

POLICY ON GENDER-BASED
MISCONDUCT AND
SEXUAL HARASSMENT

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I. INTRODUCTION

Consistent with its Mission and Values, the College believes in an environment that is free from all forms of gender-based misconduct and sexual harassment. When such gender-based misconduct or sexual harassment takes place, it is a clear violation of the sacred dignity of each person. Further, it erodes the best vision of *communio*, an ideal which cannot exist where trust and responsibility are violated. Such gender-based misconduct or sexual harassment has the effect of limiting or prohibiting opportunities for members of the campus community to fully benefit and engage in a productive and supportive living, learning, and working environment.

The College supports all applicable federal and state civil rights laws. For example, the Title IX of the Higher Education Act of 1972 (“Title IX”) ensures the College does not discriminate on the basis of sex in its education programs. The Campus Sexual Violence Elimination Act (SAVE) of 2013 and Violence Against Women Reauthorization Act (VAWA) ensure that colleges and universities implement policies and programs to prevent sexual assault, dating violence, domestic violence, stalking, and hate crimes.

The College prohibits discrimination or harassment in its programs, employment relationships and activities on the basis of race, color, national origin, sex, gender identity, gender expression, sexual orientation, marital status, disability, veteran status, predisposing genetic characteristics, age, religion, pregnancy status, and/or any other characteristic protected by College policy or state, local, or federal law. The fact that a behavior may not violate a law does not necessarily make it acceptable at the College, which reserves the right to determine and enforce the standards of behavior it expects from its community members and others. This policy has been developed to reaffirm these principles specifically in relation to gender and sex-related issues, and to provide recourse for those individuals whose rights have been violated.

All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. All members of the campus community are expected to report any violations of this policy that they may witness to the designated personnel or offices as noted in Section 5 of this policy. Further, all members of the campus community are expected to fully cooperate in any investigations of violation of this policy and to refrain from any interference in such investigations. Finally, all students, faculty, and staff are expected to complete required training and to review and become familiar with the expectations detailed in this policy.

This policy and related policies may be accessed at the College’s Title IX [website](#) (www.snc.edu/titleix) and the College’s Human Resources website (www.snc.edu/hr).

II. SCOPE

This policy applies to all members of the St. Norbert College community, as well as guests, contractors, volunteers, and visitors, regardless of an individual's sexual orientation and/or gender identity. This policy also applies to a respondent who decides to take informal or formal leave from the college prior to, during, or following an investigation or hearing. This policy applies to conduct on campus and off-campus, as well as during study abroad programs, online programs, academic programs, activities, extracurricular programs, athletic programs, training programs, and other programs of the College. Conduct covered by this policy can take place physically, remotely, online, via social media, or in other forms.

III. RELATED POLICIES

This policy supplements and works in conjunction with the prohibitions on gender-based misconduct or sexual harassment referenced in the [The Citizen: Student Handbook](#), and with the prohibitions contained in the [St. Norbert Employee Handbook](#). In addition, the expectations and prohibitions contained in the St. Norbert College [Faculty Handbook](#), with the procedures for complaints, investigations and adjudication of misconduct/harassment currently detailed in the [Procedure for Investigation of Gender-based Misconduct and Sexual Harassment for Students](#), [Procedure for Investigation of Discrimination, Harassment or Retaliation for Faculty or Staff](#), and the [Consensual Relationship Policy](#) and any other related policies may also work in conjunction with this policy. The College will periodically review procedures for handling complaints, investigations and adjudication of gender-based misconduct or sexual harassment and notify the community of any modifications in such procedures.

IV. PROHIBITIONS

St. Norbert College prohibits all forms of gender-based misconduct and sexual harassment. The following Sections describe these prohibitions.

A. Gender-based Misconduct

A broad range of inappropriate behaviors based on or related to gender. Gender-based misconduct can occur between strangers or acquaintances or between people involved in intimate or sexual relationships. Gender-based misconduct can be committed by anyone regardless of gender identity. It can occur between people of the same or different sex or gender. The following are without limitation, some examples of gender-based misconduct which are prohibited under this policy:

1. **Sex Discrimination** - This includes differential or disparate treatment of an

individual because of their gender, gender identity, including transgender status, or because of sexual orientation.

2. **Non-Consensual Sexual Contact** - Non-consensual or coercive contact includes any intentional sexual touching or attempted touching, however slight, that is without consent or which is initiated by force or coercion.

[Note: The use of physical force toward another individual (for example, forceful restrictions, battery, assault, and similar conduct) is also a stand-alone offense. Student offenders may not only face a gender-based misconduct or sexual harassment charge, but also additional charges under the *The Citizen: Student Handbook* for the use of physical force. The use of physical force by faculty or staff is prohibited by the *Faculty Handbook and Employee Handbook*. Both student and nonstudent perpetrators may also be subject to criminal charges by law enforcement.]

Sexual contact includes intentional contact with the breasts, buttocks, groin, or genitals, or touching another person with any of these body parts, or making another touch you or themselves with or on any of these body parts. It also includes intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice (for example, unrequested hugs or caresses).

The definitions of “consent” and “coercion” are explained in Section 5 below. As a reminder, regardless of how an individual may represent their age, no one under 18 years of age can provide legal consent to any sexual act.

3. **Non-Consensual Sexual Intercourse** - Any non-consensual or any coercive sexual intercourse, which includes any attempted intercourse. As with non-consensual sexual contact, non-consensual sexual intercourse does not require physical 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.

4. **Domestic or Dating Violence** - Violence against a person who is or has been in a romantic or intimate relationship or prospective relationship with the perpetrator. This may also include coercive behavior using threats of violence. Examples include, but are not limited to:

- a. **Abusive Behavior** - Engaging in verbal, physical, emotional, or sexual abuse

- b. **Controlling Behavior** - Controlling what you wear, who you talk with,

where you are at all times, by means of express or implied threats, coercion, or actual physical force

c. Threats - Threatening to hurt you, someone you care about, or themselves

d. Use of Physical Force - Shoving, pushing, kicking, or any other form of physical abuse

5. Stalking - repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of a member of the community or the safety of any of the immediate family of members of the community. Stalking includes “cyber-stalking” and other conduct which has the same effect as physical stalking; or

6. Sexual Exploitation - taking or attempting to take sexual advantage of another without consent for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. Examples of sexual exploitation include, but are not limited to:

a. Voyeurism - Watching private sexual activity without the consent of the participants or viewing another person’s intimate parts (including genitalia, groin, breasts or buttocks) in a place where that person would have a reasonable expectation of privacy)

b. Prostitution - Prostituting another person or soliciting of prostitution;

c. Non-Consensual Recording - Non-consensual taking or distributing video recordings, audio recordings, or streaming of sexual activity

d. Non-Consensual Viewing - Viewing or allowing third parties to observe sexual activity without consent

e. Lewd Exposure - Exposing one’s genitals in non-consensual circumstances, inducing another to expose their genitals

f. Incapacitation of Another For Improper Purpose - Causing the incapacitation of another for the purpose of compromising that person’s ability to consent to sexual activity

7. Child Pornography - the production, distribution, importation, reception, or possession of any image of child pornography. This includes possessing, or accessing in any way, with intent to view, any undeveloped film, photographic negative, photograph, motion picture, videotape, or other recording of a child engaged in sexually explicit conduct.

8. Knowing Transmission of STD or HIV - Knowingly transmitting a sexually

transmitted disease or HIV without first informing the sexual partner.

B. Sexual Harassment

Unwelcome sexual or gender-based harassing conduct (jointly referred to as “sexual harassment”). Sexual harassment includes acts of inappropriate verbal, nonverbal, or physical conduct based on an individual’s gender or sex. Sexual harassment can occur if individuals are harassed either for exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity or femininity.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not always have to be personally directed toward the victim. For example, it can be a violation to harass a woman by making offensive comments about women in general in the presence of the woman. The victim and the harasser can be either a woman or a man. The victim and the harasser can be the same sex. The harasser can be the victim’s roommate, another student, a faculty or staff member, a guest or visitor, a volunteer, or a third party not affiliated with the College. Although the victim of harassment should make it clear, or attempt to make it clear, to the harasser that the conduct is unwelcome, it is not always necessary for the victim to complain about the conduct before the harasser can be found in violation of this policy, particularly when the conduct was obviously intended to sexually harass the victim. The following are, without limitation, examples of sexual harassment when such conduct is based on sex or gender (additional examples are provided in Appendix 2):

1. **Threatening** - initiating threats of physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
2. **Intimidation** - implied threats or acts that cause an unreasonable fear of harm in another;
3. **Hazing** - acts likely to cause physical or psychological harm or social ostracism to any person within the College community based on an individual’s sex or gender, including conduct related to the admission, initiation, pledging, joining any organization or group activity;
4. **Bullying** - repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally, because of their sex or gender identity. Other examples of bullying include, but are not limited to, inappropriate social media posts containing photos or slang intended to ridicule another person in relation to their sex or gender or revealing confidential information about another person’s sexual orientation without their consent; or
5. **Hostile Environment** - includes any situation where verbal or nonverbal conduct is occurring, based on gender or associated with gender or sex, which is sufficiently severe or pervasive that it alters the conditions of employment or education, or limits, interferes with or denies the opportunity for the victim

to work, enjoy services or housing, or enjoy their educational benefits/opportunities, from both a subjective (the alleged victim's) and an objective (reasonable person's viewpoint).

Although this policy doesn't generally prohibit simple, good-natured teasing, offhand comments, or isolated incidents, harassing conduct is a violation when the actions are so severe or pervasive that they create a hostile work environment or affects the terms, conditions, or privileges of employment, services, housing, or education. For example, a single utterance of a gender-based comment, which creates offensive feelings in an employee or student, while clearly inappropriate and inconsistent with our Mission and Core Values, might not affect the terms and conditions of their employment or education. On the other hand, if sufficiently severe, even a single act of gender-based misconduct or sexual harassment can violate this policy.

The determination of whether an environment is "hostile" is based on all of these circumstances:

- a. Frequency of the conduct;
- b. Nature and severity of the conduct;
- c. Whether the conduct was physically threatening;
- d. Whether the conduct was humiliating;
- e. Effect of the conduct on the alleged victim's mental or emotional state;
- f. Whether the conduct was directed at more than one person;
- g. Whether the conduct arose in the context of other discriminatory conduct;
- h. Whether the conduct unreasonably interfered with the alleged victim's educational or work performance or ability to obtain services or housing;
- i. Whether the statement is a mere utterance of an epithet which engenders offense in the other person, or offends by mere discourtesy or rudeness;
- j. Whether the conduct would objectively offend a similarly situated person;
- k. Whether the conduct actually subjectively offended the victim; and
- l. Whether the speech or conduct deserves the protections of academic

freedom or the 1st Amendment.

6. **Quid Pro Quo Harassment** - is a Latin phrase, which means “something for something”. Quid pro quo harassment exists when unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature are made a term or condition, either implicitly or explicitly, of employment, service, education or housing, or when submission to or rejection of such conduct is used as a factor in an educational, service, housing or employment action.

C. Retaliation

Retaliation is any act against a person who has filed a report/complaint or anyone who assists or supports that person or who is involved in the investigation and/or resolution of the report/complaint. Examples of retaliation include, but are not limited to:

1. Damaging an individual’s reputation by misrepresenting the facts;
2. Posting comments or images on social media;
3. Ostracizing or alienating an individual from social or work-related activities;
or
4. Making inappropriate employment or educational decisions;

V. DEFINITIONS

The following are critical definitions to understand in relation to this policy:

A. Consent

Consent is a key element in determining whether or not sexual contact or intercourse is a violation of this policy. In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity. Consent is sexual permission. The following are important aspects of the definition of “consent” for the purposes of this policy:

1. Consent under this policy must be clear, knowing, and voluntary.
2. Consent is active, not passive.
3. Silence, in and of itself, cannot be interpreted as consent.

4. Consent can be given by words or actions, as long as those words or actions

create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity. However, non-verbal consent is not as clear as talking about what you want sexually and what you do not.

5. In order to give effective consent, one must be of legal age, at least 18 years old.
6. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity.
7. A person who is incapacitated, for any reason, cannot give consent. Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. (See: “Incapacitation”, below) Individuals who consent to sex must be able to understand what they are doing.

B. Coercion

Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes it 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. Current or previous relationships or prior consent cannot imply consent to future sexual acts.

Note: There is no requirement that a person resists a sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

C. Force

The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent. For example, the following statements represent the use of force: “Have sex with me or I’ll hit you.” “Okay, don’t hit me; I’ll do what you want.”

D. Incapacitation

A state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (for example to understand the “who, what, when, where, why or how” of their sexual interaction).

Sexual activity with someone who was known to be incapacitated or based on the circumstances should reasonably have been known to be mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), constitutes a violation of this policy.

This definition also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, alcohol use or from the taking of date rape drugs. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another person is a violation of this policy. More information on these drugs can be found on the [911 Rape website](#).

Use of alcohol or other drugs will never function as a defense to a violation of this policy.

E. Interim Measures

Interim measures include accommodations and adjustments to course assignments, class attendance, on campus work responsibilities and alterations to current living situation (alternatives may be offered), to either the reporting party or respondent. Specific accommodations and adjustments may necessitate the input of specific faculty, work supervisor, or the Residential Education and Housing office to identify acceptable adjustments or options. (Request for Title IX Interim Measures Form)

F. Mandatory Reporters

All employees (with the exception of confidential resources) of St. Norbert College are considered “mandatory reporters.” This means, regardless of position or status all faculty and staff are required to report any violations of this policy, (regardless of merit) whether witnessed or reported to them by another person. They are not entitled to promise confidentiality to anyone who discloses a violation to them.

Student workers are considered mandatory reporters when acting in the capacity of their employment at the College. If a student worker becomes aware of information or an incident that violates this policy, while acting in the capacity of

their employment, a report must be made to the designated officials. When a student worker is NOT acting in the role of their employment and becomes aware of a potential violation, the student is not required to report it. However, students who are Resident Assistants or Campus Safety staff are expected to be mandatory reporters at all times due to their visible presence on campus as the “go-to” individuals when assistance is needed.

G. Partner

The use of the word “partner” in this policy does not necessarily indicate an ongoing, intimate relationship between the individuals. While partners could be in an ongoing, intimate relationship, they could also be engaged in a casual, spontaneous or anonymous interaction.

H. Title IX Coordinator

The Title IX Coordinator is the designated official to receive all reports of alleged policy violations. The Coordinator is also responsible for overseeing the process of responding to sexual misconduct complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. The Coordinator is also responsible for training, prevention and remedying violations of this policy.

VI. OFFICIALS DESIGNATED TO RECEIVE COMPLAINTS

Anyone who has been victimized by a violation of this policy, or anyone who has witnessed a violation of this policy is asked to immediately contact a designated College official to report the violation. The College has designated specific representatives who are authorized to receive complaints about possible violations of this policy.

The Title IX Coordinator is the designated official to receive complaints and stop, prevent and remedy the effects of sexual misconduct or harassment. In addition, designated Title IX Deputy Title IX Coordinators will receive complaints. These individuals have all been fully trained on the applicable policy and procedures.

Mandatory Reporters are all employees with the exception of confidential resources. These employees are required to report any violations of this policy, whether witnessed or reported to them by another person. They are not entitled to promise confidentiality to anyone who discloses a violation to them. Student workers are considered mandatory reporters when acting in the capacity of their employment at the College.

However, students who are Resident Assistants or Campus Safety staff are expected to be mandatory reporters at all times due to their visible presence on campus as the “go-to” individuals when assistance is needed.

A. Reports involving faculty and staff should be made to:

Marie Billie, Title IX Coordinator Main Hall, Room 109 titleix@snc.edu	920-403-3018
Sue Brinkman, Deputy Title IX Coordinator/Director of Human Resources Main Hall, Lower Level, Room 16 sue.brinkman@snc.edu	920-403-3210

If anyone has a conflict with the individuals listed above, they should contact the Vice President of Business and Finance, 920-403-3250.

B. Reports that involve student(s) should be made to:

Marie Billie Title IX Coordinator Main Hall, Room 109 titleix@snc.edu	920-403-3018
Corday Goddard Title IX Deputy VandenHeuvel Campus Center, Room 334 corday.goddard@snc.edu	920-403-1351
Campus Safety Pennings Activity Center, Room 120 campussafety@snc.edu	920-403-3299

If anyone has a conflict with the entities listed above, they should contact the Vice President of Mission and Student Affairs, 920-403-3055.

VII. CONFIDENTIAL RESOURCES FOR DISCUSSING INCIDENTS

It is the hope of the College that anyone who is victimized by gender-based misconduct or sexual harassment will report the violation to one of the above designated officials so that the College can promptly investigate and, if improper conduct has been or is being committed, immediately take steps to end the improper conduct and provide relief to the victim. However, there may be circumstances where a person may wish to confidentially discuss the situation to determine whether they wish to bring it to the formal attention of the College.

There are only certain individuals who are lawfully allowed to receive information in confidence and protect the privacy of the person providing the information. The College considers these positions and departments to be confidential resources. This means that, except in cases of imminent threat to self or others, what you share with these individuals will not be disclosed without your explicit permission.

[Note: Even these individuals, in situations where there is an imminent threat to the safety of the victim or to others, may be required to report the danger to law enforcement.]

A. Student Confidential Resources

1. *On-campus Resources for Students*

The College's medical, mental health, and pastoral professionals can maintain confidentiality. The SNC Counseling and Psychological Services (extension 3045) is available to help students free of charge, and can be seen on an emergency basis. In addition, SNC Resource Advisors have been trained and are knowledgeable of the resources and options for victims of gender based misconduct or sexual harassment.

Note: Caller should ask to speak with a confidential support person when contacting the below resources.

SNC Health & Wellness	Office Hours: Monday-Friday 8 am - 4:30 pm 920-403-3266
SNC Counseling & Psychological Services	Office Hours: Monday-Friday 8 am - 4:30 pm After hour counselor available 920-403-3045
SNC Ordained Clergy or ministry	Calls directed to the specific individual with whom one wishes to speak 920-403-3011

2. *Off-campus Resources for Students*

The following are off-campus confidential resources that provide free of charge services 24 hours a day, 365 days a year for victims of sexual assault or abuse.

Sexual Assault Center	300 Crooks Street, Green Bay	920-436-8899
24 hr. Crisis Center Hotline		920-436-8888
Golden House -Domestic Violence Program/services	Telephone Textline	920-432-4244 920-770-6415

B. Faculty and Staff Confidential Resources

1. *On-campus Resources for Faculty and Staff*

Caller should ask to speak with a confidential support person when contacting the below resources. If you are unsure of someone’s duties and ability to maintain your privacy, be sure to ask them before you talk to them. They will be able to tell you, and help you make decisions about who can help you best. Also see the Frequently Asked Questions (Appendix 3).

SNC Health & Wellness <i>(Available to Benefit Eligible Employees Only)</i>	Office Hours: Monday-Friday 8am – 4:30pm 920- 403-3266
Ombuds Services	Ken Zahorski 920-403-3070 920-336-4740

2. *Off-campus Resources for Faculty and Staff*

The following are off-campus confidential resources that provide free of charge services 24 hours a day, 365 days a year for victims of sexual assault or abuse.

Sexual Assault Center	300 Crooks Street, Green Bay	920-436-8899
24 hr. Crisis Center Hotline		920-436-8888

Golden House -Domestic Violence Program/services	Telephone Textline	920-432-4244 920-770-6415
Employee Assistance Program Employee Resource Center, Inc. (Benefit Eligible Employees Only)	Available 365 days of the year. After hours counselor available.	800-222-8590

In the event that individuals communicate information of a possible violation of this policy to anyone who is not listed as a “confidential resource,” they should be aware that those persons cannot promise to maintain the confidentiality of any information provided to them, and will be required to report the information or incident if the information suggests a violation of this policy.

While resources such as resident assistants (RA), faculty members, advisors to student organizations, career services staff, admissions officers, student activities personnel, and others are generally available to community members to discuss issues of any kind, only the individuals listed in Section 6.A. or 6.B. are authorized to take formal action, and only those individuals listed in Section 7.A.a, 7.A.b. and 7.B.a or 7.B.b are able to provide conditional offers of confidentiality and privacy.

If you are unsure of someone’s duties and ability to maintain your privacy, be sure to ask them before you talk to them. They will be able to tell you, and help you make decisions about who can help you best. Please also see the Frequently Asked Questions (Appendix 3).

VIII. REQUEST FOR INTERIM MEASURES

IX. A reporting party or respondent may request interim measures before the final outcome of an investigation. These measures may include requests to change academic living, transportation, working situations or protective measures. The College will maintain as confidential any accommodations or protective measures provided to the parties to the extent that maintaining such confidentiality would not impair the ability of the College to provide the accommodations or protective measures. Options may also include notifying law enforcement authorities for orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

X. INVESTIGATION PROCEDURES

Once a non-confidential resource listed in Section 6.A. or 6.B. above receives information of a possible violation of this policy, then the procedures described in the

applicable investigation procedure policy will be initiated (see list of policies in Section 3, above). The reporting party will be briefed on those procedures at the time of the complaint by the official who will be investigating the complaint. As necessary, the College reserves the right to initiate proceedings on its own behalf, without a formal complaint by the victim, when there is information of a potential violation of this policy.

All parties to an investigation should take efforts to preserve all potential evidence relating to the incident. For example, retaining emails, text messages, social media postings, photographs, notes and letters, medical test results, clothing worn during the incident, and similar items.

If a policy violation is found, the College will take steps to prevent the recurrence of any misconduct or harassment and to correct its discriminatory effects on the complainant and others if appropriate. Likewise, any retaliation against any party or others involved in the process is strictly forbidden and subject to sanctioning through the appropriate procedure.

A. Confidentiality

All investigations of gender-based misconduct or sexual harassment complaints will be conducted with the utmost privacy, to the extent reasonably possible and permitted by law. Parties to an investigation are also encouraged and requested to maintain the privacy and confidentiality of the investigation and information shared in the investigation. Victims of gender-based misconduct or sexual harassment will be asked if they want to file a complaint and elect to participate in the applicable investigation process. Information gathered during the investigation process will be treated with sensitivity and only shared with those individuals who have a need to know or as dictated by law.

B. Honesty/Integrity Expectations

Any person who is knowingly dishonest in the process or presents false information regarding gender-based misconduct or sexual harassment, knowingly files a false complaint, or who knowingly misleads the investigation of a complaint is in violation of this policy.

IX. PUBLIC REPORTS OF VIOLATIONS

College officials are required by federal and state law to issue public reports of gender-based misconduct or sexual harassment on campus under certain circumstances. These include the following:

A. Statistical Reporting Under Clery Act

Certain College officials are required to report gender-based misconduct or sexual harassment for statistical reporting purposes (under the federal law known as the “Clery Act”). Personally identifiable information is kept confidential, but statistical information must be passed along to campus safety regarding the type of incident and its general location (on- or off-campus, in the surrounding area, but no addresses are given) for publication in the annual *Campus Security Report*.

The information that is compiled includes the date, the location of the incident (using the Clery Act location categories), and the Clery Act crime categories. The reporting protects the identity of the victim and may be done anonymously. This report helps to provide the community and others with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

Those that are required to report statistics of gender-based misconduct or sexual harassment on campus include: student/conduct affairs, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities.

B. All-Campus Public Warning

Victims of gender-based misconduct or sexual harassment should also be aware that College administrators are legally required to immediately issue public warnings to the College community for incidents that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The College will make every effort to ensure that the victim’s name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. The reporters for public warning purposes are the same as those detailed at the end of the above paragraph.

X. SANCTIONS

Any individual who is found to have violated this policy is subject to sanctions as outlined in the applicable investigation procedure policies, up to and including termination for employees, expulsion for students, and other forms of sanctions against non-employees or non-Students of the college.

APPENDIX 1: CONSENT

If you find yourself in the position of being the initiator of sexual behavior, you owe respect to your potential partner. These suggestions may help you to reduce your risk for potential misunderstanding:

1. Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
2. Understand and respect personal boundaries.
3. DON'T MAKE ASSUMPTIONS about:
 - a. consent;
 - b. someone's sexual availability;
 - c. whether they are attracted to you;
 - d. how far you can go or about whether they are physically and/or mentally able to consent.
 - e. If there are any questions or ambiguity then you DO NOT have consent.
4. Mixed messages from your partner are a clear indication that you should stop. You may be misreading or not clearly understanding your partner or they may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
5. Don't take advantage of someone's intoxicated state, even if they chose to become inebriated.
6. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
7. Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
8. Understand that your sexual partner has a right to change their mind at any point and decide not to proceed further.
9. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and nonverbal communication and body language.
10. Non-consensual sex can happen between people in a relationship. The media perpetuate the notion that sexual assault comes from strangers in dark alleyways, when the truth is that the vast majority of cases of sexual assault happen between people who know each other. Non-consensual sex is never okay or normal,

whether it takes place in a romantic relationship, between friends or casual acquaintances, or with a stranger. Being in a relationship does not mean automatic consent for any and all sexual activity.

11. People have different expectations, desires and comfort levels around sex. College campuses bring together diverse people with different experiences, attitudes and views, and there is no way to predict how a potential partner feels or what they are comfortable with. The best way to ensure that sex is consensual and pleasurable for both partners is to communicate openly and respectfully.

APPENDIX 2: EXAMPLES OF APPLICATION OF POLICY IN HYPOTHETICAL SITUATIONS:

NOTE: While the following examples have participants of specific genders, the examples apply to anyone, regardless of gender identity.

Scenario 1. Jan and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Jan to come up to his room. From 11:00 pm until 3:00am, Bill uses every line he can think of to convince Jan to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being “a prude.” Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a “hand job” (hand to genital contact). Jan would never have done it but for Bill’s incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn’t want it, she could have left.

This is a violation of this policy. Bill would be held responsible in this scenario for non-consensual sexual contact. It is likely that a College hearing board would find that the degree and duration of the pressure Bill applied to Jan are unreasonable. Bill coerced Jan into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not effective when forced. Sex without effective consent is gender-based misconduct or sexual harassment.

Scenario 2. Kelly and Morgan were assigned as roommates and didn’t get along. Morgan began to spread sexual rumors, calling Kelly a “slut.” Kelly was surprised when she became aware of Morgan’s comments and became distraught when others started to repeat them. Eventually, Kelly approached Morgan with this concern. Morgan said that Kelly was being too sensitive and that it was just a joke.

This is a violation of this policy. When an individual calls another individual a term such as “slut” repeatedly, this can create a hostile environment and violate this policy. Classifying a remark as a joke does not justify the act of sexually harassing another individual.

Scenario 3. Amy and Kevin are at a party. Amy is not sure how much Kevin has been drinking, but she is pretty sure it’s a lot. After the party, Amy offers to walk with Kevin back to his apartment. When they get to the apartment, Amy comes on to Kevin, initiating sexual

activity. Amy asks Kevin if he is really up to this, and Kevin says yes. Clothes go flying, and they end up in Kevin's bed. Suddenly, Kevin runs for the bathroom. When he returns, his face is pale, and Amy thinks he may have thrown up. Kevin gets back into bed, and they begin to have sexual intercourse. Amy is having a good time, though she can't help but notice that Kevin seems pretty groggy and passive, and she thinks Kevin may have even passed out briefly during sex. When Amy runs into Kevin the next day, she thanks him for the wild night. Kevin's memory is fuzzy and he can't remember what happened the night before.

This is a violation of this policy. Amy should have known (based on his grogginess, throwing up, and possibly passing out) that Kevin was incapable of making a rational, reasonable decision about sex. Even if Kevin seemed to consent, it doesn't change the knowledge Amy had of Kevin's compromised state. Amy should be held accountable for taking advantage of Kevin. This is not the level of respectful conduct expected of students.

Scenario 4. Jiang is a junior at the College. Beth is a sophomore. Jiang comes to Beth's dorm room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to make out with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive. Is this a policy violation?

This is a violation of this policy. Jiang would be held responsible in this scenario for non-consensual sexual contact. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sexual activity. Here, Jiang had no verbal or nonverbal mutually understandable indication from Beth that she consented to sexual activity. Of course, wherever possible, students should attempt to be as clear as possible as to whether or not sexual contact is desired, but students must be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.

Scenario 5. Terry, a transgender student, found the word "faggot" written on the message board outside his door. He had repeatedly heard similar comments as he walked down the hall in his residence and he no longer feels safe there.

This is a violation of this policy. Even though the individuals who engaged in this behavior have not been identified, it creates a hostile environment for Terry based on his sexuality and is therefore sexual harassment. In addition, the comments and notations on his message board have potentially created a hostile environment for others in his residence hall. This also could be considered sexually based bullying.

Scenario 6. Alex and Sam are in the same student organization. They become friends and frequently chat online using Gmail, Facebook, Snapchat, and Skype. Alex develops feelings

for Sam and expresses these feelings through these chats. Sam does not feel the same way about Alex and begins to feel uncomfortable, so cuts off contact with Alex. Alex began to text, tweet and post online about Sam's sexuality. Some other students view and repost these comments; none report concerns about them to College authorities. Sam quits attending the organization meetings and events and eventually drops out of the student organization.

This is a violation of this policy. By tweeting and posting publicly about Sam's sexuality, Alex is engaging in sexual harassment, specifically creating a hostile environment for Sam. Alex's conduct unreasonably interferes with Sam's educational experience. Alex's conduct could also be considered sexually based bullying.

The others who forwarded the comments about Sam are also contributing to and responsible for this hostile environment and therefore are in violation of this policy. Students are expected to report violations they witness and this conduct should have been reported..

Scenario 7. John is taking a Sociology course with Dr. Jenkins. John takes a liking to Dr. Jenkins who is clearly a young faculty member who seems quite "stuffy" in her demeanor given that she couldn't be more than 5-6 years older than him. John finds out that Dr. Jenkins' first name is Jennifer. In an effort to get Dr. Jenkins to loosen up, John begins to call her, Jennifer, which has the effect of making his professor quite flustered. John is on a roll and so sidles up to her after class. As Dr. Jenkins is walking out of the building and he says to her, "I really like your hair...real sexy". John touches her hair then quickly walks away, thinking he's left quite an impression. Dr. Jenkins emails John to say that she'd like to talk with him prior to the next class period, where she tells John that he has behaved inappropriately and that he needs to call her Dr. Jenkins. John thinks that it's kind of cute that she's taking things so seriously, and says "sure, why not". The following week, John sends Dr. Jenkins an email that reads," why don't I take you out for dinner, you know, to make up for everything."

This is a violation of this policy. Touching Dr. Jenkins' hair, given the context of his comment about him finding it "sexy", and asking her out on a date may be construed as sexual harassment.

Scenario 8. Annabelle decided to go on a college-sponsored trip to Paris along with some of her classmates. Five other students went to France with a faculty member on a two-week trip. The students had studied French for a number of years and were thrilled at the prospect of having the opportunity to speak French in France! The faculty member on this trip was Dr. Gotier. He was French by birth and was fluent and very knowledgeable about the culture of France. Annabelle was fascinated by just how much Dr. Gotier knew and he was so nice! Dr. Gotier noticed that Annabelle's French was not so good, so he took to translating and explaining some things to Annabelle. One night, halfway into the trip, Dr. Gotier told Annabelle that he was going for a walk and that it would be nice if she wanted to join him. She later met him in the lobby and realized that no other student had been invited. She felt weird and kind of special, too. As they walked, Dr. Gotier said, "Why don't we take a little respite" and pointed to a café. In the café, he ordered wine for both of them and said "everyone drinks wine in France." Annabelle wasn't used to drinking much, but Dr. Gotier

said, “Try to get into the French spirit,” and she felt that she couldn't say no. After a while, she felt dizzy and told him so. Dr. Gotier took her back to the hotel but insisted on placing his arm around her waist. Annabelle felt disoriented, unsure of what was happening, and remained silent. Dr. Gotier took her to her room and kissed her on her cheek, stating, “good night, mon cheri.” In the morning, Annabelle felt uncomfortable, uneasy, so she told her roommate what happened.

This is a violation of this policy. Even though Annabelle never said to Dr. Gotier that she was uncomfortable, this is sexual harassment. Given the power difference of Dr. Gotier being a faculty member and Annabelle being a student, Dr. Gotier clearly misused his power and position.

Sexual harassment is outlined in Section 4.b. of this policy.

Additional examples of sexual harassment include:

1. Explicit sexual pictures being displayed in an office, on the exterior of a residence hall door or on a computer monitor in a public space.
2. Explicit pictures that are shown for the purposes of academic learning would not be considered as sexual harassment.
3. A student repeatedly sending sexually oriented jokes around on social media (for example texting or any form of electronic communication), even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
4. An individual widely spreading stories or images concerning the sex life of another individual to the clear discomfort of that person, turning that person into an object of ridicule on campus.
5. Two students frequently ‘rating’ their classmates on their bodies and sex appeal, commenting suggestively about their clothing and appearance.
6. A professor engaging students in discussions in class about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class, probing explicit details, and insisting that students answer them, though they are clearly uncomfortable and hesitant.
7. A professor insisting that a student has sex with them in exchange for a good grade.
8. A Resident Advisor (RA) indicates that they may be willing to look the other way on an incident involving alcohol use in a resident’s room in return for sex. Both situations constitute harassment regardless of whether the student accedes to the request.
9. A student grabbing another student’s breasts, buttocks, groin or genitals without explicit consent from the student.

While these examples refer to student, professor, supervisor or employee, they could occur in other situations.

APPENDIX 3: FREQUENTLY ASKED QUESTIONS

Here are some potential questions regarding this policy and procedures and responses to them.

1. Does information about a complaint remain private?

The privacy of all parties to a complaint of gender-based misconduct or sexual harassment must be respected, except insofar as it interferes with the College's obligation to fully investigate the allegations of gender-based misconduct or sexual harassment. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the complainant or the accused student may lead to conduct action by the College.

In all complaints of gender-based misconduct or sexual harassment, all parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain College administrators may be informed of the outcome within the bounds of student privacy (e.g., the President of the College, Vice President of Mission and Student Affairs, Director of Campus Safety, and Title IX Coordinator).

If there is a report of an act of alleged gender-based misconduct or sexual harassment and there is evidence that a crime has occurred, local police will be notified. This does not mean charges will be automatically filed or that a victim must speak with the police, but the College is legally required to notify law enforcement authorities. The College also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

2. Does the College tell a student's parents if a complaint is filed?

No, the student typically has the option to inform their parents. Whether the complainant or the accused student, the College's primary relationship is to the student and not the student's parent(s). However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents. Note that College officials will directly inform parents when requested to do so by a student, in a life-threatening situation, or if an accused student has signed the permission form that allows for such communication.

3. *Will the accused student be told the identity of the complainant/alleged victim?*

Yes, if a formal complaint is filed.. Gender-based misconduct or sexual harassment are serious offenses and the accused student has the right to know the identity of the complainant/alleged victim. If there is a hearing, the College does provide options for questioning without confrontation, including closed-circuit testimony, video conferencing, using a room divider or using separate hearing rooms.

4. *When a report is made, does the name of the perpetrator/accused need to be known?*

Mandatory reporters are required to report the incident regardless of if they know the name or identity of the perpetrator. However, all students are encouraged to make a self-report of an incident even if they do not know the name or identity of the perpetrator. The College's ability to respond to the incident may be limited when the identity or the name of the perpetrator is not known.

5. *What do I do if I am accused of gender-based misconduct or sexual harassment?*

If you have been accused by someone, you may contact the appropriate college officials listed in Section 6.a. or 6.b. of this policy to learn about your rights and resources. DO NOT contact or communicate with the alleged victim. If you have been informed of the allegations by Campus Safety, the Title IX Coordinator, or the Director of Human Resources, you may want to contact someone on the list of confidential resources in Section 6.d.i, 6.d.ii., or 6.d.iii.

6. *Do victims have to pay for counseling/or medical care?*

The College provides counseling services at no cost to enrolled students. For medical care, students may need to use their insurance and there may be a fee. If a victim is accessing community and non-College services, payment for these will be subject to state/local laws, insurance requirements, etc. [In Wisconsin, victims may be ineligible for state-based assistance if they were engaged in any illegal activity during the assault or if they fail to cooperate with criminal prosecution].

7. *What about expenses for legal advice?*

All parties may retain counsel at their own expense if they determine that they need or desire legal advice about criminal prosecution and/or the College's proceeding. Victims of on-campus criminal sexual assault need not retain a private attorney to pursue prosecution because representation will be handled by the Brown County District Attorney's office.

8. *What about changing residence hall rooms?*

A student may request a room change. It is typically college policy that in emergency room changes, the student is moved to the first available suitable room. If an alleged victim/complainant wants the accused student to move, and believes that they have been

the victim of gender-based misconduct or sexual harassment, they must be willing to pursue a formal or informal College complaint. No contact orders can be imposed, and room changes for either student can usually be arranged quickly. Other accommodations available to students might include:

- a. Assistance from College support staff in completing the relocation;
- b. Arranging to dissolve a housing contract and pro-rating a refund;
- c. Assistance with or rescheduling an academic assignment (paper, exams, etc.);
- d. Taking an incomplete in a class;
- e. Assistance with transferring class sections;
- f. Temporary withdrawal;
- g. Assistance with alternative course completion options;
- h. Other accommodations for safety as necessary.

9. *How should evidence of a sexual assault be preserved?*

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. A victim should not wash themselves or their clothing. For a forensics examination, anyone who believes that they may have been a victim of a criminal sexual assault, should go to:

St. Vincent Hospital Emergency Room, 835 South Van Buren Street, Green Bay WI 920-433-0111 (stvincenthospital.org/Medical-Services/Emergency-Services/). Please note that the emergency entrance is on south Webster Ave.

The Sexual Assault Nurse Examiner (a specially trained nurse) at St. Vincent's is usually on call 24 hours a day, 7 days a week. Campus Safety (920-403-3299) can provide transportation. If a victim goes to the hospital, local police will be called, but they are not obligated to talk to the police or to pursue prosecution. Having the evidence collected in this manner will help to keep all options available to a victim, but will not obligate them to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.

The hospital staff will collect evidence, check for injuries, address pregnancy and potential date rape drug concerns and address the possibility of exposure to sexually transmitted infections. If the victim has changed clothing since the assault, they should bring the clothing worn at the time of the assault to the hospital in a clean, sanitary container, such as a clean paper grocery bag or wrapped in a clean sheet. (Plastic

containers or bags should NOT be used. Plastic does not breathe and may render evidence useless). If the victim has not changed clothes, they should bring a change of clothes to the hospital, if possible, as they will likely keep the clothes the victim is wearing as evidence.

The victim may want a support person with them at the hospital. If wanted, this person can also accompany them during the exam.. The crime scene should not be disturbed - all sheets, towels, etc. that may bear evidence should be left for the police to collect.

10. Will a victim be sanctioned when reporting a policy violation if they have illegally used drugs or alcohol?

No. The severity of the infraction will determine the nature of the College's response, but whenever possible the College will respond educationally rather than punitively to the illegal use of drugs and/or alcohol. The seriousness of gender-based misconduct or sexual harassment is a major concern and the College does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of gender-based misconduct or sexual harassment.

11. Will the use of drugs or alcohol affect the outcome of a complaint?

The use of alcohol and/or drugs by either party will not diminish the accused party's responsibility. On the other hand, alcohol and/or drug use is likely to affect the complainant's memory and, therefore, may affect the outcome of the complaint. A person bringing a complaint must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to support the individual's complaint. If the complainant does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the accused without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by the accused party.

12. Will either party's prior use of drugs and/or alcohol be a factor when reporting gender-based misconduct or sexual harassment?

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

13. What should a victim do if I am uncertain about what happened?

If someone believes they have experienced gender-based misconduct or sexual harassment, but are unsure of whether it was a violation of this policy, they should contact the College's Office of Student Judicial Affairs or Title IX Coordinator They may be able to help define and clarify the event(s), and advise a victim of their options.

APPENDIX 4: WISCONSIN STATE LEGAL DEFINITIONS

968.075 Domestic abuse incidents; arrest and prosecution

(1) DEFINITIONS. In this section:

- (a) "Domestic abuse" means any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:
1. Intentional infliction of physical pain, physical injury or illness.
 2. Intentional impairment of physical condition.
 3. A violation of s. 940.225 (1), (2) or (3).
 4. A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under subd. 1., 2. or 3.
- (b) "Law enforcement agency" has the meaning specified in s. 165.83 (1) (b).
- (d) "Party" means a person involved in a domestic abuse incident.
- (e) "Predominant aggressor" means the most significant, but not necessarily the first, aggressor in a domestic abuse incident.

Wisconsin State Legislature. 968.075 Domestic abuse incidents ; arrests and prosecution.
Retrieved 08/18/2019 from <https://docs.legis.wisconsin.gov/statutes/statutes/968/075>

813.12 Domestic abuse restraining orders and injunctions

If interested in more on this domestic abuse topic visit:

<https://docs.legis.wisconsin.gov/statutes/statutes/813/12/1/am>

940.225 Sexual assault

- (1) FIRST DEGREE SEXUAL ASSAULT INCLUDES
- a. Sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person.
 - b. Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.
 - c. Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

(2) SECOND DEGREE SEXUAL ASSAULT INCLUDES

- a. Sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
- b. Sexual contact or sexual intercourse with another person without consent of that person and causes injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.
- c. Sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the defendant knows of such condition.
- d. Sexual contact or sexual intercourse with a person who is under the influence of an intoxicant to a degree which renders that person incapable of giving consent if the defendant has actual knowledge that the person is incapable of giving consent and the defendant has the purpose to have sexual contact or sexual intercourse with the person while the person is incapable of giving consent.
- e. Sexual contact or sexual intercourse with a person who the defendant knows is unconscious.
- f. Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without the consent of that person.
- g. Is an employee of a facility or program under s. 940.295 (2) (b), (c), (h) or (k) and has sexual contact or sexual intercourse with a person who is a patient or resident of the facility or program.
- h. Sexual contact or sexual intercourse with an individual who is confined in a correctional institution if the actor is a correctional staff member. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.
- i. Sexual contact or sexual intercourse with an individual who is on probation, parole, or extended supervision if the actor is a probation, parole, or extended supervision agent who supervises the individual, either directly or through a subordinate, in his or her capacity as a probation, parole, or extended supervision agent or who has influenced or has attempted to influence another probation, parole, or extended supervision agent's supervision of the individual. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.
- j. Is a licensee, employee, or nonclient resident of an entity, as defined in s. 48.685 (1) (b) or 50.065 (1) (c), and has sexual contact or sexual intercourse with a client of the entity.

(3) THIRD DEGREE SEXUAL ASSAULT INCLUDES.

- (a) Sexual intercourse with a person without the consent of that person is guilty of a Class G felony.

(b) Sexual contact in the manner described in sub. (5) (b) 2. or 3. with a person without the consent of that person is guilty of a Class G felony.

(3M) FOURTH DEGREE SEXUAL ASSAULT

Except as provided in sub. (3), whoever has sexual contact with a person without the consent of that person is guilty of a Class A misdemeanor.

(4) CONSENT. "Consent", as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. Consent is not an issue in alleged violations of sub. (2) (c), (cm), (d), (g), (h), and (i). The following persons are presumed incapable of consent but the presumption may be rebutted by competent evidence, subject to the provisions of s. 972.11 (2):

(b) A person suffering from a mental illness or defect which impairs capacity to appraise personal conduct.

(c) A person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(5) DEFINITIONS. In this section:

(abm) "Client" means an individual who receives direct care or treatment services from an entity.

(acm) "Correctional institution" means a jail or correctional facility, as defined in s. 961.01 (12m), a juvenile correctional facility, as defined in s. 938.02 (10p), or a juvenile detention facility, as defined in s. 938.02 (10r).

(ad) "Correctional staff member" means an individual who works at a correctional institution, including a volunteer.

(ag) "Inpatient facility" has the meaning designated in s. 51.01 (10).

(ai) "Intoxicant" means any alcoholic beverage, hazardous inhalant, controlled substance, controlled substance analog, or other drug, or any combination thereof.

(ak) "Nonclient resident" means an individual who resides, or is expected to reside, at an entity, who is not a client of the entity, and who has, or is expected to have, regular, direct contact with the clients of the entity.

(am) "Patient" means any person who does any of the following:

1. Receives care or treatment from a facility or program under s. 940.295 (2) (b), (c), (h) or (k), from an employee of a facility or program or from a person providing services under contract with a facility or program.

2. Arrives at a facility or program under s. 940.295 (2) (b), (c), (h) or (k) for the purpose of receiving care or treatment from a facility or program under s. 940.295 (2) (b), (c), (h) or (k), from an employee of a facility or program under s. 940.295 (2) (b), (c), (h) or (k), or from a person providing services under contract with a facility or program under s. 940.295 (2) (b), (c), (h) or (k).

(ar) "Resident" means any person who resides in a facility under s. 940.295 (2) (b), (c), (h) or (k).

(b) "Sexual contact" means any of the following:

1. Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading; or for the purpose of sexually humiliating the complainant or sexually arousing or gratifying the defendant or if the touching contains the elements of actual or attempted battery under s. 940.19 (1):
 - a. Intentional touching by the defendant or, upon the defendant's instruction, by another person, by the use of any body part or object, of the complainant's intimate parts.
 - b. Intentional touching by the complainant, by the use of any body part or object, of the defendant's intimate parts or, if done upon the defendant's instructions, the intimate parts of another person.
 2. Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant or, upon the defendant's instruction, by another person upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant.
 3. For the purpose of sexually degrading or humiliating the complainant or sexually arousing or gratifying the defendant, intentionally causing the complainant to ejaculate or emit urine or feces on any part of the defendant's body, whether clothed or unclothed.
- (c) "Sexual intercourse" includes the meaning assigned under s. 939.22 (36) as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required.
- (d) "State treatment facility" has the meaning designated in s. 51.01 (15).
- (6) MARRIAGE NOT A BAR TO PROSECUTION. A defendant shall not be presumed to be incapable of violating this section because of marriage to the complainant.
- (7) DEATH OF VICTIM. This section applies whether a victim is dead or alive at the time of the sexual contact or sexual intercourse.

Wisconsin State Legislature. 940.225 Sexual assault. Retrieved 08/18/2019 from <https://docs.legis.wisconsin.gov/statutes/statutes/940/II/225>)

940.32 Stalking

Two or more acts carried out over time, however short or long, that show a continuity of purpose, including any of the following:

1. Maintaining a visual or physical proximity to the victim.

2. Approaching or confronting the victim.
3. Appearing at the victim's workplace or contacting the victim's employer or coworkers.
4. Appearing at the victim's home or contacting the victim's neighbors.
5. Entering property owned, leased, or occupied by the victim.
6. Contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously, regardless of whether a conversation ensues.
7. Photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim. This subdivision applies regardless of where the act occurs.
8. Sending material by any means to the victim or, for the purpose of obtaining information about, disseminating information about, or communicating with the victim, to a member of the victim's family or household or an employer, coworker, or friend of the victim.
9. Placing an object on or delivering an object to property owned, leased, or occupied by the victim.
10. Delivering an object to a member of the victim's family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the victim.
11. Causing a person to engage in any of the acts described in 1 to 10 above.

Wisconsin State Legislature. 940.32 Stalking. Retrieved 08/18/2019 from <https://docs.legis.wisconsin.gov/statutes/statutes/940/II/32>