



Summary of Prohibited Conduct and College Policy & Procedures Office of Equity & Compliance

Hutchinson Community College Policy:

Sexual misconduct, including sexual harassment, sexual violence, sexual exploitation, intimate partner violence, and stalking are violations of the College's *Equal Opportunity, Harassment, and Nondiscrimination Policy and Procedures*. A number of federal laws and regulations, including Title IX, the Violence Against Women Act (VAWA), and the Clery Act mandate how institutions respond to such allegations. Many types of sexual misconduct also constitute violations of Kansas law.

Members of the campus community, guests, and visitors have a right to be free from sexual misconduct. All members of the community must conduct themselves in a way that does not infringe upon the rights of others. The College's policy is intended to define expectations for appropriate conduct and outline resolution processes to address conduct that does not meet these expectations. When individuals accused of sexual misconduct are found to be in violation of the policy, the College will impose sanctions, as noted in this guide.

All members of the campus community, guests, and visitors are protected by this policy regardless of their sexual orientation or gender identity. The College has jurisdiction over all acts of sexual misconduct involving members of the campus community, no matter where they occur, whether on- or off-campus, when such incidents have an impact on the educational and/or work environment. For more information about this policy, please visit [Equal Opportunity, Harassment, and Nondiscrimination Policy and Procedures](#).

Additional information about campus crime, state laws, and disclosures related to sexual misconduct can be found online in the College's [Annual Security Report](#).

Sexual Misconduct Violations:

The following are definitions of sexual misconduct prohibited by the above-referenced policy.

Sexual Harassment

Sexual harassment is:

- unwelcome
- sexual, sex-based, and/or gender-based verbal, written, online, and/or physical conduct.

Hostile Environment

A hostile environment is created when sexual harassment is:

- sufficiently severe, or
- persistent or pervasive, and
- objectively offensive that it:
 - unreasonably interferes with, denies, or limits someone's ability to participate in or benefit from the institution's educational and/or employment, social, and/or residential program.

Sanctions range from warning through expulsion/termination.

Non-Consensual Sexual Intercourse

Non-consensual sexual intercourse is:

- any sexual penetration or intercourse
- however slight,
- with any object,
- by a person upon another person,
- that is without consent and/or by force.

Sanctions typically result in suspension or expulsion/termination.

Non-Consensual Sexual Contact

Non-consensual sexual contact is:

- any intentional sexual touching,
- however slight,
- with any object,
- by a person upon another person,
- that is without consent and/or by force.

Sanctions range from warning through expulsion/termination.

Sexual Exploitation

- Occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and
- that the behavior does not otherwise constitute one of the other sexual misconduct offenses.

Sanctions range from warning through expulsion/termination.

Intimate Partner Violence

Intimate partner violence is:

- violence or emotional and/or psychological abuse between those in an intimate relationship toward each other;
- which includes those in a romantic relationship, dating, domestic, and/or relationship violence.

Sanctions range from warning through expulsion/termination.

Stalking

Stalking is:

- a course of conduct directed at a specific person,
- on the basis of actual or perceived membership in a protected class,
- that is unwelcome, and,

- would cause a reasonable person to feel fear.

Sanctions range from warning through expulsion/termination.

Stalking also occurs if:

- repetitive and menacing
- pursuing, following, harassing, and/or interfering with the peace and/or safety of another.

Sanctions typically result in suspension or expulsion/termination.

Retaliation

Retaliation is:

- any adverse action taken against a person participating in a protected activity,
- because of that person's participation in that protected activity.
 - subject to limitations imposed by the First Amendment and/or academic freedom

Sanctions range from warning through expulsion/termination.

Consent:

Consent is knowing, voluntary, and clear permission, through word or action, to engage in mutually agreed upon sexual activity or contact.

Since different people may experience the same interactions differently, each party is responsible for making sure that their partner(s) has provided ongoing, clear consent to engage in any sexual activity or contact.

A person may withdraw consent at any time during sexual activity or contact through words or actions. If that happens, the other party must immediately cease the activity or contact. Pressuring another person into sexual activity can constitute coercion, which is also considered to be sexual misconduct and a violation of College policy.

Silence or the absence of resistance alone does not constitute consent. A victim is not required to resist or say "no" for an offense to be proven.

Consent to some forms of sexual activity (e.g., kissing, fondling, etc.) should not be construed as consent for other kinds of sexual activities (e.g., intercourse).

Being or having been in a dating relationship with the other party does not mean that consent for sexual activity exists.

Previous consent to sexual activity does not imply consent to sexual activity in the future.

To legally give consent in Kansas, individuals must be at least 16 years old.

Force

Force is defined as direct or indirect use of physical violence and/or imposing physically on someone to gain sexual access. Force, unless part of a mutually-permissible kink, is a clear demonstration of a lack of consent.

Incapacitation

Incapacitation is defined as a state in which individuals are unable to make rational, reasonable decisions because they lack the capacity to understand “who, what, when, where, why, or how” of a situation or interaction. Individuals cannot give sexual consent if they can’t understand what is happening, or if they are disoriented, helpless, asleep, or unconscious for any reason. That applies even if it is because they voluntarily consumed alcohol or drugs. Unless consent is “knowing,” it is not valid. Those engaging in sexual activity who know or should have known that the other party is incapacitated are engaging in sexual misconduct. The possession, use, distribution, and/or administration of any incapacitating substances is prohibited.

The fact that a responding party was intoxicated, and thus did not realize the reporting party was incapacitated, does not excuse sexual misconduct.

Key Info about HutchCC’s Policy, Procedures, & Incident Response:

Here are some essential things you should know about how potential instances of misconduct are addressed by HutchCC under both its policy and its legal obligations:

- At HutchCC the Coordinator of Equity and Compliance (Title IX Coordinator) oversees institutional efforts to comply with federal and state legislation—as well as college policy and procedures—regarding issues of discrimination, harassment, and equal opportunity. Jacob Gunden currently serves in this position. His office is located on the main floor of the Parker Student Union. He may be reached at 620-665-3512 or [email Jacob Gunden](#).
- All students and employees are protected by HutchCC policy, regardless of whether they have a disability, are international or undocumented, and regardless of their sexual orientation and gender identity.
- Both HutchCC policy & federal law requires that
 - HutchCC must respond promptly and effectively to sexual harassment and sexual violence
 - HutchCC must provide interim measures as necessary
 - HutchCC should make known where you can find confidential services
 - HutchCC must conduct an adequate, reliable, and impartial investigation
 - HutchCC must provide remedies as necessary

For a more detailed explanation of both your rights and HutchCC’s responsibilities under Title IX, visit the “HCC Know Your Rights” handouts under the Documents option at [Campus Safety and Compliance documents](#)

Confidentiality & Reporting Responsibilities

Most HutchCC Faculty, staff, and student employees—unless specifically exempted by HutchCC Policy—have been designated as Responsible Employees and are therefore ***obligated to report any and all knowledge of such potential incidents*** to the College’s Coordinator of Equity and Compliance, regardless of the wishes or desires of the person that originally disclosed the information. If you are unclear about an individual’s reporting obligation, ask them or consult HutchCC’s [Equal Opportunity, Harassment, and Nondiscrimination Policy and Procedures](#).

Persons wishing to confidentially discuss their experiences regarding sexual discrimination, sexual harassment, or sexual violence may do so with one of the College's licensed professional counselors. Individuals authorized to provide such service at HutchCC include:

- Christopher Lau, Coordinator of Advising, Career Development, & Counseling (Main Campus)
- Debra Graber, College Counselor (Main Campus)
- Mike Shirkey, College Counselor (Main Campus)
- Debbie Gieselman, College Counselor (McPherson Center)
- Bev Wiebe, College Counselor (Newton Center)

For more information about confidential advising or professional counseling, visit [Campus Safety and Compliance](#) or contact the Student Success Center 620-665-3377 to arrange an appointment.

The College's Procedures are detailed fully at [Equal Opportunity, Harassment, and Nondiscrimination Policy and Procedures](#).

Investigations

An investigative model is used to resolve allegations. Trained investigators will provide an investigation that is prompt, thorough, reliable, equitable, fair, and impartial. They will interview reporting and responding parties and witnesses, and prepare reports with their findings and sanctioning recommendations. Information about all the steps in the investigative process is available at [Equal Opportunity, Harassment, and Nondiscrimination Policy and Procedures](#).

Standard of Evidence

The College, in accordance with Title IX and guidance from the Department of Education's Office of Civil Rights, uses a preponderance of evidence standard similar to that found in civil law. Decision-makers consider whether, given the available credible evidence, it is "*more likely than not*" that a violation occurred. This standard is sometimes explained as "50% plus a feather."