

# VAWA Sexual Harassment and Sexual Violence Awareness Program

- \* Orion College is committed to creating and maintaining a community where all individuals who participate in the College's programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation. Every member of the community should be aware that the College prohibits sexual harassment and sexual violence including dating violence, domestic violence, sexual assault and stalking, and that such behavior violates both law and school policy. The College offers this awareness program in compliance with Clery Act Disclosure regulations.

# Title IX and the Violence Against Women Act (VAWA) Primary Prevention & Awareness Training

- \* **Title IX Language:**

“No person in the United States shall on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.” (Title IX of the Educational Amendment of 1972 - 32 C.F.R. § 106.31)

## **Who Does Title IX and VAWA Apply To?**

- Everyone - Students faculty, staff, visitors, volunteers, vendors
- Women, men, boys, girls

## **What?**

- Sexual misconduct - sexual harassment, sexual violence, dating and/or domestic violence, stalking
- Gender-based harassment

## **Where or When?**

- On Campus, off campus
- If it causes discrimination that impacts institutional programs and activities regardless of location

## \* **Statement of Policy**

- \* This institution prohibits discrimination, harassment, sexual misconduct, domestic and dating misconduct, and stalking, by or against any student or employee that occurs on the institution's premises or in connection with a sponsored activity. This also applies to off-campus conduct that unreasonably interferes with the educational or orderly operation of the institution, its mission, or its objectives and off campus conduct that, in light of all of the facts and circumstances, would endanger the health and safety of the institutions community.

## Understanding what Constitutes Sexual Misconduct helps us to:

- Avoid behavior's that violate another person's boundaries
- Know when your boundaries have been violated
- Recognize when someone needs help or should be held accountable for misconduct
- Know when to report a concern

- Sexual violence
- Sexual assault
- Rape/ Acquaintance rape
- Sexual exploitation
- Stalking
- Dating violence
- Domestic violence
- Sexual harassment
- Gender-based harassment
- Hostile environment
- Unwelcome conduct
- Consent
- Bystander intervention
- Notice
- Confidentiality
- Retaliation
- Complainant's rights
- Resources and Response

# Definitions

## Sexual Misconduct

- Sexual misconduct encompasses a spectrum of sexual violations and gender based violence inclusive of sexual harassment, dating violence, domestic violence, rape, sexual assault, and stalking.
- These violations may occur between strangers or acquaintances, people involved in an intimate or sexual relationship, and people of the same or different sex.
- These violations may be committed by men or by women and against men or women.

## Hostile Environment

- Hostile environment is the term used to understand the impact of sex-based harassment (any form of sexual misconduct).
- An analysis for hostile environment requires examination of the conduct from a subjective and objective perspective:
  - Was the conduct unwelcome?
  - Would a reasonable person in the complainant's position perceive the conduct as undesirable or offensive?
- Factors to consider include:
  - Type, frequency, duration of conduct
  - Relationship of people involved
  - Number of people involved
  - Location of conduct and context in which it occurred
  - Degree to which the conduct affected one or more people

# Definitions

## Sexual assault

- Sexual assault is actual or attempted physical contact of a sexual nature against someone's will or without their consent.
- This includes but is not limited to:
  - Intentional sexual contact with another person without that person's consent; or
  - Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate body parts without that person's consent.
  - Rape of another individual. **Rape** is defined as 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 consent of the victim

## Consent

- Consent is an agreement, approval, or permission as to some act or purpose that is given knowingly, willingly, and voluntarily by a competent person.
- Lack of consent results from: forcible compulsion or incapacity to consent, or if the offense charged is sexual abuse, any circumstances in addition to the forcible compulsion or incapacity to consent in which the victim does not expressly comply.
- A person is deemed incapable of consent when that person is either less than sixteen years old, mentally incapacitated, or physically unable to resist.
- Silence by itself, cannot constitute consent.

# Definitions

## Stalking

- Stalking is behavior in which a person repeatedly engages in conduct directed at a specific person that places that person in reasonable fear of his/her safety or the safety of others
- “Credible threat” means a threat of bodily injury made with the apparent ability to carry out the threat and with the result that a reasonable person would believe that the threat could be carried out.
- Stalking may include but is not limited to:
  - » Excessive communications via text message, email, phone, social media, etc.
  - » Showing up often in places where the target plans to be or tends to frequent
  - » Inappropriate knowledge or awareness of the target’s schedule or past activities
  - » Anger or aggression when told to stop a stalking behavior or denied access to the target of the stalking target



# Definitions

## **Domestic Violence**

Domestic Violence or Abuse means the occurrence of one or more of the following acts between family or household members:

- (1) Attempting to cause or intentionally, knowingly or recklessly causing physical harm to another with or without dangerous or deadly weapons;
- (2) Placing another in reasonable apprehension of physical harm;
- (3) Creating fear of physical harm by harassment, stalking, psychological abuse or threatening acts;
- (4) Committing either sexual assault or sexual abuse; and
- (5) Holding, confining, detaining or abducting another person against that person's will.

## **Family or household members** means:

- persons who are or were married to each other;
- are or were living together as spouses;
- are or were sexual or intimate partners;
- are or were dating (a casual acquaintance or ordinary fraternization between persons in a business or social context does not establish a dating relationship);
- are or were residing together in the same household; have a child in common regardless of whether they have ever married or lived together;
- persons related by blood or marriage; or have the relationships by blood or marriage to a family or household member.

# Definitions (continued)

## **Dating violence**

- Dating violence is a crime of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.

## \* Bystander Intervention

- A bystander is someone other than the victim who is present when an act of sexual misconduct is occurring in which a reasonable person feels as though some protective action is required.
- You could be a bystander.
- Bystanders, if active, can prevent harm or intervene before a situation gets worse.
- Bystanders play a crucial role in preventing and responding to sexual misconduct.
- If it is safe to do so, create a distraction or intervene while additional help can be contacted.
- If it is not safe to create a distraction or otherwise intervene, get help immediately by calling campus personnel or local police.
- Identify yourself to police as a witness and provide your contact information.
- Support complainants by refraining from victim blame and by holding perpetrators accountable.
- Speak up when you hear people making inappropriate jokes or comments or incorrect statements about sexual misconduct and consent.

## Risk Reduction

- \* Anyone can be sexually assaulted, and there are no sure means to prevent sexual assault. However, steps can be taken to reduce the likelihood that you or someone you know will be assaulted or will assault someone.

### Reduce the Risk of Committing Sexual Assault

1. Listen carefully. Take time to hear what the other person has to say. If you feel they are not being direct or are giving you a “mixed message” ask for clarification.
2. Don’t fall for the cliché “if they say no, they really mean yes.” If your partner says “no” to sexual contact, believe them and stop. If they seem uncomfortable or uncertain, stop and check in. It is never acceptable to force sexual activity, or to pressure, coerce, or manipulate someone into having sex, no matter the circumstances.
3. Don’t make assumptions about a person’s behavior. Don’t assume that someone wants to have sex because of they way they are dressed, they drink (or drink too much), or agree to go to your home/room. Don’t assume that if someone has had sex with you before they are willing to do so again. Also don’t assume that if your partner consents to kissing or other sexual activities, they are consenting to all sexual activities. Obtain clear consent for each sexual activity.
4. Be aware that having sex with someone who is mentally or physically incapable of giving consent is rape. If you have sex with someone who is drugged, intoxicated, passed out, or is otherwise incapable of saying no or knowing what is going on around them, you may be guilty of rape.
5. Remember sexual assault is a crime punishable via campus conduct, criminal, and civil proceedings.
6. Be careful in group situations; resist pressure from friends to participate in violent acts.
7. Get involved if you believe that someone is at risk. If you see someone in trouble or someone pressuring another person, don’t be afraid to intervene or get help to do so.

## Risk Reduction (cont.):

### \* Reduce the Risk of Being Sexually Assaulted

1. Know your sexual intentions and limits. You have the right to say “NO” to any unwanted sexual contact. If you are uncertain of what you want, ask your partner to respect your feelings.
2. Communicate with your partner. Do not assume that someone will automatically know how you feel or will eventually “get the message” without you having to say anything. Just as it’s okay to say “NO” to unwanted activities, it’s okay - and important - to give clear consent to activities you would like to engage in. Avoid giving “mixed messages”; back up your words with a firm voice and clear body language (e.g., if you consent, give a big smile and say “YES!”).
3. Remember that some people think that drinking, dressing provocatively, or going to your or someone else’s home/room is saying you are willing to have sex. Be clear up front about your limits in such situations.
4. Listen to your gut feelings. If you feel uncomfortable or think you might be at risk, leave the situation immediately and go to a safe place.
5. If you feel you are being pressured or coerced into sexual activity, you have a right to state your feelings &/or leave the situation. If you are concerned about the other person becoming angry, it is okay to make up an excuse to leave or create time to get help.
6. Attend large parties with friends you trust. Agree to “look out” for one another. Leave with the group, not alone. Avoid leaving with people that you don’t know very well.

# Duty to Report

## Responsible Employees

All responsible employees must report any information of sexual misconduct to the Title IX officers and the Campus President.

## Responsible employees include:

- Director of Compliance and Curriculum Development
- The Dean of Academics
- The Campus President

## Reports assist the institution with:

- Keeping an accurate record of the number of reported incidents
- Determining any pattern of sexual misconduct regarding a particular location, method, or offender
- Alerting the campus community to potential danger(s)
- Initiating an investigation/ hearing/ review process when appropriate

## If you are questioning whether to report something, assume:

- Every report must be processed even if it appears unreasonable on its face
- Prejudgment is not acceptable regardless of reasonableness of conduct
- Unreasonable complaints will still require sufficient documentation to support discharge of claim
- Multiple reports without sufficient information may cumulatively permit a comprehensive investigation and response
- Retaliation will not be tolerated.

## \* Confidentiality

**Disclosure of any amount of information will be considered notice / a complaint:**

Based on the nature of the report, the institution will investigate and respond and may be obligated to do so with or without the complainant's involvement.

- Will be maintained to the extent possible
- Cannot be assured to a complainant or witness
- Will not be maintained where there is an obligation to assure community safety through a continued investigation.

While limits on confidentiality may be alarming to victims, their concerns can be mitigated by:

- taking appropriate steps to assure safety
- assuring regular updates
- allowing the victim to choose their own level of participation
- discussing our zero tolerance retaliation policy

## \* Retaliation

Retaliation is harassing behavior or negative consequences targeted at a complainant or witness by the accused or by others either on behalf of or due to affiliation with the accused.

The institution prohibits retaliation against any individual who in good faith makes a complaint or assists a complainant in the filing of sex discrimination, sexual harassment, or sexual misconduct or participates as a witness in a proceeding.

Victims and the accused must be made aware that retaliation will not be tolerated.

- Victims and witnesses should contact the Campus President or Security Director if they fear for their immediate safety.
- Victims and witnesses should contact the Campus President or the Security Director if they experience or suspect retaliatory behavior.
- Accused individuals must have a clear understanding that retaliation includes conduct by others on their behalf.



# Investigation Process

## Investigation Process

### After receiving a report of sexual misconduct the institution will:

- Promptly investigate the report (independent of law enforcement)
- Conduct fair, unbiased, and objective investigations
- Take appropriate steps to resolve the situation
- Identify actions to prevent recurrence of similar incidents in the future

## Clery Warnings

- Timely warnings are required for serious and continuing threats
- Emergency notifications are required for any immediate threats

## The Investigation

- Investigation will be adequate, reliable and impartial
- Standard of Review: More likely than not that an act occurred based on a preponderance of the evidence.
- Interim measures: Will be considered throughout the process

# Common Victim/Survivor Responses

Responses following sexual or interpersonal victimization vary widely and may not look like victimization. Some common responses may include but are not limited to:

- Self blaming
- Attempting to have a normal relationship with the perpetrator
- Minimizing the experience
- Changing thoughts (and statements) about the perpetrator's actions over time
- Seeking corrective sexual or intimate experiences with the perpetrator or others
- Acting out sexually and/or engaging in other high risk behaviors
- Isolating
- Self harming
- Engaging in social activism to combat sexual violence
- Seeking revenge or experiencing revenge fantasies
- Experiencing a range of emotions including fear, sadness, shame, anger, and aggression

Note: Trauma impacts how we think and organize information . Anyone can become a victim although perpetrators tend to target people who are emotionally or physically vulnerable, submissive, distracted, and/or unlikely to report victimization.

# Resources

- “Not Alone: The First Report of The White House Task Force to Protect Students From Sexual Assault,” April 2014 ([http://m.whitehouse.gov/sites/default/files/docs/report\\_o.pdf](http://m.whitehouse.gov/sites/default/files/docs/report_o.pdf))
- “Questions and Answers on Title IX and Sexual Violence,” United States Department of Education, April 2014 (<http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>)
- “Dear Colleague Letter,” United States Department of Education Office for Civil Rights, April 4, 2011 (<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>)
- “Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties,” United States Department of Education Office for Civil Rights, January 19, 2001 (<http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>)
- NotAlone.Org: <https://www.notalone.gov/resources/>
- National Sexual Assault Hotline: 1-800-656-HOPE