

CAMPUS LIFE POLICY - SEXUAL MISCONDUCT

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STATEMENT OF INTENT REGARDING THE SEXUAL MISCONDUCT POLICY

Grinnell College is a community of trust whose very existence depends on strict adherence to standards of conduct set by its members. Sexual assault is a crime punishable by both civil and criminal legal action and a serious violation of Grinnell Colleges Standard of Conduct. It will not be tolerated within our community. Sexual assault and rape are criminal offenses, and should be reported to the proper authorities. The policy below covers improper sexual conduct in the college context, and the standards used by Grinnell College are different from those used by the state of Iowa to define sex offenses. No double jeopardy is presented by different sets of standards, and students at Grinnell College are charged with the responsibility of being familiar with and abiding by the standards of conduct set forth in our Student Handbook. Students may be subject to both criminal prosecution and on-campus disciplinary action. Members of the Grinnell College community are strongly encouraged to report all incidents of sexual misconduct.

If you have experienced or are experiencing sexual misconduct, consider the following:

1. Go to a safe place and /or find someone you can trust.
2. Obtain medical attention. In Grinnell, you can go to Grinnell Regional Medical Center and request a sexual assault examination. The exam is an evidence gathering medical process that is most effective if it occurs within 72 hours of the assault. The exam may include testing for HIV/AIDS, STDs and pregnancy, a vaginal examination, collecting fingernail scrapings and /or clippings, examining your body for injuries and a blood draw. You have a right to have a support person accompany you to the exam. Listed are a few suggestions: a friend, Residence Life Coordinator, student adviser, confidential campus resource, a trained campus advocate or DVA/SAC advocate. They will support you by listening, explaining the process and answering your questions.
3. Find support for yourself by contacting a friend, family member,
 - o member of the clergy, Residence Life Coordinator, confidential campus resource, student adviser, trained campus advocate or DVA/SAC advocate.
4. Document for yourself as soon as possible what happened (i.e. time, date, sequence of events, descriptions, witnesses).
5. Preserve clothing and/or other items involved in the assault. Collect items in clean brown paper bags for transport to the hospital or to give to the police. DO NOT use plastic as it degrades the chemical composition of the evidence.
6. Report incident to the campus Safety and Security Department and/or local police.
7. Report the incident to the Grinnell College administration.
8. Contact a therapist or counseling service.
9. Utilize healing resources such as on-line or community support groups or books such as Recovering from Rape by Linda Ledray, and The Courage to Heal by Ellen Bass.
10. You have the right to choose to do any or all of these options, or to do nothing.

SEXUAL MISCONDUCT OFFENSES INCLUDE, BUT ARE NOT

1. Non-Consensual Sexual Intercourse (or attempts to commit same)
2. Non-Consensual Sexual Contact (or attempts to commit same)
3. Sexual Exploitation
4. Sexual Harassment

Non-Consensual Sexual Intercourse or the campus policy equivalent to the crime of Rape
Non-Consensual Sexual Intercourse or rape is

- any sexual intercourse (anal, oral, or vaginal),
- however slight,
- with any object,
- by a man or woman upon a man or a woman,
- without effective consent.

Examples of Non-Consensual Sexual Intercourse can include, but are not limited to, vaginal penetration by a penis, object, tongue or finger without consent; anal penetration by a penis, object, tongue or finger without consent; and oral copulation without consent (mouth to genital contact or genital to mouth contact).

Non-Consensual Sexual Contact or the campus policy equivalent to the crime of Sexual Assault

Non-Consensual Sexual Contact or sexual assault is:

- any sexual touching (including disrobing or exposure),
- however slight,
- with any object,
- by a man or a woman upon a man or a woman,
- without effective consent.

Examples of Non-Consensual Sexual Contact can include, but are not limited to, any sexual contact with the breasts, buttocks, groin, genitals, mouth or other bodily orifice of another without consent, or touching another with any of these body parts without consent, or making another touch you or themselves with or on any of these body parts without consent.

Sexual Exploitation

Sexual exploitation happens

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

Examples of sexual exploitation include, but are not limited to, prostituting another student, non-consensual video or audio-taping of sexual activity, going beyond the boundaries of consent (such as letting your friends surreptitiously watch you having consensual sex), engaging in Peeping Tommerly, and knowingly transmitting an STD or HIV to another student.

Sexual Harassment

- Any unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature will constitute sexual harassment when such conduct substantially interferes with an individual's living or studying conditions or creates an intimidating, hostile or offensive environment for that individual. Following or stalking can constitute sexual harassment when someone repeatedly and purposefully engages in any of the behaviors under this definition, and they are directed at a specific person on the basis of their gender.
- Sexual harassment can encompass a wide range of behaviors extending from forcing sexual attention upon an unwilling recipient to the actual coercion of an unwilling person, male or female, into a sexual relationship.
- Sexual harassment can include using the telephone, written messages, signs, electronic media, (i.e., computer, e-mail), or other media to which a person is subjected without invitation or consent.
- Retaliation against an individual for reporting or pursuing a report of sexual harassment or for participating in an investigation is prohibited.

Definition of Terms:

Intercourse - Intercourse is not synonymous with penetration. If it were, non-consensual French kissing could meet the definition of oral rape; intercourse is more limited. Intercourse includes vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact).

Sexual Touching - Sexual touching is any contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts.

Effective Consent - Effective Consent is informed, freely and actively given, mutually understandable words or actions, which indicate a willingness to participate in mutually agreed upon sexual activity. Consent is not effective if it results from the use of physical force, threats, intimidation, or coercion.

Incapacitated Sex - If you choose to drink alcohol or use other drugs, you run the risk of impaired thinking and communication and often confusing sex happens. Being drunk is never an excuse for violation of this policy. To have sex with someone who you know to be, or should know to be incapable of making a rational, reasonable decision about a sexual situation is a violation of policy. This includes someone whose incapacity results from the taking of a so-called "date-rape drug." Possession, use and/or distribution of any of these substances, including Rohypnol, Ketomine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student for the purpose of inducing incapacity is an offense of the most serious nature.

For reference to the pertinent Iowa Statutes on sex offenses, please see Relevant Iowa Codes at the end of this policy section page 146.

SANCTION STATEMENT

- Any student who is determined to have engaged in Non-Consensual Sexual Contact (where no intercourse has occurred) may receive a sanction ranging from conduct warning to dismissal, depending on the severity of the incident, and taking into account any previous disciplinary infractions.*
- Any student who is determined to have engaged in Non-Consensual Sexual Intercourse may receive a sanction ranging from suspension to dismissal. *
- Any student who is determined to have engaged in Sexual Exploitation or Sexual Harassment may receive a sanction ranging from conduct warning to dismissal, depending on the severity of the incident, and taking into account any previous disciplinary infractions. *

*The judicial body reserves the right to broaden or lessen any range of punishments or recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the judicial body nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

EXAMPLES

1. Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 p.m. until 3:00 a.m., Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being "a prude."

Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a "hand job" (hand to genital contact). Amanda would never had done it but for Bill's incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left. Bill is likely responsible for violating the college Non-Consensual Sexual Contact policy. It is likely that the College Hearing Board would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not effective when forced. Sex without effective consent is sexual misconduct.

2. Hugh comes to Elizabeth's dorm room with some mutual friends to watch a movie. Hugh and Elizabeth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Hugh and Elizabeth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Hugh verbally expresses his desire to have sex with Elizabeth. Elizabeth isn't ready to do it with Hugh, since they just met. But, she likes him and doesn't want to scare him off either. She decides to satisfy him orally, hoping they can get to know one another better later before engaging in intercourse. Perceiving the oral sex as foreplay, Hugh stops Elizabeth, lays her back on the bed, takes off her clothes, and engages in intercourse with her. Elizabeth is unresponsive during the intercourse. This behavior by Hugh would likely violate the sexual misconduct policy. Engaging in one form of sexual behavior does not necessarily imply consent to another. Clearly, Elizabeth consented by her actions to oral sex with Hugh. But, Hugh had no mutually understandable indication from Elizabeth that she consented to sexual intercourse. Some verbal or clear overt action would be necessary to show Hugh that Elizabeth wanted to have more than oral sex with him.

3. Karen and Amy are at a Harris party. Karen's not sure how much Amy has been drinking, but she's pretty sure it's a lot. After the party, she walks Amy to her room, and Amy comes on to Karen, initiating sexual activity. Karen asks her if she is really up to this, and she says yes. Clothes go flying, and they end up in Amy's bed. Suddenly, Amy runs for the bathroom. When she returns, her face is pale, and Karen thinks she may have thrown up. Amy gets back into bed, and they begin to have sexual intercourse. Karen is having a good time, but can't help but notice Amy seems pretty groggy, and she thinks Amy may have even passed out briefly during the sex, but she does not let that stop her. When Karen runs into Amy the next day, she thanks her for the wild night. Amy remembers nothing, and decides to make a complaint to the Dean. This is a possible violation of the Non-Consensual Sexual Intercourse Policy. Karen should have known that Amy was incapable of making a rational, reasonable decision about sex. Even if she seemed to consent, Karen was well aware that she had consumed a large amount of alcohol, and Karen thought Amy was physically ill, and passed out during sex. Karen should be held accountable for taking advantage of Amy in her condition. This is not the level of respectful conduct expected of Grinnell students.

4. Teri and Floyd meet in the library and frequently see each other as they study. They begin to go to parties and hang out together. One night Teri and Floyd go out drinking. After the bar closes, they go to Teri's room. Teri is very drunk and engages in sex with Floyd, despite his protests. Floyd is not as drunk as Teri and he wants to remain faithful to a girlfriend from his hometown. Teri argues that even if she might have had non-consensual sex with Floyd, it was not her fault because of how drunk she was. She believes that she was so drunk she didn't even know she was having sex with Floyd, let alone that it was something he didn't want. After all, Teri reasons, every man faced with the possibility of having sex never says no. Is this a policy violation? This is possibly a violation, as intoxication (even to the point of incapacity) of an initiating party is no excuse for violation of the sexual misconduct policy. If it were, drunken people could be excused for drunk driving because they were so drunk they didn't realize they were driving. Further, sexual misconduct is not intent-based. Whether or not Teri intended to commit non-consensual sexual intercourse is irrelevant. The fact that she had sex with Floyd without his consent could be sufficient to satisfy the elements of the offense. This is a good place for a reminder about resistance. None is required under this policy, and this is as true when a man is the aggressor, as when a woman is the aggressor.

ASSURANCES

Students who believe they have experienced sexual misconduct can expect

- An investigation and appropriate resolution of all complaints of sexual misconduct made in good faith to college administrators;
- That accuser and accused have the same opportunity to have others within the campus community present (in support or advisory roles) during a campus disciplinary hearing;
- Not to be discouraged by college officials from reporting sexual misconduct to both on- and off-campus authorities;
- To be informed of the outcome and sanction of any disciplinary hearing involving sexual misconduct, usually within 10 days of the end of the judicial hearing;
- To be informed by college officials of options to notify proper law enforcement authorities, including on-campus security and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses. This also includes the right not to report, if this is the victim's desire;
- To be notified of available counseling, mental health or student services for victims of sexual assault, both on campus and in the community;
- Notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available (no charges or investigation, campus or criminal, need occur before this option is available). Accommodations may include:

- Changing a student's college owned housing,
- Assistance from College support staff in completing the relocation,
- Exam (paper, assignment) rescheduling,
- Taking an incomplete in a class,
- Transferring class sections,
- Emergency leave,
- Alternative course completion options;
- Not to have irrelevant prior sexual history admitted as evidence in a campus hearing;
- Not to have incidents of sexual misconduct complaints mediated;
- To have an opportunity to make a written victim-impact statement within 7 days of the campus judicial proceeding and to have that statement considered by the vice-president in determining his/her sanction;
- A campus no contact order against another student who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complaining student or others;
- To have complaints of sexual misconduct responded to quickly and professionally by campus security;
- To appeal the finding and sanction of the judicial body, in accordance with the standards for appeal established in the section on judicial procedures on page 164 of this Student Handbook;
- To review all documentary evidence available regarding the complaint, subject to the confidentiality limitations imposed by state and federal law, at least 48 hours prior to the hearing;
- To be informed of the names of all witnesses who will be called to give testimony, within 96 hours of the hearing, except in cases where a witness' identity will not be revealed for safety reasons;
- Preservation of confidentiality, to the extent possible and allowed by law;
- A hearing closed to the public;
- To petition that any member of the judicial body be removed on the basis of bias;
- To bring a trained campus victim advocate to all phases of the investigation and campus judicial proceeding. The advocate may not take part directly in the hearing itself, though they may communicate with the student as necessary;
- To present witnesses to the campus judicial body;
- To be fully informed of campus judicial rules and procedures as well as the nature and extent of all charges contained within the complaint;
- To be present for all testimony given and evidence presented before the judicial body;
- To have complaints heard by judicial officers who have received annual sexual misconduct adjudication training;
- A fundamentally fair hearing, free of bias of any kind;
- A campus judicial outcome based solely on evidence presented during the judicial process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- Written notice of the outcome and sanction of the hearing;
- To be informed in advance of any official administration public release of information regarding the complaint.

Those students who have been accused can expect

- An investigation and appropriate resolution of all complaints of sexual misconduct made in good faith to college administrators against the accused student;
- That accuser and accused have the same opportunity to have others within the campus community present (in support or advisory roles) during a campus disciplinary hearing;
- To be informed of and have access to campus resources for medical, counseling, and advisory services;
- To be fully informed of the nature, rules and procedures of the campus judicial process and to timely notice of all charges within the complaint, including the nature of the charge and possible sanctions;
- A hearing on the charges, including timely notice of the hearing date, and adequate time for preparation;
- Not to have irrelevant prior sexual history admitted as evidence in a campus hearing;
- To make a written impact statement within 7 days of the campus judicial proceeding and to have that statement considered by the vice-president in his/her sanction;
- To appeal the finding and sanction of the judicial body, in accordance with the standards for appeal established in the section on judicial procedures on page 164 of the Student Handbook;
- To review all documentary evidence available regarding the complaint, subject to the confidentiality limitations imposed by state and federal law, at least 48 hours prior to the hearing;
- To be informed of the names of all witnesses who will be called to give testimony within 96 hours of the hearing except in cases where a witness' identity will not be revealed for safety reasons (this does not include the name of the alleged victim/complainant, which will always be revealed);
- A hearing closed to the public;
- To petition that any member of the judicial body be removed on the basis of bias;
- To have complaints heard by judicial officers who have received annual sexual misconduct adjudication training;
- To present witnesses to the campus judicial body;
- To have an adviser accompany and assist in the campus hearing process. The adviser may not take part directly in the hearing itself, though they may communicate with the accused student as necessary;

- A fundamentally fair hearing, free of bias of any kind;
- A campus judicial outcome based solely on evidence presented during the judicial process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- Written notice of the outcome and sanction of the hearing;
- To be informed in advance of any official administration public release of information regarding the complaint.

JURISDICTION

Grinnell College will take jurisdiction over complaints of sexual misconduct occurring on campus. The College may also take judicial jurisdiction, to the extent practical and possible, over all complaints of sexual misconduct occurring off campus, if the person being charged and the alleged victim are both students, and if the impact of the assault is likely to have a substantial effect on the alleged victim's on-campus life and activities, or if the incident poses a threat of danger to other students. To the extent it is practical and possible, the College may also take judicial jurisdiction over students charged with off-campus sexual misconduct cases where the alleged victim is not a student. The College may take jurisdiction over incidents occurring during semester breaks or between semesters.

FALSE REPORTING

Grinnell College will not tolerate intentional false reporting of sexual misconduct. It is a violation of college policy to make an intentionally false report of sexual misconduct, and it may also violate state criminal statutes and civil defamation laws.

GROUP INFRACTIONS

When members of groups, individuals acting collusively, or members of an organization act in concert in violation of the sexual misconduct policy, they may be charged as a group, and a hearing may proceed against the group as joint respondents.

LIMITED IMMUNITY FOR VICTIMS

The Grinnell College community encourages the reporting of sexual misconduct. Sometimes, victims are hesitant to report to college officials because they fear that they themselves may be charged with policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that as many victims as possible choose to report to college officials. To encourage reporting, Grinnell College pursues a policy of offering victims of sexual misconduct limited immunity from being charged for policy violations related to the sexual misconduct incident. While violations cannot be completely overlooked, the College will provide referrals to counseling and may require educational options, rather than punishment, in such cases.

GOOD SAMARITAN IMMUNITY

The welfare of students in our community is of paramount importance. At times, students on and off campus may need assistance. Grinnell College encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to campus security). Grinnell College pursues a policy of limited immunity for students who offer help to others in need. While policy violations cannot be overlooked, the College will provide referrals to counseling and may require educational options, rather than punishment, to those who offer their assistance to others in need.

CONFIDENTIALITY

If you have been affected by an incident involving sexual misconduct or sexual harassment within or outside of the Grinnell College community, there are people you can talk to. You can call or approach any of these people confidentially and off the record and tell them what happened. They will listen and explain your options. Talking to any of these people does not constitute reporting the incident.

ON CAMPUS RESOURCES

Members of the Clergy with Absolute Confidentiality
(generally cannot be compelled to testify in a court of law)

Chaplain - Deanna Shorb, 269-4981 (office); 236-7692 (home)

Confidential Resources

(are not required to report the incident or disclose identifying information, only periodic statistical information. May be subpoenaed)

- Campus peer advocates and Chaplain

Campus Related Confidential Counseling

- Domestic Violence Alternatives/Sexual Assault Center,

24 hour Crisis Line 1-800-779-3512

- Poweshiek County Mental Health Center, 236-6137

OTHER RESOURCES

Crime Victim Compensation Program, 515-281-5044 or 1-800-373-5044

Attorney General's Office

100 Court Ave., Suite 100

Des Moines IA 50319

RELAY IOWA, 1-800-735-2942 TT or 1-800-735-2943 VOICE

Language Line Translation Available

Grinnell Regional Medical Center, 236-2380

- Sexual assault exam
- Medical exam
- Morning after pregnancy prevention

These exams do not obligate you to file criminal charges; evidence is stored by the police to preserve the chain of evidence.

Grinnell Police Department, 236-2350

- Report sexual assault

National Domestic Abuse, 1-800-799-7233

Polk County Victim Services, 515-286-3600

Rape Abuse and Incest Hotline, 1-800-656-4673

Sexual Assault Hotline, 1-800-284-77821

Transportation

- Contact Sexual Assault Coordinator, RLCs, Health Center, or DVA/SAC to arrange confidential transportation to the hospital.

Woman's Health and Education Center, 236-7787

- Medical exam
- Morning after pregnancy prevention
- Counseling
- Information and referral

Center for Disease Control National Aids Network 1-800-342-AIDS

TDD: 1-800-243-7012

Spanish: 1-800-445-7432

Gay and Lesbian Resource Center (Des Moines), (515) 269-3327

- Provides support
- Resources

Gay/Lesbian Resources, 1-888-THE-GLNH 6 a.m.-11 p.m. EST M-F

- Peer counseling
- Crisis intervention
- Referral

HIV/AIDS Treatment Information Service 1-800-HIV-0440

TDD: 1-800-243-7012

Iowa Aids 1-800-445-AIDS

STD Hotline 1-800-227-8922

CAMPUS REPORTING, CONFIDENTIALITY AND THE JUDICIAL PROCESS

Other resources for information about the judicial process include Residence Life Coordinators (RLCs) and Student Affairs staff members. Depending upon the situation when these officials of the College are informed of details of an incident, they may have a duty to investigate the incident to the extent possible, even without the cooperation of the victim. In investigating the incident, the College will not be able to assure victims' complete confidentiality or control over the process.

Once a decision has been made to pursue a complaint, the student should discuss the process with a Student Affairs staff member who is familiar with the judicial procedures. These staff members assist students in the identification of policy violations, outline the complaint filing and investigative procedures, and discuss confidentiality regarding judicial complaints. Most senior Student Affairs administrators will know of the complaint and details, as will any administrator who processes or hears the complaint, and to whom your complaint may be appealed. All of these people will keep confidentiality to the best of their ability and consistent with their duties. In order to meet annual federal campus crime statistic reporting requirements, many colleges, including Grinnell, disclose non-personally identifying information. Within two days of a report, basic details of an incident are available to the public in the campus security log. No names are given, and facts that could lead to the identity of the victim are not disclosed. Campus judicial hearings are not open to the public.