

REVIEWED: November 14, 2018

GUIDELINE FOR BOARD POLICY 518

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TITLE: **Student Personnel**

Sexual Assault, Sexual Harassment, Domestic/Dating Violence, and Stalking Standards

Iowa Valley Community College District supports the rights of all students to live and study in an environment free from sexual coercion and violence.

Sexual misconduct is a crime punishable by both civil and criminal legal action and a serious violation of the IVCCD Standards of Conduct. It will not be tolerated within our community. Employees and students at IVCCD are charged with the responsibility of being familiar with and abiding by the standards of conduct set forth herein. The District will provide programs to prevent domestic violence, dating violence, sexual assault, stalking, and sexual harassment, including primary prevention and awareness education programs for all incoming students, as well as ongoing prevention and awareness campaigns for students and employees, which shall contain the information included in this guideline and related board policy and as required by law. In addition to direct areas of threat, IVCCD will engage in training opportunities for bystander intervention which focuses on both prevention messages and advocates for the facilitation of appropriate bystander behavior. This is done by: a) increasing awareness of gender violence, b) increasing recognition that it is a problem, c) increasing ownership/responsibility of the issue, d) developing a skills base to intervene, and e) increasing recognition of such intervention.¹

The requirements of this policy do not discriminate based on sexual orientation or preference of individuals engaging in sexual activity.

Except where noted, all employees are considered mandatory reporters for the purpose of this policy, with exemptions made for mental health professionals and clergy as the law allows. When an employee becomes aware of an alleged act of sexual assault, sexual harassment, domestic/dating violence and/or stalking, the employee must promptly contact the Title IX Coordinator for the unit. The employee should use the SaVE Act Reporting form, which can be found at

MCC: <https://mcc.iavalley.edu/resources-for-students/title-9/>

ECC: <https://ecc.iavalley.edu/resources-for-students/sexual-assault-sexual-harassment-domestic-dating-violence-stalking-and-related-crimes/>

¹ University of Northern Iowa Bystander Engagement

CE: <https://ce.iavalley.edu/student-resources/title-9/>

A response team is also available to provide guidance on how to handle a situation at any time. More information is available in the College student handbook.

The definitions provided below are similar to those contained in applicable criminal laws; however, the definitions are specific to IVCCD. An act that might not violate or be prosecuted under applicable criminal laws may still violate these standards and protocols, District policy, and the Student Code of Conduct.

A. DEFINITIONS

1. Student Sexual Assault

Sexual assault or non-consensual sexual activity includes, but is not limited to, any sexual activity by a group or individual that takes place without the effective consent of the other individual(s) involved. Effective consent is shown by the exchange of mutually understandable words or actions between parties to a sexual interaction. Consent must be informed and freely and actively given. Silence in and of itself is not an indication of consent.

Sexual activity includes, but is not limited to, intentional contact with the breasts, buttocks, groin, or genitals, or touching another person with any of these body parts, or making another person touch you or themselves with or on any of these body parts; intercourse, however slight, meaning 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).

Consent needs to be understood in context of these definitions. In order to be effective, consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear that he or she does 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. Consent may be withdrawn at any time.

In order to give effective consent, one must be of legal age (18). Sexual activity with someone a person knows to be--or should know to be--mentally or physically incapacitated (because of disability, alcohol or other drug use, sleep, unconsciousness, blackout, or bodily restraint), is a violation of this policy. Any time sexual activity takes place between individuals, those individuals must be capable of controlling their physical

actions and be capable of making rational, reasonable decisions about their sexual behavior. A person who has consumed alcohol or drugs may experience diminished capacity for effective decision-making and action, and thus may be incapable of consenting to sexual activity. Sexual activity with someone whose incapacity results from the ingestion of a so-called date-rape drug is in violation of this policy. Use of alcohol or other drugs will never function to excuse behavior that violates this policy.

All District employees are strongly discouraged from entering into romantic and/or sexual relationships with students, which could lead to the creation of a hostile educational, social, and/or work environment for the employee or student involved and/or other members of the District. The consensual relationship policy is in the Board policy 400 series.

2. Student Sexual Harassment

Sexual harassment is a form of sexual misconduct that includes unwelcome sexual advances, requests for sexual favors, and other verbal, written or physical conduct of a sexual nature when:

- Submission to such conduct or communication is made explicitly or implicitly a term or condition of education benefits, academic evaluations or access to or participation in other District activities or opportunities, or submission to or rejection of such conduct or communication is used as the basis for educational decisions affecting such individual.

OR

- The behavior is sufficiently severe or pervasive to unreasonably interfere with the student's education or other District activities or create an intimidating, hostile or objectively offensive education environment.

Sexually harassing behavior may include, but is not limited to:

- spreading sexual rumors
- catcalls or whistles
- making sexual gestures
- exposing genitalia and/or touching oneself sexually in front of another
- repeated and unwelcome sexual conversations
- unwelcome and persistent flirting or teasing of a sexual nature
- persistent efforts to develop a sexual relationship
- pressure to engage in sexual behavior
- other verbal or physical conduct that could be construed as sexually based
- unwanted electronic capture (webcam, camera, video, etc.) of a sexual nature

The examples noted above can include actions or comments that are verbal, written, or electronic. Determination of whether conduct constitutes sexual harassment requires consideration of all the circumstances, including the context in which the alleged incidents occurred.

Sexually exploitative behavior occurs when a student takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Sexual exploitation may include, but is not limited to:

- prostituting another student
- non-consensual video/audio-taping or photographing of sexual activity
- unauthorized posting or distribution of materials involving the sexual activity of another person
- going beyond the boundaries of consent (such as voyeurism or secretly watching others)
- knowingly transmitting an STD or HIV to another student

3. Student Domestic/Dating Violence

Student domestic/dating violence (also known as domestic violence, dating violence, or intimate partner violence) is defined as the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior perpetrated by a domestic partner (including, but not limited to, a current or former spouse or cohabitant or person with whom the alleged victim shares a child, or other similarly situated person) or by a dating partner (including, but not limited to, a person who has been in a romantic or intimate relationship with the alleged victim) against the other partner.

4. Student Stalking

Stalking means engaging in 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.

B. PROCEDURES FOR FILING A REPORT OR SUBMITTING A COMPLAINT

In an emergency, first contact the appropriate community Police Department and the Title IX Coordinator in the appropriate unit.

A student who wishes to report a sexual assault or misconduct or file a complaint against another student or employee through the College (potentially leading to a College hearing) should notify the Title IX Coordinator. Any member of the response team can explain support options, investigative steps, and hearing procedures. Complaints will be handled in a timely manner to the extent reasonably possible.

The alleged victim has the option to notify proper law enforcement authorities including on campus and local police, be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses, and decline to notify such authorities.

It is imperative for sexual assault victims to have an examination at their local emergency facility as quickly as possible, and to not shower prior to having a forensic examination. The longer an individual waits before pursuing this option, the more difficult it becomes to collect forensic evidence. Title IX Coordinators, a sexual assault advocate, or members of the local police department can assist a victim in obtaining an exam.

Sexual assault evidence collection kits may be used after a sexual assault if a victim chooses to go to the hospital for a forensic examination. These may also be known as rape kits, sexual assault forensic evidence (SAFE) kits, sexual offense evidence collection (SOEC) kits or physical evidence recovery kits (PERK). A Sexual Assault Nurse Examiner (SANE) should perform the examination and be able to make sure evidence is maintained for potential use in court if the victim chooses.

Crime Victim Compensation may be available to individuals who have been the victim of sexual assault. Assistance may be available in the following areas:

1. Medical care
2. Lost wages
3. Loss of support for dependents
4. Counseling
5. Funeral expenses

It is important for victims to follow specific procedures and a crime must be reported to the appropriate authorities in a timely fashion in order to receive assistance. For more information, contact Crime Victim Compensation Program at 1-800-373-5004.

It is important for students to preserve evidence as may be necessary to the proof of domestic violence, dating violence, sexual assault, stalking, or sexual harassment, or in obtaining a protection order.

C. SUPPORT FOR STUDENTS

A student who files a report under this policy, as well as witnesses, and any students present immediately before, during, or in the aftermath of an alleged sexual assault or misconduct may not be referred for disciplinary action for unrelated violations (such as alcohol, parties, drugs, etc.).

After reporting alleged sexual assault or misconduct to the Title IX Coordinator or Campus Security Authorities (CSA), as defined below, a student may request the following accommodations or other accommodations reasonably available:

1. Change of an on-campus student's housing to a different on-campus location;
2. Transferring class sections when available;
3. Assistance in exploring alternative housing, incompletes, leave, or withdrawal.

Such accommodations may be requested by the student regardless of whether he/she chooses to report the crime to campus police or law enforcement.

The response team will make available a staff member to serve as an informal support person for both an alleged victim and an accused individual to help each party navigate through the student conduct process.

The Clery Act has mandated certain individuals on campus are designated as Campus Security Authorities (CSA). CSAs are individuals who are responsible for gathering crime statistics from individuals on campus and/or reporting crime statistics to their superiors on campus. These individuals include, but are not limited to:

- a. Dean of students and leaders in student services and housing
- b. Staff in the student center
- c. Staff in the student activities office
- d. Faculty or staff advisors to student organizations
- e. Resident assistants/advisors
- f. Students who monitor access to dormitories or other facilities
- g. Athletic directors (ADs) and coaches (including assistant coaches)
- h. Security personnel

A student who desires that details of the incident be kept confidential may speak with individuals who meet the professional counselor or pastoral exemption for CSAs under the Clery Act and who thus may not be obligated to report crimes they have learned about, such as campus mental health staff. Depending on the location (e.g., MCC), campus mental health staff are available to help free of charge and can be seen on an emergency basis. If after office hours, contact the resident housing director or an assistant. Additionally, students may speak to off-campus rape crisis resources who may maintain confidentiality and/or clergy or chaplains off-campus who may maintain confidentiality.

The District will protect the confidentiality of alleged victims, and will not include identifying information about the alleged victim in the District's publicly-available reports, to the extent permitted by law.

Written notification will be provided to students about existing counseling, health, mental health, victim advocacy, legal assistance, and other support services available for alleged victims both on-campus and in the community.

D. INVESTIGATIVE AND HEARING PROCEDURES

The Title IX Coordinator will meet with a student considering submitting a complaint, will outline the process for filing a complaint, and explain District procedures. A written report is typically required for a case to be referred for action, but in cases of perceived danger for the campus community, the Title IX Coordinator may request a hearing of the response team without the cooperation of the student who originated the complaint. District proceedings shall provide a prompt, fair, and impartial investigation and resolution. The proceedings will be conducted by officials who receive annual training on the issues related to sexual misconduct and how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability.

Upon receipt of a report the Title IX Coordinator will contact the respondent(s) to explain the procedures and outline the basis for the complaint. Respondent(s) have the right to see the report that alleges a violation.

As a matter of process, both parties in a case are issued administrative orders to have no contact with one another. This allows the matter to proceed without any possible harassment or miscommunication between parties. Students may pursue other orders of protection through the court system.

Once the District is placed on notice about a pending case of sexual assault/harassment or misconduct, an investigator will review the matter and interview students and/or employees involved along with potential witnesses. The investigator will submit written documentation to the Title IX Coordinator who will make a determination about whether or not a complaint may proceed to a hearing with a hearing board, specifically trained to deal with sexual assault/harassment and misconduct.

College proceedings are confidential to the extent possible and permitted by law. The hearing board receives written complaints and schedules and conducts hearings related to sexual misconduct. The Title IX Coordinator facilitates the hearing but is not a voting member of the board. A three-member team comprises the decision-making members of the hearing board. The hearing board hears statements from both parties, asks questions, and then makes a decision based upon the greater weight of the credible evidence. The hearing board receives training in conducting hearings specifically related to sexual misconduct allegations.

The respondent(s) has the right to question his or her accuser through questions posed to the hearing board. This right will not be denied. However, the complainant may request that accommodations be made to have separate rooms or a room partition for each party, or may request an alternative reasonable arrangement in order to minimize potential trauma or stress.

The complainant and respondent(s) are each entitled to the same opportunities to have a support person (often a parent, friend, counselor, attorney, or faculty/staff member) present during a

campus disciplinary proceeding with the understanding that the representative may not participate in the proceedings. This person can be in addition to the District support person.

Pertinent expert, psychological, and medical witnesses, and other evidence may be introduced into hearings, but the hearing board will reserve the right to determine if such evidence is credible on its face or could potentially be subject to rebuttal in the opinion of the hearing board, and thus, of questionable value.

While each case is different, the hearing board will generally ask questions primarily related to the following areas: force, consent, and whether or not (or how) alcohol or drugs played a role in the alleged incident. The hearing board will use the standard of preponderance of evidence in determining outcomes from the hearing.

Both parties shall be simultaneously informed in writing of the outcome and sanction of any campus disciplinary proceeding regarding alleged sexual assault/harassment or misconduct within a timely fashion and to the extent permitted by law. Any student found to have violated the sexual misconduct policy will be subject to a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations and any other relevant circumstances. Other individuals who are found to be in violation of this policy will be subject to appropriate sanctions as determined and imposed by the hearing board. Other remedial or protective measures may also be implemented as appropriate.

Any party in a hearing may appeal the decision following the student code of conduct procedures. The party may submit an appeal and should have access to the reasoning of the decision as expressed in the summary and to the extent permitted by law.

Any retaliatory action or behavior taken toward an alleged complainant, respondent, or other individual as a consequence of his or her decision to report a violation, pursue or participate in conduct action, or criminal prosecution, is prohibited. Retaliation by any party may result in further disciplinary action. No officer, employee, or agent of the District shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under the Clery Act, as amended.

A student who reports that he/she has been a victim of domestic violence, dating violence, sexual assault, stalking, or sexual harassment, whether the offense occurred on or off campus, shall be provided with a written explanation of the student's rights and options, as described above. These guidelines shall be construed to be consistent with the requirements of the Clery Act, as amended by the Violence Against Women Reauthorization Act of 2013 including the Campus Sexual Violence Act, and other applicable law.