

Policy on Sexual Assault, Stalking, Dating Violence, and Domestic Violence

Huntington Junior College is committed to maintaining an environment that is safe and free from sexual assault, stalking, dating violence, and domestic violence. The college will not tolerate such actions (including threats of sexual assault, dating violence, or domestic violence) against its students, faculty, staff, or visitors. The college investigates all complaints of sexual assault, stalking, dating violence, or domestic violence and takes appropriate disciplinary or corrective action in each instance. In an ongoing effort to prevent sexual assaults, stalking, dating violence, and domestic violence, the college provides education and prevention programs; provides information on obtaining appropriate counseling and medical care; and provides complainants with information on pursuing criminal or other legal action. This policy applies to all members of the college community, including faculty, staff, students, visitors, and volunteers.

The following definitions are for purposes of this regulation and are not intended to replace or summarize the West Virginia Penal Codes.

Sexual Assault

1. Sexual assault means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system. A sex offense is any act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
2. Rape is defined as 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 the consent of the victim.
3. Fondling is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental incapacity.
4. Incest is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
5. Statutory Rape is defined sexual intercourse with a person who is under the statutory age of consent.

Stalking

1. Stalking means engaging in 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.
 - a. 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.
 - b. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- c. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
2. Examples of stalking include, but are not limited to:
 - a. Following a person;
 - b. Appearing at their home, place of business, or classrooms;
 - c. Making harassing phone calls;
 - d. Mailing written messages, sending or posting electronic messages;
 - e. Leaving messages or objects at their home, place of business, vehicle, or classroom; and
 - f. Vandalizing personal property.

Dating Violence

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 and

- The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence

Domestic Violence means violence committed by:

1. A person who is a current or former spouse or intimate partner with the victim;
2. A person with whom the victim shares a child in common;
3. A person who is cohabitating with or who has cohabitated with the victim as a spouse or intimate partner; or
4. Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws where the violence occurred.

Affirmative Consent

Affirmative Consent means an unambiguous and voluntary expression of willingness, permission, or agreement to engage in specific sexual activity throughout a sexual encounter. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other to engage in the sexual activity. Consent cannot be inferred from the absence of a "no"; a clear "yes," verbal or otherwise, is necessary.

Consent cannot be granted by an individual who:

1. Is incapacitated by any drug or intoxicant;
2. Has been compelled by force or threat of force;
3. Is unaware that the act is being committed;
4. Is impaired because of a mental or physical condition;

5. Is coerced by supervisory or disciplinary authority; or
6. Is less than the statutory age of consent.

Complainant

A complainant is anyone who makes a complaint she or he has been a victim of sexual assault, stalking, dating violence, or domestic violence.

Respondent

A respondent is anyone against whom a complaint or allegation of sexual assault, stalking, dating violence, or domestic violence is made.

College Official

A college official means:

1. Any faculty member;
2. Any member of the management team

Preponderance of Evidence

Preponderance of Evidence means that it is more likely than not (50.1% certain) that the respondent is responsible for the alleged act.

Reporting Complaints

Any college employee who witnesses or is made aware of an incident of sexual assault, stalking, dating violence, or domestic violence shall report it to the Director as soon as possible.

The college strongly encourages prompt reporting by non-employees, including victims, witnesses, and those who are made aware of incidents of sexual assault, stalking, dating violence, or domestic violence. Reports may be made to Director, police in the location where the violence occurred, or to any college management member. An incident may be reported without filing a written complaint.

The college provides information on pursuing criminal or other legal action, health care, counseling, and other support services available for students, faculty, staff, and visitors who have made a complaint of sexual assault, stalking, dating violence, or domestic violence.

The college makes a good faith effort to resolve complaints of sexual misconduct within sixty (60) days of receiving the report, however the proceedings timeframe allows for extensions for good cause with notice to the complainant and the respondent of the delay and the reason for the delay.

Individuals who experience sexual assault, dating violence, or domestic violence are strongly encouraged to seek medical attention and be examined for physical injury, the presence of sexually transmitted diseases, or pregnancy as a result of rape.

NOTE: An individual who is considering making a criminal complaint or taking other legal action should seek medical care as soon as possible after the assault. It is important for the individual to not bathe, douche, or change clothing prior to the medical examination in order to avoid inadvertently removing important evidence. The kind of evidence that supports a legal case against an accused should be collected as soon as possible, at maximum within ninety-six (96) hours of an assault.

Rights of the Complainant and Respondent

1. The complainant has the right to choose whether or not to file a complaint with the college. However, when the college is made aware of an allegation of sexual assault, stalking, dating violence, or domestic violence, it must investigate and take action to protect the complainant or other members of the college community.
2. In addition to pursuing administrative penalties and remedies, the complainant maintains the right to pursue criminal or other legal action.
3. A preponderance of evidence standard shall be used for determining the outcome of investigations.
4. Both the complainant and the respondent shall be informed in writing of the outcome of any institutional disciplinary proceeding brought alleging a sex offence.

Corrective Actions and Disciplinary Procedures

Possible sanctions for students resulting from the college disciplinary process include disciplinary probation, suspension, and dismissal,

Possible sanctions for faculty and staff include counseling, suspension, or termination of employment.

Both the complainant and the respondent shall be informed of the outcome of the corrective action or disciplinary process. Both parties have the right to appeal the decision.

Education

Regular and ongoing education is available for all members of the college community. Online training is available for all members of the college community. Training on Discrimination and Harassment, including Title IX, is offered on a regular basis for new employees, faculty and employees.