

REVISIONS TO CHICAGO-KENT CODE OF CONDUCT APPROVED BY THE FACULTY ON MAY 12, 2015

DEFINITIONS OF SEXUAL MISCONDUCT

The language below reflects the new definitions approved by the faculty at the May 12, 2015 Faculty Meeting.

§2-2 Nonacademic Misconduct

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(m) Sexual Misconduct, which includes:

(i) *Sexual Assault*, which is defined as (a) 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 person (also known as rape), (b) touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim (also known as fondling), (c) intercourse between persons who are related to each other within the degree wherein marriage is prohibited by the laws of the State of Illinois (also known as incest); (d) sexual intercourse with a person who is under the statutory age of consent set by the State of Illinois (also known as statutory rape); and (e) action meeting the definition of any category of criminal sexual assault or abuse under the laws of the State of Illinois;

(ii) *Dating Violence*, which is defined as violence, including, but not limited to, sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Dating violence does not include acts covered under the definition of domestic violence. The existence of such a relationship is determined 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;

(iii) *Domestic Violence*, which is defined as a felony or misdemeanor crime of violence under the laws of the State of Illinois committed by (a) a current or former spouse or intimate partner of the victim, (b) a person with whom the victim shares a child in common, (c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, (d) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Illinois, or (e) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Illinois;

(iv) *Sexual Exploitation*, which is defined as taking non-consensual or abusive sexual advantage of another for one's own benefit or to the benefit of another other than the person being exploited and that does not otherwise constitute an offense covered by the definition of sexual misconduct, such as, but not limited to, prostituting another, nonconsensual video or audio taping of sexual activity, engaging in voyeurism, invading another's sexual privacy, and exposing one's genitals or inducing another to expose his or her genitals in nonconsensual circumstances;

(v) *Stalking*, which is defined as engaging in a course of conduct (meaning two or more acts, including, but not limited to, acts in which the perpetrator 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) directed at a specific person that would cause a reasonable person (meaning one under similar circumstances and with similar identifies to the victim) to fear for his or her safety or the safety of others or to suffer substantial emotional distress (meaning significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling).

For purposes of the foregoing relevant offenses, consent means informed, freely and actively given, mutually understandable words or actions which indicate a clear affirmative agreement to participate in mutually agreed upon activity. Consent can be given only by one who is 17 years of age or older. Consent must be clear and unambiguous, and it should not be presumed in the absence of such an agreement or from the manner of dress of the victim at the time of the activity. Further, a person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent during the course of that sexual penetration or sexual conduct. The absence of "no" should not be understood to per se mean there is consent. Consent is not effective if it results from the use of force, threats, intimidation, or coercion. In addition, to have sex with someone whom the person knows, or should know, to be incapable of making a rational, reasonable decision about a sexual situation is a violation of this policy (e.g. an intoxicated person or someone with a temporary or permanent mental or emotional impairment).

The College abides by the [IIT Policy and Procedures Applicable to Sexual Harassment and Sexual Misconduct](#), which is incorporated herein by reference. Any action brought against a student of the College alleging sexual misconduct shall be conducted in accordance with the procedures specified in this Code of Conduct.

The language below is the interim language adopted last year, which is superseded by the language above.

(m) Sexual misconduct, which includes:

(i) Sexual assault, which is defined as any of the following conduct if done without effective consent: (a) sexual intercourse (anal, oral, or vaginal); (b) physical sexual violence, such as sexual assault or sexual battery; and (c) sexual touching of another, however slight, including sexual touching with an object; disrobing of another; or exposure to another;

(ii) Dating violence, which is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship is determined based upon a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship;

(iii) Domestic violence, which includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to

a spouse of the victim under the domestic or family violence laws of the State of Illinois, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Illinois;

(iv) Sexual exploitation, which is defined as taking non-consensual or abusive sexual advantage of another for one's own benefit or to the benefit of another other than the person being exploited and that does not otherwise meet the definition of sexual misconduct, such as, but not limited to, prostituting another, non-consensual video or audio taping of sexual activity, engaging in voyeurism, invading another's sexual privacy, and exposing one's genitals or inducing another to expose his or her genitals in non-consensual circumstances;

(v) Stalking, which is defined as a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress.

For purposes of the foregoing relevant offenses, effective consent is informed, freely and actively given, mutually understandable words or actions which indicate a positive agreement to participate in mutually agreed upon sexual activity. Consent must be clear and unambiguous, and it should not be presumed in the absence of such an agreement. The absence of "no" should not be understood to per se mean there is consent. Consent is not effective if it results from the use of force, threats, intimidation, or coercion. In addition, to have sex with someone whom one knows, or should know, to be incapable of making a rational, reasonable decision about a sexual situation is a violation of this policy (e.g. an intoxicated person or someone with a mental or emotional impairment).

The College abides by the [IIT Policy and Procedures Applicable to Sexual Harassment and Sexual Misconduct](#), which is incorporated herein by reference. Any action brought against a student of the College alleging sexual misconduct shall be conducted in accordance with the procedures specified in this Code of Conduct, as well as any additional procedures contained in the IIT Policy to the extent that they are not inconsistent with provisions of this Code.

OTHER CHANGES

The bolded language and strike-throughs, below, indicate revisions made either in the interim changes adopted last year or, where different, in the final language adopted at the May 12, 2015 Faculty Meeting.

Section 5-1

§5-1 Any person (including a faculty member or administrator) who has a reasonable basis for believing a violation has occurred has an obligation to file a complaint with the Dean. The complaint shall be in writing, signed by the complainant, and shall contain a statement of facts upon which the complaint is based. **Any proceeding under this Code shall provide a prompt, fair, and impartial process from the initial investigation to the final result.**

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Section 5-8

§5-8 The Alleged Violator may select any person ~~other than a member of the faculty of the College~~ to represent him/her, **except that the Alleged Violator may not select a member of the Tribunal, a prosecutor, or an interested faculty member or administrator to represent him/her.** A person, including a faculty member, selected by the Alleged Violator to serve as his/her representative may decline to serve as representative. The Alleged Violator shall bear the costs of his/her representation.

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Section 6-1

§6-1 The proceedings and deliberations of the Tribunal shall not be open to the public, the student body, or the faculty at large. **Any alleged victim has the same right to have others present during Tribunal hearings as the Alleged Violator has, including the opportunity to be accompanied by an advisor of his/her choice. This includes alleged victims in proceedings brought under §2-2(c) (harassing and/or hazing), §2-2(e) (physically abusing another or engaging in conduct that threatens or endangers another), and §2-2(m) (sexual misconduct).** The Tribunal shall conduct itself consistently with applicable policies, and in a manner that is transparent to all parties. The Tribunal shall be composed of members who do not have a conflict of interest or bias for or against the accuser or the accused.

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Section 6-7

§6-7 In cases involving an alleged victim, the Tribunal shall notify, at the same time and in writing, the Alleged Violator or Convicted Violator and the alleged victim of (a) any Tribunal finding or action, (b) the procedures applicable to any appeal of such finding or action, (c) any change to the results of the proceeding due to any appeal, and (d) when the results have become final. This includes alleged victims in proceedings brought under §2-2(c) (harassing and/or hazing), §2-2(e) (physically abusing another or engaging in conduct that threatens or endangers another), and §2-2(m) (sexual misconduct).

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Section 6-3(k) (new)

In cases involving an alleged victim, the Tribunal shall provide the accuser, the accused, and appropriate officials timely and equal access to any information that will be used during informal and formal disciplinary meetings and hearings.