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## **SEXUAL MISCONDUCT**

Elms College supports the rights of all students to live and study in an environment free from sexual harassment, sexual coercion and violence. Sexual contact with another person without consent or with the use or threat of force violates the standards of civility, decency, and respect expected of all members of our community.

### **A. Non-Consensual Sexual Activity**

1. Non-consensual sexual activity includes, but is not limited to, any sexual activity that takes place without the effective consent of the other individual 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.
2. 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. In other words, consent may be withdrawn at any time.
3. In order to give effective consent, one must be of legal age. 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 may experience diminished capacity for effective decision-making and action, and thus may be incapable of consenting to sexual activity.
4. Sexual activity with someone whose incapacity results from the ingestion of a so-called “date-rape” drug is in violation of this policy. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc., is prohibited, and administering one of these drugs or any substance to another student for the purpose of inducing incapacity is a violation of this policy. Use of alcohol or other drugs will never function to excuse behavior.

**Non-Consensual Sexual Contact** is any intentional sexual touching, however slight, with any object by a man or a woman upon a man or a woman, that is without consent and/or by force. Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, thought not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

**Non-Consensual Sexual Intercourse** is any sexual intercourse however slight, with any object by a man or woman upon a man or a woman, that is without consent and/or by force.

**B. Sexually Exploitative Behavior.** 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. Examples of sexual exploitation include, but are 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.

### **C. Sexual Harassment**

Sexual harassment can take many different forms. The determination of what constitutes sexual harassment will vary according to particular circumstances. Examples of sexual harassment include but are not limited to:

Unwelcome sexual propositions, invitations, flirtations, solicitations and leering.

Unwelcome verbal expression of a sexual nature, including graphic sexual commentaries about a person's body, appearance, dress, or sexual activities; the unwelcome use of sexually degrading language, innuendos, or jokes; unwelcome suggestive or insulting sounds, whistles, telephone calls.

Sexually suggestive objects, pictures, videos, audio recording or literature, or computerized/electronic message transmissions generated from the workplace that may embarrass or offend individuals.

### **Sexual Violence – Risk Reduction Tips**

Recognizing that only those who commit sexual violence are responsible for those actions, **these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act.**

1. If you have limits, make them known as early as possible.
2. Tell a sexual aggressor "NO" clearly and firmly.
3. Try to remove yourself from the physical presence of a sexual aggressor.
4. Find someone nearby and ask for help.
5. Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who vies a drunk or high person as a sexual opportunity.
6. Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

### **These suggestions may help you to reduce your risk for being accused of sexual misconduct:**

1. Clearly communicate your intentions to your 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 consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. 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.
5. Don't take advantage of someone's drunkenness or drugged state.
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. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

**A student who wishes to report an assault or file a complaint against another student through the College should notify the Dean of Students, Teresa Winters, who is the Deputy Title IX Coordinator, 413-265-2210 or winterst@elms.edu. You may also file any complaint to the College Title IX Coordinator, the Director of Human Resources, Deb Methe, 413-265-2485, methed@elms.edu. Any student may also contact Elms College Public Safety, 413-265-2278 24 hours a day, 7 days a week.**

For off campus programs you may also contact your program coordinator to make an initial report.