not occur to fulfill the definition of sexual violence. Sexual violence may include rape, sexual assault, dating violence, and other forms of nonconsensual sexual contact. Depending on circumstances, other forms of sexual violence may include domestic violence and stalking. The following list provides examples but is not exhaustive of the type of behavior that may be considered sexual violence:

C. Sexual Assault: Sexual assault is a form of sexual harassment and sexual violence and includes any type of sexual contact or behavior that occurs with another person who does not or cannot give consent. This may or may not include force. Sexual assault includes, but is not limited to:

- Rape (the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of any person, without the consent of the victim; a victim may be a person who is penetrated without consent or a person who is forced to penetrate another person without consent)
- Attempted rape

- Fondling (the touching of private body parts of another person, including genitalia, groin, breasts, or buttocks or the clothing covering them, for the purpose of sexual gratification, without consent)
- Incest (sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law)
- Statutory rape (sexual penetration or other form of sexual contact with a person who is under the statutory age of consent)
- Forcing an unwilling person to touch another's intimate parts

D. Domestic Violence: Domestic violence includes asserted violent offenses committed by a person's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound.

E. Dating/Relationship Violence: Dating/relationship violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

F. Stalking: Stalking is a form of sexual harassment that involves engaging in a course of conduct directed at a specific person that would cause most people to fear for their safety or suffer substantial emotional distress. It may include, but is not limited to, repeatedly following a person; persistent attempts to contact the person by phone, electronic communication, or regular mail; vandalizing the person's property or leaving unwanted items for the person; and/or constantly appearing at the person's classroom, residence, or workplace without permission.

SIMPSON COLLEGE

Other forms of sexual misconduct, including but not limited to instances of sexual harassment that do not rise to the level of sexual harassment as defined above, are prohibited by and may be adjudicated through other conduct processes as outlined in the student, faculty, and staff handbooks.

Report: A report of sexual misconduct occurs when an individual or group notifies the Title IX office that a member of the Simpson College community may have experienced or engaged in sexual misconduct. A report does not constitute a Formal Complaint or trigger the Grievance Procedure as described in this policy.

Reporting Party: An individual who reports a violation of the Sexual Misconduct Policy to the Title IX office.

Complainant: The individual(s) who, through filing a Formal Complaint of sexual misconduct, alleges to be the victim of sexual misconduct. In order to file a Formal Complaint, the individual(s) must be currently participating in or attempting to participate in Simpson College's programs or activities.

Respondent: Individual(s) who has been accused of sexual misconduct in a Formal Complaint.

Advisor: An individual who is selected by the party or provided by the College, who is not a witness or otherwise involved in the events that are the subject of the report or is otherwise involved in the disciplinary process under this policy. For purposes of the hearing described in this Grievance Procedure, cross-examination of a party must be conducted by an advisor.

Third Party: Any other participant in the process, including a witness to the conduct, or an affected community member.

Mandated Reporter: Employees who do not meet one of the conditions to be considered a confidential source (e.g., Counseling, Chaplain, Health Services, SARAs) are required to report all the details of an incident (including the identities of both the alleged victim and perpetrator) to the Title IX Coordinator.

SIMPSON COLLEGE

Formal Complaint: A Formal Complaint is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual misconduct and requesting that the Complaint be addressed by the Institution.

Grievance Procedure: The Grievance Procedure occurs after a Formal Complaint is filed, may include an investigation, hearing, appeal process, and/or informal resolution.