

## VGCC SEXUAL MISCONDUCT ADMINISTRATIVE POLICY DEFINITIONS

1. Consent must be received prior to engaging in sexual activity and shall be defined as affirmative action through clear words or actions that creates the mutual understandable permission of all parties to willingly engage in sexual activity and the conditions of such activity. Consent can only be given by one who has the mental and physical capacity to make such a decision, and it must be clear, knowing, and voluntary. Consent to engage in one form of sexual activity cannot automatically imply to consent to engage in any other form of sexual activity. Previous relationships or prior consent cannot imply consent to future sex acts. Consent can be withdrawn at any time. Consent may not be granted by a person known to be, or by one who should be known to be, mentally or physically incapacitated. It should be recognized that the lack of protest or resistance is not, in and of itself, consent and persons who are asleep, unconscious, or unable to communicate due to a mental or physical condition are not capable of granting consent.
2. Dating Violence is defined as violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.
3. Domestic Violence is defined as asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former co-inhabitant, persons similarly situated under a domestic or family violence law, or anyone else protected under domestic or family law.
4. Hostile Environment shall be defined as unwelcomed conduct, which is severe or pervasive enough to create a work or educational environment that a reasonable person would consider intimidating, hostile, or abusive when such unwelcomed conduct is the result of some illegal discrimination. Offensive conduct may include, but is not limited to: offensive jokes, slurs, epithets, name calling, physical assaults, threats, intimidation, ridicule, mockery, insults, offensive objects or pictures, and interference with work performance or education. Petty slights, annoyances, isolated instances, or environments created by something other than illegal discrimination shall not rise to the level of a Hostile Environment.
5. Illegal discrimination must be severe, pervasive and objectively offensive and shall be defined as
  - a. The failure or refusal to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms,

conditions, or privileges of employment, because of such individual's race, color, religion, sex, gender, disability, age, national origin, or political affiliation;

- b. The limiting, desegregating, or classification of any employee in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, gender, disability, age, national origin, or political affiliation;
  - c. The denial, deprivation, limitation, or any other discrimination against an individual to any educational service or program of the College when the denial, deprivation, limitation, or other discrimination is because of such individual's race, color, religion, sex, gender, disability, age, national origin, or political affiliation;
  - d. Any other action of the College, its personnel, working in their official employment capacity, which is based on an individual's race, color, religion, sex, gender, disability, age, national origin, or political affiliation.
6. Preponderance of the Evidence shall be defined as a finding that a claim or allegation is more likely than not to be true. This term does not refer to the quantity of evidence but rather to the quality of the evidence. It means that the fact finder must be persuaded, considering all the evidence, that the necessary facts to establish the allegation are more likely than not to exist.
7. Rape is defined as non-consensual sexual intercourse, however slight, with any object, by one person upon another person that is without consent and/or done by force.
8. Sex/Gender Discrimination shall be defined as Illegal Discrimination and includes the exclusion of a person from participation in or the denial of a person from the benefits of any VGCC employment, education program, or VGCC activity based upon their sex or gender. Without limiting the definition of Sex/Gender Discrimination, the following are defined as acts of Sex/Gender Discrimination.
9. Sexual Assault is defined as any involuntary sexual act in which a person is threatened, coerced, or forced to engage against their will, or any sexual touching of a person who has not consented. This includes rape (such as forced vaginal, anal, oral penetration), groping, forced kissing, child sexual abuse, or the torture of a

victim in a sexual manner.

10. Sexual Battery shall be defined as an unwanted form of contact with an intimate part of the body that is made for purposes of sexual arousal, sexual gratification, or sexual abuse. Sexual battery may occur whether the victim is clothed or not.
11. Sexual Coercion shall be defined as any act of persuading or coercing a person into engaging in an unwanted sexual activity through physical force, the threat of physical force, or emotional manipulation. It may also include substance coercion. Coercive situations may occur along a continuum and may not be obvious, even to the coerced individual.
12. Sexual Harassment: A request for sexual favors, and other unwelcomed verbal or physical conduct of a sexual nature by an employee or student, constitutes sexual harassment when:
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
  - b. Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting that individual, or
  - c. Submission to or rejection of such conduct by a student is made the basis for decisions concerning a student's grade, academic achievement or progress, or participation in any program, curriculum or activity of the College, or
  - d. Such conduct has the purpose or effect of unreasonably interfering with an individual's performance, or creating an intimidating, hostile or offensive environment.
13. Sexual Misconduct means any unwelcome conduct of a sexual nature, including any conduct or act of a sexual nature perpetrated against an individual without Consent. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by men or by women and it can occur between people of the same or different sex. Sexual misconduct also includes complicity in sexual misconduct. VGCC encourages reporting of all sexual misconduct. Sexual Misconduct includes but is not limited to the following: Dating Violence; Domestic Violence; Non-forcible Sex Acts; Sexual Assault; Sexual Exploitation; Sexual Harassment; and Stalking.

14. Sexual Violence: Refers to a type of sex/gender discrimination involving physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student'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). A number of different acts, as defined below fall into the category of Sexual Violence including: dating violence, domestic violence, rape, sexual assault, sexual battery, sexual coercion, and stalking. Sexual Violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex/gender discrimination prohibited by Title IX, the Board of Trustees, and College Administration.
  
15. Stalking is defined as a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or other's safety, or to suffer substantial emotional distress. Please see section 14-277.3A of the General Statutes for North Carolina's definition of stalking.