

SEXUAL MISCONDUCT, SEXUAL VIOLENCE & RELATIONSHIP VIOLENCE POLICY

Sexual misconduct (including sexual and relationship violence), is one of the most serious violations of Hood's values of honor and respect, and no form of sexual misconduct is acceptable within our community. This policy provides an overview of the community's expectations; related policies which provide further clarifying information, resolution methods, and statements regarding confidentiality and rights can be found at <http://www.hood.edu/campus-services/human-resources/policies-and-procedures.html>. Such related policies function in concert with this policy and include the "Prevention and Resolution of Discrimination Harassment and Sexual Misconduct Policy" (Board Policy 55), and the "Mandatory Reporting Policy" (HR Policy 317).

Sexual misconduct is a broad term that encompasses sexual violence, nonconsensual sexual contact, sexual harassment, sexual assault, sexual exploitation, sexual intimidation, and relationship violence. All forms of sexual misconduct are prohibited in the Hood community. Students, faculty, staff and other members of the Hood community who are found to have engaged in sexual misconduct will be subject to sanctions which reflect the seriousness of the offense, the circumstances of the occurrence, and any prior violations of College behavioral standards. Such sanctions may include, but are not limited to, probationary status, loss of College housing and/or separation from the institution on a temporary or permanent basis.

Relationship violence is a type of sexual misconduct occurring between individuals connected through a current or past relationship.

Sexual violence is a specific form of sexual misconduct which refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. Some forms of sexual violence, often referred to as sexual assault or rape, are punishable by both civil and criminal legal action. In addition, this policy prohibits retaliation against anyone who files a complaint under this policy or participates in any investigation of a complaint.

Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate sexual relationship. Sexual misconduct can be committed by men or women and can occur between people of the same or different sex. Both acts of sexual misconduct and attempts to commit acts of sexual misconduct are considered violations of this policy. Further, acting in a manner that facilitates or enables an act of sexual misconduct by another, or attempting to do the same, is a violation of this policy.

Sexual misconduct may be forcible or non-forcible. When an act constituting sexual misconduct is committed either by force, threat, intimidation, or through the use of the victim's mental or physical helplessness (of which the accused was aware or should have been aware), the act may be considered forcible. This distinction informs how the College reports incidents under applicable law; forcible offenses are not necessarily "worse" than non-forcible offenses.

Sexual misconduct may be a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act.

Support in matters of sexual misconduct may be requested on a 24-hour basis by contacting Campus Safety at (301) 696-3548 or ext. 3548 on campus. Support is also available on a 24-hour basis from the Heartly House Crisis Hotline at (301) 662-8800. Further information about support, including confidential on-campus options and external options, is available at the end of this policy. Additionally, any student who reports a sexual misconduct incident is entitled to support through a change in residence (if living in College housing) and/or an adjustment in class schedule (if the situation allows).

CONSENT

Consent (also referred to as effective consent) means a knowing, voluntary, and affirmatively communicated willingness to participate in a particular sexual activity or behavior. It must be given by a person with the ability and capacity to exercise free will and make a rational, reasonable judgment. Consent may be expressed by either words or clear, unambiguous actions. Words or actions constituting consent create a mutually understandable permission regarding the conditions of sexual activity. It is the responsibility of the person who wants to engage in (initiate) sexual activity to ensure that he or she has the consent of the other(s) to engage in the activity. Consent must be

present throughout the sexual activity and may be withdrawn at any time. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the participants stop the activity until the confusion is resolved.

To give consent, one must be of legal age. Lack of protest or resistance is not consent. Nor may silence, in and of itself, be interpreted as consent. Previous relationships, including past sexual relationships, do not imply consent to future sexual acts, nor does consent to one form of sexual activity automatically imply consent to other forms of sexual activity.

Consent cannot be obtained by the use of physical force, threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure used. When someone makes it clear that he or she does not want sex, that he or she wants to stop, that he or she does not want to do certain things, or that he or she does not want to go beyond a certain point, continued pressure can be coercive.

Consent cannot be obtained from an incapacitated individual. A person who engages in sexual activity with another whom the person knows, or should know, is incapacitated has not obtained consent and is in violation of this policy. The relevant standard is whether a sober, reasonable person in the same position should have known that the other party was incapacitated and therefore unable to consent. Incapacitated, for the purposes of this policy, means that the person's decision making ability is impaired such that the person lacks the ability to understand the "who, what, where, why, or how" of their sexual interaction. Incapacitation may result from:

- Sleep or unconsciousness
- Temporary or permanent mental or physical disability
- Involuntary physical restraint
- The influence of alcohol, drugs, or medication (including, but not limited to substances such as Rohypnol, Ketamine, GHB, Burundanga, and similar substances).

TYPES OF SEXUAL MISCONDUCT

Nonconsensual Sexual Contact

Nonconsensual sexual contact is any intentional sexual touching, however slight, with any object by one person upon another person without effective consent, or forcing an unwilling person to engage in sexual touching of another. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another, or the clothing covering such parts, or any other bodily contact in a sexual manner (including other nonconsensual contact undertaken with the *intention* of sexual pleasure or arousal for a person or persons involved). Effective consent is defined above (see "Consent").

Relationship Violence

Acts, threats or a pattern of abusive behavior of a physical or sexual nature by one partner intended to control, intimidate, manipulate, humiliate, frighten, coerce, or injure the other constitute relationship violence. Relationship violence can occur between current or former romantic/intimate partners who have dated, lived together, currently reside together (on or off campus), or who are otherwise connected through a past or existing relationship. It can occur in opposite-sex and same-sex relationships and can be perpetrated by a spouse, ex-spouse, a current or former boyfriend or girlfriend or a current or former dating partner. Relationship violence is sometimes referred to as intimate partner violence, domestic violence, or dating violence.

Sexual Assault

Sexual assault offenses include, but are not limited to, forcible and non-forcible sex acts such as rape, forcible sodomy, incest, or any forcible or non-forcible sexual penetration or intercourse (anal, oral or vaginal), however slight, with any object; sexual intercourse by a person upon another person without effective consent also constitutes sexual assault. Sexual penetration includes vaginal or anal penetration by a penis, object, tongue, or finger and oral copulation by mouth-to-genital or genital-to-mouth contact. Effective consent is defined above (see "Consent").

Sexual Exploitation

Sexual exploitation occurs when a person takes nonconsensual or abusive sexual advantage of another for his/her own advantage or benefit, or to the benefit or advantage of anyone other than the one being exploited, and that behavior does not otherwise constitute sexual assault, nonconsensual sexual contact, or sexual harassment.

Examples of sexual exploitation include, but are not limited to: making public sexual activity with another, without that person's consent; prostituting or causing the prostitution of another; photographing, video recording (or transmission), or audio recording (or transmission) of private sexual activity and/or intimate body parts (including genitalia, groin, breasts or buttocks) without the knowledge and consent of all persons involved; going beyond the boundaries of consent (such as allowing third parties to observe private sexual acts of a participant without the participant's consent); voyeurism; and/or knowingly transmitting HIV or an STI to another person.

Sexual Harassment

Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other inappropriate verbal, written or physical conduct of a sexual nature when a) submission to such conduct is made a condition of one's employment or participation in an educational program, or b) when submission to (or rejection of) such conduct is used by the offender as the basis for making personnel or educational decisions, or c) when such conduct has the purpose or effect of unreasonably interfering with one's work or academic performance or creating a hostile or offensive work/educational environment or limiting one's ability to participate based on sex. For an expansive definition and examples, please see the Prevention and Resolution of Discrimination Harassment and Sexual Misconduct Policy at the above web address.

Sexual Intimidation

Threatening to sexually assault another person, stalking (including cyber stalking), and any nonconsensual disrobing of another or nonconsensual (or indecent) exposure to another by a man or woman are examples of sexual intimidation.

REPORTING & RESOLUTION OF SEXUAL MISCONDUCT

Hood College supports the right of a victim of sexual misconduct to decide how to best utilize the various College, Frederick community and private resources, while also recognizing our responsibility as an institution to address alleged sexual misconduct in a manner that preserves a safe, healthy, and functional academic environment. Should an incident occur on the campus or at a College-sponsored event, staff will take prompt action to support the victim, may involve law enforcement authorities and will take disciplinary actions where appropriate utilizing the methods contained in the policy statements and procedures regarding discrimination, harassment, and sexual misconduct at Hood College which are found on the website above.

Members of the College community who are the victims of, or who have knowledge of, sexual misconduct occurring on campus property, or occurring in the course of a College-sponsored activity, or perpetrated by a member of the College community, are urged to report the incident to the Department of Campus Safety promptly. Persons who are victims of sexual misconduct will be advised by the Department of Campus Safety of their option to file criminal charges with local police of the jurisdiction where the sexual misconduct occurred, if such misconduct may also violate the law. The Department of Campus Safety will provide assistance to a person wishing to reach law enforcement authorities.

In reporting a case of sexual misconduct, victims have several options:

Confidential Support Options

Any of the following trained persons can provide confidential support to victims. These resources are not required to disclose identifying information to the College or file a report of the incident which includes identifying details: Counselors at Counseling Services, the Health Services Staff, and/or the Dean of the Chapel. For more information about confidentiality, see the related policies at the web address above.

Outside and Personal Support Options

Outside sources may also provide assistance. Such resources include: Heartly House at (301) 662-8800; RAINN, a national victim assistance agency, at (800) 656-HOPE; or the Rape Treatment Center at www.rapetreatmentcenter.org.

Personal support may also come from friends and family.

Options for Medical Attention

Medical attention may be sought from the emergency room at Frederick Memorial Hospital. The Department of Campus Safety can arrange transportation to the hospital. The Frederick City Police can meet victims there or FMH will contact the police. If you report the assault to the police and a SAFE (Sexual Assault Forensic Exam) exam is done, you will not be charged for the ER visit. The nurse will offer to contact Heartly House. A trained victim advocate will come to the hospital to provide emotional support and information. The SAFE exam has two main purposes: to care for the victim's needs and to collect appropriate evidence in the event of criminal prosecution. Do not shower or bathe prior to this exam.

It is also possible to receive medical attention from the Hood College Health Services. Health Services can provide testing for sexually transmitted diseases and emergency contraception. Health Services cannot collect evidence for possible prosecution.

Counseling or a referral from Counseling Services may also be obtained.

Options for Reporting the Incident

One option is to report the sexual misconduct to the Frederick City Police and request that charges be filed. Another option is to report the sexual misconduct to campus authorities. Reporting the incident to the police and/or filing charges does not prevent reporting to campus authorities. Likewise, reporting to campus authorities does not limit the ability to report to and/or file charges with the police.

The College has designated certain officials as "responsible officials." A report to these individuals is an official report to the College which necessitates a response by the College. Responsible officials include most Directors (unless listed as confidential options, above), Deans (except the Dean of the Chapel), Vice Presidents, supervisors, and residence life staff who work directly in the housing environment (including RAs). For more information on reporting and confidentiality, see the Mandatory Reporting Policy at the website above. When a report is made to a responsible official, action may proceed automatically as part of Hood's obligation.

Charges may be filed through the College's internal judicial system as appropriate. Students should file a report with the Dean of Students, the Ombudsperson or the Executive Director of Human Resources. Students may also initiate action by filing a written complaint with the individuals above. The judicial process utilized for cases which involve sexual misconduct is defined in the Prevention and Resolution of Discrimination, Harassment, and Sexual Misconduct Policy. For more information about this process, see that policy, available at the web address above.

Statements made at community events designed to promote awareness of and/or education about sexual misconduct are not generally considered "notice" to the institution under the guidelines of Title IX, though the institution may utilize such information to identify trends and address community-level needs.

Hood College shall not retaliate against a student who files a complaint for sexual assault or who participates as a witness in an investigation of a sexual assault.

Except for a mandatory intervention for substance abuse, Hood College shall not impose judicial charges regarding alcohol and/or drug use policy violations to either (1) a student who reports to the institution or law enforcement office an incidence of sexual assault, or (2) a student who participates in an investigation of sexual assault as a witness, if all three of the following conditions are present:

- Hood College determines the violation occurred during or near the time of the alleged sexual assault;
- The student is determined to have made the report of sexual assault or is participating in an investigation as a witness in good faith;
- And, Hood College determines that the violation was not an act that was reasonably likely to place the health or safety of another individual at risk.

RESOURCES

Emergencies

911 (or 9-911 from a campus phone)

Campus Safety – Non-Emergency

(301) 696-3548 or ext. 3548 from a campus phone

Campus Safety - Emergency Line

(301) 696-3111 or ext. 3111 from a campus phone

Frederick Hospital ER

(240) 566-3300

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| Heartly House | (301) 662-8800 |
| Frederick County Hotline | (301) 662-2255 |
| Frederick City Police | (301) 694-2100 |
| Counseling Services | (301) 696-3440/3441 or ext. 3440 or 3441 from a campus phone |
| Health Services | (301) 696-3439 or ext. 3439 from a campus phone |
| Dean of the Chapel | (301) 696-3436 or ext. 3436 from a campus phone |
| Residence Life & Judicial Affairs | (301) 696-3577 or ext. 3577 from a campus phone |
| Dean of Students | (301) 696-3573 or ext. 3573 from a campus phone |