

**The College prohibits all forms of sexual misconduct by students and employees.**

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The College does not tolerate sexual misconduct. This policy explains what conduct is prohibited, how the College responds to such misconduct, what resources are available to victims and how victims may file a complaint.

*Date of Adoption:*      *Adoption of Manual: July 2008*

*References:*            *ARS 13-1401, 1406(A), 1402(1), 13-2923(A), 13-3601(A)(6)*

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Prohibited Conduct

The College prohibits all forms of sexual misconduct by students and employees, whether perpetrated by a stranger or acquaintance, whether occurring on or off campus, and whether directed against a member of the College community or someone against outside the community. Such behavior will result in discipline and may also be a criminal violation.

Prohibited conduct ranges from acts of non-consensual sexual intercourse and non-consensual sexual contact, to sexual misconduct including, but not limited to, harassment of a sexual nature, sexual exploitation, stalking, relationship violence, voyeurism, exposure, video or audio taping of sexual activity, and sexual activity resulting from emotional coercion. The College may also discipline students and employees for inappropriate sexual behavior and forms of sexual misconduct that are not specifically listed here.

Active consent is needed to engage in sexual activity. For the purpose of this policy, consent is informed, freely and actively given, mutually understandable words or actions that indicate a willingness to participate in a mutually agreed upon sexual activity. It is incumbent upon both parties to both obtain and give active consent prior to any sexual activity. Consent may never be given by those not yet eighteen years of age, those who are incapable of giving informed consent as a result of alcohol or other drug consumption (voluntary or involuntary), those who are mentally incompetent, those with impairments to reasoning or judgment, or those who are unconscious, unaware or otherwise physically helpless. Effective consent may never be obtained as a result of coercion, intimidation, threat of force, or force.

Any member of the College community found responsible for violating this policy is subject to disciplinary action. Complaints of alleged dating violence, domestic violence, sexual assault or stalking shall be handled according to the procedures specified in this policy. All other complaints of sexual misconduct shall be handled under the policies that govern discipline of students and employees. Disciplinary action may be taken regardless of whether criminal charges have been filed and without regard to whether the conduct occurred on or off the College campus.

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Sexual Harassment, as an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex or that is sexual that satisfies one or more of the following:

Quid Pro Quo: Quid Pro Quo is occurs when employment, pay, benefits, student status, grades or other opportunities for advancement are conditioned on the submission to unwelcome sexual conduct whether the conditions are explicit or implicit.

Sexual Harassment: Sexual Harassment is unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Mohave Community College's education program or activity.<sup>1</sup>

Sexual Assault: Sexual assault is any type of sexual contact or behavior that occurs by force or without consent of the recipient of the unwanted sexual activity. Included within this broad term are rape, attempted rape, statutory rape and incest, and, where active consent is absent, groping, forced kissing, sodomy, sexual assault with an object and fondling. Under Arizona law, the definition of "sexual assault" is "intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person." A.R.S. § 13-1406(A). "'Oral sexual contact' means oral contact with the penis, vulva or anus." A.R.S. § 13-1402(1). "'Sexual intercourse' means penetration into the penis, vulva or anus by any part of the body or by any object or masturbatory contact with the penis or vulva." Id. at § 13-1402(3).

Stalking: Stalking is engaging in a course of behavior, directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of that person's immediate family member or the safety of others, or suffer substantial emotional distress. Stalking includes unwanted and repeated harassing behavior, such as following a person; appearing at a person's home, class or work; making frequent phone calls, emails, text messages, etc.; continuing to contact a person after receiving requests not to; leaving written messages, objects or unwanted gifts; vandalizing a person's property; and threatening, intimidating or intrusive behavior, and physical violence A.R.S. § 13-2923(A).

Dating Violence: Dating violence consists of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined by the victim with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Relationship violence includes sexual or physical abuse or the threat of such abuse. There appears to be no specific definition of "dating violence" in Arizona's criminal code. Some forms of dating violence would constitute "domestic violence," discussed hereafter, which includes acts committed within a previous or current "romantic or sexual relationship." A.R.S. § 13-3601(A) (6).

Domestic Violence: Domestic violence consists of violence committed by a current or former spouse or intimate partner 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 or intimate partner; by a person similarly situated to a spouse of the victim under Arizona law; or by any other person against an adult or youth victim who is protected from that person's acts under Arizona law.

In addition to dating violence and domestic violence, relationship violence includes any pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other partner. Relationship violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person.

<sup>1</sup> Unwelcome is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

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A.R.S. § 13-3601(A): The crimes that may be charged as domestic violence offenses where one of the above relationships is present include: all classifications of homicide; endangerment; threatening or intimidating; assault or aggravated assault; custodial interference; unlawful imprisonment; kidnapping; sexual assault; unlawful distribution of images; criminal trespass; criminal damage; interfering with judicial proceeding; certain types of disorderly conduct; using electronic communication to terrify, intimidate, threaten, or harass; harassment and aggravated harassment; stalking; and surreptitious photographing.

The domestic violence statute reference several other sections of the criminal code and converts these crimes to domestic violence offenses where any of the following is true:

1. The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.
  - a. The victim and the defendant have a child in common.
  - b. The victim or the defendant is pregnant by the other party.
  - c. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.
  - d. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.
  - e. The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship."

A.R.S. § 13-1401: "Without consent" includes any of the following:

- a. The victim is coerced by the immediate use or threatened use of force against a person or property.
- b. The victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant. For purposes of this subdivision, "mental defect" means the victim is unable to comprehend the distinctively sexual nature of the conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct with another.
- c. The victim is intentionally deceived as to the nature of the act.
- d. The victim is intentionally deceived to erroneously believe that the person is the victim's spouse.

**5.112-C**

**Sexual Misconduct  
References**

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Reporting Sexual Misconduct

The College encourages students and employees to report incidents of sexual misconduct as soon as possible. To report such an incident, the victim may contact the Title IX Coordinator (information below) or a Title IX designee under the Title IX Team Contacts at: [www.mohave.edu/about/safety](http://www.mohave.edu/about/safety)

Employees and students who have been the victims of sexual misconduct also have the option of reporting the misconduct to local law enforcement officials. Victims are not, however, required to report such conduct to law enforcement. Victims of sexual misconduct should take care to preserve evidence of the misconduct. For example, victims should not shower or otherwise clean themselves before reporting the misconduct.

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