
Sexual Misconduct

POLICY STATEMENT

The College does not tolerate sexual misconduct. This policy explains what conduct is prohibited, how the College responds to such misconduct, what resources are available to victims and how victims may file a complaint.

SCOPE

All Employees and Students

PROCEDURE

Prohibited Conduct

The College prohibits all forms of sexual misconduct by students and employees, whether perpetrated by a stranger or acquaintance, whether occurring on or off campus, and whether directed against a member of the College community or against someone outside the community. Such behavior will result in College discipline and may also be a criminal violation.

Prohibited conduct ranges from acts of non-consensual sexual intercourse and non-consensual sexual contact, to sexual misconduct including, but not limited to, harassment of a sexual nature, sexual exploitation, stalking, relationship violence, voyeurism, exposure, video or audio taping of sexual activity, and sexual activity resulting from emotional coercion. The College may also discipline students and employees for inappropriate sexual behavior and forms of sexual misconduct that are not specifically listed here.

Active consent is needed to engage in sexual activity. For the purpose of this policy, consent is informed, freely and actively given, mutually understandable words or actions that indicate a willingness to participate in a mutually agreed upon sexual activity. It is incumbent upon both parties to both obtain and give active consent prior to any sexual activity. Consent may never be given by those not yet eighteen years of age, those who are incapable of giving informed consent as a result of alcohol or other drug consumption (voluntary or involuntary), those who are mentally incompetent, those with impairments to reasoning or judgment, or those who are unconscious,

unaware or otherwise physically helpless. Effective consent may never be obtained as a result of coercion, intimidation, threat of force or force.

Any student or employee of the College found responsible for violating this policy is subject to disciplinary action. Complaints of alleged dating violence, domestic violence, sexual assault or stalking shall be handled according to the procedures specified in Policy 10.05 Student and Employee Grievances Based on Discrimination, Harassment, Sexual Misconduct or Retaliation. Complaints of sexual discrimination including sexual harassment described in Policy 10.08 Prohibited Harassment may also be filed using procedures in Policy 10.05 Student and Employee Grievances Based on Discrimination, Harassment, Sexual Misconduct or Retaliation. Disciplinary action may be taken regardless of whether criminal charges have been filed and without regard to whether the conduct occurred on or off the College campus.

DEFINITIONS

Sexual Assault

Sexual assault is any type of sexual contact or behavior that occurs by force or without consent of the recipient of the unwanted sexual activity. Included within this broad term are rape, attempted rape, statutory rape and incest, and, where active consent is absent, groping, forced kissing, sodomy, sexual assault with an object and fondling.

Stalking

Stalking is engaging in a course of behavior, directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. Stalking includes unwanted and repeated harassing behavior, such as following a person; appearing at a person's home, class or work; making frequent phone calls, emails, text messages, social media, etc.; continuing to contact a person after receiving requests not to; leaving written messages, objects or unwanted gifts; vandalizing a person's property; and threatening, intimidating or intrusive behavior.

Relationship Violence (including Dating Violence and Domestic Violence)

The College prohibits all forms of relationship violence and abuse.

Dating violence consists of 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 by the victim with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Relationship violence includes sexual or physical abuse or the threat of such abuse.

Domestic violence consists 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 Arizona law; or by any other person against an adult or youth victim who is protected from that person's acts under Arizona law.

In addition to dating violence and domestic violence, relationship violence includes any pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other partner. Relationship violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person.

Filing a Complaint Under Policy 10.5

A victim of sexual misconduct may file a complaint using procedures under Policy 10.05 Student and Employee Grievances Based on Discrimination, Harassment, Sexual Misconduct or Retaliation with:

- Title IX Coordinator for sexual misconduct incidents (928) 776-2211 Monica Belknap monicabelknap@yc.edu
- Director of Human Resources

You will be offered advice and assistance to ensure that the College responds appropriately. The College may still take action in the absence of a formal complaint from a victim.

Reports of misconduct or discrimination against the Title IX Coordinator should be reported to the College Vice President for Instruction and Student Development.

Employees and students who have been the victims of sexual misconduct also have the option of reporting the misconduct to local law enforcement officials (Call 911) or to Campus Police (928-776-2185). Victims are not, however, required to report such conduct to law enforcement.

Victims of sexual misconduct should take care to preserve evidence of the misconduct. For example, victims should not shower, otherwise clean themselves before reporting the misconduct, wash their clothing or bedding, etc.

Filing a Criminal Complaint with College Police/Security Department or Local Police

If a student chooses to report a sexual assault to the College Police (which is not required), the Police will conduct an investigation and assist the victim to file criminal charges against the alleged offender if he or she chooses. The College Police will also help in obtaining protective restraining orders and abuse prevention orders for relationship/domestic violence incidents. If the incident occurred off campus, the College Police will assist the victim in informing the appropriate municipal police department if he or she so desires.

Resources

The College is committed to providing support and assistance to victims as well as taking active measures to help assure the physical and emotional well-being of victims. A number of resources are available to assist victims of sexual misconduct. See link:

<https://www.yc.edu/v5content/student-services/sexualmisconduct.htm>

College Response to Crimes and Misconduct

The College recognizes the importance of offering victims of sexual misconduct immediate treatment, counseling, support, and assistance. In addition, appropriate interim measures to help assure the safety and well-being of the victim will be offered. Consideration of the victim's wishes will be taken into account throughout the process. The College may, however, have a legal obligation to investigate allegations of sexual misconduct, even without the cooperation of the victim.

When a student or employee reports that he or she has been the victim of dating violence, domestic violence, sexual assault or stalking, the student or employee will be provided with a written explanation of the student or employee's rights and options, including types of court orders that may be available. See link:

<https://www.yc.edu/v5content/student-services/sexualmisconduct.htm>

Victims of sexual misconduct or those who have been threatened with such misconduct may be entitled to obtain orders from civil or tribal courts to prevent violence.

When sexual misconduct of any kind is reported, the College will make all reasonable efforts to preserve confidentiality. Information will be restricted to those with a legitimate need for it. The College does not include the names or other identifying information of victims in any publicly available documents. If other policy violations have occurred in connection with an assault, such as alcohol or substance use, the College generally will not pursue disciplinary actions against the complainant or against student witnesses to the misconduct. The College will make every reasonable effort to resolve a complaint as promptly as possible, respecting the rights of all involved.

If the complainant proceeds with both a disciplinary complaint and a criminal complaint, the College conduct process will normally proceed while the criminal action is in process. However, in such cases, the Dean of Student Development may elect to delay the disciplinary process if a student is summarily suspended and the criminal matter remains open.

Where a victim may need a change in his or her academic, living, transportation or working situation, and it is within the power of the College to do so, the College will reasonably accommodate the victim's needs.

Filing a Complaint with State or Federal Offices

RIGHT TO MAKE COMPLAINTS TO OUTSIDE AGENCY

In addition to use of the College's internal procedures, College employees and students have the right to file claims of discrimination, harassment, or retaliation with outside agencies. A Complainant should verify the timeframe for filing a complaint with the applicable agency.

External agencies include:

United States Department of Education
Office for Civil Rights (OCR)
1244 Speer Blvd., Suite 310
Denver, Colorado 80204
Phone: (303) 844-5695
Fax: (303) 844-4303
Email: OCR.Denver@ed.gov

The Office of the Arizona Attorney General
Civil Rights Division (ACRD)
402 W. Congress Street, Suite S215
Tucson, Arizona 85701-1367
Phone: (520) 628-6500
TDD: 628-6872

The United States Equal Employment Opportunity Commission
(EEO/AA/ADAC)
3300 N. Central Avenue, Suite 690
Phoenix, Arizona 85012
Phone: (602) 640-5000
Phone: (800) 669-4000
TTY: (800) 669-6820
Fax: (602) 640-50717

Interim Measures

Summary Suspension or other Measures

In situations where the alleged offender may pose a threat to the safety of the victim or others, the Dean of Student Development and/or the Director of Human Resources may impose on the alleged offender a summary suspension from the College, pending final resolution of the matter. Employees may, after consultation with the President, be subject to action including, but not limited to, placement on administrative leave with pay pending resolution.

Other Interim Measures

Where appropriate, the College will provide:

- Assistance with emergency rape crisis treatment and emergency medical services, including accompany the survivor to the hospital or to the police.
- Guidance and support with filing charges through the College's disciplinary system and/or through the criminal justice process.
- Referral to other forms of assistance as appropriate, including counseling, medical assistance and pastoral care.
- Assistance in contacting community resources.
- Assistance in contacting the appropriate police department

Retaliation

Students and employees are prohibited from retaliation, intimidation, threats, coercion or other discrimination against any individual for exercising that individual's rights or responsibilities under this policy. Any such acts of discrimination should be reported to the Title IX Coordinator for sexual misconduct incidents or the Director of Human Resources.

RELATED INFORMATION

Sexual Misconduct Resources & Policy
Title IX: US Department of Education

POLICY HISTORY

Adopted 9/2/2014
Renumbered from 4.01 to 10.7 02/2017
Revised 03/21/2017
Renumbered from 10.7 to 10.07 on 05/04/2018
