



Appendix F – Statements on Violence, Consent, and Incapacitation

I. Statement on Violence

Drexel University promotes a safe and inclusive environment where violence in any form is not tolerated. Accordingly, responding to violence with violence may also constitute a violation of this Policy, unless such violence is committed in necessary, proportional self-defense.

II. Statement on Consent and Coercion

Engaging in sexual activity without consent violates University policy and may result in criminal and/or civil liability.

For purposes of this Policy, **consent is a freely and affirmatively communicated** willingness to participate in sexual activity or behavior, expressed either by words or clear, unambiguous action. Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. For this reason, relying on non-verbal communication can lead to misunderstandings.

Consent must be present throughout the sexual activity. At any time, a participant can communicate that they no longer consent to continuing the activity. If at any time it is reasonably apparent that either party is hesitant, confused, or uncertain, sexual activity should stop unless and until mutual verbal consent to continue is given. If there is continued confusion or a question as to whether any participant has consented or continues to consent to sexual activity, it is essential that the participants stop the activity to clearly resolve the confusion or question. Once withdrawal of consent has been expressed, sexual activity must cease.

The existence of a **current or previous dating relationship** between the persons involved is **not sufficient**, by itself, to provide the basis for an assumption of consent. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity.

Consent is not effective if it results from the **use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise their own free will** to choose whether to have sexual contact.

Coercion includes the use of pressure and/or oppressive behavior, including express or implied threats of harm, severe and/or pervasive emotional intimidation, which places an individual in fear of immediate or future harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct amount to coercion if they wrongfully impair the other's freedom of will and ability to choose whether to engage in sexual activity.

III. Statement on Incapacitation and Alcohol or Other Drugs

An individual who is incapacitated is not able to make rational, reasonable judgments and therefore is incapable of giving consent.

Incapacitation is the inability, temporarily or permanently, to give consent, because the individual is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, or the individual is unconscious, asleep or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if they demonstrate that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Where alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, being unaware of circumstances or surroundings, or being unable to communicate for any reason. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication.

The University considers sexual contact while under the influence of alcohol or other drugs to be risky behavior. Alcohol and/or drugs may impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. From the perspective of the Complainant, the use of alcohol or drugs can limit a person's ability to freely and clearly give consent. From the perspective of a Respondent, the use of alcohol or drugs can create an atmosphere of confusion over whether consent has been freely and clearly sought or given. The perspective of a reasonable person will be the basis for determining whether a Respondent should have been aware of the extent to which the use of alcohol or drugs impacted a Complainant's ability to give consent.

There may be circumstances where an individual while under the influence of drugs and/or alcohol appears to have the ability to give consent at the time of a sexual encounter but later due to a condition known as "Blackout" is unable to recall or remember the details of such an encounter. In determining whether that individual appeared to have the ability to give consent, the reasonable person standard described above will still control.

Being intoxicated or impaired by drugs or alcohol is never an excuse for Prohibited Conduct and does not diminish one's responsibility to obtain consent to engage in sexual activity.