

Allegany College of Maryland
STUDENT & LEGAL AFFAIRS – Title IX

PROCEDURES: DEFINITIONS
SEXUAL MISCONDUCT & SEX DISCRIMINATION POLICY

Most definitions below are derived from the Maryland Attorney General’s Office Report which included the University System of Maryland’s definitions as determined by the Maryland Attorney General’s Office; several terms’ definitions specifically mirror the definitions established by the Clery Act. Terms defined by other sources are noted thusly.

CONFIDENTIALITY: All complainant requests for confidentiality or requests not to initiate College action shall be considered; whether the complainant’s request can be honored shall be based upon the following factors: immediate safety and well-being of the complainant; immediate safety and well-being of the campus or local community (eg., prior history of accused, potential for repeated behavior, predatory behavior, weapon, ongoing threat, multiple accused persons,); whether the misconduct or discrimination can be eliminated and remedied via other means; whether other evidence is available that permits action without the complainant’s participation; and whether the complainant’s concerns can be addressed (identify and resolve barriers). The process is confidential up to the point any allegations are contested.

CONSENT: a knowing, voluntary, and affirmatively communicated willingness to mutually participate in a particular sexual activity or behavior. It must be given by a person with the ability and capacity to exercise free will and make a rational and reasonable judgment. Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity. Consent may be withdrawn at any time. Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation, or through the use of one’s mental or physical helplessness or incapacity. Consent cannot be implied based upon the mere fact of a previous consensual dating or sexual relationship. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

» More details are available on the “Information: Consent” sheet online at www.allegany.edu/titleIX .

DATING VIOLENCE: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based upon a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

DOMESTIC VIOLENCE: violence committed by a current or former spouse or intimate partner of the complainant by a person with whom the complainant shares a child in common, by a person who is cohabiting with or has cohabited with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant, or by any other person against an adult or youth complainant protected from those acts by domestic or family violence laws of Maryland.

RAPE: Per Uniform Crime Report by Federal Bureau of Investigation as required for the annual Clery Crime Report. “Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.”

RESPONSIBLE EMPLOYEE: any employee who (1) has the authority to take action regarding discrimination or sexual misconduct; (2) is an employee who has been given the duty of reporting discrimination or sexual misconduct, or (3) is someone another individual could reasonably believe has this authority or duty. The following Allegany College of Maryland responsible employees include the Title IX Coordinator, any Title IX investigators or team members, all administrators, all non-confidential employees in their supervisory roles, all faculty, all athletic coaches, all security guards, and all Residence Life staff members. Resident assistants, as *quasi* employees, are also deemed responsible employees. (NOTE: Per policy, no employee is excused from reporting sexual misconduct and sex discrimination.)

RETALIATION: intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or ACM policy or because an individual has made a report, assisted, provided information, or participated in any manner with an inquiry, investigation, hearing, or other proceeding related to this policy. Retaliation includes retaliatory harassment.

SEXUAL ASSAULT I – NON-CONSENSUAL SEXUAL INTERCOURSE: any act of sexual intercourse with another individual without consent. Sexual intercourse include vaginal or anal penetration, however slight, with any body part or object or oral penetration involving mouth to genital contact.

SEXUAL ASSAULT II – NON-CONSENSUAL SEXUAL CONTACT: any intentional touching of the intimate parts of another person causing another to touch one’s intimate parts, or disrobing or exposure of another without consent. Intimate parts may

include genitalia, groin, breast, or buttocks, or clothing covering them, or any other body part that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.

SEXUAL EXPLOITATION: taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.

SEXUAL HARASSMENT: any unwelcome advance, unwelcome request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when (1) submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, evaluation of academic work, or participation in any aspect of an ACM program or activity; (2) submission to or rejection of such conduct by an individual is used as the basis for academic, employment, or activity or program participation related decisions affecting an individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance (ie., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment.

SEXUAL INTIMIDATION: (1) threatening to sexually assault another person; (2) gender or sex-based Stalking, including cyber-stalking, or (3) engaging in indecent exposure.

SEXUAL MISCONDUCT: an umbrella term that includes Dating Violence, Domestic Violence, Sexual Exploitation, Sexual Harassment, Sexual Intimidation, Sexual Violence, and Stalking.

SEXUAL VIOLENCE: a form of Sexual Harassment and refers to physical sexual acts perpetrated without Consent. Sexual Violence includes Rape, Sexual Assault, Sexual Battery, and Sexual Coercion. Sexual Violence, in any form, is a criminal act.

STALKING: engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

Title IX: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

Other Terms:

AMNESTY: Complainants and witnesses shall not be subject to disciplinary action for drug/alcohol violations IF (a) violation occurred during/near time of assault, (b) assault report/participation is in good faith, and (c) violation was "not an act that was reasonably likely to place the health or safety of another individual at risk."

From Maryland General Assembly HB571 / passed House and Senate, approved by Governor Hogan on May 12, 2015

BYSTANDER INTERVENTION: "Everyone can play an active role in stopping domestic violence and sexual assault before it occurs by becoming an engaged bystander and helping to establish an environment where healthy and positive relationships are based on respect, safety, and equality. Moreover, taking steps to stop harassment or violence can make a significant difference in someone's life, and send a powerful message to the perpetrator and society as a whole about which social norms are acceptable and which are unacceptable." - <http://nomore.org/take-action/preventviolence/>

CLERY OFFENSES: The U.S. Department of Education requires all colleges receiving federal education funding to annually report the incidence and location of specific crimes, hate crimes, arrests, and disciplinary action. Statistics must be submitted to the federal database, and a written report must be published. See the detailed list of crimes on this document, Clery/HEA: Reporting Offenses (Annual Crime & Fire Safety Report).

CONTACT (for purposes of No Contact /No Negative Contact Orders): includes all forms of verbal, written, electronic, and non-verbal communications. Examples include (but are not limited to) face-to-face conversations, telephone conversations, texts, posts on social media (to or about the other person or the situation), notes, letters, conversations with other students to or about the other person or the situation), attempts to contact each other thru any medium, hand gestures, loitering where the other person is or expected to be, and any or attempted contact with the other person's family/household members. Such contact is negative if it is hostile, aggressive, insulting, embarrassing, or has the intent *or effect* of making the other person uncomfortable, embarrassed, or afraid. In short, you are each required to interact with each other courteously. If you cannot do so, then you must have no contact of any kind.

FERPA: FAMILY EDUCATIONAL RIGHTS PRIVACY ACT (20 U.S.C.1232G): This federal law outlines the rights of students regarding their educational record(s). Generally, FERPA does not allow a college or its employees to release certain information to third parties without *either* written permission from the student *or* a recognized exception to the law such as an emergency. Compliance with Title IX and the provisions of the College's Sexual Misconduct and Sex Discrimination Policy as well as accompanying procedures do not constitute a violation of FERPA.

VIOLENCE: unjust or unwarranted exercise of physical force, usually accompanied by anger or heightened passions.