

## FEDERAL CLERY/VIOLENCE AGAINST WOMEN ACT (“VAWA”) DEFINITIONS

### Consent

- **University Code of Student Conduct**

Informed consent must be freely and actively given through mutually understandable terms or actions. Attending an artistic or educational event or a class in which nudity occurs and for which advanced notice of nudity has been provided qualifies as informed consent. A person is deemed incapable of giving consent when that person is a minor, mentally disabled, mentally incapacitated, physically helpless, incapacitated through the use of alcohol and/or drugs to the point of being unable to make an informed and rational decision, unconscious or asleep. Informed consent cannot be obtained through physical force, compelling threats, intimidating behavior or coercion. A person always retains the right to revoke consent at any time during a sexual act.

- **Illinois**

A freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.

- **Federal**

Uses state definition.

### Sexual Assault

- **University Code of Student Conduct**

The University Code of Student Conduct does not have a definition of sexual assault. The Code of Conduct defines sexual misconduct and sexual exploitation to include:

Engaging in any act that is sexual in nature and which is committed without the full and informed consent of all persons involved. Examples of sexual behaviors include, but are not limited to any penetration of the mouth, vagina or anus with any body part or other object; contact with a person’s breasts, buttocks, groin or genitals; touching another person with one’s own breasts, buttocks, groin or genitals; any other intentional bodily contact of a sexual nature, or; exposing one’s intimate body parts to another person or persons.

For the purpose of this policy, informed consent must be freely and actively given through mutually understandable terms or actions. Attending an artistic or educational event or a class in which nudity occurs and for which advanced notice of nudity has been provided qualifies as informed consent. A person is deemed incapable of giving consent when that person is a minor, mentally disabled, mentally incapacitated, physically helpless, incapacitated through the use of alcohol and/or drugs to the point of being unable to make an informed and rational decision, unconscious or asleep. Informed consent cannot be obtained through physical force, compelling threats, intimidating behavior or coercion. A person always retains the right to revoke consent at any time during a sexual act. (Alleged violations of this aspect of the policy are processed under Section VIII, E).

- **Illinois**

See specific offenses of criminal sexual assault, criminal sexual abuse described below.

- **Federal**

An offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI’s Uniform Crime Reporting system. A sex offense is any act directed against another person, without the consent of the victim, including instances where the victim if incapable of giving consent.

## Rape

- **University Code of Student Conduct**

See definition of sexual misconduct and sexual exploitation

- **Illinois**

A person commits criminal sexual assault if that person commits an act of sexual penetration and (1) uses force or threat of force; (2) knows that the victim is unable to understand the nature of the act or is unable to give knowing consent; (3) is a family member of the victim, and the victim is under 18 years of age; or (4) is 17 years of age or over and holds a position of trust, authority or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age.

- **Federal**

The 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.

## Fondling

- **University Code of Student Conduct**

See definition of sexual misconduct and sexual exploitation

- **Illinois**

A person commits criminal sexual abuse if that person: (1) commits an act of sexual conduct by the use of force or threat of force; or (2) commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent. For the purpose of this definition, sexual conduct means any knowing touching or fondling by the victim or the accused—either directly or through clothing—of the sex organs, anus or breast of the victim or the accused; or any part of the body of a child under 13 years of age; or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused. The accused commits criminal sexual abuse if the accused was under 17 years of age and commits an act of sexual penetration or sexual conduct with a victim who was at least 9 years of age but under 17 years of age when the act was committed. The accused commits criminal sexual abuse if the accused commits an act of sexual penetration or sexual conduct with a victim who was at least 13 years of age but under 17 years of age and the accused was less than five years older than the victim.

- **Federal**

The touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity

## Incest

- **University Code of Student Conduct**

See definition of sexual misconduct and sexual exploitation

- **Illinois**

A person commits sexual relations within families if he or she: (1) commits an act of sexual penetration; and (2) the person knows that he or she is related to the other person as follows: (i) brother or sister, either of whole blood or the half-blood; or (ii) father or mother, when the child, regardless of legitimacy and regardless of whether the child was of the whole blood or half-blood or was adopted, was 18 years of age or over when the act was committed; or (iii) stepfather or stepmother, when the stepchild was 18 years of age or over when the act was committed; (iv) aunt or uncle, when the niece or nephew was 18 years of age or older when the act was committed; (v) great-aunt or great-uncle, when the grand-niece or grand-nephew was 18 years of age or older when the act was committed; (vi) grandparent or step-grandparent, when the grandchild or step-grandchild was 18 years of age or older when the act was committed

- **Federal**

Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law

## Statutory Rape

- **University Code of Student Conduct**

See definition of sexual misconduct and sexual exploitation

- **Illinois**

In Illinois there is not a crime called statutory rape. The elements of this offense are contained within the criminal sexual abuse laws. Specifically the accused commits criminal sexual abuse if the accused was under 17 years of age and commits an act of sexual penetration or sexual conduct with a victim who was at least 9 years of age but under 17 years of age when the act was committed. The accused commits criminal sexual abuse if the accused commits an act of sexual penetration or sexual conduct with a victim who was at least 13 years of age but under 17 years of age and the accused was less than five years older than the victim.

The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual penetration or sexual conduct with a victim who was at least 13 years of age but under 17 years of age and the accused was at least five years older than the victim.

- **Federal**

Non-forcible sexual intercourse with a person who is under the statutory age of consent

## Domestic Violence

- **University Code of Student Conduct**

The University Code of Student Conduct does not have a definition of domestic violence. Examples of domestic violence behavior can be found within the definitions for physical violence and threatening and intimidation. Examples include:

- a. intentionally or recklessly causing physical harm, or attempting to cause harm, to another person or persons.
- b. intentionally or recklessly endangering the health or safety of any persons by creating a situation where such harm is foreseeable and/or likely.
- c. threatening to subject another person to physical harm or unwanted physical contact that causes a reasonable fear of injury to the health or safety of any person or damage to any property.
- d. engaging in any action that is unwanted and results in a reasonable fear for imminent bodily harm and/or the emotional/mental disruption of a person's daily life or educational environment.
- e. engaging in any acts of intimidation that unreasonably impair the security or privacy of another person.
- f. following another person in or about a public place or places such that it creates a reasonable fear for a person's health or safety.

- **Illinois**

Physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation, but does not include reasonable direction of a minor child by a parent or person In Loco Parentis.

- **Federal**

Felony or misdemeanor crimes of violence committed: (i) by a current or former spouse or intimate partner of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (v) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

## Dating Violence

- **University Code of Student Conduct**

The University Code of Student Conduct does not have a definition of dating violence. Examples of dating violence behavior can be found within the definitions for physical violence and threatening and intimidation above.

- **Illinois**

The Illinois criminal code includes an offense of teen dating violence that is defined as a pattern of (1) behavior in which a person uses or threatens to use physical, mental or emotional abuse to control another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age; or (2) behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age

- **Federal**

Violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim and (2) the existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

## Stalking

- **University Code of Student Conduct**

The University Code of Student Conduct does not have a definition of stalking. Examples of stalking behaviors can be found within the definition of threatening and intimidation.

- a. threatening to subject another person to physical harm or unwanted physical contact that causes a reasonable fear of injury to the health or safety of any person or damage to any property.
- b. engaging in any action that is unwanted and results in a reasonable fear for imminent bodily harm and/or the emotional/mental disruption of a person's daily life or educational environment.
- c. engaging in any acts of intimidation that unreasonably impair the security or privacy of another person.
- d. following another person in or about a public place or places such that it creates a reasonable fear for a person's health or safety. For the purpose of his policy, such behavior can be considered threatening and or intimidating whether this behavior takes place in person, through third parties, or by any remote means, including electronic and online communication.

- **Illinois**

A person commits stalking when knowingly engaging in a course of conduct directed at a specific person, that knows or should know would cause a reasonable person to: (i) fear for his/her safety or the safety of a third person; or (ii) suffer other emotional distress. A person commits stalking when he or she, knowingly and without lawful justification, on at least two separate occasions follows another person or places the person under surveillance or any combination thereof and: (i) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint to an individual or their family member; or (ii) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to an individual or their family member.

A person also commits stalking when he or she has previously been convicted of stalking another person and knowingly does either of the above activities.

- **Federal**

(1) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (i) fear for the person's safety or the safety of others; or (ii) suffer substantial emotional distress. (2) For the purposes of this definition (i) course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device or means follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person's property. (ii) Substantial emotional distress means significant mental suffering or anguish that may, but may not necessarily, require medical or other professional treatment or counseling. (iii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.