



MASSACHUSETTS COLLEGE
OF ART AND DESIGN

The College is committed to maintaining safe and healthy learning, living and working environments that are free from all forms of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation. Consistent with this commitment, the College complies with Title IX of the Higher Education Amendment of 1972, which prohibits discrimination and harassment on the basis of sex in education programs and activities, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX.

The College does not discriminate on the basis of sex in admission to or employment in its education programs and activities.

Title IX's prohibition against sex discrimination extends to protection from sexual harassment and sexual assault. It also includes protection from discrimination based on gender identity. The following definitions have been taken from the College's Sexual Violence Policy, contained within our Equal Opportunity, Diversity and Affirmative Action Plan. If you have any questions about these terms, or would like more information about the College's prohibitions against sexual misconduct, please contact the Title IX Office at titleix@massart.edu.

DEFINITIONS

Affirmative Consent

Consent is an understandable exchange of affirmative words or actions, which indicate a willingness by all parties to participate in mutually agreed upon sexual activity. Consent must be informed, freely and actively given. It is the responsibility of the initiator to obtain clear and affirmative responses at each stage of sexual involvement.

Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent. For example, a position of influence could include supervisory or disciplinary authority. Silence, previous sexual relationships or experiences, and/or a current relationship may not, in themselves, be taken to imply consent. While nonverbal consent is possible (through active participation), it is best to obtain verbal consent. Similarly, consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly.

Sexual Violence

As defined by the U.S. Department of Education's Office for Civil Rights, sexual violence "refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the [person's] age or

use of drugs or alcohol, or because an intellectual or other disability prevents the [person] from having the capacity to give consent)." All forms of sexual violence are prohibited by the College and Title IX.

Rape

Rape is the penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent. Rape is also the performance of oral sex or anal sex on another person without that person's consent.

Sexual Assault

Sexual assault is any kind of sexual physical contact that involves any form of coercion, force or lack of consent. Sexual physical contact includes the intentional touching of another person on an area of the body generally recognized as a private part of the body, or touching any part of another person's body with a private part of one's own body or object, no matter how slight. Sexual intercourse means penetration, no matter how slight, of a bodily orifice (vagina, anus, or mouth) by an object or by a body part, and/or non-consensual oral sex or anal sex.

Examples of sexual assault include, but are not limited to: kissing or fondling without consent; rape; advancing sexual activity without consent; ignoring a partner's objections to sexual activity on one occasion even when consent has been given in the past; and engaging in manipulative, threatening and coercive behavior to obtain consent.

Sexual Exploitation

Sexual exploitation is taking sexual advantage of another person for one's own benefit or the benefit of anyone other than that person without that person's consent.

Examples of behavior that could rise to the level of sexual exploitation include, but are not limited to: prostituting another person; recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent; distributing through social media, texting, email or other media images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent.

Incest

Incest is sexual intercourse between persons who are related to each other and whose marriage would be prohibited by law. Attempts to commit incest are also prohibited.

Statutory Rape

Statutory rape is sexual intercourse with a person who is under the statutory age of consent, which is 16 in Massachusetts. Attempts to commit statutory rape are also prohibited.

Aiding in the Commission of Sexual Violence

The aiding or assisting in the commission of an act(s) of sexual violence is prohibited.

Examples of aiding in the commission of violence include, but are not limited to: videotaping a friend having sex with a person who has passed out drunk at a party; helping a friend to drug the friend's date's drink; and encouraging students to engage in sexual activity when one knows those students to be incapacitated by drugs or alcohol.

Incapacitation

An individual who is incapacitated by alcohol and/or drugs both voluntarily or involuntarily consumed may not give consent. Alcohol or drug related incapacitation is more severe than impairment, being under the influence, or intoxication. Evidence of incapacity may be detected from context clues, such as slurred speech, bloodshot eyes, the smell of alcohol on the breath, shaky equilibrium, vomiting, unusual behavior or unconsciousness. While context clues are important in determining incapacitation, they alone do not necessarily indicate incapacitation.

Persons unable to consent due to incapacitation also include, but are not limited to: persons under age 16; persons who are intellectually incapable of understanding the implications and consequences of the act or actions in question; and persons who are physically helpless. A physically helpless person is one who is asleep, blacked out, involuntarily physically restrained, unconscious, or, for any other reason, unable to communicate unwillingness to engage in any act.

The use of alcohol or drugs to render another person mentally or physically incapacitated as a precursor to or part of a sexual assault is prohibited. The use of alcohol, medications or other drugs by the respondent or accused does not excuse a violation of the Sexual Violence Policy.

Force

Force is the use of physical strength or action (no matter how slight), violence, threats of violence or intimidation (implied threats of violence) as a means to engage in sexual activity. A person who is the object of actual or threatened force is not required to physically, verbally or otherwise resist the aggressor.

Coercion

Coercion is unreasonable pressure or emotional manipulation to persuade another to engage in sexual activity. When someone makes it clear that s/he does not want to engage in sexual behavior, or s/he does not want to go beyond a certain point of sexual activity, continued pressure beyond that point can be considered coercive. Being coerced into sexual activity is not consent to that activity.

Sexual Harassment

Unwelcome conduct of a sexual nature is prohibited when: submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; and/or submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual; and/or such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating a sexually intimidating, hostile, or offensive employment, educational, or living environment.

Examples of sexual harassment may include, but are not limited to: repeatedly pressuring another person for sexual activity; making sexist remarks about an individual's clothing, body or sexual activities; unnecessary touching, patting or pinching another person; demanding sex from a subordinate while making threats concerning the subordinate's job; demanding sex from a student while making implied threats concerning the student's grade; electronically transmitting derogatory, demeaning or pornographic materials; posting explicit sexual pictures on an exterior office door or on a computer monitor; and sexually assaulting another person.

Sexual harassment can occur between people of any gender. It can occur between equals (e.g., student to student, staff to staff, faculty to faculty) or between persons of differing power status (e.g., supervisor to subordinate, faculty to student, coach to athlete). It is possible for a person who appears to have the lesser power to commit sexual harassment (e.g., a student harassing a faculty member).

In order for conduct to constitute sexual harassment under the Sexual Violence Policy, a reasonable person under similar circumstance would have to conclude that the behavior was harassing or discriminatory.

Reasonable directions or warnings by authorized College personnel as to the time, place and manner in which employees perform their assigned responsibilities, students carry out their educational assignments or program participants engage in sponsored activities do not constitute evidence of sexual harassment under the Sexual Violence Policy.

Hostile Environment

A hostile environment exists when sexual harassment is sufficiently serious to deny or limit a person's ability to participate in or benefit from the College's programs or activities. A hostile environment can be created by anyone

involved in the College's programs or activities (e.g., administrators, faculty members, students, and campus visitors).

To make the ultimate determination of whether a hostile environment exists for campus community member(s), the College considers a variety of factors related to the severity, persistence, or pervasiveness of the sexual harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and, (5) the degree to which the conduct affected one or more person's education or employment.

A single or isolated incident may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to show evidence of a hostile environment, particularly if the harassment is physical.

Gender-Based Harassment

Unwelcome conduct of a nonsexual nature based on a person's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes, is prohibited when: submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; and/or submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual; and/or such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating, hostile, or offensive employment, educational, or living environment based on gender.

Examples of gender-based harassment include, but are not limited to: using derogatory comments and terms toward a male or female who do not act in ways that align with their gender stereotype, such as a male being called names for being interested in the arts or a female being called names for being interested in construction; telling someone to use a restroom that does not align with that person's gender identity; and making generalized derogatory comments about one gender, such as "all females" are _____ or "all males" are _____. While harassment based on non-sexual factors may be distinguished from sexual harassment, these types of behaviors may contribute to the creation of a hostile environment. Thus, in determining whether a sexually hostile environment exists, the College may consider acts of gender-based harassment. In order for conduct to constitute gender-based harassment under the Sexual Violence Policy, a reasonable person under similar circumstance would have to conclude that the behavior was harassing or discriminatory. Reasonable directions or warnings by authorized College personnel as to the time, place and manner in which employees perform their assigned responsibilities, students carry out their educational assignments or program participants engage in sponsored activities do not constitute evidence of gender-based harassment under the Sexual Violence Policy.

The definition of hostile environment provided under the Sexual Harassment section above also applies in the context of gender-based harassment.

Domestic and Dating Violence

Domestic and dating violence are acts of abusive or coercive behavior (physical, sexual, financial, verbal and/or emotional) used by a perpetrator to gain or exercise control over another, including any behaviors that intimidate, manipulate, humiliate, isolate, frighten, threaten, blame, hurt, injure, or wound someone. Domestic and dating violence can occur in relationships between persons of any gender.

Domestic violence is such behavior directed against a current or former spouse, family member (blood, step, adoptive or foster), person with whom a child is shared, or cohabitant (possibly a roommate).

Dating violence is such behavior directed against another person in a social relationship of a romantic or intimate nature, and where the existence of such a relationship is determined based on a consideration of the length and type of relationship and frequency of interaction between the persons involved.

Examples of domestic and dating violence include, but are not limited to: hitting, slapping, punching, kicking, pulling hair or other physical misconduct; isolating a partner from family and friends; destroying a roommate's personal items; physically assaulting the child of a partner; pursuing sexual activity when a partner is not fully conscious, is not asked, or is afraid to say no, or coercing a partner to have sex without protection; threatening to reveal a person's sexual orientation without the person's permission; exhibiting excessive possessiveness and jealousy; constantly belittling or insulting a partner; checking a roommate's cell phone or email account without permission; demanding that a partner dress or act in a certain way; and/or threatening violence against the victim's acquaintances, friends, or family members.

Stalking

Engaging in a course of harassing, threatening, or unwanted behavior that would cause a reasonable person to suffer substantial emotional distress or fear for their safety or the safety of others. Stalking may occur in a range of formats including, but not limited to, in-person conduct, writings, texting, voicemail, email, social media, following someone with a global position system (GPS), and video/audio recording.

Examples of stalking behaviors include, but are not limited to: repeated unwanted or unsolicited contact or leaving unwanted gifts or items; posting disturbing messages or threats online; creating, attempting to create, or disseminating unauthorized recordings of another; gathering information about an individual from family, friends, co-workers, and/or classmates, or by electronic means by installing spy-ware on a computer or using GPS; threats in any form about an individual or their loved ones or threats to harm oneself;

damaging, stealing, borrowing, or relocating property, trespassing and vandalism; pursuing, waiting, or showing up uninvited at a workplace, residence, classroom, or other locations frequented by an individual; and directing a third party to take any of the above acts.

Retaliation

The College prohibits retaliation against any person for making a complaint of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation, for assisting in making a complaint, for resisting or openly opposing such conduct, or for otherwise using or participating in the complaint investigation process under the Policy.

Persons who file, or participate in the investigation or resolution of, claims or complaints of sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence, stalking and retaliation with outside agencies, law enforcement or otherwise pursuant to any applicable state or federal law, are also protected from retaliation by the Sexual Violence Policy.

Prohibited retaliation includes, but is not limited to: threats; intimidation; reprisals; continued harassment or misconduct; other forms of harassment; slander and libel; and adverse actions related to employment or education. Retaliation can be committed by individuals or groups, including friends, relatives or other associates of the person against whom a complaint is filed. Retaliation, even in the absence of proven sexual violence, sexual harassment, gender-based harassment, domestic violence, dating violence or stalking in an underlying complaint, constitutes a violation of the Sexual Violence Policy that is just as serious as the main offense itself.