

Sexual Assault and Relationship Violence Policy

Johnson & Wales University prohibits sexual assault and relationship violence, which may include dating violence, domestic violence, stalking and sexual exploitation. These offenses constitute violations of university policy, including the Prohibited Discrimination and Harassment (including Sexual Harassment) Policy, the Policy Governing Reporting of Misconduct and Whistleblowing, and Student Code of Conduct. These offenses can also constitute violations of state and federal laws and may constitute a violation of the university's Title IX Policy and Procedures.

The university provides proceedings and resources for community members affected by sexual assault and relationship violence (see Getting Help), and offers programming designed to educate the community and prevent the occurrence of such offenses (see Education and Prevention).

Definitions

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

Domestic violence means crimes of violence committed

- by a current or former spouse or intimate partner of the victim;
- by a person with whom the victim shares a child in common;
- by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- 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
- 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

Sexual assault means any sexual act directed against another person, by force, threat of force, coercion or without consent, including instances where the person is incapable of giving consent. Sexual assault includes rape, fondling, incest and statutory rape.

Fondling means the touching (with a hand or any other part of the body) of another person's clothed or unclothed sex organs, breasts, groin, buttocks or anus for the purpose of sexual arousal, sexual gratification or abuse, without consent of the person, including instances where the person is incapable of giving consent. Fondling also includes being forced to touch (with a hand or any other part of the body) another person's clothed or unclothed sex organs, breasts, groin, buttocks or anus, without consent, including instances where the person is incapable of giving consent.

Consent means conduct that signifies through words or behaviors that the parties have indicated agreement to engage in sexual activity.

- Past consent does not imply future consent.
- Silence or absence of resistance, by itself, does not imply consent.
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- Consent can be withdrawn at any time.
- Coercion, force or threat of force invalidates consent.

Coercion means express or implied threats of any harm that would place a reasonable individual in fear of immediate or future harm and that is employed to make someone engage in sexual activity.

Force means the actual use or threat of physical violence that is employed to make someone engage in sexual acts.

Incapable of giving consent means that because of the person's age or temporary or permanent mental incapacity they cannot give intelligent, knowing and voluntary consent. Where it is determined that the complainant was incapable of giving intelligent, knowing and voluntary consent, the respondent will be held responsible only if it is determined that the respondent either knew or a reasonable person in the same

position would have known that the complainant was incapable of giving intelligent, knowing and voluntary consent.

Incest means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Rape means 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 consent, including instances where the person is incapable of giving consent.

Statutory rape means sexual intercourse with a person who is under the statutory age of consent.

Sexual exploitation means taking sexual advantage of another individual's nudity or sexuality without consent and includes, but is not limited to,

- causing, or attempting to cause, the incapacitation of another person in order to make that person vulnerable to sexual acts;
- recording or photographing of private sexual activity and/or an individual's intimate parts (including genitalia, groin, breasts or buttocks);
- dissemination, streaming or posting of recordings, photos or other images of an individual's sexual acts and/or intimate parts (including genitalia, groin, breasts or buttocks);
- voyeurism (watching or taking pictures, videos or audio recordings of another person engaging in sexual acts);
- allowing third parties to observe private sexual acts;
- knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection or virus; and/or
- exposing one's genitals to another individual

Stalking means a course of conduct directed at a specific person that would cause a reasonable person to

- fear for the person's safety or the safety of others; or
- suffer substantial emotional distress

Course of conduct means two or more acts, including, but not limited to, acts in 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.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

If there is reason to believe that Johnson & Wales University's rules prohibiting sexual assault and relationship violence have been violated, either on or off campus, the administration will review and, when appropriate, will pursue disciplinary action through the university's Title IX Policy and Procedure or the Conduct Review Process, Human Resources & Payroll, and/or through any other available proceedings. When an individual accused of this behavior is not a member of the university community, the university will determine the appropriate response depending upon the nature of the individual's relationship with the university and other factors.

In considering these offenses, JWU will, if required by law, refer to applicable state law.

See additional information:

- Education and Prevention
- Steps to Follow
- Getting Help
- Criminal and Disciplinary Action
- Retaliation
- State Laws