**Affirmative Consent**

Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity or gender expression. Whenever the word “consent” is used in this policy, it should be understood to mean affirmative consent as defined here.

The following conditions apply to the term “consent” according to the University:

1. Silence, lack of physical resistance, and/or the absence of a verbal “no” are not forms of consent.
2. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. In other words, it is not an excuse that the person initiating the act was intoxicated or incapacitated due to alcohol or other drugs.
3. Consent can be initially given but withdrawn at any time.
4. When consent is withdrawn or can no longer be given, sexual activity must stop. Once a person says “no,” it is established that he or she is not giving consent to a sexual act. However, the absence of a verbal “no” does not constitute consent. Any activity or further encouragement beyond that point could be construed as force, coercion or intimidation.
5. A current or previous dating relationship is not sufficient to constitute consent. Further, past consent to engage in sexual activity with any person cannot be presumed to be consent to sexual activity in the future with the same or a different person. A sexual act must be mutually agreed upon each time it occurs.
6. Consent to one sexual act does not indicate consent to other sexual acts.
7. Consent cannot be given if a person is incapacitated (see definition of “incapacitation”). Sexual activity with someone whom one should know to be – or based on the circumstances should reasonably have known to be – incapacitated (for example, by disability, sleep, involuntary restraint, or the taking of drugs or alcohol, unconsciousness or blackout) constitutes a violation of this policy.
8. Consent cannot be given under coercion, force, or threat of physical harm or injury.
9. Consent cannot be given if someone is under the legal age of consent. In New York State, a minor (meaning a person under the age of 17 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 17 years old is a crime as well as a violation of this policy, even if the minor wanted to engage in the act.

**Force**

Force is the use of physical violence and/or imposing on someone physically to gain sexual access. It includes threats and/or intimidation (implied threats) that overcome resistance or produce purported (but ineffective) consent. It also includes rendering someone incapacitated by administering alcohol or any other drug.

**Coercion**

Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes it clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Incapacitation**

Incapacitation is a state where someone lacks the ability to knowingly choose to participate in a specific activity. Incapacitation can result from disability, sleep, lack of consciousness, involuntary restraint, or other factors that prevent voluntary choice. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants may be incapacitated and therefore unable to consent.

**NOTE:** There is no requirement that a party resists a sexual advance or request, but resistance is a clear demonstration of non-consent. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.