

Appendix E

Sexual Misconduct

This section of the handbook defines relevant terms, clarifies certain issues, and offers examples to help you understand sexual misconduct.

A. DEFINITIONS

1. Sexual assault is a broad term that encompasses any forcible sexual activity, regardless of personal relationship, that occurs without the victim's consent or when the victim is unable to give consent. Sexual assault includes, but is not limited to:
 - a. unwanted kissing and fondling
 - b. forcible vaginal, oral, or anal intercourse
 - c. forcible penetration with an object or a finger.
2. The use of force often separates sexual assault from consensual sexual activity. Consent means that a sexual partner has given clear verbal permission for sexual activity to occur; he or she has said "yes." Note that not saying "no" is not equivalent to saying "yes." Lack of consent can be expressed in a variety of ways.
3. Sexual harassment is defined as any unwelcome advance, request for sexual favors, stalking, and other verbal, non-verbal, or physical conduct of a sexual nature when . . .
 - a. submission to such conduct is made either explicitly or implicitly a term or condition of a student's participation in an educational program or activity, or an educational decision is based on the student's submission to the acts described above;
 - b. submission to or rejection of such conduct by an individual is used as a basis for a decision affecting a student's participation in an educational program or activity;
 - c. such conduct has the purpose or effect of substantially interfering with an individual's performance or creating an intimidating, hostile or offensive environment. Conduct can result in the creation of a hostile environment where a member of the university community engages in conduct that is sufficiently severe, persistent or pervasive so as to substantially interfere with a student's ability to participate in or benefit from an education program or activity or to create a hostile or abusive educational environment. Conduct constituting a hostile environment may include the harassment of one student by another student, occurring through a variety of approaches, including electronic and other mediums; and,

- d. the conduct is gender-based and includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex, but not including conduct of a sexual nature, and is sufficiently severe, persistent, or pervasive and is directed at the individual because of his or her gender.

B. UNIVERSITY POLICY

Georgia Southwestern State University recognizes sexual assault as a serious crime and sexual harassment as unacceptable. A Georgia Southwestern State University student who commits any act of sexual assault against another student faces three possible types of prosecution: criminal proceedings, the campus judicial system, and civil court. The victim has the choice to employ any or all of these options in seeking judicial redress. A student who commits an act of sexual harassment will be adjudicated through the campus judicial system, regardless of whether or not other types of prosecution are sought. Section F. of the Georgia Southwestern State University Code of Student Conduct explains Georgia Southwestern's sexual misconduct policy. Any questions about this policy should be directed to the Division of Student Affairs.

C. PREVENTION... IT'S EVERYONE'S RESPONSIBILITY.

The vast majority of victims of sexual violence are women and children. The vast majority of perpetrators of sexual violence against people of either sex are men. Men and boys can be sexual assault victims, however, just as women can be perpetrators. Sexual assault occurs in both opposite sex and same-sex contexts. Because women are the group at most risk for sexual assault, people tend to encourage women to modify their behavior to remain safe. They are advised not to walk alone after dark, to lock their doors, to carry mace, and to dress conservatively. Although these are reasonable suggestions, a significant omission remains: responsibility for avoiding sexual assault is given to women-the likely victims-instead of men-the likely perpetrators. It is not solely the responsibility of women to end sexual assault. Men need to recognize the ways in which they contribute to sexual violence even if they have never forced sexual acts on anyone. Men who boast to their friends of their romantic conquests, or who rate women based on their physical appearance, or who think that their rights supersede those of any woman, need to understand that such behavior contributes to a culture of sexual violence. Sexual assault needs to be recognized as everyone's problem. Every woman who is sexually assaulted has a father, and perhaps a brother or partner who is affected, just as men who are assaulted have women in their lives who love them. Sexual assault is not a "women's issue" simply because women comprise the majority of the victims. We don't ask victims of other violent crimes to be responsible for ending the criminal behavior. As a Georgia Southwestern State University student of either sex, recognize that sexual assault hurts your friends and peers and could hurt you. Take responsibility for creating a university environment in which sexual violence against another person, female or male, is unacceptable and unthinkable.

D. WHAT CONSTITUTES CONSENT?

Consent is best understood as a positive affirmation, an agreement reached between equal, unimpaired partners without coercion. If you or your partner feels pressured, manipulated or intimidated, or if either of you is intoxicated, then you have not established true consent and any ensuing sexual activity might be sexual assault. Consent is positive feedback, not the absence of negative feedback. In other words, saying "yes" likely indicates consent, but not saying "no"

does not. Never assume that because you haven't heard "no," your partner consents. Take the extra step to ascertain whether you have a "yes" that is given willingly and by a person unimpaired by drugs and alcohol.